



Multistate Tax

State Tax Matters

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Amnesty/Administrative:

Arizona: New Law Requires Creation of “Tax Recovery Program” Permitting Penalty and Interest Abatement and/or Waiver that Will Run from September 1, 2015 through October 31, 2015

S.B. 1471, signed by gov. 3/12/15. Effective immediately and to be repealed from and after December 31, 2015, new law requires the Arizona Department of Revenue (“Department”) to establish a “Tax Recovery Program” from September 1, 2015 through October 31, 2015, for the purpose of reducing or waiving civil taxpayer penalties and interest for unpaid liabilities on most taxes administered by the Department for any period ending before January 1, 2014, for annual filers, and before February 1, 2015, for all other filers. The new law outlines the various qualifications for acceptance into this Tax Recovery Program, stipulating that such acceptance does *not* entitle taxpayers to any tax refunds or credits on amounts previously paid and that the underlying application constitutes a taxpayer waiver of all administrative and judicial rights of appeal. Note that this Tax Recovery Program does *not* apply to Arizona’s luxury tax or withholding tax.

URL: <http://www.azleg.gov/legtext/52leg/1r/bills/sb1471s.pdf>

— Barb Dickerson
Director
Deloitte Tax LLP
bdickerson@deloitte.com

Shona Ponda
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Amnesty/Administrative: Massachusetts: Department of Revenue Announces that 60-Day Amnesty Program Began on March 16, 2015

Technical Information Release, TIR No. 15-2, Mass. Dept. of Rev. (3/16/15). Pursuant to recently enacted legislation [H.B. 52] that requires the Massachusetts Department of Revenue (“Department”) to establish a tax amnesty program for a 60-day period within fiscal year 2015, the Department has announced that such amnesty program began on March 16, 2015 and will end on May 15, 2015. The Department states that this current program will apply to tax years or periods with respect to which a “Notice of Assessment” was issued on or before January 1, 2015, and is limited to eligible taxpayers with existing tax liabilities for tax types that were *not* included among the tax types covered by the limited amnesty established under Technical Information Release, TIR 14-8, and section 264 of Chapter 165 of the Acts of 2014. As such, the current amnesty program includes:

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2015-releases/tir-15-2.html>

URL: <https://malegislature.gov/Bills/189/House/H52>

- All state corporate excise taxes imposed under G.L. c. 63 (i.e., corporate excise, financial institutions, insurance, public utilities, and banks);
- Estate taxes imposed under G.L. c. 65C;
- Fiduciary income taxes imposed under G.L. c. 62; and
- Individual use tax on motor vehicles imposed under G.L. c. 64I.

The Department explains that it will notify taxpayers of their eligibility to participate in the current amnesty program, and that only those taxpayers to whom a “Tax Amnesty Notice” has been issued may be eligible to participate. If a taxpayer is notified by the Department that it is eligible, and the taxpayer pays the full amount of tax and interest due for any period as shown on the Tax Amnesty Notice, the Department further explains that it is authorized to waive all unpaid penalties (and the portion of interest charges directly attributable to those penalties) including those imposed for:

- Failure to timely file a return;
- Failure to file a proper return;
- Underpayment of tax attributable to negligence or disregard of the tax laws or to a substantial understatement of tax;
- Failure to timely pay a tax liability;
- Failure to file, report or pay electronically;
- Failure to pay the proper amount of any estimated tax payment; and
- Failure to disclose an inconsistent filing position for such period.

The Department additionally notes that for corporate taxpayers to be eligible to participate in this current program they must also be in compliance with the Massachusetts Secretary of State’s filing requirements. Also, the Department explains that an eligible taxpayer who participates in the current amnesty program is *not* eligible to participate in any future amnesty programs for a period of ten years.

— Bob Carleo
Director
Deloitte Tax LLP
rcarleo@deloitte.com

Shona Ponda
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Multistate Tax Alerts

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[Archive: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax)

US Supreme Court Remands Alabama Sales Tax “4-R Act” Case to 11th Circuit

In *Alabama Department of Revenue v. CSX Transportation, Inc.*, the US Supreme Court (“Court”) recently reversed in part and remanded an earlier US Court of Appeals, Eleventh Circuit (“11th Circuit”) decision. The 11th Circuit had held Alabama’s sales tax regime, which imposes a sales tax on a railroad’s purchases of diesel fuel but exempts similar purchases by certain competitors, violated the anti-discrimination provisions of the Railroad Revitalization and Regulatory Reform Act (“4-R Act”). In accordance with 49 U.S.C. § 11501(b)(4) (“subsection (b)(4)”) of the 4-R Act, a state is prohibited from “impos[ing] another tax that discriminates against a rail carrier providing transportation....”

In its Opinion, delivered by Justice Scalia, the Court agreed with the 11th Circuit’s holding that the appropriate comparison class of “similarly situated” taxpayers for purposes of determining discrimination was the taxpayer’s competitors (i.e., motor and water carriers). The Court, however, disapproved of what it viewed as the 11th Circuit’s refusal or failure to examine whether Alabama could justify its disparate treatment of the taxpayer and its common carrier competitors. The Court concluded that for a 4-R Act subsection (b)(4) violation to occur, the applicable tax “must discriminate – but it does not discriminate unless it treats railroads differently from other similarly situated taxpayers without sufficient justification.” Accordingly, the Court remanded the case to the 11th Circuit for further proceedings to address whether Alabama can demonstrate the requisite “sufficient justification.”

This Multistate Tax Alert reviews the 11th Circuit’s decision, summarizes the Court’s decision and provides some taxpayer considerations.

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[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-supreme-court-remands-alabama-sales-tax-4-r-act-case-to-11th-circuit.html?id=us:em:na:stm:eng:tax:032015](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-supreme-court-remands-alabama-sales-tax-4-r-act-case-to-11th-circuit.html?id=us:em:na:stm:eng:tax:032015)

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