



Multistate Tax

State Tax Matters

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Amnesty/Voluntary Disclosure/Administrative Appeals: Hawaii: Department of Taxation Announces New Appeals Program to “Resolve Tax Disputes Quicker”

Announcement No. 2016-03: New Appeals Program to Resolve Tax Disputes Quicker, Haw. Dept. of Tax. (2/1/16). The Hawaii Department of Taxation (Department) has announced that it is launching the pilot phase of its “Administrative Appeals and Dispute Resolution Program” (AADR) – explaining that the AADR is a streamlined method to “quickly and fairly resolve tax disputes involving audit assessments without litigation.” According to the Department, the AADR is an informal appeals process that uses a neutral intermediary, the “Administrative Appeals Office” (AAO), to resolve tax disputes between the Department and a taxpayer or return preparer that involve a proposed, final, or return preparer penalty assessment. The announcement additionally explains that the AAO will function as an independent body within

the Department, will have authority to settle tax disputes, and has been accepting applications for the pilot phase of the AADR as of February 1, 2016.

[URL: http://files.hawaii.gov/tax/news/announce/ann16-03.pdf](http://files.hawaii.gov/tax/news/announce/ann16-03.pdf)

— Glenn Sakuda (Honolulu)
Director
Deloitte Tax LLP
gsakuda@deloitte.com

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

Income/Franchise:

District of Columbia: Emergency Legislation Revises Possible Tax Rate Reductions Based on Available Funding

Act 21-292 (D.C.B. 21-567), signed by mayor 1/27/16. On January 27, 2016, District of Columbia Mayor Muriel Bowser signed the Fiscal Year 2016 Budget Support Clarification Emergency Amendment Act of 2016 in the form of emergency legislation that is effective immediately, applicable “as of December 31, 2015,” and due to expire April 26, 2016. This new law includes listing the District of Columbia’s potential corporation franchise tax and unincorporated business tax rate reductions, based upon available funding, from the current 9.4% tax rate to 9.2%, 9.0%, 8.75%, 8.5%, or 8.25%. Previously, the law did not provide for a possible 9.2% tax rate for the corporation franchise tax or the unincorporated business tax.

[URL: http://lms.dccouncil.us/Download/35147/B21-0567-SignedAct.pdf](http://lms.dccouncil.us/Download/35147/B21-0567-SignedAct.pdf)

— Scott Frishman (McLean)
Principal
Deloitte Tax LLP
sfrishman@deloitte.com

Joe Carr (McLean)
Director
Deloitte Tax LLP
josecarr@deloitte.com

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

Jennifer Alban-Bond (McLean)
Manager
Deloitte Tax LLP
jalbanbond@deloitte.com

Income/Franchise:

Florida: Department Announces that Online Application for Allocation of R&D Tax Credits Begins March 20

Tax Information Publication, No. 16C01-01, Fla. Dept. of Rev. (2/5/16). The Florida Department of Revenue (Department) recently issued a tax information publication announcing that beginning Sunday, March 20, 2016, 12:00 a.m., Eastern Time (ET) and ending Saturday, March 26, 2016, 11:59 p.m. (ET), qualified target industry businesses subject to the Florida corporate income tax may apply online for an allocation of Florida research and development (R&D) tax credit for expenses incurred in the 2015 calendar year. The Department additionally notes that because the federal Protecting Americans from Tax Hikes Act of 2015 only recently became law, the Florida Legislature has *not* yet had an opportunity to address these recent

changes to the Internal Revenue Code – more specifically, whether or not Florida law will conform to the federal changes related to the federal R&D tax credit. “As a result, the Department cannot approve any allocations of the research and development tax credit until the adoption of the Internal Revenue Code becomes law.” Therefore, applicants for this tax credit may need to obtain an extension of time for filing their 2015 Florida corporate income tax returns.

[URL: https://revenue.law.state.fl.us/LawLibraryDocuments/2016/02/TIP-120300_TIP%2016C01-01%20FL%20CIT%20R%20and%20D%20Tax%20Credit%20Applications%20for%20Allocation%20of%20Credit%20%20-%20F.pdf](https://revenue.law.state.fl.us/LawLibraryDocuments/2016/02/TIP-120300_TIP%2016C01-01%20FL%20CIT%20R%20and%20D%20Tax%20Credit%20Applications%20for%20Allocation%20of%20Credit%20%20-%20F.pdf)

Stay tuned for a forthcoming Multistate Tax Alert for more details on this recently released tax information publication.

