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Articles:
Income Tax Nexus in the New Economy: Third-Party Service Providers

This edition of "Inside Deloitte," co-authored in part by Mike Porter, Alexis Morrison-Howe, and Jeremy Sharp of Deloitte Tax LLP's Multistate Office of Washington National Tax, considers the state income tax nexus implications of the shift toward the remote delivery of goods and services as states more aggressively assert jurisdiction to tax. The authors focus on scenarios in which out-of-state companies rely on in-state services provided by third parties as well as the implications it may hold in the context of Public Law 86-272.
URL: http://www2.deloitte.com/us/en/pages/tax/articles/income-tax-nexus-in-the-new-economy-third-party-service-providers.html?id=us:2em:3na:stm:awa:tax:082616

Amnesty:
Arizona: Tax Recovery Program Permitting Penalty and Interest Abatement and/or Waiver Begins September 1, 2016

Arizona Tax Recovery Program, Ariz. Dept. of Rev. (8/16). The Arizona Department of Revenue (Department) has issued additional information, application forms, and procedures pursuant to recently enacted legislation [*H.B. 2708*] that requires establishment of a "Tax Recovery Program" that will run from September 1, 2016 through October 31, 2016, for the purpose of reducing or waiving civil taxpayer penalties and interest for unpaid liabilities on most taxes administered by the Department for any period ending before January 1, 2014, for annual filers, and before February 1, 2015, for all other filers. Under this program, qualifying taxpayers may elect to pay their tax liability in full on or before October 31, 2016, or elect to pay their full tax liability in installments over a 24-month period, ending no later than October 31, 2018.
URL: https://www.azdor.gov/TaxRecovery.aspx
URL: http://www.azleg.gov/legtext/52leg/2r/bills/hb2708h.pdf

The Department explains that Arizona's Tax Recovery Program is generally available to taxpayers who:

- Have an existing liability for tax due and received a notice from the Department;
- Failed to file a tax return that was due during the periods covered under the Tax Recovery Program;
- Failed to report all income or all the tax, and associated interest and penalties that were due;
- Incorrectly claimed credits or deductions;
- Misrepresented or omitted any tax due;
- Non-residents or part-year residents who received income that may be taxable in Arizona; and
- Are out-of-state and multi-state businesses.

However, the Arizona Tax Recovery Program generally is *not* available to taxpayers who are under audit and that audit has not become final, or to those that are a party to a closing agreement with the Department for the tax periods included in the Tax Recovery Program application.

Note that taxpayers participating in Arizona's Tax Recovery Program waive several rights for the periods covered in the application, including their rights to claim any credits or refunds and any administrative or judicial appeal remedies for the periods covered in the application. The Department may also audit participating taxpayers for periods covered in the application.

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

On August 18, 2016, Mayor Muriel Bowser signed and enacted the Fiscal Year 2017 Budget Support Act of 2016, A21-0488 (Act), which contains several important tax provisions and is now subject to a 30-day period of Congressional review before it may become effective. As of date, the Act has not yet been transmitted to Congress, which would trigger the 30-day review period; note that Congress currently is not scheduled to return to session until September 6, 2016. In the interim, 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 Act, and is considered effective as of the date signed by the Mayor. The Emergency Act shall expire on October 18, 2016.

As in the Emergency Act, the Act would reenact previously reported changes to the cascading statutory franchise tax rate reductions authorized by D.C. Code Ann. § 47-181 (TRC Act). It would also add 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.

As in the Emergency Act, the Act would enact changes to the franchise tax return due date for tax years beginning after December 31, 2015. The Act provides that 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. Previously, the statutory due date for a franchise tax return generally was 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.

As in the Emergency Act, the Act would amend 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 had 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. As in the Emergency Act, the Act would defer 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. Note that 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 Act provides that the estimated tax interest from the underpayment may be waived upon application.

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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.