



Multistate Tax

## State Tax Matters

July 10, 2015

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### Articles:

#### State Transfer Pricing: Are You Prepared for Increased Scrutiny?

This edition of Inside Deloitte, authored in part by Michael Bryan of Deloitte Tax LLP and originally published in *State Tax Notes*, provides an overview of intercompany transfer pricing arrangements and related state tax considerations, summarizes the latest developments involving the Multistate Tax Commission’s Arm’s-Length Adjustment Service project, and suggests actions that taxpayers may wish to consider in developing exam-ready transfer pricing documentation.

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/state-transfer-pricing-are-you-prepared-for-increased-scrutiny.html?id=us:em:na:stm:eng:tax:071015>

### Income/Franchise:

#### Delaware: New Law Includes Tax Law Changes for Captive Insurance Companies

*H.B. 15*, signed by gov. 6/24/15. Effective immediately, new law includes a definition of a “series captive insurance company” for Delaware gross premium insurance tax purposes, generally imposing an annual minimum aggregate tax of \$3500 for each series captive insurance company. The new law also provides that if at least one of two or more captive

insurance companies under common ownership and control has 25 “qualified individuals” (i.e., natural persons employed in Delaware on a regular basis of 35 or more hours per week), then all captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company – where “common ownership and control” is defined as the direct or indirect ownership of 80% or more of the outstanding voting securities or other voting interests of two or more captive insurance companies by the same person or persons. The new law additionally increases the maximum tax on premiums on policies or contracts of insurance written by a captive insurance company, as well as provides that Delaware’s Insurance Commissioner shall determine the amount of minimum capital and surplus for a series captive insurance company.

**URL:** [http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/HB+15/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/HB+15/$file/legis.html?open)

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### **Sales/Use/Indirect:**

## **Washington: New Law Adopts Economic Nexus Standard for B&O Wholesaling Activities, Repeals Preferential B&O Tax Rate for Royalty Income, & Includes Remote Seller “Click-Through” Nexus Provisions**

*Engrossed Sub. S.B. 6138*, signed by gov. 7/1/15. New law includes important modifications to Washington tax law, including:

**URL:** <http://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/Senate%20Passed%20Legislature/6138-S.PL.pdf>

- Subjecting state business and occupation (B&O) tax wholesaling activities to an economic nexus standard;
- Repealing the preferential 0.484% B&O tax rate for royalty income (including compensation for the use of intangible personal property such as copyrights, patents, licenses, franchises, trademarks, trade names, and similar items), thereby subjecting such income to a 1.5% B&O tax rate; and
- Creating a presumption that a retailer is required to collect and remit Washington sales and use tax if i) the retailer enters into an agreement with a Washington resident under which the resident receives certain consideration for referring potential customers to the retailer through a link on the resident’s Internet website or otherwise, and ii) the cumulative gross receipts from sales by the retailer to customers in Washington through all such referrals is in excess of \$10,000 during the preceding calendar year.

See forthcoming Multistate Tax Alert for more details on these and other Washington tax law changes included in this legislation.

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## Multistate Tax Alerts

What's new in the States? Our Multistate Tax Alerts highlight selected state tax developments relevant to taxpayers, tax professionals, and other interested persons. Read our more recent alerts below or visit the archive for ones you may have missed.

**Archive:** <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax>

### **Sweeping Connecticut Tax Reforms Enacted**

On June 3, 2015, the Connecticut General Assembly passed in concurrence House Bill 7061 (HB 7061), the Connecticut state budget bill for the biennium spanning July 1, 2015 through June 30, 2017. On June 29, 2015, the Connecticut General Assembly passed in concurrence Senate Bill 1502 (SB 1502), an act implementing the state budget for the biennium spanning July 1, 2015 through June 30, 2017. SB 1502 makes some significant changes to HB 7061 and adds some additional provisions. Governor Dannel Malloy signed both bills into law on June 30, 2015.

On June 5, 2015, a Multistate Tax Alert was issued summarizing the proposed changes contained in HB 7061, which, at the time, was awaiting Governor Malloy's signature.

This Multistate Tax Alert summarizes the law changes enacted in HB 7061 as modified by SB 1502, including mandatory unitary taxation applicable to income years commencing on or after January 1, 2016.

[Issued: July 2, 2015]

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/sweeping-connecticut-tax-reforms-enacted.html?id=us:em:na:stm:eng:tax:071015>

### **Florida Tax Relief Enacted**

Florida Governor Rick Scott recently signed into law House Bill 33-A, which makes several changes to Florida's tax laws. Notable provisions of the new law include: i) a 1.73 percent permanent reduction in the communication services tax rate, effective July 1, 2015; ii) a 10-day, back-to-school sales tax holiday, beginning August 7, 2015; iii) the extension of the Community Contribution Tax Credit program, effective July 1, 2015; and iv) increased funding for and changes to the distribution of the Research and Development Tax Credit, effective July 1, 2015.

