



MULTISTATE INCOME/FRANCHISE TAX

Louisiana announces Transfer Pricing Managed Audit Program Tax Alert

Overview

On October 26, 2021, the Louisiana Department of Revenue (the “Department”) [announced](#) the Louisiana Transfer Pricing Managed Audit Program (the “Program”), which invites eligible corporate income taxpayers to participate in a voluntary initiative aimed at efficiently and proactively resolving intercompany transfer pricing issues. The Program began on November 1, 2021. Requests to participate in the Program must be received on or before April 30, 2022.

This Tax Alert summarizes some of the Program’s eligibility requirements and procedures.

Louisiana Transfer Pricing Managed Audit Program

On October 26, 2021, the Department announced the Program and invited eligible corporate income taxpayers to participate in the Program beginning November 1, 2021. The Program is intended to create an expedited and efficient resolution for transfer pricing audits and to provide uniformity and certainty to taxpayers on resolution of transfer pricing issues. According to the Department, the Program will utilize the managed audit (“MA”) program as established by La. Rev. Stat. § 47:1541(D).

Eligibility and scope

In order to participate in the Program, taxpayers must meet the following eligibility requirements:

- Established history of voluntary tax compliance with the Department, if previously registered with the Department;
- Certification that the taxpayer has available time and resources to dedicate as a participant in the Program;
- Available and suitable records concerning intercompany transactions; and
- Reasonable expectation of ability to pay an expected liability.

Taxpayers that meet the eligibility requirements will be able to conduct a MA under the supervision of an assigned Field Audit Income Tax (“FAIT”) Representative. Eligible taxpayers may also appoint a representative to assist with the MA by providing written notice. However, eligible taxpayers cannot participate anonymously through a representative.

The Program covers the current tax period (2021 tax year for fiscal and calendar year filers), any open tax periods not yet prescribed, and up to four future tax periods. Furthermore, open tax periods include the 2020 tax year and those periods subject to assessment by the Department pursuant to La. Rev. Stat. § 47:1565. The applicability to open tax periods and future tax periods is contingent on the taxpayer’s ownership, facts, circumstances, and/or intercompany transactions. Taxpayers currently under audit may participate in the Program. However, only transfer pricing issues will be considered for resolution under the Program. Furthermore, the Department will not issue any certifications of whether a taxpayer has economic nexus with Louisiana through the Program.

Procedures

Eligible taxpayers (or their designated representatives) interested in participating in the Program can send notice to the Department via email. Please see the Department’s [guidance](#) for sample language. Within 15 days of receiving the email, the Department will contact the taxpayer or its representative with approval or denial of the request. In the review process, the Department will consider the complexity of the taxpayer’s business; tax reporting and payment history; accounting system and internal controls; taxpayer’s time and resources available to perform the audit; and cost and benefit analysis to ensure efficient use of the Department’s resources.

If the Department approves the request, the assigned FAIT Representative will email the MA Agreement for signature. Upon the Department receiving the fully executed MA Agreement, the taxpayer is accepted into the Program and, within 30 days, must provide the following to the assigned FAIT Representative:

- Complete federal tax returns for the last three years;
- List of all intercompany transactions by type, amount, and entity, including journal entries;
- Transfer pricing studies, including comparable methods used and any agreements from the Internal Revenue Service;
- Organizational charts reflecting each subsidiary and its relationship to the parent company;
- Financial statements on a GAAP basis for each party to an intercompany transaction; and
- Other documents or information as requested to determine the correct amount of tax.

Upon reviewing the documentation provided, the FAIT Representative will issue a written determination as to whether the Department agrees or disagrees with the taxpayer’s transfer pricing studies and methods used. The Department may use external consultants in the review process. The taxpayer will have 30 days to accept the determination or offer adjustments or modifications. After the 30-day period, the Department will review the taxpayer’s comments regarding adjustments or modifications.

If additional tax is due, the Department will proceed with collecting the tax. Taxpayers are encouraged to voluntarily remit the tax due and proceed with closing the MA prior to the expiration of the 30-day period if there are no comments. The Department will not assess penalties on any tax due relating to the MA findings. Furthermore, the Department will abate delinquency interest that accrues during the MA period, not to exceed 180 days. The MA period is

defined as the period from the date of notice of acceptance into the Program through the date of notice of the correct amount of tax due.

All requests to participate in the Program must be received on or before April 30, 2022. All MAs must be closed by June 30, 2022.

For a discussion of other state transfer pricing initiatives, please see our previous [Tax Alert](#).

Considerations

Taxpayers wishing to participate in the Program should be mindful of potential issues with timeliness to complete the Program, negotiation considerations, and the potential for double taxation in the event states on the other side of these transactions do not provide correlative relief for any agreed-upon adjustments. In addition, the effect of adjustments on other state-specific tax concepts, including state nexus and sourcing methodologies, should also be evaluated and considered.

Get in touch

[Robert Topp](#)

[Joe Garrett](#)

[Michael Matthys](#)

[Grace Taylor](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza
New York, NY 10112-0015
United States

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about to learn more about our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2021 Deloitte Development LLC. All rights reserved.