



Multistate Tax

State Tax Matters

April 10, 2015

In this issue:

Income/Franchise: North Carolina: New Law Updates State Conformity to IRC	1
Sales/Use/Indirect: New Jersey: Division of Taxation Issues Memo on Tax Treatment of Virtual Currency	2
Sales/Use/Indirect: Washington: Department of Revenue Issues New Rules for Determining Whether Certain Transactions or Arrangements are Designed to “Unfairly Avoid Taxes”	3
Multistate Tax Alerts	3

Income/Franchise:

North Carolina: New Law Updates State Conformity to IRC

S.B. 20, signed by gov. 3/31/15. Effective immediately, new law generally updates corporate and individual income tax conformity with the Internal Revenue Code (IRC) as in effect as of January 1, 2015 (previously, December 31, 2013). However, the law also provides that any amendments to the IRC enacted after December 31, 2013 that increase North Carolina taxable income for the 2014 taxable year “become effective for taxable years beginning on or after January 1, 2015.” In this respect, for taxable year 2014, North Carolina decouples from certain provisions of the federal Tax Increase Prevention Act of 2014 (TIPA), and requires some adjustments such as adding back the amount excluded from a taxpayer’s gross income for the discharge of qualified principal residence indebtedness under IRC Sec. 108. Note that North Carolina also continues to partially decouple from IRC Sec. 179 expensing and bonus depreciation for tax year 2014.

[URL: http://www.ncleg.net/Sessions/2015/Bills/Senate/PDF/S20v7.pdf](http://www.ncleg.net/Sessions/2015/Bills/Senate/PDF/S20v7.pdf)

The North Carolina Department of Revenue has since issued guidance, *North Carolina’s Reference to the Internal Revenue Code Updated – Impact on 2014 North Carolina Corporate and Individual Income Tax Returns*, explaining the “six instances” where North Carolina law decouples from TIPA for tax year 2014.

[URL: http://www.dor.state.nc.us/taxes/impactofcodeupdate040115.pdf](http://www.dor.state.nc.us/taxes/impactofcodeupdate040115.pdf)

— Art Tilley (Charlotte)
Senior Manager
Deloitte Tax LLP
atilley@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Sales/Use/Indirect:

New Jersey: Division of Taxation Issues Memo on Tax Treatment of Virtual Currency

Technical Advisory Memorandum, TAM 2015-1, N.J. Div. of Tax. (4/2/15). The New Jersey Division of Taxation (“Division”) has issued guidance on the New Jersey tax treatment of transactions involving convertible virtual currency, such as bitcoin and other cryptocurrencies – explaining that New Jersey conforms to the federal tax treatment of virtual currency as detailed in IRS Notice-2014-21, which treats it as property. Accordingly, when a customer uses convertible virtual currency to pay for property the sale is treated as a barter transaction for New Jersey sales/use tax purposes where the tax due is based on the amount allowed in exchange for the virtual currency. As such, if a customer that provides convertible virtual currency in the trade receives property that is subject to tax, the customer owes tax based on the market value of the virtual currency at the time of the transaction, converted to US dollars. Correspondingly, sellers that accept convertible virtual currency as payment for goods or services must:

URL: <http://www.state.nj.us/treasury/taxation/pdf/pubs/tams/tam-2015-1.pdf>

- Retain documentation of the amount for which they regularly sell the same or similar property to customers when the payment is in US dollars, and
- Record in their books and records the value of the convertible virtual currency accepted at the time of each transaction, converted to US dollars, and the amount of sales tax collected at the time of each transaction, converted to US dollars.

The Division also explains that for state corporation business tax and gross income tax purposes New Jersey will follow the federal treatment of convertible virtual currency to the extent that applicable state law follows the federal tax treatment of gain or loss from the sale or exchange of property, and that taxpayers will realize gain or loss on the sale or exchange of convertible virtual currency.

— Stephanie Csan (Parsippany)
Director
Deloitte Tax LLP
scsan@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Sales/Use/Indirect:

Washington: Department of Revenue Issues New Rules for Determining Whether Certain Transactions or Arrangements are Designed to “Unfairly Avoid Taxes”

WAC 458-20-280, WAC 458-20-28001, WAC 458-20-28002, and WAC 458-20-28003, Wash. Dept. of Rev. (eff. 5/3/15). The Washington Department of Revenue (“Department”) has issued new rules to “assist in determining whether a transaction or arrangement is designed to unfairly avoid taxes” within the scope of Washington’s tax avoidance statutes under chapter 82.32.655 RCW, which were enacted in 2010. Under the provisions of these statutes, the Department must disregard specified “tax avoidance transactions or arrangements” and deny the tax benefit that would otherwise result. Among other areas, the new administrative rules address:

URL: <http://dor.wa.gov/Docs/Rules/draft/20-280cr3pfrmdraftApril2015.pdf>

1. Transactions or arrangements specifically identified as potential tax avoidance;
2. Relevant factors in transactions deemed unfair tax avoidance;
3. Economic positions of participants;
4. Substantial nontax reasons for entering into an arrangement;
5. Results of unfair tax avoidance transactions;
6. Tax periods affected; and
7. Unfair tax avoidance penalty provisions.

