

State Tax Matters

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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.

Archives: http://www.deloitte.com/view/en_US/us/Services/tax/Multistate-Tax/multistate-tax-archive/index.htm?id=us:em:na:stm:eng:tax

Illinois Amends Remote Seller Nexus Law Previously Deemed Unenforceable by the State’s Highest Court

Illinois Governor Pat Quinn recently signed Senate Bill 352 (S.B. 352), amending the state’s use tax and service use tax remote seller nexus laws to broaden their application in response to the Supreme Court of Illinois’ ruling in *Performance Marketing Association Inc. v. Hamer*. The remote seller laws, enacted in 2011, created a new nexus category by adding to the statutory definitions of the terms “retailer maintaining a place of business in this State” a specific reference to a retailer using an in-state commissioned “person” to refer potential customers to the retailer by a link on the person’s Internet website. Focusing on the nexus law’s disparate treatment applied to marketing over the Internet as compared to print or over-the-air marketing, in 2013 the Supreme Court of Illinois held in *Performance Marketing* that the applicable definition provisions “are void and unenforceable” under the federal Internet Tax Freedom Act. In response to this court decision, S.B. 352 broadens the statutory provisions defining a “retailer maintaining a place of business in this State” to include out-of-state retailers contracting with in-state commissioned “persons” who refer potential customers to the retailer by providing to such customers “a promotional code or other *mechanism* that allows the retailer to track purchases referred by such persons.” Among the identified mechanisms are “a link on the person’s Internet website” (a concept carried over from the 2011 law), “promotional codes distributed through the person’s hand-delivered or mail material, and promotional codes distributed by the person through radio or other broadcast media.” These law changes are effective January 1, 2015.

This Multistate Tax Alert summarizes the prior law, the Illinois Supreme Court’s finding in *Performance Marketing*, and the amendments contained in S.B. 352.

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URL: http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_multistate_IL_092914.pdf?id=us:em:na:stm:eng:tax:100314

New Jersey Announces Amnesty-like, “Tax Offer” Program Available Through November 17, 2014

The New Jersey Division of Taxation has recently announced a program applicable to tax periods 2005 through 2013 to enable participating individuals and businesses to settle unpaid tax liabilities. Although the announcement did not refer to this program as an amnesty, participating taxpayers will be allowed to satisfy outstanding tax obligations without incurring collection costs or recovery fees. Applicable penalties will be reduced or eliminated, with the exception of the 5% non-participation penalty imposed on taxes due on and after January 1, 2002 and before February 1, 2009. Interest will not be waived and will be calculated on the tax and any reduced penalties. This program will run until November 17, 2014.

This Multistate Tax Alert summarizes this New Jersey program.

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