This Multistate Tax Alert summarizes these changes and provides a brief overview of some of the other more significant provisions of the new law.

[Issued: July 2, 2015]

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-florida-tax-relief-enacted.html?id=us:em:na:stm:eng:tax:071015>

### **Chicago Personal Property Lease Transaction Tax and Amusement Tax rulings**

On June 9, the City of Chicago (City) Department of Finance (Department) issued two new rulings related to the City's Personal Property Lease Transaction Tax (Lease Tax) and the

City's Amusement Tax (Amusement Tax). With these rulings (LT Ruling No. 12 and AT Ruling No. 5, respectively), the Department provides guidance to help clarify various aspects of the Lease Tax as applied to cloud computing (i.e., nonpossessory use computer leases) and the Amusement Tax as applied to electronically delivered amusements.

This Multistate Tax Alert summarizes these rulings and provides some taxpayer considerations.

[Issued: July 7, 2015]

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-chicago-personal-property-lease-transaction-tax-and-amusement-tax-rulings.html?id=us:em:na:stm:eng:tax:071015>

### **New Louisiana Laws Reduce Tax Benefits and Credits, and Suspend Exemptions**

On June 18, 2015, a Multistate Tax Alert was issued summarizing the following four tax bills, which, at the time, were awaiting Louisiana Governor Jindal's signature: House Bill 218, House Bill 624, House Bill 629, and House Bill 805. This previously issued Multistate Tax Alert highlighted that the four bills contained significant income tax law changes, reducing various tax benefits effective for tax returns filed on or after July 1, 2015. Accordingly, it was suggested that taxpayers seeking to potentially preserve these tax benefits may wish to consider filing applicable Louisiana tax returns prior to July 1.

On June 19, 2015, Governor Jindal signed the four bills, thereby enacting various modifications to Louisiana tax law, including: i) eliminating three-year net operating loss (NOL) carryback; ii) changing NOL carryforward from 15 to 20 years; iii) reducing, for corporate taxpayers, dividend income exclusion by 28 percent (previously 100 percent excluded); iv) reducing allowable depletion from 22 percent to 15.8 percent; also reducing income limit from 50 percent to 36 percent; v) limiting NOL utilization to 72 percent of the aggregate NOL carryover amount; vi) reducing the refundability of the Inventory Tax Credit (providing a carryover for the non-refundable portion of the credit); and vii) converting the Research and Development Credit from a refundable credit to a non-refundable credit.

On June 19, 2015, Governor Jindal also signed Senate Bill 271, which replaces the special fuel decal with a per-gallon tax on special fuels.

In addition to the various tax bills enacted in the month of June, on June 12, 2015, the Louisiana Legislature adopted House Concurrent Resolution 8, which suspends certain sales and use tax exemptions applicable to sales of steam, water, electric power or energy, and natural gas. The suspension begins July 1, 2015, and ends 60 days after final adjournment of the 2016 Regular Session of the Louisiana Legislature.

This Multistate Tax Alert summarizes these law changes.

[Issued: July 1, 2015]

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/new-louisiana-laws-reduce-tax-benefits-and-credits-and-suspend-exemptions.html?id=us:em:na:stm:eng:tax:071015>

## Ohio Governor Kasich Signs Biennial Budget Bill

Ohio Governor John Kasich recently signed into law Substitute House Bill No. 64, which makes various changes to Ohio's tax laws in the areas of individual income tax, sales and use tax, and municipal income tax.

This Multistate Tax Alert provides an overview of some of the more significant provisions of the new law.

[Issued: July 8, 2015]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-ohio-governor-kasich-signs-biennial-budget-bill.html?id=us:em:na:stm:eng:tax:071015>

## Texas Court Holds Rent-to-Own Business Classified as a Retailer

Reversing an earlier trial court decision, the Texas Court of Appeals, Third District, recently held that Rent-A-Center, Inc. (RAC) should be classified as a retailer, and thus allowed to calculate Texas franchise tax using the reduced 0.5 percent tax rate under Texas Tax Code §171.002(a)-(b). The Court of Appeals also remanded the case to the trial court to adjudicate an unresolved issue that the trial court had not reached – namely, the amount of the cost of goods sold (COGS) deduction to which RAC was entitled.

On June 25, 2015, RAC filed a motion for rehearing with the Court of Appeals, requesting that the appellate court rule on the COGS deduction rather than remanding the issue back to the trial court. On July 1, 2015, the Court of Appeals requested that the Comptroller file a response to RAC's motion on or before July 13, 2015. On July 1 the Court of Appeals also granted the Comptroller an extension of time to file its own motion for rehearing, thus extending the deadline for such filing until July 10, 2015. Accordingly, this case remains pending.

This Multistate Tax Alert summarizes this Court of Appeals decision and provides some taxpayer considerations.

[Issued: July 2, 2015]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/texas-court-holds-rent-to-own-business-classified-as-a-retailer.html?id=us:em:na:stm:eng:tax:071015>

### Have a question?

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