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Amnesty:

Pennsylvania's Amnesty Program Ends June 19 – Offers Potential 100% Penalty Waiver and 50% Interest Waiver; Includes 5% Non-Participation Penalty

Release, Commonwealth of Pennsylvania (5/30/17); *Tax Update*, Penn. Dept. of Rev. (April/May 2017). Pursuant to legislation enacted in 2016 [H.B. 1198 (Act 84)] requiring the Pennsylvania Department of Revenue (Department) to establish a 60-day amnesty program ending no later than June 30, 2017, the Department's tax amnesty program launched on April 21, 2017, and the program "ends at midnight June 19, 2017." The 2017 tax amnesty program generally applies to all taxes administered by the Department that are delinquent as of December 31, 2015, whether known or unknown to the Department. Tax liabilities due after December 31, 2015 are not eligible to be included. The non-filed or under-reported tax liabilities due after December 31, 2015 must be filed by June 19th in order to participate in this tax amnesty program. Under this program, amnesty is granted for eligible taxes to qualifying taxpayers, and potentially permits 100% waiver of the underlying penalties and 50% waiver of the underlying interest. Taxpayers that are eligible to participate in this 2017 tax amnesty program, but choose not to, will be subject to a 5% non-participation on the balance due and may also be subject to other enforcement actions.

URL: <http://www.media.pa.gov/Pages/Revenue-Details.aspx?newsid=202>

URL: http://www.revenue.pa.gov/GeneralTaxInformation/News%20and%20Statistics/Documents/Tax%20Update/taxupdate_190.pdf

URL: <http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2015&sind=0&body=H&type=B&bn=1198>

Individuals, businesses and other entities that participated in Pennsylvania's 2010 tax amnesty program are ineligible to participate in this current 2017 tax amnesty program; however, participants of Pennsylvania's 1996 tax amnesty program are eligible to participate.

Note that the Department will also continue to accept requests for Voluntary Disclosure during the 2017 tax amnesty period. Please contact us with any questions.

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Income/Franchise:

Florida: New Law Updates State Conformity to Internal Revenue Code

H.B. 7009, signed by gov. 6/2/17. Effective immediately and applicable retroactively to tax years beginning on or after January 1, 2017, new law generally updates corporate income tax statutory references in Florida to conform to the Internal Revenue Code (IRC) provisions as in effect on January 1, 2017 (previously, January 1, 2016). Note that Florida law continues to decouple from federal bonus depreciation for assets placed in service after December 31, 2007 and before January 1, 2021; and no longer decouples from IRC Sec. 179 expense deductions for taxable years beginning on or after January 1, 2015.

URL:
http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=_h7099er.docx&DocumentType=Bill&BillNumber=7099&Session=2017

This new law also generally conforms certain state tax law provisions to current federal income tax policy by allowing calendar-year corporate income tax payers a six-month time period (previously, a five-month time period) for tax return extensions after the original due date, applicable retroactively to taxable years beginning on or after January 1, 2016. Effective immediately, the enacted legislation additionally modifies the estimated corporate income tax payment deadline at the end of June if the last day of the month is either a weekend or a holiday by essentially providing that such estimated payment is due on the last day of June that is not a weekend or holiday.

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Income/Franchise: Massachusetts: DOR Explains New Law Updating Business Income Tax Return Filing Deadlines to Conform with Federal Due Date Changes Beginning with 2017 Tax Year

Technical Information Release (TIR) No. 17-5, Mass. Dept. of Rev. (5/31/17). The Massachusetts Department of Revenue (Department) has issued a technical information release pursuant to legislation enacted earlier this year [H. 3448] that generally conforms the filing due dates for Massachusetts partnership and C corporation tax returns to the federal filing due dates for such tax returns, beginning with state tax returns due on or after January 1, 2018. The release also provides guidance on the extension due dates for such state tax returns due on or after January 1, 2018, as well as the filing and extension due dates for state tax returns due on or before December 31, 2017.

