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In this issue:

Income/Franchise: Louisiana: New Law Provides Deduction for Dividends Received from Certain Regulated Groups of Telecom Providers and Electric Utilities 2

Income/Franchise: Massachusetts DOR Issues Working Draft Technical Information Release on Policy Change Regarding Treaty-Exempt Income 2

Income/Franchise: A Closer Look at New York's Draft Proposed Regulations under Article 9-A Business Corporation Franchise Tax Under Subpart 3-9: Computation of the Unabsorbed Net Operating Loss (UNOL) 3

Income/Franchise: North Carolina: Legislature Overrides Governor's Veto of Budget Bill; New Law Includes Reduced Tax Rates 6

Income/Franchise: North Carolina: New Law Updates State Conformity to Internal Revenue Code 6

Income/Franchise: South Carolina DOR Explains Partnership and Corporation Tax Return Due Date Changes 7

Indirect/Sales/Use: Illinois: DOR Issues Proposed Rules Reflecting "Bad Debt" Deduction Legislative Changes 7

Indirect/Sales/Use: Maine: New Law Imposes Remote Seller Tax Collection Responsibilities Despite Lack of "Physical Presence" 8

Indirect/Sales/Use: Virginia Department of Taxation Ruling Reflects New Law Requiring Remote Sellers with In-State Inventory to Register and Collect Tax on Sales to In-State Customers 9

Multistate Tax Alerts 9

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Income/Franchise:
Louisiana: New Law Provides Deduction for Dividends Received from Certain Regulated Groups of Telecom Providers and Electric Utilities

H.B. 555, signed by gov. 6/22/17. Effective January 1, 2018, and applicable to all taxable periods beginning on and after January 1, 2018, new law permits a state corporate income tax deduction for amounts received as dividend income by any member of certain regulated groups of entities. A "regulated group of entities" is defined within the legislation as a group comprised of a parent entity and any other legal entities in which the parent entity directly or indirectly owns at least 50% of either the vote or the value of the stock, membership interest, partnership interest or other ownership interest and in which either one of the following applies:
URL: http://www.legis.la.gov/legis/ViewDocument.aspx?d=1052216

- One or more of the members of the group is regulated by the Louisiana Public Service Commission as a telecommunications service provider and at least one of the members of the group has at any time been party to a contract for a tax exemption with the Louisiana Board of Commerce and Industry; or
- One or more of the members of the group is regulated by the Louisiana Public Service Commission as an electric utility.

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Income/Franchise:
Massachusetts DOR Issues Working Draft Technical Information Release on Policy Change Regarding Treaty-Exempt Income

Working Draft: Technical Information Release, TIR 17-XX, Non-US Corporation with US Income Exempt from US Tax Pursuant to a Bilateral US Income Tax Treaty, Mass. Dept. of Rev. (6/22/17). The Massachusetts Department of Revenue (Department) has issued a working draft technical information release (working draft TIR) announcing a change in its policy regarding the calculation of the non-income measure by a non-US corporation subject to tax in Massachusetts that has one or more items of income that is exempt from federal income tax pursuant to the provisions of a bilateral US income tax treaty ("treaty-exempt income") – explaining that while treaty-exempt income previously has been excluded from the computation of such corporation's apportionment percentage for the income measure of Massachusetts tax, such treaty-exempt income is also now excluded from the computation of the corporation's separate company apportionment percentage for the non-income measure of Massachusetts tax.
URL: http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2017-releases/working-tir-17-xx-restatement-of-tir-10-16.html

This working draft TIR is intended as a revision and restatement of TIR No. 10-16, proposing to amend sections IV and V with respect to the calculation of the non-income measure of the state corporate excise tax by a non-US corporation consistent with 830 CMR 63.38.1 as amended in 2014, which provides that any receipts, property or payroll related to items excluded from a corporation's federal gross income are excluded from the computation of the corporation's apportionment percentage for Massachusetts corporation excise tax purposes.

In this working draft TIR, the Department states it will apply these announced policy changes "going forward and to all open taxable years within the statute of limitations for assessment or abatement." The Department additionally notes that TIR No. 10-16 was issued to explain a 2010 statutory change made to the Massachusetts combined reporting

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statute, G.L. c. 63, § 32B, applying in the instance where a "water's edge" combined group includes a non-US corporation that has one or more items of treaty-exempt income. The 2010 statutory change, like the combined reporting statute itself, was effective for taxable years beginning on or after January 1, 2009.

