State Tax Matters
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In this issue:

Voluntary Disclosure:
New Hampshire: Administrative Rule Implements New Voluntary Disclosure Program

Rev 2910: Voluntary Disclosure Program Rule, N.H. Dept. of Rev. Admin. (7/21/16). The New Hampshire Department of Revenue Administration (Department) has adopted an administrative rule implementing legislation enacted in 2015 [*H.B. 2*] that provides for the establishment of a voluntary disclosure program for taxes that it administers. Under this program, a qualified person or entity voluntarily self-discloses a tax liability to the Department. The Department, in turn, may waive applicable penalties, settle and / or compromise the taxes and interest due through a voluntary disclosure agreement, wherein the underlying “look-back period” is generally defined as the three most recently completed full tax years plus the incomplete current tax year.
URL: http://revenue.nh.gov/laws/documents/adoptedtext.pdf
URL: http://www.gencourt.state.nh.us/legislation/2015/HB0002.pdf

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Income/Franchise:
District of Columbia: Implications Relating to the Fiscal Year 2017 Budget Support Emergency Act of 2016

The Fiscal Year 2017 Budget Support Act of 2016 (B21-0669), introduced on March 24, 2016, contains several important tax provisions. This bill is currently under review by the Council of the District of Columbia (District) and is not currently enacted. However, on July 20, 2016, Mayor Muriel Bowser signed the Fiscal Year 2016 Budget Support Emergency Act of 2016 (A21-0463) (Emergency Act). The Emergency Act contains the same tax provisions outlined in the Fiscal Year 2017 Budget Support Act of 2016, and is considered effective as of the date signed by the Mayor. This Emergency Act shall expire on October 18, 2016.

The Emergency Act reenacts previously reported changes to the cascading statutory franchise tax rate reductions authorized by D.C. Code Ann. § 47-181 (TRC Act). It also adds a new paragraph to Section 47-181, which will allow the continued implementation of the TRC Act for taxable years beginning after December 31, 2016, based on the priority set forth in the TRC Act through Fiscal Year 2017, should the revenue estimate issued in September 2016 by the District Chief Financial Officer (District CFO) exceed the revenue estimate established for Fiscal Year 2017. The District CFO's February 2016 Revenue Estimate previously certified that revenue collections were sufficient to trigger the tax rate reduction from 9.2 percent to 9.0 percent for tax years beginning after December 31, 2016. Therefore, close monitoring of the District CFO's September 2016 Revenue Estimates is recommended.

The Emergency Act enacts changes to the franchise tax return due date for tax years beginning after December 31, 2015. The statutory due date shall be the 15th day of April for a calendar year taxpayer, or the 15th day of the fourth month following the close of the fiscal year for a fiscal year taxpayer. Currently, the statutory due date is the 15th day of March for a calendar year taxpayer, or the 15th day of the third month following the close of the fiscal year for a fiscal year taxpayer. See D.C. Code Ann. § 47-1805.03.

The Emergency Act amends the deduction afforded to unitary combined reporting groups where the unitary combined reporting regime applicable to tax years after December 31, 2010, resulted in an increase to the unitary combined group's net deferred tax liability. The District originally allowed a deduction of the net increase in the taxable temporary difference to be taken equally over a seven-year period (1/7th) commencing with the fifth year of the combined filing – i.e., tax year 2015. See D.C. Code Ann. § 47-1810.08. The Emergency Act now defers the deduction to the tenth year of the combined filing – i.e., tax year 2020. As such, this may have retroactive implications for tax year 2015. In what appears to be an effort to alleviate any underpayment interest which a taxpayer may incur in tax year 2015 as a result of the deferral, the estimated tax interest from the underpayment may be waived upon application.

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Income/Franchise:
Nevada: Newly Enacted Commerce Tax Due August 15, 2016

Effective July 1, 2015, Nevada enacted a new "commerce tax" applicable to each "business entity" (including disregarded entities) engaged in business in Nevada [*S.B. 483*; see previously issued *Multistate Tax Alert* for more details on this new law]. The tax is generally imposed on Nevada-sitused gross revenue in excess of $4 million at various rates that depend upon the industry in which the business entity is "primarily engaged." For this purpose, a business entity generally would be treated as "primarily engaged" in the business category in which the highest percentage of its Nevada gross revenue is generated. Each business entity is required to designate on its initial report the North American Industry Classification System (NAICS) business code category in which it is primarily engaged. Once the NAICS designation has been made on the initial report, it generally may be changed only upon obtaining permission from the Nevada Department of Revenue (Department).
URL: 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:080516

Each Nevada business entity is generally required to:

- File "Nevada State Tax Form TXR-030.01" by August 15, 2016 reporting Nevada gross revenue for the taxable year July 1, 2015 through June 30, 2016.

Taxpayers that have not received a "Welcome to Nevada Commerce Tax" letter from the Department containing a Taxpayer ID number may be required to register with the Department before filing their initial commerce tax return.

Note that the commerce tax is due annually on August 15th, though filing extensions may be available to qualifying taxpayers.

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Income/Franchise:
South Carolina: Revenue Ruling Updates Guidance on Nexus-Creating Activities

Revenue Ruling No. 16-11, S.C. Dept. of Rev. (7/27/16). Applicable to all periods open under statute, the South Carolina Department of Revenue (Department) has issued an advisory opinion "to update written guidance from the Department concerning nexus creating activities for income tax purposes." The guidance includes a lengthy list of example activities that may create nexus, and covers topics such as:
URL: https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/rr16-11.pdf

- The ownership/leasing of in-state property;
- The ownership interest of in-state pass-through entities;
- Licensing intangibles;
- Various sales and non-sales related employee activities;
- The activities of unrelated parties;
- Distribution and delivery;
- Financial activities and transactions;
- Cloud computing or software as a service (SaaS) transactions; and
- Internet-based activities.

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Multistate Tax Alerts

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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.