— Chris Snider (Miami)
Director
Deloitte Tax LLP
csnider@deloitte.com

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

Income/Franchise: North Carolina: Market-Based Sourcing Informational Report is Due April 15; No Extensions

Introduction and Summary-Guidelines for Market-Based Sourcing; Guidelines for Computing the Sales Factor Based on Market-Based Sourcing, N.C. Dept. of Rev. (1/29/16; 1/26/16). Pursuant to legislation enacted in 2015, which imposes a requirement that North Carolina corporate taxpayers with apportionable income greater than \$10 million file an informational report showing the calculation of the taxable year 2014 sales factor using market-based sourcing, the North Carolina Department of Revenue has issued related guidance for computing the sales factor based on market-based sourcing. One issued document contains a summary of market-based sourcing principles and includes tables that provide “an easy reference tool” for taxpayers. The other issued guidance provides a detailed notice that includes numerous examples intended to assist taxpayers in understanding the provisions of market-based sourcing.

[URL: http://www.dorncc.com/taxes/corporate/summary_marketbasedsourcing.pdf](http://www.dorncc.com/taxes/corporate/summary_marketbasedsourcing.pdf)

[URL: http://www.dorncc.com/taxes/corporate/guidelines_marketbasedsourcing.pdf](http://www.dorncc.com/taxes/corporate/guidelines_marketbasedsourcing.pdf)

Note that pursuant to *H.B. 259*, Laws 2015 (Ch. SL 2015-268), this informational report is due by April 15, 2016, and taxpayers may *not* request an extension of time to file the informational report. A penalty of \$5,000 shall be assessed for failure to file the report in a timely manner.

[URL: http://www.ncleg.net/Sessions/2015/Bills/House/PDF/H259v3.pdf](http://www.ncleg.net/Sessions/2015/Bills/House/PDF/H259v3.pdf)

See forthcoming updated Multistate Tax Alert for more details on this market-based sourcing informational report.

— John Galloway (Charlotte)
Partner
Deloitte Tax LLP
jgalloway@deloitte.com

Art Tilley (Charlotte)
Director
Deloitte Tax LLP
atilley@deloitte.com

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

Income/Franchise:

Virginia: New Law Updates State Conformity to Internal Revenue Code

H.B. 402, signed by gov. 2/5/16. Effective immediately, new law updates state corporate and personal income tax statutory references to federal income tax law as it existed to December 31, 2015 (previously, December 31, 2014). Note that Virginia law continues to decouple from i) certain Internal Revenue Code (IRC) Sec. 168(k) bonus depreciation provisions; ii) the five-year net operating loss carryback provisions under IRC Sec. 172(b)(1)(H); iii) the deferral of recognition of income from discharge of certain business indebtedness under IRC Sec. 108(i); and iv) the amount of the deduction allowed for domestic production activities pursuant to IRC § 199 for taxable years beginning on or after January 1, 2010, and before January 1, 2013. For taxable years beginning on and after January 1, 2013, the entire amount of the deduction allowed for domestic production activities pursuant to IRC § 199 may be deducted for Virginia income tax purposes. A subsequently issued administrative bulletin [Tax Bulletin 16-1] explains the logistics of reconciling this new law with filed 2015 state income tax returns, including the fixed-date conformity adjustments that may be necessary on Virginia taxpayers' taxable year 2015 income tax returns.