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Income/Franchise:
A Closer Look at New York's Draft Proposed Regulations under Article 9-A Business Corporation Franchise Tax Under Subpart 3-9: Computation of the Unabsorbed Net Operating Loss (UNOL)

On May 5, 2017, the New York Department of Taxation and Finance (Department) released a draft document renumbering New York Business Corporation Franchise Tax Regulations Subpart 3-9 as 3-14, and adding a new Subpart 3-9 (Draft Proposed Regulations). Below, Draft Proposed Regulation Sec. 3-9.2 (Computation of the unabsorbed net operating loss (UNOL)) is reviewed. We note that these are draft proposed regulations and the Department has stated that these draft proposed regulations are not final and should not be relied upon.

Overview

Under New York Tax Law Sec. 210.1(a)(viii), net operating losses (NOLs) generated before January 1, 2015 generally are deducted from taxable income in the form of a prior net operating loss conversion (PNOLC) subtraction beginning in 2015. As part of this framework, under the Draft Proposed Regulations, taxpayers compute their unabsorbed net operating loss (UNOL). The UNOL generally is the unabsorbed portion of NOL as calculated under Article 9-A or Article 32, as in effect on December 31, 2014, that was not deductible in previous tax years and was eligible for carryforward on the last day of the base year.[1] Next, a UNOL is converted into a PNOLC subtraction pool. Taxpayers generally then are permitted to deduct a PNOLC subtraction based on the size of this subtraction pool and certain other factors.[2]

Calculation of Net Operating Losses Generated Before December 31, 2014 (Under Prior Law)

For taxpayers to accurately compute the size of their UNOL, taxpayers must calculate NOLs generated before December 31, 2014. Under prior law, New York permitted Article 9-A and Article 32 corporations to claim NOL carryover deductions on a pre-apportioned basis, with IRC Sec. 172 as the starting point for determining NOL deductions.[3] NOLs generally could be carried back 2 years or forward 20 years, although only the first $10,000 of an NOL incurred in any taxable year could be carried back to a prior year.[4]

A New York NOL for a given pre-2015 year would have been based on a taxpayer's federal NOL for such loss year. Then, certain New York limitations were applied with respect to each such loss year (loss year limitations).[5]

The two loss year limitations were as follows:

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[1] "Base year" is defined as a "corporation's last taxable year beginning on or after January 1, 2014 and before January 1, 2015." Draft. Prop. Reg. Sec. 3-9.1(a).
[2] Draft Prop. Reg. Sec. 3-9.4.
[3] N.Y. Tax Law Sec. 208.9(f), N.Y. Reg. Sec. 3-8.2(a), *as in effect Dec. 31, 2014. See generally*, Russell W. Banigan, "A Review of Net Operating Loss Provisions in the States: Beware of Conflicts Between Federal, State Requirements," Bloomberg BNA, Weekly State Tax Report, Nov. 21, 2008.
[4] New York Tax Law Sec. 208.9(f)(5), *as in effect Dec. 31, 2014*. Note that taxpayers could elect to waive the entire carryback period. N.Y. Reg. Sec. 3-8.1(d).
[5] N.Y. Reg. Sec. 3-8.2(a), *as in effect Dec. 31, 2014*.

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- No deduction was allowed for a loss sustained during any year in which the corporation was not subject to the corporation franchise tax under Article 9-A (or Article 32 as applicable).[6]
- The NOL was adjusted to reflect the New York modifications used in converting federal taxable income to New York entire net income.[7]

Separate from the foregoing loss year limitations was a limitation specifically directed to the year the loss was *utilized* (the utilization year limitation), according to which the New York NOL deduction could not exceed the deduction allowable for federal income tax purposes.[8] The amount of the taxpayer's federal NOL for this purpose was the amount of federal NOL that the taxpayer would have used had the taxpayer's federal filing status mirrored its New York filing status. For example, if a separate return was filed for New York purposes, then the federal NOL was determined as if a separate federal return had been filed by the taxpayer. In addition, for this purpose, the federal NOL used was determined as if, for federal tax purposes, only the first $10,000 of the federal NOL could be carried back.[9] In addition to the New York NOL deduction being limited to the amount of the federal NOL, the New York NOL to be absorbed had to originate from the same loss year as its federal NOL counterpart.[10]

