



In this issue:

Income/Franchise: Connecticut: Guidance on New Market-Based Sourcing Provisions to Be Issued..... 1
Income/Franchise: Reminder: Q4 Estimates May be Due December 15, 2016 for All Ohio Municipalities..... 2
Income/Franchise: South Carolina: Working Draft Guidance Issued on Reporting IRS Income Tax Adjustments; Public Comments Due by December 1 2
Multistate Tax Alerts 3

Income/Franchise:

Connecticut: Guidance on New Market-Based Sourcing Provisions to Be Issued

Special Notice 2016(6), Conn. Dept. of Rev. Serv. (11/9/16). The Connecticut Department of Revenue Services (Department) has issued a notice that provides an overview of recently enacted legislation, including new law [S.B. 502] that generally adopts a set of market-based sourcing rules for sourcing income from certain services and sales other than sales of tangible personal property for state corporation business tax apportionment purposes applicable to income years commencing on or after January 1, 2016 for C corporations (and commencing on or after January 1, 2017 for individuals and pass-through entities). The notice explains that impacted taxpayers generally must source receipts from the sales of services and intangible property on a market basis, while real and tangible personal property generally continues to be sourced based upon location of the purchaser. Additionally, corporations that cannot reasonably determine where their receipts should be sourced under the new statutory rules may petition for the use of an alternate method that “reasonably approximates such sourcing rules.” The notice also explains that sales of real, tangible and intangible property generally must be excluded from the apportionment calculation (numerator and denominator) if such property is not held by the corporation primarily for sale to customers in the ordinary course of

the corporation's trade or business. The Department states that it currently is preparing guidance regarding market-based sourcing and "will post this guidance on its website as soon as it becomes available."

URL: <http://www.ct.gov/drs/lib/drs/publications/pubssn/2016/sn2016-6.pdf>

URL: https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB00502&which_year=2016

Note that for income years beginning on or after January 1, 2016, legislation enacted during December 2015 [*SB 1601*; see previously issued Multistate Tax Alert for more details on this 2015 law] eliminates the property and payroll factors from the general apportionment calculation for multistate corporations not subject to industry-specific apportionment methodologies, resulting in a default single-receipts factor apportionment methodology under Connecticut's corporation business tax. Additionally, note that effective for income years beginning on or after January 1, 2016, commonly owned corporations that are engaged in a unitary business, where at least one corporation is subject to Connecticut's corporation business tax, generally must file a state combined unitary return.

URL: <https://www.cga.ct.gov/2015/ACT/pa/pdf/2015PA-00001-R00SB-01601SS2-PA.pdf>

URL: <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-connecticut-enacts-additional-tax-law-changes.pdf>

— Jack Lutz (Hartford)
Managing Director
Deloitte Tax LLP
jacklutz@deloitte.com

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

Income/Franchise:

Reminder: Q4 Estimates May be Due December 15, 2016 for All Ohio Municipalities

Pursuant to legislation enacted late in 2014 [*H.B. 5*; see previously issued Multistate Tax Alert for more details on this 2014 legislation] that creates uniform provisions applicable to Ohio municipal income tax regimes (i.e. municipal net profits taxes), affected taxpayers are reminded that there may be a myriad of changes that need to be considered in preparing their 2016 Ohio municipality income tax filings. Most immediately, under Ohio Revised Code § 718.08, 90% of the underlying tax liability for the taxable year may need to be paid through estimated taxes to the municipal corporation or tax administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, *on or before the 15th day of the twelfth month of the taxable year*. In this respect, under the new law, such payment estimates may be due by December 15, 2016 for calendar year taxpayers for all Ohio municipalities, rather than by January 15, 2017.

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-ohio-enacts-municipal-tax-reform.html?id=us:2em:3na:stm:awa:tax:112516>

Note that under prior law, Ohio municipalities had discretion to reasonably determine annual income tax return due dates, provided that the original due dates were not earlier than the comparable federal return due dates. Current law now establishes uniformity among Ohio municipalities by requiring that annual municipal income tax returns generally be due three and a half months after the close of the taxpayer's tax year; and that extended municipal returns generally be due nine and a half months after the taxpayer's tax year end.

