



Multistate Tax

State Tax Matters

The power of knowing.

May 6, 2016

In this issue:

Articles: Florida Corporate Income Tax: Reporting of Federal Audit Adjustments	1
Income/Franchise: Hawaii: New Law Updates State Conformity to Internal Revenue Code	1
Income/Franchise: Kentucky: New Law Updates State Conformity to Internal Revenue Code .	2
Income/Franchise: Tennessee: New Law Revises Penalty Waiver and Estimated Payment Provisions.....	2
Income/Franchise: Virginia: New Law Imposes \$18M Cap on Annual Bank Franchise Tax Liability Per Taxpayer	3
Sales/Use/Indirect: Puerto Rico: Department Issues Guidance on Transition Provisions for Soon-to-Be Implemented VAT Regime.....	3
Multistate Tax Alerts	4

Articles:

Florida Corporate Income Tax: Reporting of Federal Audit Adjustments

This article, authored by Ben Jablow of Deloitte Tax LLP and originally published in “The Florida Bar Journal,” discusses the recommended procedures that a Florida taxpayer should follow to meet the filing requirements provided in F.S. §220.23(2) following an IRS audit.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/corporate-income-tax-reporting-of-federal-audit-adjustments.html?id=us:2em:3na:stm:awa:tax:050616>

Income/Franchise:

Hawaii: New Law Updates State Conformity to Internal Revenue Code

S.B. 2921, signed by gov. 4/29/16. Effective immediately, new law generally updates statutory references to the Internal Revenue Code (IRC), providing that for taxable years beginning after December 31, 2015, references to the IRC in Hawaii corporate and individual income tax laws refer to the federal law in effect as amended as of December 31, 2015 (previously, December 31, 2014).

URL: http://www.capitol.hawaii.gov/session2016/bills/SB2921_HD1_.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:

Kentucky: New Law Updates State Conformity to Internal Revenue Code

H.B. 80, signed by gov. 4/27/16. Effective immediately, new law generally updates statutory references to the Internal Revenue Code (IRC) in effect on December 31, 2015 (previously, December 31, 2013), exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2015. Note that Kentucky continues to decouple from certain federal income tax provisions, including those involving i) the IRC Section 179 deduction; ii) IRC Section 168(k) bonus depreciation; and iii) the IRC Section 199 deduction for income attributable to domestic production activities.

URL: <http://www.irc.ky.gov/record/16RS/HB80/bill.pdf>

— Amber Rutherford (Nashville)
Senior Manager
Deloitte Tax LLP
amberrutherford@deloitte.com

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

Income/Franchise:

Tennessee: New Law Revises Penalty Waiver and Estimated Payment Provisions

H.B. 1554, signed by gov. 4/27/16. Effective immediately and applicable to tax years beginning on or after January 1, 2016, new law i) specifies additional circumstances under which the Tennessee Department of Revenue may waive penalties for delinquent state franchise and excise taxes; ii) alters the formula for calculating quarterly estimated payments for state franchise and excise taxes; and iii) reduces penalties for deficient or delinquent estimated state franchise and excise tax payments from five percent to two percent per month. Note that legislation enacted in 2015 [*H.B. 644*; see previously issued Multistate Tax Alert for more details on this new law] included the following modifications to Tennessee law:

URL: <http://www.capitol.tn.gov/Bills/109/Bill/HB1554.pdf>

URL: <http://www.capitol.tn.gov/Bills/109/Bill/HB0644.pdf>

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-tennessee-enacts-broad-changes-to-state-tax-code.html?id=us:2em:3na:stm:awa:tax:050616>

- Adoption of economic nexus thresholds for the state business tax and the franchise and excise tax;
- Replacement of the apportionment double-weighted sales factor with a triple-weighted sales factor for calculating state franchise and excise tax;
- Amendment of the state excise tax deduction for intangible expenses paid to an affiliate;

- Adoption of market-based sourcing for sales other than the sale of tangible personal property; and
- Addition of an elective apportionment calculation for high-volume sellers who choose distribution centers in Tennessee.

— Amber Rutherford (Nashville)
Senior Manager
Deloitte Tax LLP
amberrutherford@deloitte.com

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

Income/Franchise:

Virginia: New Law Imposes \$18M Cap on Annual Bank Franchise Tax Liability Per Taxpayer

H.B. 1224, signed by gov. 4/20/16. Effective July 1, 2016, new law imposes a cap of \$18 million on the total annual state bank franchise tax liability per taxpayer. This cap will increase to \$20 million if at least five taxpayers pay the \$18 million cap for three consecutive years, beginning in the calendar year immediately following the third consecutive year. After two years at a \$20 million cap amount, such maximum annual state bank franchise tax liability amount would increase by three percent annually.

URL: <http://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0755+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/Indirect:

Puerto Rico: Department Issues Guidance on Transition Provisions for Soon-to-Be Implemented VAT Regime

Administrative Determination No. 16-07, P.R. Dept. of Treasury (4/18/16). The Puerto Rico Department of Treasury (Department) recently issued administrative guidance addressing the transition from its current sales and use taxation (SUT) regime to a value-added taxation (VAT) regime beginning on June 1, 2016. The guidance explains the Department's contemplated launch of a new system known as the Unified Internal Revenue System (SURI), which ultimately is expected to unify all the tax applications that the Department currently manages into a single platform. The guidance also explains that VAT monthly returns generally will be due no later than the 20th day of each month – with the first VAT monthly return filed in SURI to be due on July 20, 2016. Other addressed topics related to the new VAT include underlying registration and certification processes, merchant registry, validity of certain exemption certificates, fiscal vouchers and debit and credit memos, pre-existing contracts, and designated professional service providers.

URL: <http://www.hacienda.gobierno.pr/publicaciones/determinacion-administrativa-num-16-07>

Note that recently filed pending legislation [Substitutive House Bill for HB 2032, HB 2838, HB 2839 & HB 2840] seeks to repeal in its entirety Subtitle DD of the 2011 Puerto Rico Internal Revenue Code, which contains the provisions of Puerto Rico's new VAT, and thus may need to be monitored closely.

— Ricardo Villate (San Juan)
Director
Deloitte Tax LLP
rvillate@deloitte.com

Michelle Corretjer (San Juan)
Director
Deloitte Tax LLP
mcorretjer@deloitte.com

Felipe Rodríguez (San Juan)
Manager
Deloitte Tax LLP
frodriguez@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](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:2em:3na:stm:awa:tax)

State income tax effect of proposed federal intercompany debt regulations

On April 4, 2016, the Internal Revenue Service (IRS) issued proposed Treasury regulations under Section 385 of the Internal Revenue Code (Proposed Regulations) that would, if adopted in their current form, have a wide-ranging impact on intercompany debt, including requiring certain debt instruments issued between related parties to be recharacterized as equity, and establishing minimum documentation requirements that must be satisfied for intercompany debt instruments to be respected. While the Proposed Regulations are not intended to affect debt between members of a consolidated federal return for federal tax purposes, they may have implications for state income tax purposes, especially in states that do not fully conform to the federal consolidated return regulations.

This Multistate Tax Alert summarizes and highlights the relevant provisions of the Proposed Regulations and provides some taxpayer considerations in light of the potential state income tax implications.

[Issued: April 29, 2016]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/state-income-tax-effect-of-proposed-federal-intercompany-debt-regulations.html?id=us:2em:3na:stm:awa:tax:050616](http://www2.deloitte.com/us/en/pages/tax/articles/state-income-tax-effect-of-proposed-federal-intercompany-debt-regulations.html?id=us:2em:3na:stm:awa:tax:050616)

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.