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Income/Franchise: Connecticut Department of Revenue Services Answers FAQs on Corporation Business Tax Combined Reporting

Office of Counsel Guidance (OCG)-3, Combined Unitary FAQs, Conn. Dept. of Rev. Serv. (1/17). Pursuant to legislation enacted in 2015, which mandates unitary taxation for state corporation business tax purposes applicable to income years commencing on or after January 1, 2016 [see previously issued Multistate Tax Alert for more details on the various related bills enacted in 2015], the Connecticut Department of Revenue Services has issued answers to some

frequently asked questions, intending to “supplement the general guidance” provided in its previously issued notice from 2016 [*i.e.*, Special Notice (SN) 2016(1), Combined Unitary Legislation – Corporation Business Tax]. Topics addressed in this newer guidance include elimination of certain intercompany sales for apportionment purposes; petitioning for use of an alternate method of apportionment to exclude a combined group member; apportioning net income in instances where one taxable member in the combined group is a broadcaster; inclusion of a non-captive real estate investment trust in a combined group and elimination of intercompany dividends; inclusion or exclusion of certain domestic and foreign companies engaged in a unitary business from water’s-edge filing; and tax attribute usage.

[URL: http://www.ct.gov/DRs/cwp/view.asp?a=4549&q=589446](http://www.ct.gov/DRs/cwp/view.asp?a=4549&q=589446)

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-connecticut-enacts-additional-tax-law-changes.html?id=us:2em:3na:stm:awa:tax:012717](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-connecticut-enacts-additional-tax-law-changes.html?id=us:2em:3na:stm:awa:tax:012717)

Please contact us with any questions.

— 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:

Illinois Department of Revenue Reminds of Changes to 2016 Business Income Tax Filing and Payment Due Dates

Informational Bulletin FY 2017-12, Ill. Dept. of Rev. (1/17). Consistent with federal income tax filing due date changes enacted in June 2015, the Illinois Department of Revenue (Department) reminds taxpayers of revised filing and payment due dates effective for certain 2016 Illinois business income tax returns. C corporations that are required to file a Form IL-1120, Corporation Income and Replacement Tax Return, and whose tax year begins on or after January 1, 2016, may receive an extra month to file this return and pay their tax – more specifically, for calendar year taxpayers, the original filing and payment due date generally will change from March 15, 2017 to April 18, 2017, and for fiscal year taxpayers whose tax year ends on a date other than June 30, the original filing and payment due date generally will change from the 15th day of the *third* month following the close of the tax year to the 15th day of the *fourth* month following the close of the tax year. Fiscal year C corporation filers whose tax year ends on June 30 generally will retain the original filing and payment due date of the 15th day of the third month following the close of the tax year (*i.e.*, September 15 – until the year 2026 when this date will change to October 15).

[URL: http://www.revenue.state.il.us/Publications/Bulletins/2017/FY-2017-12.pdf](http://www.revenue.state.il.us/Publications/Bulletins/2017/FY-2017-12.pdf)

Note that the underlying extended due dates for most of these taxpayers remains the same. Please contact us with any questions.

— Brian Walsh (Chicago)
Managing Director
Deloitte Tax LLP
briawalsh@deloitte.com

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

Income/Franchise:

Rhode Island Division of Taxation Reminds of New Filing Due Dates and Extensions for Corporations and Partnerships

Rhode Island Tax News, R.I. Div. of Tax. (1/17). The Rhode Island Division of Taxation (Division) reminds that legislation enacted in 2016 conforms Rhode Island law to new federal law regarding C corporation and partnership due dates, explaining that for an entity treated as a C corporation for federal income tax purposes, the original and extended due dates depend on the entity’s year-end. In essence, there is a separate set of rules for each of the following three groups:

[URL: http://www.tax.ri.gov/newsletter/Rhode%20Island%20Division%20of%20Taxation%20Newsletter%20--%20Special%20Edition%20--%20Filing%20Season%202017.pdf](http://www.tax.ri.gov/newsletter/Rhode%20Island%20Division%20of%20Taxation%20Newsletter%20--%20Special%20Edition%20--%20Filing%20Season%202017.pdf)

- C corporations with a calendar year-end;
- C corporations with a June 30 year-end; and
- C corporations with a year-end other than December 31 or June 30.