In applying the utilization year limitation where NOLs from two or more loss years were to be carried forward to one taxable year, the regulations had provided for an "aggregate method" to determine the permissible amount of the New York NOL deduction.[11] Under the aggregate method, the total (aggregate) amount of a taxpayer's New York NOL from the various loss years was compared to the total (aggregate) amount of federal NOL from the corresponding federal loss years. The lesser of the two aggregate amounts was the allowable New York NOL deduction, thereby imposing the utilization year limitation.[12] In the general view of the Department, when NOLs from more than one loss year were being utilized, there was no distinction between the loss years (after the loss year limitations applicable separately to each loss year had already been applied). Accordingly, all of the loss years for which NOLs were to be utilized were treated as one year under the aggregate method.[13] In determining the aggregate amount, it generally was not relevant whether the New York NOL from a particular loss year exceeded the federal NOL from that same loss year. Instead, it was important that there was at least some federal and New York NOL in the same year for that year to be included in the aggregate.[14]

Computation of the UNOL

As noted above, under the Draft Proposed Regulations, the UNOL is the amount of NOL that was not deductible in previous years and still eligible for carryover before the end of the base year. To make this determination, taxpayers must compute the amount of federal and New York NOLs generated prior to January 1, 2015 that may be carried forward as of the last day of the base year.[15] The following limitations are detailed in the Draft Proposed Regulations:

1. NOLs are available for carryforward when federal and New York NOLS are sustained in the same taxable year and available for carryover as of the last day of the corporation's base year;[16]
2. Federal NOLs sustained during a separate return limitation year prior to January 1, 2015, and any corresponding New York NOL not deductible and available for carryover prior to January 1, 2015, are both eligible for carryforward in their entirety, subject to the other applicable rules;[17]

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[6] N.Y. Reg. Sec. 3-8.2(b), *as in effect Dec. 31, 2014.*
[7] N.Y. Tax Law §208.9(f)(1), *as in effect Dec. 31, 2014*; N.Y. Regs. §3-8.2(c) , *as in effect Dec. 31, 2014.*
[8] N.Y. Tax Law §208.9(f)(3), *as in effect Dec. 31, 2014*; N.Y. Regs. §3-8.2(d), *as in effect Dec. 31, 2014.*
[9] N.Y. Tax Law §208.9(f)(5), *as in effect Dec. 31, 2014*. Under N.Y. Tax Law §1453(k-1) it was assumed that the taxpayer had elected to relinquish the entire carryback period.
[10] N.Y. Regs. Sec. 3-8.2(e), *as in effect Dec. 31, 2014*, *see also In re Lehigh Valley Industries Inc.*, No. 801617 (N.Y. Tax. App. Trib. May 5, 1988).
[11] N.Y. Regs. Sec. 3-8.5 *as in effect Dec. 31, 2014.*
[12] *Id.*
[13] *Id. See also In re Lehigh Valley*, *supra* note 10, where the New York Tax Appeals Tribunal stated that "when net operating losses from two or more years are required by the regulation to be aggregated, the losses lost their identity as arising from the separate years and are considered to have each arisen from all of the years involved."
[14] *Arista Records Inc.*, TSB-A-90(15)C (Aug. 14, 1990).
[15] Draft. Prop. Reg. Sec. 3-9.2(b).
[16] Draft. Prop. Reg. Sec. 3-9.2(b)(2)(ii).
[17] Draft. Prop. Reg. Sec. 3-9.2(b)(2)(iii).

