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Articles:

Global business and states' challenges to taxable income

This edition of "Inside Deloitte," co-authored by Michael Bryan and Laura Souchik of Deloitte Tax LLP, discusses the origins of transfer pricing authority, variations in state tax authority in this area, and what the international community and the states have done recently to reinforce the proper reporting of taxable income by taxpayers. The article also discusses the recent Organisation for Economic Co-operation and Development (OECD) developments, focusing on the US Treasury's proposed regulations regarding country-by-country reporting and intercompany debt.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/global-business-and-states-challenges-to-taxable-income.html?id=us:2em:3na:stm:awa:tax:070116>

Income/Franchise:

Louisiana: Governor Signs Various Tax Bills from Second Special Session, Including Single Sales Factor Apportionment and Market-Based Sourcing Provisions

Governor John Bel Edwards recently signed into law a number of tax bills that include the following changes to Louisiana income tax law:

- Single sales factor apportionment regime for most industries;
- Double weighted sales factor apportionment for certain oil and gas taxpayers;
- Market-based sourcing for services and certain other revenues; and
- Sales factor apportionment “throw-out” rule.

See forthcoming Multistate Tax Alert for more details on these recently enacted tax law provisions.

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Income/Franchise:

Louisiana: New Law Revises Corporate and Partnership Tax Return Due Dates

H.B. 735, signed by gov. 6/17/16. Effective immediately and applicable for income tax periods beginning on and after January 1, 2016, new law generally revises the due date for filing and paying Louisiana corporate income returns from *April 15* to *May 15* for calendar year filers, and from the 15th day of the *fourth* month to the 15th day of the *fifth* month following the close of the fiscal year for fiscal year filers. Regarding the due date for filing non-composite partnership returns, the new law generally revises the date from *May 15* to *April 15* for calendar year filers, and from the 15th day of the *fifth* month to the 15th day of the *fourth* month following the close of the fiscal year for fiscal year filers. Applicable for corporation franchise tax periods beginning on and after January 1, 2017, the new law also revises the payment due date of the corporation franchise tax from the 15th day of the *fourth* month of the tax year to the 15th day of the *fifth* month of the tax year.

URL: <http://legis.la.gov/legis/BillInfo.aspx?sessionId=16RS&billtype=HB&billno=735>

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Income/Franchise:

New Hampshire: New Law Updates State Conformity to IRC; Addresses “Phantom Tax” Issue for BPT Purposes

S.B. 239, signed by gov. 6/21/16. Effective immediately and applicable for all taxable periods beginning on or after January 1, 2017, new law generally updates New Hampshire’s business profits tax (BPT) statutory references to the Internal Revenue Code (IRC) to as it existed on December 31, 2015, with some enumerated exceptions, such as

decoupling from i) certain IRC Section 179 deduction provisions; ii) IRC Section 168(k) bonus depreciation; and iii) the IRC Section 199 deduction for income attributable to domestic production activities.

[URL: http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=189&txtFormat=pdf&v=current](http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=189&txtFormat=pdf&v=current)

S.B. 342, signed by gov. 6/21/16. Effective immediately and applicable for sales or exchanges of interests in business organizations that occur on and after January 1, 2016, new law limits the inclusion in the BPT of the net increase in the basis of the assets for one or more of the parties to a transaction due to certain sales or exchanges of an interest or beneficial interest in a business organization, with the apparent intent of addressing the so-called “phantom tax” issue. According to a related press release issued by Governor Maggie Hassan, the intent of this legislation is to “support growing businesses by changing a unique provision of New Hampshire’s tax code, which will help encourage capital investment and give businesses more flexibility.” More specifically, the new version of this provision operates by no longer requiring the addition to BPT of the step up in basis of assets, and also requiring the modification of depreciation/amortization expense claimed for federal tax purposes to reflect any additional amounts of such expense that result from the step up in basis for federal tax purposes. Alternatively, taxpayers are now permitted to formally elect to report the addition to BPT as was previously required, and consequently claim the additional depreciation/amortization deductions claimed for federal tax purposes.

