



Multistate Tax

State Tax Matters

December 18, 2015

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Income/Franchise:

Nevada: Department of Taxation Issues Proposed Tax Return and Instructions for New Commerce Tax

Draft Commerce Tax Return; Draft Commerce Tax Return Instructions, Nev. Dept. of Tax. (12/15). Pursuant to 2015 legislation enacting a new “Commerce Tax” imposed on the Nevada gross revenue of each business entity engaged in business in Nevada effective July 1, 2015 [S.B. 483; see previously issued Multistate Tax Alert for more details on this new law], the Nevada Department of Taxation (Department) has issued a proposed tax return and underlying instructions for this new tax. The proposed tax return and instructions cover the 2016 taxable year, which would generally run from July 1, 2015 through June 30, 2016, and be due on August 15, 2016.

[URL: http://tax.nv.gov/uploadedFiles/taxnvgov/Content/FAQs/Draft_Commerce_Tax_Return.pdf](http://tax.nv.gov/uploadedFiles/taxnvgov/Content/FAQs/Draft_Commerce_Tax_Return.pdf)

[URL: http://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=1034](http://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=1034)

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/nevada-legislature-approves-new-commerce-tax-and-other-tax-law-changes.html?id=us:2em:3na:stm:awa:tax:121815](http://www2.deloitte.com/us/en/pages/tax/articles/nevada-legislature-approves-new-commerce-tax-and-other-tax-law-changes.html?id=us:2em:3na:stm:awa:tax:121815)

The Department is asking for comments on the proposed tax return and instructions by January 30, 2016.

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Sales/Use/Indirect:

Federal: New Law Temporarily Extends Internet Tax Moratorium, ITFA

H.R. 2250 – Further Continuing Appropriations Act, 2016, signed by President 12/11/15. 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 16, 2015 (note: the previous funding agreement would have expired on December 11th). The resolution also extends through December 16, 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 provides grandfathering protections for Internet access taxes that were levied in certain states before 1998. Previously, the ITFA had been set to expire on December 11, 2015, and prior to being extended earlier this year [see *State Tax Matters*, Issue 2015-40, for details on this earlier extension], 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 extended in 2014 through October 1, 2015.)

URL: <https://www.congress.gov/bill/114th-congress/house-bill/2250>

URL: http://newsletters.usdbriefs.com/2015/Tax/STM/151009_1.html

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

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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>

Chicago Personal Property Lease Tax Amendment and Information Bulletin

As part of the Chicago 2016 Budget Proposal, Mayor Emanuel recently signed the 2016 Revenue Ordinance (SO2015-7403). While SO2015-7403 amended various sections of the Chicago Revenue Ordinance, this Multistate Tax Alert addresses the following changes made specifically to Chicago Revenue Ordinance Article I, titled the "Personal Property Lease Transaction Tax" (Lease Tax), as applied to cloud computing (i.e., nonpossessory computer leases):

- The amendment of the Lease Tax to codify the specific application of the Illinois Mobile Telecommunication sourcing rules for determining which customers and charges are subject to the tax where a user accesses the provider's computer from a mobile device.

- A reduction in the tax rate from 9 percent to 5.25 percent for cloud-based services where customers access their own data or information.
- The addition of a “small new business” exemption from the Lease Tax.

The small new business exemption and tax rate reduction are both effective January 1, 2016, while the sourcing amendment was effective upon passage and publication of SO2015-7403.

The City of Chicago Department of Finance (Department) also recently issued an Information Bulletin providing further guidance on the application of the Lease Tax. The Information Bulletin addresses the SO2015-7403 amendments and provides a response to questions the Department received after it issued Lease Tax Ruling #12 on June 9, 2015. Also, the Information Bulletin discusses a limited-scope voluntary disclosure offer through January 1, 2016, for taxpayers with potential exposure related to certain nonpossessory computer lease transactions.

This Multistate Tax Alert summarizes the SO2015-7403 amendments and pertinent elements of the Information Bulletin, and provides some taxpayer considerations.

[Issued: December 16, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-chicago-personal-property-lease-tax-amendment-and-information-bulletin.html?id=us:2em:3na:stm:awa:tax:121815](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-chicago-personal-property-lease-tax-amendment-and-information-bulletin.html?id=us:2em:3na:stm:awa:tax:121815)

Pennsylvania’s NOL Cap Found Unconstitutional

The Commonwealth Court of Pennsylvania recently held that the statutory cap on Pennsylvania’s net operating loss (NOL) carryover deduction, as applied to Nextel Communications of the Mid-Atlantic, Inc. (Nextel) for Corporate Net Income Tax (CNIT) purposes, violates the Uniformity Clause of the Pennsylvania Constitution. The court’s remedy would allow Nextel to deduct its NOLs without regard to the cap in calculating its CNIT. The period during which the Commonwealth may appeal the decision or otherwise file exceptions to protest the decision remains open. Accordingly, the case is not final.

This Multistate Tax Alert outlines Pennsylvania’s NOL cap and summarizes the Commonwealth Court ruling.

[Issued: December 11, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-pennsylvania-nol-cap-found-unconstitutional.html?id=us:2em:3na:stm:awa:tax:121815](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-pennsylvania-nol-cap-found-unconstitutional.html?id=us:2em:3na:stm:awa:tax:121815)

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