For partnerships, and for limited liability companies (LLCs) with more than one member, that are treated as pass-through entities for federal tax purposes and that are filing "Form RI-1065," the original due date is the 15th day of the third month after the close of the taxable year; the extended due date is the 15th day of the 9th month after the close of the taxable year (i.e., a six-month extension). For purposes of filing its Form RI-1065, a single-member LLC, which, for federal tax purposes, is disregarded as an entity separate from its owner, will use the same original due date and extended due date as its owner.

The newsletter includes a snapshot chart of filing deadlines for C corporations, as well as various other entity types, for tax years beginning after December 31, 2015. Please contact us with any questions.

— Mike Degulis (Boston)
Principal
Deloitte Tax LLP
mdegulis@deloitte.com

Alexis Morrison-Howe (Boston)
Senior Manager
Deloitte Tax LLP
alhowe@deloitte.com

Income/Franchise:

Tennessee DOR Explains Entities Included in an "Affiliated Group" for Franchise & Excise Tax Purposes

FAQs: Franchise and Excise Tax, Tenn. Dept. of Rev. (1/11/17). The Tennessee Department of Revenue (Department) explains that for Tennessee franchise and excise tax purposes, an affiliated group includes:

[URL: https://revenue.support.tn.gov/hc/en-us/articles/115000399046-What-is-an-affiliated-group-for-franchise-excise-tax-purposes-](https://revenue.support.tn.gov/hc/en-us/articles/115000399046-What-is-an-affiliated-group-for-franchise-excise-tax-purposes-)

- A taxpayer that, standing alone, is subject to the Tennessee franchise tax;
- All domestic entities in which the taxpayer directly or indirectly has more than 50% ownership interest;
- All domestic entities that, directly or indirectly, have more than 50% ownership interest in the taxpayer; and
- All other domestic entities (regardless of whether or not they do business in Tennessee) in which the entity described in the previous bullet directly or indirectly has more than 50% ownership interest.

In doing so, the Department references *Important Notice 05-02*, which states that effective for tax years beginning on or after January 1, 2004, a taxpayer that is a member of an affiliated group or a financial institution affiliated group may elect to compute its franchise tax net worth base on a consolidated basis. Once made, the election is binding for a minimum of 5 years and applies to each member of the affiliated group or financial institution affiliated group, including those that subsequently join the group.

Each taxable entity doing business in Tennessee will continue to file a separate franchise and excise tax return. However, those making the election will compute their franchise tax net worth base on a consolidated basis.

[URL: http://tn.gov/assets/entities/revenue/attachments/05-02fe.pdf](http://tn.gov/assets/entities/revenue/attachments/05-02fe.pdf)

Please contact us with any questions.

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

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

Indirect/Sales/Use:

Mississippi: Proposed New Rule Requires Out-of-State Sellers with Substantial Economic Presence to Collect Use Tax on In-State Sales

Proposed New Rule: Title 35, Part IV, Subpart 3, Chapter 9: Out of State Sales into the State, Miss. Dept. of Rev. (1/12/17). The Mississippi Department of Revenue (Department) has issued a proposed new administrative rule explaining that certain out-of-state sellers with no physical presence in Mississippi must collect state use tax on their sales into Mississippi. More specifically, the proposal states that out-of-state sellers who lack a Mississippi physical presence but who are making retail sales of tangible personal property into Mississippi and have a “substantial economic presence” for sales and use tax purposes are required to register for a license with the Department to collect and remit tax as provided by Miss. Code Ann. Section 27-67-4(e). The proposed rule explains that “substantial economic presence” is created when sales into Mississippi exceed \$250,000 per year based on the previous calendar year’s sales. Additionally, nexus is deemed created under the proposal “when the consumer market is purposefully and systematically exploited by computer assisted shopping in addition to other customary means of media driven and catalogue distribution of solicitation made by out-of-state sellers.”