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3. If an IRC Sec. 381 transaction took place in a pre-2015 year and a corporation succeeded to the tax attributes, including federal NOLs and New York NOLs of another corporation, then such amounts that were not deductible in a pre-2015 year are eligible for carryover if the NOLs "were available for carryover as of the last day of the corporation's base year";[18]
4. IRC Sec. 382 limits the usage of NOLs that are the result of a change in corporate ownership (referred to as "pre-change losses"). Under the Draft Proposed Regulations, when these limits apply, pre-change losses that were not deductible before January 1, 2015 and that were still eligible for carryover as of the last day of the base year, are included as eligible federal NOL carryover subject to a cap. Pre-change losses would not be able to exceed (a) the IRC Sec. 382 limit multiplied by 20; less (b) any losses that were deductible in taxable years beginning before January 1, 2015.[19]
5. For corporations taxable under Articles 9-A or 32 for their base year that operate on a cooperative basis under IRC Sec. 1381, both patronage and non-patronage NOLs for federal and New York purposes that were not deductible before January 1, 2015 and that were still eligible for carryover as of the last day of the base year, are combined and eligible for carryforward, subject to the other applicable rules. [20]

When all rules are taken into account, the Draft Proposed Regulations provide that the UNOL would be the lesser of the eligible federal and New York NOL carryover amounts.[21] When the IRC Sec. 382 limitation applies for federal tax purposes, the Draft Proposed Regulations state that such limitation would apply to the corresponding eligible New York carryover amount. Therefore, the UNOL for a corporation with an IRC Sec. 382 limitation would be the sum of (i) the lesser of the eligible federal or New York State NOL carryover amounts arising from federal NOLs subject to IRC Sec. 382 limitations; and (ii) the lesser of the eligible federal or New York State NOL carryover amounts arising from federal NOLs not subject to IRC Sec. 382 limitations.[22]

Under the Draft Proposed Regulations, any changes made to the UNOL would have to be made within the statute of limitations for "the report on which a PNOLC subtraction…is first claimed," as established under New York Tax Law Sec. 1083(a),[23] which generally is within three years after the return was filed. As such, taxpayers would not be able to make changes to the UNOL in response to federal tax changes made outside of the timeframe established by New York Tax Law Sec. 1083(a).[24]

As with its other draft proposed regulations, the Department has stated that these Draft Proposed Regulations are not final and should not be relied upon; the Department is seeking comments on this proposal before August 3, 2017. Please contact us with any questions.

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[18] Draft. Prop. Reg. Sec. 3-9.2(b)(2)(iv).
[19] This limitation will also be applied to New York NOLs such that "[t]he corporation's UNOL is then the sum of the following amounts: (i) the lesser of the eligible federal or New York NOL carryover amounts arising from federal NOLs subject to IRC Sec. 382 limitations; and (ii) the lesser of the eligible federal or New York NOL carryover amounts arising from federal NOL carryover amounts arising from federal NOLs not subject to IRC Sec. 382 limitations." Draft Prop. Reg. Sec. 3-9.2(c)(2).
[20] Draft Prop. Reg. Sec. 3-9.2(b)(2)(vi).
[21] Draft. Prop. Reg. Sec. 3-9.2(c)(1). Note that this draft proposed regulation appears to assume that the UNOL calculation is subject to the utilization year limitation rules described above. We also note that under New York Tax Law Sec. 208.9(f)(3), *as in effect Dec. 31, 2014*, this limitation applied to the year that the deduction was claimed and not to the computation of the unabsorbed net operating loss. Therefore the validity of this limitation under the draft proposed regulation potentially may be open for debate.
[22] Draft. Prop. Reg. Sec. 3-9.2(c)(2). Note that this draft proposed regulation appears to assume that the UNOL calculation is subject to the utilization year limitation rules described above.
[23] Draft. Prop. Reg. Sec. 3-9.2(e).
[24] *Id.*

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Income/Franchise:
North Carolina: Legislature Overrides Governor's Veto of Budget Bill; New Law Includes Reduced Tax Rates

S.B. 257, governor's veto overridden 6/28/17. Effective for taxable years beginning on or after January 1, 2019, new law includes a state corporate income tax rate reduction – from a rate of 3% to a rate of 2.5% – as well as decreases the state franchise tax on S corporations from $1.50 per one thousand dollars of the S corporation's tax base to $200 for the first $1 million of the tax base and $1.50 per one thousand dollars of the tax base that is greater than $1 million.
URL: http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2017&BillID=sb257&submitButton=Go

Note that this enacted budget legislation contains numerous other important state tax changes, including provisions impacting state individual income tax, sales and use taxes, and other privilege taxes – most notably, a repeal of North Carolina's 1% manufacturing machinery privilege tax that effectively results in a complete exemption on manufacturing machinery and equipment effective July 1, 2018.