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2017-releases/tir-17-5.html>

URL: <https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter5>

Note that the following filing due dates will apply for Massachusetts purposes effective for state business income tax returns for taxable years beginning after December 31, 2016 (*i.e.*, beginning with the 2017 tax year and thus generally applicable to state business income tax returns due in 2018 and thereafter):

- The state corporation excise tax return due date for C corporations, including those filing state financial institution excise tax returns, generally changes from March 15 to April 15 for calendar year taxpayers, or from the 15th day of the third month after the end of the fiscal year to the 15th day of the fourth month after the end of the fiscal year for fiscal year taxpayers;
- The state corporation excise tax return due date for S corporations (*i.e.*, Form 355S) remains unchanged, with such returns generally due on March 15 for calendar year taxpayers, and the 15th day of the third month after the end of the fiscal year for fiscal year taxpayers; and
- The state partnership information return due date generally changes from April 15 to March 15 for calendar year taxpayers, or from the 15th day of the fourth month after the end of the fiscal year to the 15th day of the third month after the end of the fiscal year for fiscal year taxpayers.

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Income/Franchise:

Minnesota: New Law Revises Definition of Financial Institutions to Include Certain Non-Corporate Subsidiaries and Affiliates of Banks

H.F. 1, signed by gov. 5/30/17. Effective for taxable years beginning after December 31, 2016, new law modifies the definition of “financial institutions” for Minnesota corporate income tax purposes to include certain non-corporate subsidiaries and affiliates of financial institutions in calculating the income and apportionment factors of the taxpayer. Under the new law, a financial institution now also includes any corporation or other business entity that is more than 50 percent owned, directly or indirectly, by any person or business entity that is:

[URL: https://www.revisor.mn.gov/laws/?year=2017&type=1&doctype=Chapter&id=1](https://www.revisor.mn.gov/laws/?year=2017&type=1&doctype=Chapter&id=1)

- Registered under state law as a bank holding company; under the federal Bank Holding Company Act of 1956, as amended; or as a savings and loan holding company under the federal National Housing Act, as amended;
- A national bank organized and existing as a national bank association pursuant to the provisions of United States Code, title 12, chapter 2;
- A savings association or federal savings bank as defined in United States Code, title 12, section 1813(b)(1);
- Any bank or thrift institution incorporated or organized under the laws of any state;
- Any corporation organized under United States Code, title 12, sections 611 to 631; or
- Any agency or branch of a foreign depository as defined under United States Code, title 12, section 3101.

The new law also provides that a financial institution includes a corporation or other business entity that derives more than 50 percent of its total gross income for financial accounting purposes from finance leases. A “finance lease” is defined as any lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all the benefits and risks incident to the ownership of property, including any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, accounting for leases, or any other lease that is accounted for as financing by a lessor under generally accepted accounting principles.

Another section in this bill provides that qualifying unitary insurance companies must be included within a Minnesota combined return if they are not licensed in Minnesota or another state that imposes retaliatory taxes on such insurers.

Please contact us with any questions, and stay tuned for a forthcoming Multistate Tax Alert that further discusses this recently enacted legislation.

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Income/Franchise:

New Hampshire: Revised Administrative Rules Reflect Legislation Addressing “Phantom Tax” Issue for Business Profits Tax Purposes, and New Filing Due Dates

Rule Amendments Rev 302.02; Rev 303.05; Rev. 307.06; Rev 307.07; Rev 307.12, N.H. Dept. of Rev. Admin. (5/24/17). The New Hampshire Department of Revenue Administration has finalized various administrative rule amendments, including provisions reflecting legislation enacted in 2016 [S.B. 342] that, applicable for sales or exchanges of interests in business organizations that occur on or after January 1, 2016, provides an option for taxpayers relative to the inclusion in the New Hampshire business profits tax (BPT) of the net increase in the basis of

the assets for one or more of the parties to a transaction because of some sales or exchanges of an interest or beneficial interest in a business organization – which was enacted with the apparent intent of addressing the so-called “phantom tax” issue. The administrative rule amendments also reflect legislation enacted in 2016 [H.B. 1290] that revises the due dates for filing New Hampshire’s BPT and business enterprise tax (BET) returns to conform with the new federal due dates for partnership and corporate tax returns as prescribed in federal H.R. 3236.