— Dave Adler (Columbus)
Managing Director
Deloitte Tax LLP
daadler@deloitte.com

Courtney Clark (Columbus)
Senior Manager
Deloitte Tax LLP
courtneyclark@deloitte.com

Income/Franchise:

South Carolina: Working Draft Guidance Issued on Reporting IRS Income Tax Adjustments; Public Comments Due by December 1

SC Revenue Procedure 16-x (Draft), S.C. Dept. of Rev. (11/14/16). The South Carolina Department of Revenue (Department) has released a working draft revenue procedure on reporting federal income tax adjustments made by

the Internal Revenue Service, which would apply to C corporation federal income tax adjustments reported to the Department on or after November 1, 2016. In doing so, the Department states that it is attempting to provide a “streamlined, alternative reporting process for C corporations to notify the Department of federal tax adjustments” under S.C. Code § 12-54-85.

[URL: https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/PD-CCorp.pdf](https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/PD-CCorp.pdf)

The draft guidance explains that, generally, a C corporation reports corrections or changes to a previously filed South Carolina income tax return – including changes resulting from federal tax adjustments made by the IRS – by filing an amended South Carolina corporate income tax return wherein the adjustments reported may result in additional South Carolina tax due or a South Carolina refund. However, in lieu of filing an amended state corporate tax return, the draft guidance states that the Department will allow C corporations to report changes in taxable income resulting from federal tax adjustments made by the IRS by using a streamlined reporting method, and includes an “approved sample reporting format” that requires a copy of the federal final determination to be attached. The draft guidance also notes that a taxpayer-created spreadsheet is acceptable, “provided that all information on the approved sample reporting format is reflected.” The draft guidance cautions that this streamlined format may only be used to report changes resulting from federal income tax adjustments made by the IRS, and that “other adjustments must be reported by filing an amended corporate return (Form SC 1120).”

Note that this draft revenue procedure does not impact the general statutory 180-day time limit under S.C. Code § 12-54-85(D) for reporting such federal changes to the Department once a final determination of a tax adjustment is made by the IRS.

Public comments on this draft revenue procedure are due on December 1, 2016.

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

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

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

California FTB issues Notice on US Supreme Court’s Denied Review of Multistate Tax Compact Election Case

On November 1, 2016, the California Franchise Tax Board (FTB) issued Notice 2016-03 (Notice), providing guidance on how it will process cases before the FTB and the California State Board of Equalization following the US Supreme Court’s recent decision to deny review of the California Supreme Court’s 2015 ruling, which had unanimously reversed the California Court of Appeal’s 2012 decision and denied the taxpayers’ election to change their state corporation franchise tax apportionment formula to apply the provisions of the Multistate Tax Compact contained in California Revenue & Taxation Code (CRTC) Section 38006.

This Multistate Tax Alert summarizes the FTB guidance set forth in the Notice.

[Issue Date: November 21, 2016]

[URL: https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-notice-on-us-supreme-court-denied-review-of-multistate-tax-compact-election-case.html?id=us:2em:3na:stm:awa:tax:112516](https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-notice-on-us-supreme-court-denied-review-of-multistate-tax-compact-election-case.html?id=us:2em:3na:stm:awa:tax:112516)

Ohio Supreme Court Affirms CAT Economic Presence Nexus Standard in *Crutchfield* Decision

On November 17, 2016, the Supreme Court of Ohio, in a 5-2 opinion, affirmed decisions of the Ohio Board of Tax Appeals (BTA), consolidated as *Crutchfield Corp. v. Testa*, in which assessments had been issued against an online retailer under the bright-line economic nexus provisions of the state's Commercial Activities Tax (CAT). In upholding the BTA decisions, the Supreme Court of Ohio ruled that Ohio's bright-line economic nexus standard is constitutional because:

1. The US Supreme Court holding in *Quill Corp. v. North Dakota*, requiring a physical presence in the taxing jurisdiction in order to impose a sales and use tax obligation, does not extend to a business-privilege tax such as the CAT; and
2. That the \$500,000 taxable gross receipts threshold of the CAT's economic nexus standard complies with the substantial-nexus requirement of the US Supreme Court's ruling in *Complete Auto v. Brady*, is not clearly excessive in relation to Ohio's legitimate interest in imposing the tax, and as a result satisfies the dormant Commerce Clause.

This Multistate Tax Alert discusses briefly the background of the subject law and case, summarizes the Ohio Supreme Court's decision, and provides taxpayer considerations.

[Issue Date: November 21, 2016]

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/ohio-supreme-court-affirms-cat-economic-presence-nexus-standard.html?id=us:2em:3na:stm:awa:tax:112516>

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms. Please see www.deloitte.com/us/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.

Copyright © 2016 Deloitte Development LLC. All rights reserved.
36 USC 220506