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Multistate Tax

State Tax Matters

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Income/Franchise:
California: San Francisco Controller Announces Payroll Expense Tax Rate for 2015

2015 Payroll Expense Tax Rate Computation Letter, Office of the Controller, City and County of San Francisco (8/28/15). Pursuant to San Francisco local ordinances which began phasing in a new gross receipts tax over five years beginning in 2014, and simultaneously phasing out the previously existing 1.5% payroll expense tax, the San Francisco Controller recently announced that it has certified and published the payroll expense tax rate for 2015 to be 1.162%.
URL:http://openbook.sfgov.org/webreports/details3.aspx?id=2195

Note that during the five-year phase-in period, San Francisco taxpayers pay both the payroll expense tax and gross receipts tax.

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Income/Franchise:
Texas: Proposed New Rule Helps Implement R&D Sales/Use Tax Exemption and Franchise Tax Credit

Proposed New Rule 34 TAC section 3.340, Tex. Cmptrlr. (10/2/15). Pursuant to legislation enacted in 2013, which allowed taxpayers to elect to either claim a sales/use tax exemption for the purchase of tangible personal property used for research and development ("R&D") activities or take an R&D credit against the franchise tax for qualifying research expenditures, the Texas Comptroller has issued a proposed new R&D administrative rule to help implement these provisions. The proposed new rule defines terms and concepts such as "combined group," "qualified research," and "depreciable tangible personal property used in qualified research," as well as explains that depreciable tangible personal property is directly used in qualified research if it is used in the actual performance of activities that are part of the qualified research. "For example, machinery, equipment, computers, software, tools, laboratory furniture such as desks, laboratory tables, stools, benches, and storage cabinets, and other tangible personal property used by personnel in the process of experimentation are directly used in qualified research." However, tangible personal property is *not* directly used in qualified research under the proposed rule if it is used in ancillary or support activities such as administration, maintenance, marketing, distribution, or transportation activities, or if it is used in activities excluded from qualified research. "For example, machinery and equipment used by administrative, accounting, or clerical personnel are not directly used in qualified research." The proposed new rule also lists activities that are specifically excluded from the concept of "qualified research."
URL:http://texreg.sos.state.tx.us/public/regviewer$ext.RegPage?sl=R&app=1&p_dir=&p_rloc=310187&p_tloc=&p_ploc=&pg=1&p_reg=310187&ti=34&pt=1&ch=3&rl=340&issue=10/02/2015&z_chk=

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Sales/Use/Indirect:
Federal: New Law Temporarily Extends Internet Tax Moratorium, ITFA

H.R.719 – Continuing Appropriations Act, 2016, signed by President 9/30/15. New law provides a temporary extension of the moratorium on Internet access taxes as part of a short-term continuing resolution to fund the federal government. The continuing resolution funds government operations at current levels through December 11, 2015 (note: the previous funding agreement would have expired on October 1). The resolution also extends through December 11, 2015 the Internet Tax Freedom Act (ITFA), which imposes a moratorium on Internet access taxes and on multiple and discriminatory taxes on electronic commerce and

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provides grandfathering protections for Internet access taxes that were levied in certain states before 1998. Previously, the ITFA had been set to expire on October 1, 2015 (note: the Internet tax moratorium and related grandfathering provisions have been in effect since 1998 and were last extended in 2014.)
URL: https://www.congress.gov/bill/114th-congress/house-bill/719/all-info

This short-term renewal of the ITFA approved in the continuing resolution gives Congress an opportunity to work out an agreement on a longer-term extension of the Internet tax moratorium.

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Sales/Use/Indirect:
Alabama: New Rule Imparts Nexus on Certain Out-of-State Sellers Making Threshold "Significant Sales" into Alabama

Amended New Rule 810-6-2-.90.03, Ala. Dept. of Rev. (eff. 10/22/15). The Alabama Department of Revenue (Department) has issued a new rule that will establish dollar threshold conditions under which certain out-of-state sellers must collect and remit Alabama sellers use tax. The new rule provides that out-of-state sellers lacking an Alabama physical presence but who are making retail sales of tangible personal property into Alabama "have a substantial economic presence in Alabama for sales and use tax purposes and are required to register for a license with the Department and to collect and remit tax" when:
URL: http://revenue.alabama.gov/rules-fa/810-6-2-.90.03.pdf

1. The seller's retail sales of tangible personal property sold into Alabama exceed $250,000 per year based on the previous calendar year's sales; and
2. The seller conducts one or more of the activities described in Alabama Code Section 40-23-68 (i.e., requiring the seller to collect and remit state use tax on sales of tangible personal property for the storage, use, or consumption in Alabama when the seller conducts certain delineated activities and / or maintains certain contacts related to its sales within Alabama).

The rule states it will apply to all transactions occurring on or after January 1, 2016.

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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

California Updates Federal Tax Conformity to January 1, 2015
On September 30, 2015, Governor Jerry Brown signed into law Assembly Bill 154 (A.B. 154), which includes the following modifications to California law:

- Advances California's federal tax conformity to the Internal Revenue Code (IRC) as of January 1, 2015;
- Resolves ambiguities surrounding the validity of prior conformity bill;
- Provides additional exceptions to the 20 percent large corporate understatement penalty;
- Conforms to federal net operating loss carryback procedure allowing an extension of the time to pay tax;
- Conforms to federal limits on compensation deductions for covered health insurance providers;
- Conforms to federal denial of deduction for annual fee on branded prescription pharmaceutical manufacturers and importers; and
- Conforms to various other changes made to the IRC between 2009 and 2015.

This Multistate Tax Alert summarizes these law changes, which are effective immediately and operative for taxable years beginning on or after January 1, 2015.
[Issued: October 5, 2015]
URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-california-updates-federal-tax-conformity.html?id=us:em:na:stm:eng:tax:100915

North Carolina Enacts Significant Tax Law Changes
On September 18, 2015, Governor Pat McCrory signed House Bill 97 (H.B. 97), which includes the following modifications to North Carolina law:

- Amends mechanism for potential future corporate income tax rate reduction from 4 percent to 3 percent;
- Phases in single sales factor apportionment over three years beginning in 2016, replacing the existing double-weighted sales factor apportionment for both income and franchise tax;
- Requires certain corporate taxpayers to file a market-based sales factor sourcing informational report with the North Carolina corporate income tax return for the 2015 taxable year;
- Adds an intercompany interest expense addback provision with corresponding exceptions;
- Replaces the capital stock, surplus, and undivided profits element of the franchise tax capital base with an apportioned net worth tax measure; and

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- Expands the sales and use tax base to include repair, maintenance, and installation services.

H.B. 97 included a provision for the automatic repeal of the tax law changes discussed in this Multistate Tax Alert (other than the sales tax changes) unless two other bills, House Bill 117 (H.B. 117) and House Bill 943 (H.B. 943), were ratified prior to January 1, 2016. H.B. 117 was ratified on September 24, 2015; H.B. 943 was ratified on September 30, 2015.

This Multistate Tax Alert summarizes the more significant North Carolina tax law changes contained in H.B. 97, which have various effective dates. This Multistate Tax Alert also notes that the corporate income tax rate will be reduced from 5 percent to 4 percent for taxable years beginning on or after January 1, 2016. This rate reduction was not part of H.B. 97, but instead was attributable to North Carolina having met a specified tax revenue target.
[Issued: October 2, 2015]
URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-north-carolina-enacts-significant-tax-law-changes-long.html?id=us:em:na:stm:eng:tax:100915

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