URL: <https://www.revenue.nh.gov/laws/documents/adoptedrev300.pdf>

URL: http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2016&id=901&txtFormat=pdf&v=current

URL: http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2016&id=511&txtFormat=pdf&v=current

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Income/Franchise:

Oregon: New Law Permits Consideration of the Role of Foreign Affiliates in Making Unitary Business Determination

S.B. 30, signed by gov. 5/30/17. Effective on the 91st day after the date on which the 2017 session of the 79th Legislative Assembly adjourns sine die, and applicable to tax years beginning on or after January 1, 2018, new law essentially allows consideration of the role of foreign affiliates when making a decision as to whether or not corporations included in the same consolidated federal return comprise a unitary business for state corporate income tax purposes – that is, it permits considering the connections corporations included in the same consolidated federal return have with foreign affiliates in determining if such corporations are members of a unitary group. More specifically, the new law adds reference to “any corporation that is owned or controlled directly or indirectly by the same interests” in deciding whether corporate affiliates included in the same consolidated federal return are engaged in a unitary business for state corporate income tax purposes.

URL: <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB30/Enrolled>

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Income/Franchise:

Texas: New Law Clarifies that “Production” for Purposes of Calculating COGS Does Not Include Installation

H.B. 4002, signed by gov. 6/1/17. Effective September 1, 2017, new law modifies the definition of “production” for purposes of calculating a taxpayer’s deductible cost of goods sold (COGS) for Texas franchise tax purposes by removing the term “installation” from the list of activities that constitute production. The legislation notes that this amendment is merely “a clarification of existing law.”

URL: <http://www.capitol.state.tx.us/tlodocs/85R/billtext/pdf/HB04002F.pdf#navpanes=0>

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Indirect/Sales/Use: Tennessee DOR Says it Will Delay Enforcement of “Economic Presence” Rule Pending Final Judgment in Ongoing Litigation Over its Constitutionality

Notice 17-12, Out-of-state Dealer Registration Enforcement Delayed, Tenn. Dept. of Rev. (5/17). The Tennessee Department of Revenue (Department) has issued a notice explaining that pursuant to the April 10, 2017 agreed order issued by a Tennessee chancery court which requires suspension of the enforcement of Tenn. Comp. R. & Regs. 1320-05-01-.129(2), “pending the entry of a final judgment” in ongoing litigation over its constitutionality, out-of-state dealers are no longer required to collect and remit state sales and use tax as a result of Tenn. Comp. R. & Regs. 1320-05-01-.129(2) – highlighting that this agreed order does *not* affect any requirement to collect state sales and use tax under any other provision of law. Note that under Tenn. Comp. R. & Regs. 1320-05-01-.129(2), out-of-state dealers with no physical presence in Tennessee that engage in regular and systematic solicitation of consumers in Tennessee and that make sales exceeding \$500,000 to consumers in Tennessee during the previous twelve-month period are generally deemed to have a “substantial nexus” with Tennessee.

[URL: http://tn.gov/assets/entities/revenue/attachments/sales17-12.pdf](http://tn.gov/assets/entities/revenue/attachments/sales17-12.pdf)

The notice additionally explains that although an out-of-state dealer is not required to comply with Tenn. Comp. R. & Regs. 1320-05-01-.129(2) while the agreed order is in place, the order does not prevent out-of-state dealers from voluntarily registering and collecting and remitting the sales tax. Accordingly, if an out-of-state dealer that meets the criteria set forth in the Department’s previously issued guidance under Notice 17-01 (which had instructed out-of-state dealers with no physical presence in Tennessee but meeting the “economic presence” requirements under Tenn. Comp. R. & Regs. 1320-05-01-.129, to register with the Department for sales and use tax purposes by March 1, 2017, and begin collecting and remitting tax by July 1, 2017) does begin to collect and remit tax on or before July 1, 2017, the Department states that it will still certify that it will neither audit nor assess the business for periods prior to the date the dealer begins to collect and remit the tax.

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Multistate Tax Alerts

Throughout the week, we highlight selected developments involving state tax legislative, judicial, and administrative matters. The alerts provide a brief summary of specific multistate developments relevant to taxpayers, tax professionals, and other interested persons. Read the recent alerts below or visit the [archive](#).

[Archive: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:2em:3na:stm:awa:tax](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:2em:3na:stm:awa:tax)

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.

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