The new rules address three specific arrangements described as potential tax avoidance: i) construction joint ventures and similar arrangements, ii) disguised income arrangements, and iii) sales and use tax avoidance arrangements. Numerous example scenarios are also included in these new administrative rules.

— Andy Colson (Seattle)
Director
Deloitte Tax LLP
acolson@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

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>

Remote Seller Sales & Use Tax Update: Marketplace Fairness Act Reintroduced

A bipartisan group of US Senators recently introduced the Marketplace Fairness Act of 2015 (S. 698; the “MFA 2015”). If adopted into law, MFA 2015 generally would make it easier for a state to collect sales and use taxes from sales made by out-of-state or “remote” sellers (such as catalog or online retailers) that do not have an in-state physical presence. Similar legislation

was approved by the US Senate in the 113th Congress, but was not passed by the US House of Representatives before the 113th Congress concluded on January 3, 2015, resulting in the need to re-introduce the legislation in the 114th Congress.

This Multistate Tax Alert summarizes the MFA 2015 and highlights other recent developments concerning remote seller nexus for sales and use tax purposes.

[Issued: April 3, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-remote-seller-sales-use-tax-update-marketplace-fairness-act-reintroduced.html?id=us:em:na:stm:eng:tax:041015](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-remote-seller-sales-use-tax-update-marketplace-fairness-act-reintroduced.html?id=us:em:na:stm:eng:tax:041015)

New York Legislature Passes Bills Amending State Tax Law

On April 1, 2015, the New York State Legislature delivered to New York's Governor Andrew Cuomo for signature S2009B/A3009B and S2006B/A3006B, referred to generally as "Budget Bills" forming part of the 2015-16 State Budget. This legislation would make technical corrections and other revisions to the New York State tax reform provisions enacted in 2014, and would make changes to certain sales and use tax provisions and other tax laws.

At the time of issuance of this Multistate Tax Alert, the official legislative record has not confirmed the enactment date, which could conceivably relate back to March 31, 2015 (i.e., the date by which both the State Senate and Assembly had passed the bills), but is in question due, in part, to the later date of delivery to the Governor. As such, we are still evaluating whether this should be treated as a first or second quarter event for financial statement purposes for calendar year taxpayers.

This Multistate Tax Alert summarizes the more significant New York State tax law changes included in the legislation.

[Issued: April 3, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-legislature-passes-bills-amending-state-tax-law.html?id=us:em:na:stm:eng:tax:041015](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-legislature-passes-bills-amending-state-tax-law.html?id=us:em:na:stm:eng:tax:041015)

New York Legislature Passes Amendments to New York City Tax Law

On April 1, 2015, the New York State Legislature delivered S4610A/A6721A to New York's Governor Andrew Cuomo for signature. This legislation introduces broad-based tax reform of the New York City corporate tax regime that is generally consistent with the New York State tax reform provisions effective for tax years beginning on or after January 1, 2015.

At the time of issuance of this Multistate Tax Alert, the official legislative record has not confirmed the enactment date, which could conceivably relate back to March 31, 2015, but is in question due, in part, to the later date of delivery to the Governor. As such, we are still evaluating whether this should be treated as a first or second quarter event for financial statement purposes for calendar year taxpayers.

This Multistate Tax Alert summarizes the more significant reforms to New York City's corporate tax structure, which generally would be effective retroactive to tax years beginning on or after January 1, 2015.

[Issued: April 3, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-legislation-passes-amendments-to-new-york-city-tax-law.html?id=us:em:na:stm:eng:tax:041015](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-legislation-passes-amendments-to-new-york-city-tax-law.html?id=us:em:na:stm:eng:tax:041015)

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.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Disclaimer

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or its and their affiliates are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication 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 finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. None of Deloitte Touche Tohmatsu Limited, its member firms, or its and their respective affiliates shall be responsible for any loss whatsoever sustained by any person who relies on this publication.