



Multistate Tax

State Tax Matters

May 1, 2015

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Articles:

The Tax Implications of the DC Budget

Although the District of Columbia has its own government, its power to enact law is limited to rights granted by Congress. Under the Home Rule Act, legislation enacted by the DC Council becomes permanent law only after it has gone through congressional review, and Congress thereby retains authority over how a District budget is adopted. Thus, the District's budget process is lengthy and can be affected by various outside forces. As such, the District has the authority to temporarily implement fiscal year budgets – pending the permanent legislation – through emergency and temporary acts. Because the process is complex, understanding the distinctive interplay between Congress and the council is crucial for understanding the District's budgets.

Recent District budgets have contained significant tax law changes, which makes that understanding important in anticipating new tax legislation's effective date. This article, authored by Scott Frishman, Jennifer Alban-Bond, Kathleen Rudis, and David Vistica of Deloitte Tax LLP, seeks to clarify the District legislative process, focusing on the enactment and substance of the Fiscal Year 2015 Budget Support Act of 2014, enacted as permanent law on February 26, 2015.

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/tax-implications-of-the-dc-budget.html](http://www2.deloitte.com/us/en/pages/tax/articles/tax-implications-of-the-dc-budget.html)

Amnesty:

Missouri: New Law Authorizes Creation of 90-Day Tax Amnesty Program Permitting 100% Penalty and Interest Waiver

H.B. 384, signed by gov. 4/27/15. New law authorizes a tax amnesty from the assessment or payment of all penalties, additions to tax and interest on delinquencies of unpaid taxes administered by the Missouri Department of Revenue with respect to tax liabilities generally due on or before December 31, 2014. This amnesty program will run from September 1, 2015 through November 30, 2015, and will generally apply to unpaid taxes regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before September 1, 2015. The new law provides that if amnesty participants fail to comply “in good faith” with Missouri tax laws at any time during the eight years following the date of their amnesty agreement, then all penalties, additions to tax, and interest that were waived under their amnesty agreement “shall become due and owing immediately.” The new law also states that if a taxpayer is granted amnesty under this program, then such taxpayer will be ineligible to participate in any future Missouri amnesty for the same type of tax.

URL: <http://www.house.mo.gov/billsummary.aspx?bill=HB384&year=2015&code=R>

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Income/Franchise:

North Dakota: New Law Imposes Corporate and Personal Income Tax Rate Reductions

S.B. 2349, signed by gov. 4/23/15. Effective for taxable years beginning after December 31, 2014, new law provides for the reduction of North Dakota’s individual and corporation income tax rates. More specifically, regarding North Dakota’s corporate income tax, the new law reduces the tax rate on all taxable income exceeding \$50,000 from 4.53% to 4.31%.

URL: <http://www.legis.nd.gov/assembly/64-2015/bill-index/bi2349.html>

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Income/Franchise: South Carolina: Department of Revenue Issues Draft Guidance on Alternative Apportionment, Including Unitary Combined Reporting

Revenue Ruling No. 15-x; Revenue Procedure No. 15-x, South Carolina Department of Revenue (4/21/15). The South Carolina Department of Revenue (“Department”) has issued a draft revenue ruling that addresses some of the issues that may arise when South Carolina requires or a taxpayer requests an alternative apportionment method, including combined unitary reporting, for state corporate income tax purposes. In doing so, the Department generally explains that, depending on the business of the taxpayer, South Carolina’s statutory apportionment formula apportions income on a separate entity basis using either a single sales factor or a single gross receipts factor. However, if South Carolina’s general allocation and apportionment provisions “do not fairly represent the extent of the taxpayer’s business activity” in South Carolina, the taxpayer may petition for, or the Department may require, with respect to all or any part of the taxpayer’s business activity an alternative apportionment method – wherein the determination of whether or not the standard statutory apportionment method fairly represents a taxpayer’s in-state business activity “involves a factual analysis.”

[URL: http://www.dor.sc.gov/policy/rr-public-draft-apportionment-doc](http://www.dor.sc.gov/policy/rr-public-draft-apportionment-doc)

[URL: http://www.dor.sc.gov/policy/rp-public-draft-apportionment-doc](http://www.dor.sc.gov/policy/rp-public-draft-apportionment-doc)

The draft guidance also explains that South Carolina law requires that the party advocating an alternative apportionment method has the burden of proving by a preponderance of the evidence that:

- The statutory formula does not fairly represent the taxpayer’s business activity in South Carolina; and
- Its alternative accounting method is reasonable.

According to the draft revenue ruling, “...while many of the alternative apportionment situations may involve unusual or unique circumstances, the Department will not require unusual or unique fact situations before it requires or allows a taxpayer to use an alternative apportionment method.”

Regarding combined reporting, the draft guidance explains that the Department may require it or a taxpayer may request it as an alternative method, if reasonable, to effectuate equitable apportionment of the taxpayer’s income when separate entity reporting does not fairly represent the taxpayer’s in-state business activity. The draft guidance additionally lists some facts that the Department may examine when analyzing whether the standard formula fairly represents the taxpayer’s in-state business activity if the taxpayer is a member of a unitary group – noting also that:

- An Internal Revenue Code Section 482 pricing study to support pricing between related entities is not determinative of whether South Carolina’s apportionment formula fairly represents the taxpayer’s business activities in South Carolina;
- The Department has required or approved combined unitary reporting as a reasonable alternative apportionment method in situations involving the use of purchasing

companies, management fee companies, and “east/west” companies within a unitary group;

- South Carolina will generally use a “water’s edge” approach for determining the apportionable income of a combined unitary group;
- Any business conducted by a partnership is treated as conducted by its partners, whether held directly or indirectly through a series of partnerships, to the extent of the partner’s distributive share of the partnership’s income; and
- South Carolina will apply the “Finnigan” method to apportion the unitary income.

A separately issued draft revenue procedure explains how a taxpayer may request use of an alternative apportionment method if the taxpayer believes that the prescribed statutory formula does not fairly represent the extent of the taxpayer’s business activities in South Carolina, including when and where to file such an application and the contents to include within it.

The Department states that public comments on its draft revenue ruling and/or draft revenue procedure are due by May 14, 2015.

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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.

[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)

No new alerts were issued this period. Be sure to refer to the archives to ensure that you are up to date on the most recent releases.

Have a question?

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