See forthcoming Multistate Tax Alert for more details on some of the more significant tax provisions contained within this recently enacted budget legislation.

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Income/Franchise:
North Carolina: New Law Updates State Conformity to Internal Revenue Code

H.B. 59, signed by gov. 6/21/17. Effective immediately, new law generally updates corporate and individual income tax conformity with the Internal Revenue Code as in effect as of January 1, 2017 (previously, January 1, 2016). The new law also revises North Carolina's requirement for reporting federal income tax changes impacting North Carolina corporate income tax liability to additionally include any federal tax credit changes affecting North Carolina corporate income tax liability.
URL: http://www.ncleg.net/Sessions/2017/Bills/House/PDF/H59v4.pdf

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Income/Franchise:
South Carolina DOR Explains Partnership and Corporation Tax Return Due Date Changes

Revenue Procedure No. 17-1, S.C. Dept. of Rev. (6/16/17). The South Carolina Department of Revenue (Department) has released guidance explaining the impact of legislation enacted in 2016 [H.B. 4328], which revised the due dates and extensions for certain state partnership and corporate income tax returns effective for tax years beginning after 2015, to accommodate the new federal law due date changes. The Department explains that S.C. Code Sec. 12-6-4970(A) provides that returns of C corporations generally are due on or before the 15th day of the fourth month following the tax year, unless otherwise provided. In doing so, the guidance notes that for federal income tax purposes the returns of C corporations with a June 30 tax year end continue to be due on the 15th day of the third month following the close of the fiscal year end (September 15) until tax years beginning after December 31, 2025; however, for South Carolina purposes, this federal exception and transition rule does not apply. Accordingly, South Carolina returns of C corporations with a June 30 tax year end generally are due the 15th day of the fourth month following the close of the fiscal year end (October 15) effective for tax years beginning after 2015, pursuant to the 2016 amendments to S.C. Code Sec. 12-6-4970(A). In addition, S.C. Code Sec. 12-6-4970(B) provides that returns of foreign corporations that do *not* maintain an office or place of business in the United States generally must be filed on or before the 15th day of the sixth month following the tax year.
URL: https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/RP17-1.pdf
URL: http://www.scstatehouse.gov/sess121_2015-2016/bills/4328.htm

Regarding S corporations and partnerships, the Department states that S.C. Code Sec. 12-6-4970(B) provides that returns of S corporations and partnerships generally must be filed on or before the 15th day of the third month following the tax year. Additionally, the Department explains that South Carolina bank tax returns generally are due on or before the 15th day of the fourth month following the tax year, and that returns of savings and loan associations generally must be filed on or before the 15th day of the fourth month following the close of the accounting period for the association. The Department also similarly explains underlying updates and procedures regarding the filing of state extensions by paper and electronic means. Please contact us with any questions.

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Indirect/Sales/Use:
Illinois: DOR Issues Proposed Rules Reflecting "Bad Debt" Deduction Legislative Changes

Proposed Amended 86 Ill. Adm. Code 130.1960, Ill. Dept. of Rev. (6/23/17). The Illinois Department of Revenue has issued proposed amendments to an administrative rule reflecting legislation enacted in 2015 [S.B. 507] that amended the Illinois Retailers' Occupation Tax Act (Act) by providing that a retailer is generally relieved from liability for any tax under the Act that becomes due and payable if the tax is represented by amounts that:
URL: http://www.cyberdriveillinois.com/departments/index/register/register_volume41_issue25.pdf
URL: http://www.ilga.gov/legislation/publicacts/99/PDF/099-0217.pdf

- Are found to be worthless or uncollectible,
- Have been charged off as "bad debt" on the retailer's books and records in accordance with generally accepted accounting principles, and
- Have been claimed as a deduction pursuant to IRC § 166 on the income tax return filed by the retailer.