URL: <http://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0002>

URL: <http://www.tax.virginia.gov/sites/tax.virginia.gov/files/2016%20Conformity%20Bulletin.pdf>

— Dave Vistica (Washington, DC)
Director
Deloitte Tax LLP
dvistica@deloitte.com

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

Sales/Use:

Iowa: Revised Administrative Rules Broaden Definition of Exempt Manufacturing Equipment

Amended Administrative Rules 701-15.3(3), 18.29(7), 18.58, 219.11, 219.12, 219.13(3), 230.5, 230.14 to 230.22, Iowa Dept. of Rev. (eff. 2/10/16). The Iowa Department of Revenue (Department) has issued amended administrative rules related to the definition of machinery and equipment for purposes of Iowa's manufacturing exemption which, according to the Department, has "been the subject of substantial confusion and controversy" because many items that might ordinarily be thought of as "machinery and equipment" were previously

considered real property and therefore taxed as building materials. Accordingly, these amendments are intended to implement a policy that eliminates, to the extent permitted by Iowa Code section 423.3(47), administratively burdensome distinctions that “do not reflect modern manufacturing in Iowa” – essentially broadening the definition of exempt manufacturing equipment. The amendments include the expansion of the number of items that qualify as exempt computers, machinery, or equipment.

[URL: https://rules.iowa.gov/Notice/Details/2349C](https://rules.iowa.gov/Notice/Details/2349C)

Stay tuned for a forthcoming Multistate Tax Alert for more details on these revised administrative rules.

— Robyn Staros (Chicago)
Senior Manager
Deloitte Tax LLP
rstaros@deloitte.com

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

Sales/Use:

Nevada: Proposed Administrative Rules Would Implement New Affiliate Nexus and Remote Seller “Click-Through” Nexus Provisions

LCB File No. R137-15: Proposed Amended NAC 372, Sections 2 through 5, Nev. Tax Comm. (2/1/16). Pursuant to legislation enacted in 2015 [A.B. 380; see previously issued Multistate Tax Alert for more details on this new law], which includes Nevada sales and use tax affiliate nexus and remote seller “click-through” nexus provisions that became effective beginning on July 1, 2015 and October 1, 2015, respectively, the Nevada Tax Commission has issued proposed implementing administrative rules.

[URL: https://www.leg.state.nv.us/register/2015Register/R137-15P.pdf](https://www.leg.state.nv.us/register/2015Register/R137-15P.pdf)

[URL: https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=843](https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=843)

[URL: http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-nevada-governor-signs-new-commerce-tax-into-law.pdf](http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-nevada-governor-signs-new-commerce-tax-into-law.pdf)

Note that Nevada law now requires that a retailer impose, collect and remit Nevada sales and use taxes if the retailer is:

- Part of a controlled group of business entities that has a component member who has physical presence in Nevada; and
- The component member with such physical presence engages in certain activities in Nevada that relate to the ability of the retailer to make retail sales to Nevada residents.

The retailer may rebut this presumption by providing proof that the component member with physical presence in Nevada did *not* engage in any activity in Nevada that was significantly associated with the retailer’s ability to establish or maintain a market in Nevada for the retailer’s products or services.

Nevada law also requires that a retailer impose, collect and remit Nevada sales and use taxes if:

- The retailer enters into an agreement with a Nevada resident under which the resident receives certain consideration for referring potential customers to the retailer through a link on the resident's Internet website or otherwise; and
- The cumulative gross receipts from sales by the retailer to customers in Nevada through all such referrals is in excess of \$10,000 during the preceding four quarterly periods ending on the last day of March, June, September and December.

The retailer may rebut this presumption by providing proof that each resident with whom the retailer has an agreement did *not* engage in any activity that was significantly associated with the retailer's ability to establish or maintain a market in Nevada for the retailer's products or services during the preceding four quarterly periods.

— Dennis Fox (Costa Mesa)
Senior Manger
Deloitte Tax LLP
defox@deloitte.com

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

Sales/Use:

Washington: Department Explains Application of Trailing Nexus

Special Notice: Trailing Nexus, Wash. Dept. of Rev. (2/2/16). The Washington Department of Revenue has issued a special notice addressing "trailing nexus," and how as of June 1, 2010, nexus with Washington continues for the remainder of the calendar year and the following calendar year once a taxpayer meets Washington's varying requisite nexus standards as applied to its business and occupation (B&O) tax, retail sales tax, and all other taxes reported on the state excise tax return.

URL: http://dor.wa.gov/Docs/Pubs/SpecialNotices/2016/sn_16_TrailingNexus.pdf

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

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

Dan Robillard (Seattle)
Senior Manager
Deloitte Tax LLP
drobillard@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:2em:3na:stm:awa: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?

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.

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