[URL: http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=901&txtFormat=pdf&v=current](http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=901&txtFormat=pdf&v=current)

[URL: http://governor.nh.gov/media/news/2016/pr-2016-06-01-business-tax-cut.htm](http://governor.nh.gov/media/news/2016/pr-2016-06-01-business-tax-cut.htm)

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Sales/Use/Indirect:

Louisiana: New Law Requires Certain Remote Retailers to Issue Point-of-Sale and Annual Information Notices Regarding Tax Due or Paid

H.B. 1121, signed by gov. 6/17/16. Effective July 1, 2017, new law generally will require certain out-of-state remote retailers to, at the time of sale, notify Louisiana purchasers that their purchase is subject to Louisiana use tax unless it is specifically exempt, and that there is no state exemption specifically based on the fact that a purchase is made over the Internet, by catalog, or by other remote means. This notice must further include a statement that Louisiana law requires that use tax liability be paid annually on the individual income tax return, or through other means as may be required by state administrative rules. The new law additionally requires such out-of-state remote retailers to:

[URL: http://legis.la.gov/legis/BillInfo.aspx?sessionId=16RS&billtype=HB&billno=1121](http://legis.la.gov/legis/BillInfo.aspx?sessionId=16RS&billtype=HB&billno=1121)

1. Send annual notices to certain Louisiana purchasers listing the total amount paid by the purchaser to the retailer for property or taxable services in the preceding calendar year, as well as any known applicable exemptions, and
2. File an annual notice with the Louisiana Department of Revenue for each qualifying Louisiana purchaser, listing the total amount paid by the purchaser to that retailer for property or taxable services in the preceding calendar year.

The new law defines a “Louisiana purchaser” as a person who purchases tangible personal property or taxable services in a transaction with a remote retailer for property or a service that is delivered for use or benefit in Louisiana, and no Louisiana sales and use tax was collected or paid on the transaction. A “remote retailer” is defined as a retailer that purposefully avails itself in any way of the benefits of an economic market in Louisiana or who has any other minimum contacts with Louisiana, and who meets the following criteria:

1. Is not required by applicable law, ordinance, or regulation to register as a dealer in Louisiana, and thus is not otherwise required to collect Louisiana sales and use taxes;

2. Makes retail sales of tangible personal property or taxable services where the property is delivered into Louisiana or the beneficial use of the service occurs in Louisiana, and the cumulative annual gross receipts for the retailer and its affiliates from those sales exceeds \$50,000 per calendar year; and
3. Does not collect and remit Louisiana sales and use tax with respect to their retail sales in Louisiana.

Note that legislation enacted earlier this year in Louisiana expands the definition of “dealer” for state sales and use tax purposes to impose additional collection requirements on certain “click-through” Internet sales or affiliate sales in Louisiana [see previously issued Multistate Tax Alert for more details on this earlier legislation].

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-tax-new-louisiana-sales-and-use-tax-laws-address-budget-issues.html?id=us:2em:3na:stm:awa:tax:070116>

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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.

IRS extends transitional relief period to file Form 8850 to claim WOTC through September 28, 2016

On June 17, 2016, the Internal Revenue Service (IRS) issued Notice 2016-40, providing guidance to employers claiming the Work Opportunity Tax Credit (WOTC) under Internal Revenue Code (IRC) §§51 and 3111(e). For certain employers seeking to qualify for the WOTC, Notice 2016-40 provides additional time beyond the original transitional relief period noted in Notice 2016-22 (issued by the IRS on March 7, 2016) which had the effect of temporarily waiving the 28-day deadline specified in IRC §51(d)(13)(A) to submit Form 8850 (Pre-screening Notice and Certification Request for the Work Opportunity Credit) to Designated Local Agencies (DLA).

This Multistate Tax Alert summarizes this IRS guidance.

[Issued: June 24, 2016]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/irs-extends-transitional-relief-period-form-8850.html?id=us:2em:3na:stm:awa:tax:070116>

Missouri Supreme Court: Financial services hardware and software does not qualify for sales tax manufacturing exemption

On April 5, 2016, in *IBM Corporation vs Director of Revenue*, the Missouri Supreme Court overturned an Administrative Hearing Commission decision and held that hardware and software sold to a credit card company did not qualify for an exemption from sales tax because the credit card company’s use of the hardware and software did not qualify as “manufacturing ...of any product” under the exemption statute.

This Multistate Tax Alert summarizes the Missouri Supreme Court’s decision and provides some taxpayer considerations.

[Issued: June 23, 2016]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/missouri-supreme-court-decision-re-sales-tax-manufacturing-exemption.html?id=us:2em:3na:stm:awa:tax:070116>

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