The administrative rule proposal also reflects that a retailer that has previously paid such a tax may take as a deduction the amount charged off by the retailer. Additionally, with respect to the payment of taxes on purchases made through a private-label credit card, the rule proposal reflects statutory changes providing that if consumer

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accounts or receivables are found to be worthless or uncollectible, the retailer may claim a deduction on a return in an amount equal to, or may obtain a refund of, the tax remitted by the retailer on the unpaid balance due if:

- The accounts or receivables have been charged off as bad debt on the lender's books and records on or after January 1, 2016;
- The accounts or receivables have been claimed as a deduction pursuant to IRC § 166 on the federal income tax return filed by the lender; and
- A deduction was not previously claimed and a refund was not previously allowed on that portion of the account or receivable.

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Indirect/Sales/Use:
Maine: New Law Imposes Remote Seller Tax Collection Responsibilities Despite Lack of "Physical Presence"

L.D. 1405 (S.P. 483), governor's veto overridden 6/21/17. Effective October 1, 2017, new law generally requires the collection and remittance of Maine sales and use tax for out-of-state sellers of tangible personal property, other taxable products transferred electronically, or taxable services for delivery into Maine if:
URL: http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0483&item=4&snum=128

- The person's gross revenue from delivery of tangible personal property, products transferred electronically or services that are taxable by Maine into Maine in the previous calendar year or current calendar year exceeds $100,000; or
- The person sold tangible personal property, products transferred electronically or services that are taxable by Maine for delivery into Maine in at least 200 separate transactions in the previous calendar year or the current calendar year.

Similar to legislation that was enacted in South Dakota in 2016 [see previously issued Multistate Tax Alert for more details on this previously enacted South Dakota legislation], this new Maine law authorizes Maine to bring action to obtain a declaratory judgment providing that such obligation for tax remittance by an out-of-state seller lacking an in-state "physical presence" is valid under state and federal law – which would also effectively operate as an injunction during the pendency of the action generally prohibiting Maine from enforcing this sales and use tax collection obligation on remote sellers that do not affirmatively consent or otherwise remit such taxes on a voluntary basis. The new law also provides that if and when such an injunction is appropriately lifted, Maine must assess and apply its remote seller sales or use tax collection obligations only from that date forward with respect to any person covered by the injunction. Stated within the bill is the legislative intent for this new law to apply and impose Maine sales and use tax obligations "to the limit of federal and state constitutional doctrines," and clarify that Maine law permits the State of Maine to immediately argue in any litigation that such constitutional doctrine should be changed to permit such remote seller tax collection obligations. Please contact us with any questions.
URL: https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-south-dakota-enacts-sb-106-physical-presence-no-longer-required-for-sales-tax-collection.html?id=us:2em:3na:stm:awa:tax:063017

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Indirect/Sales/Use:
Virginia Department of Taxation Ruling Reflects New Law Requiring Remote Sellers with In-State Inventory to Register and Collect Tax on Sales to In-State Customers

Ruling of Commissioner, P.D. 17-71, Vir. Dept. of Tax. (5/23/17). The Virginia Department of Taxation has issued a ruling explaining to the taxpayer at issue that pursuant to recently enacted legislation [H.B. 2058], it has sufficient activity in Virginia to require it to register for the collection and remittance of Virginia retail sales and use tax. Under this recently enacted legislation, effective June 1, 2017, the ruling explains that the storage of inventory within Virginia gives rise to nexus sufficient to require an out-of-state seller to register as a "dealer" for the collection of state sales and use tax on sales to customers within Virginia. That is, under this new law, a dealer is deemed to have sufficient activity within Virginia for state sales and use tax registration purposes if it owns tangible personal property that is "for sale located in this Commonwealth."
URL: https://www.tax.virginia.gov/laws-rules-decisions/rulings-tax-commissioner/17-71
URL: http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+HB2058ER+pdf

Under the facts in this ruling, the taxpayer's resale inventory is located in a fulfillment center in Virginia. The taxpayer does not make deliveries into Virginia, does not have employees in Virginia, and does not own any real property in Virginia. The taxpayer receives sales orders via the Internet or telephone calls to its out-of-state location; the taxpayer reviews the orders, processes payment, and forwards the orders to the Virginia fulfillment center, where the product is packaged and shipped to both national and international customers. Accordingly, effective June 1, 2017, the ruling explains that the taxpayer's storage of inventory within Virginia gives rise to nexus sufficient to require the out-of-state seller to register as a "dealer" for the collection of state sales and use tax on sales to customers within Virginia.

