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State Tax Matters

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Amnesty:
Louisiana: Department of Revenue Reminds Delinquent Taxpayers that One-Month Amnesty Program Has Begun

Press Release, La. Dept. of Rev. (10/15/14). Pursuant to recently enacted legislation that amended certain provisions of the Louisiana Tax Delinquency Amnesty Act of 2013 [see previously issued Multistate Tax Alert for more details on this new law] by:
URL: http://revenue.louisiana.gov/NewsAndPublications/PressReleaseDetails/386
URL: http://www.deloitte.com/view/en_US/us/Services/tax/Multistate-Tax/4ae67cc870b17410VgnVCM3000003456f70aRCRD.htm?id=us_email_Tax_STM_102414

- Establishing covered tax periods for 2014 and 2015,
- Amending the penalty and interest waiver provisions,
- Adding a double penalty provision applicable to certain nonparticipating taxpayers, and
- Creating an installment payment program,

the Louisiana Department of Revenue reminds delinquent taxpayers that the one-month 2014 amnesty program is now underway for individuals and businesses that have fallen behind on their taxes. The program will continue through 11:59 p.m. on November 14, 2014. During the amnesty period, delinquent taxpayers and non-filers can bring their accounts up to date by paying 100% of taxes owed, all applicable fees and 50% of applied interest; in turn, the Louisiana Department of Revenue will waive the remaining half of the interest along with 100% of any penalties.

The press release explains, "New this year is the opportunity for eligible taxpayers to pay their overdue taxes in installments over a six-month period." Installment agreements require a down payment of at least 20% of the amount owed, with final payment due no later than May 1, 2015.

The release additionally warns that "after the conclusion of an amnesty period scheduled for 2015, there will be no new amnesty program administered by the Department of Revenue until at least 2025."

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Income/Franchise:
California: Gross Receipts Arising from Post-Bankruptcy Asset Sales Must be Included in Sales Factor

Chief Counsel Ruling 2014-02, Cal. FTB (6/3/14). The California Franchise Tax Board (FTB) held that a taxpayer's asset sales in implementing its reorganization plan under Chapter 11 of the federal Bankruptcy Code were within its normal course of business and occurred frequently, and thus were not "occasional sales" within the meaning of California Regulation Sec. 25137(c)(1)(A). Consequently, the taxpayer must include gross receipts from its asset sales in its sales factor "gross receipts" for state corporate income/franchise tax apportionment purposes.
URL: https://www.ftb.ca.gov/law/ccr/2014_02.pdf

The FTB explained that consistent with the policy of Chapter 11 of the federal Bankruptcy Code, the taxpayer's reorganization plan was designed with the intent and mechanism to achieve the goal of converting business assets to cash at the highest possible value by operating its business as a going concern. That is, to accomplish the goal of its reorganization plan, the negotiation and implementation of asset sale transactions that took place within a two-year period at short intervals on a regular basis became part of the taxpayer's normal course of business.

The FTB additionally noted that although the aggregate of the gross receipts from these post-bankruptcy asset sales met the definition of "substantial" as defined in California Regulation Sec. 25137(c)(1)(A)1, the receipts did *not* arise from transactions outside of the taxpayer's normal course of business and thus were not "occasional sales" within the meaning of California Regulation Sec. 25137(c)(1)(A)2. Accordingly, the gross receipts arising from the post-bankruptcy asset sales must be included in the taxpayer's sales factor.

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Articles:
Multistate Tax Commission Continues to Explore Transfer Pricing

The Multistate Tax Commission's Arm's Length Adjustment Service Advisory Group – the group designated to lead the MTC's project to develop a multistate transfer pricing service – on July 28 convened in Albuquerque, New Mexico for its second in-person meeting. Although the project is still in its development phase, a recurring theme throughout the meetings has been the need for states to secure economic experts to support transfer pricing issues on audit and during litigation.

This article by Valerie Dickerson, Michael Paxton, and Kerwin Chung of Deloitte Tax LLP provides background regarding the Multistate Tax Commission's Arm's Length Adjustment Service Advisory Group project, summarizes the July 28 meeting and the project timeline, and suggests additional considerations.
URL: http://www.deloitte.com/view/en_US/us/Services/tax/Multistate-Tax/9d7b60354bd29410VgnVCM3000003456f70aRCRD.htm?id=us:em:na:stm:eng:tax:102414

Multistate Tax Alerts

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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

State Tax Implications of a Changing International Tax Landscape

On September 22, 2014, the United States Treasury issued Notice 2014-52, *Rules Regarding Inversions and Related Transactions* ("Notice"). The Notice may be viewed as a response to several recent announcements by U.S. multinational companies, expressing their intentions to engage in inversion transactions. An "inversion" may actually cover a broad category of transactions but, as currently used in the press, the term appears intended to mean a merger or other transaction that among other things results in a U.S.-based company becoming a foreign corporation. Cross-broader mergers are generally driven by global business strategies and economic efficiencies. For example, an inversion may set the stage for future businesses or expanded product lines that will operate under the new foreign entity. These transactions are generally structured in conformity with the rules of the current Internal Revenue Code and may indirectly result in certain U.S. tax benefits.

The Notice is the latest action in a summer filled with tax policy discussions and legislative proposals, both in the U.S. and abroad, centered on the international tax landscape. On the federal front, Senate Finance Committee member Charles E. Schumer (D-NY) introduced the "Corporate Inverters Earnings Stripping Reform Act of 2014" (S. 2786) on September 10, 2014, and House Ways and Means Committee Ranking Member Sander Levin (D-Mich.) and Senate Permanent Subcommittee on Investigations Chairman Carl Levin (D-Mich.) introduced similar versions of the "Stop Corporate Inversions Act of 2014" in the House (H.R. 4679) and Senate (S. 2360) in May 2014. At the state level, New Jersey State Senator Shirley Turner (D) introduced a series of bills that would deny state benefits to traditional international tax structures. Abroad, the Organization for Economic Co-Operation and Development ("OECD") recently released a series of non-binding recommendations to change domestic tax laws, treaties and other measures in an effort to ease government concerns related to tax base erosion and profit shifting. With change appearing to be at the forefront of the international conversation, some taxpayers have begun to consider the potential impact on their state tax postures as states begin to react to the international tax discussion.

This Multistate Tax Alert summarizes the Notice, other federal legislative proposals, the OECD's Base Erosion and Profit Shifting Project, and related state proposals and initiatives that could impact foreign-based multinational corporations with investments in the U.S., as well as those considering U.S. investments.
[Issued: October 16, 2014]
URL: http://www.deloitte.com/view/en_US/us/Services/tax/Multistate-Tax/80c75df375e19410VgnVCM3000003456f70aRCRD.htm?id=us:em:na:stm:eng:tax:102414
URL: http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_multistate_state_tax_implications_101614.pdf?id=us:em:na:stm:eng:tax:102414

Have a question?
If you have needs specifically related to this newsletter's content, send us an email at **clientsandmarketsdeloittetax@deloitte.com** to have a Deloitte Tax professional contact you.