[URL: http://www.sos.ms.gov/ACProposed/00022459b.pdf](http://www.sos.ms.gov/ACProposed/00022459b.pdf)

The proposed rule provides that out-of-state sellers who voluntarily register to collect tax on their sales into Mississippi by July 1, 2017 as a result of Miss. Code Ann. Section 27-67-4(e), will be held liable for tax due on their sales into Mississippi on a prospective basis. However, out-of-state sellers that have *not* voluntarily registered to comply with this requirement to collect and report the applicable tax on their in-state sales “will be assessed retroactively,” wherein “no statute of limitations will be used in determining the total tax liability for such taxpayers.”

Please contact us with any questions.

— Doug Nagode (Atlanta)
Senior Manager
Deloitte Tax LLP
dnagode@deloitte.com

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

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

Indirect/Sales/Use:

Oklahoma: Proposed Amended Rules Reflect New Remote Seller and Affiliate Nexus Provisions

Title 710, Chapter 65, Proposed Amended Rules 710:65-1-8, 710:65-21-8, Okla. State Tax Comm. (1/9/17). The Oklahoma State Tax Commission (Commission) has issued proposed amended administrative rules reflecting legislation enacted in 2016 [H.B. 2531] known as the “Oklahoma Retail Protection Act of 2016,” which generally requires certain out-of-state remote sellers to either i) collect and remit state sales/use tax on in-state sales at the point of purchase, or ii) send annual notices to customers to whom tangible personal property was delivered in Oklahoma listing the total sales made to the customer during the preceding calendar year and informing the customer that Oklahoma use tax may be due. The proposed rules also reflect provisions under the new law that revise the definition of “maintaining a place of business in this state” to incorporate certain “affiliate nexus”-type provisions.

[URL: https://www.ok.gov/tax/documents/2017_Proposed%20Chapter%2065.pdf](https://www.ok.gov/tax/documents/2017_Proposed%20Chapter%2065.pdf)

[URL: http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20ENR/hB/HB2531%20ENR.PDF](http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20ENR/hB/HB2531%20ENR.PDF)

The Commission’s comment period on these proposed amendments runs through February 22, 2017, and a related public hearing has been scheduled for February 23, 2017. Please contact us with any questions.

— Jeff Meadows (Houston)
Senior Manager
Deloitte Tax LLP
jmeadows@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.

Texas Appellate Court Issues New Opinion in Franchise Tax Case Involving Film Exhibition Costs

On April 30, 2015, the Court of Appeals, 3rd District of Texas had held that American Multi-Cinema Inc. (Taxpayer) was entitled to include certain facility-related exhibition costs, such as rent and depreciation associated with the square footage of movie theatre auditoriums, as direct costs of producing its product (i.e., film exhibition) for purposes of calculating the Texas franchise tax cost of goods sold (COGS) subtraction.

On January 6, 2017, the Court of Appeals withdrew its April 30, 2015, decision and issued a new opinion. Although the Court of Appeals' holding is unchanged relative to ruling in the favor of the Taxpayer, the Court limited its analysis to the narrower definition of tangible personal property found under Texas Tax Code (TTC) § 171.1012(a)(3)(A)(ii).

This Multistate Tax Alert summarizes the appellate history, the Court of Appeals' new opinion, and offers some taxpayer considerations.

[Issued: January 23, 2017]

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/texas-appellate-court-issues-new-opinion-in-franchise-tax-case-involving-film-exhibition-costs.html?id=us:2em:3na:stm:awa:tax:012717>

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