The ruling additionally references Virginia Tax Bulletin No. 17-3 (5/3/17) "for a more detailed explanation of the law change" as well as information regarding the registration process. Please contact us with any questions.
URL: https://www.tax.virginia.gov/laws-rules-decisions/tax-bulletins/17-3

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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

California Governor Signs AB 102, Creating New Office of Tax Appeals and New Department of Tax and Fee Administration
California Governor Jerry Brown has signed Assembly Bill (AB) 102, known as "The Taxpayer Transparency and Fairness Act of 2017." Generally, AB 102 reduces the functions of the Board of Equalization (BOE) to the core responsibilities granted to it under the California Constitution and creates two new tax agencies – the Office of Tax Appeals (OTA) and the California Department of Tax and Fee Administration (CDTFA) – which would take over many of the responsibilities previously handled by the BOE. The CDTFA will administer certain taxes and fees that were once administered by the BOE, including the sales and use tax and business and excise taxes. The OTA will take over the

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appeals function from the BOE members and hear appeals of taxes and fees administered by the CDTFA and appeals of Franchise Tax Board (FTB) determinations relating to the income and franchise tax. California will now have five state tax agencies – the FTB, BOE, CDTFA, OTA, and the Employment Development Department.

This Multistate Tax Alert provides some background on the BOE's historical function and summarizes the more notable changes made under AB 102.
[Issued June 27, 2017]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/california-governor-signs-legislation-creating-new-office-of-tax-appeals-and-new-department-of-tax-and-fee-administration.html?id=us:2em:3na:stm:awa:tax:063017

Minnesota Tax Bill Enacted

After calling a special session for the Minnesota Legislature, Governor Mark Dayton signed House File 1 (H.F. 1) on May 30, 2017 into law. H.F. 1 as enacted impacts individual income, corporate income, sales and use tax and estate tax. Notable corporate income tax and sales and use tax amendments include the following:

- Corporate Income Tax
  - Expanded definition of "financial institution;"
  - Inclusion of certain insurance companies in unitary returns; and
  - Increase in Research and Development credit rate.
- Sales and Use Tax
  - Expanded collection requirements for retailers in the state, marketplace providers and affiliated entities;
  - "Real property" definition added; and
  - Expanded exemptions for telecommunications or pay television services equipment.

This Multistate Tax Alert summarizes these law changes which are effective for tax years beginning after December 31, 2016, unless otherwise noted.
[Issued June 28, 2017]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/minnesota-tax-bill-enacted.html?id=us:2em:3na:stm:awa:tax:063017

New Jersey Tax Court Holds Intercompany Royalties Deductible

On May 24, 2017, the Tax Court of New Jersey in a published opinion, *BMC Software, Inc. v. Director, Division of Taxation* (N.J. Tax Ct. May 24, 2017), held that royalties paid by a company to its parent company were deductible and not subject to the addback provisions for corporate business tax purposes. This ruling, in concert with several other recent New Jersey court decisions, reinforces the significance of closely reviewing the facts associated with a company's intercompany transactions (and the associated documentation) when analyzing the potential availability of the addback exception.

This Multistate Tax Alert summarizes the relevant arguments and holding in the *BMC* decision.
[Issued June 26, 2017]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/new-jersey-tax-court-holds-intercompany-royalties-deductible.html?id=us:2em:3na:stm:awa:tax:063017

Texas Comptroller Issues Rulings Related to Sourcing of Online Receipts

Under Texas law, gross receipts from the performance of services are generally sourced to Texas to the extent the services are performed in Texas or if the services relate to real property located in Texas. In the context of online receipts, the Texas Comptroller has released two private letter rulings (PLRs) involving the proper sourcing methodology for purposes of the Texas franchise tax (commonly referred to as the Texas margin tax). Each ruling arrived at what appear to be different outcomes based on the specific facts surrounding the taxpayer's online service receipts, including one that appears to effectively result in a market-based outcome.

This Multistate Tax Alert summarizes and compares the recent PLRs and offers some taxpayer considerations.
[Issued June 23, 2017]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/texas-comptroller-issues-rulings-related-to-sourcing-of-online-receipts.html?id=us:2em:3na:stm:awa:tax:063017

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