In this issue:

Administrative:
California FTB Notice Announces New 36-Month Goal for Handling Docketed Protests

FTB Notice 2018-01, Cal. FTB (3/9/18). The California Franchise Tax Board (FTB) has issued a notice intended to inform the public of recently revised internal procedures for processing certain docketed protests that "are intended to complement the Legal Division's continuing efforts to reduce the length of time necessary to review and make a final determination on docketed protests." This notice supersedes FTB Notices 2006-5 and 2006-6 (October 27, 2006), and states a general goal of "36 months or less" for the FTB's legal staff to evaluate the merits of a taxpayer's filed protest of a proposed deficiency (and any included claims for refund), conduct a hearing if requested, and make a final determination – all of which is premised upon taxpayers and/or their representatives fully and timely providing the FTB with requested information regarding the protest. The notice also stipulates that some docketed protests may nevertheless take longer to conclude due to "external factors." Note that previous, and now superseded, FTB guidance on docketed protests had specified a general goal of 24 months for handling / processing by FTB auditors rather than

by FTB legal staff, as well as referenced the “State Board of Equalization” rather than the new “Office of Tax Appeals.” Please contact us with any questions or comments.
URL: https://www.ftb.ca.gov/law/notices/2018/01.pdf

— Christopher Campbell (Los Angeles)
Principal
Deloitte Tax LLP
cwcampbell@deloitte.com

Steve West (Los Angeles)
Managing Director
Deloitte Tax LLP
stevewest@deloitte.com

Valerie Dickerson (Washington, DC)
Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Brian Toman (San Francisco)
Specialist Leader
Deloitte Tax LLP
btoman@deloitte.com

Shirley Wei (Los Angeles)
Senior Manager
Deloitte Tax LLP
shiwei@deloitte.com

Income/Franchise:
California FTB Issues Another Report to Legislature on Recently Enacted Federal Tax Reforms

Preliminary Summary of Federal Income Tax Changes 2017 – First Release, Cal. FTB (3/4/18). The California Franchise Tax Board (FTB) has issued a “first release” follow-up to its earlier preliminary report [see previously issued Multistate Tax Alert for details on the FTB’s Preliminary Report issued on February, 12, 2018, which addresses California Corporation Tax Law conformity or lack thereof to certain provisions in the federal tax law changes] to the California Legislature on how some of the recently enacted federal tax reform provisions may impact California’s tax system. This new first release addresses California’s conformity to certain federal income tax law changes that were made in 2017, including, among others, the repeal of technical terminations of partnerships; the modification of certain business credits; insurance reform; modifications of limitations on executive compensation; certain provisions impacting exempt organizations, S corporations, and banks and financial instruments; and provisions related to alcoholic beverage production. Note that in addition to this first release, two more FTB follow-up reports are anticipated on or before March 26, 2018, and April 20, 2018. Please contact us with any questions or comments.
URL: https://www.ftb.ca.gov/law/legis/Federal-Tax-Changes/2017-First-Release.pdf
URL: https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-preliminary-report-on-californias-conformity-to-various-provisions-of-the-federal-tax-reform-act.html?id=us:2em:3na:stm:awa:tax:032318

— Christopher Campbell (Los Angeles)
Principal
Deloitte Tax LLP
cwcampbell@deloitte.com

Steve West (Los Angeles)
Managing Director
Deloitte Tax LLP
stevewest@deloitte.com

Valerie Dickerson (Washington, DC)
Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Brian Toman (San Francisco)
Specialist Leader
Deloitte Tax LLP
btoman@deloitte.com

Shirley Wei (Los Angeles)
Senior Manager
Deloitte Tax LLP
shiwei@deloitte.com

Income/Franchise:
New Jersey Division of Taxation Comments on Recently Enacted Federal Tax Reforms and their Impact on State Income Taxation

Notice: New Jersey's Treatment of Deemed Repatriation Dividends Reported Pursuant to Internal Revenue Code (IRC) Section 965, N.J. Div. of Tax. (3/16/18). The New Jersey Division of Taxation (Division) has issued a notice explaining the state corporation business tax (CBT) impact of certain provisions contained within the recently enacted federal tax reform provisions – specifically, the one-time federal repatriation transition tax on earnings and profits accumulated abroad. In doing so, the Division notes that the new federal law requires a specified foreign corporation (as defined in the Internal Revenue Code (IRC)) that has accumulated post-1986 deferred foreign income to report such income as a deemed repatriation dividend, which will be taxed to the recipient at a reduced effective federal tax rate and that, regardless of whether the earnings and profits are brought back, the federal repatriation transition tax is imposed on the deemed repatriation dividends for the last tax year beginning before January 1, 2018. For New Jersey CBT purposes, the Division's notice states that the deemed repatriation dividends will be excluded from entire net income, as provided in the CBT Act (N.J.S.A. 54:10A-4(k)(5)). The notice also states that if a corporation does not meet the ownership thresholds, the deemed repatriation dividends will be included in entire net income to the extent provided under state law. For New Jersey gross income tax purposes (*i.e.*, state individual income tax purposes), the notice explains that dividends are an enumerated category of income and thus deemed repatriation dividends reported under IRC Section 965 must be included in New Jersey gross income in the same tax year and in the same amount as reported for federal tax purposes. Please contact us with any questions.
URL: http://www.state.nj.us/treasury/taxation/section965.shtml

— Norm Lobins (Parsippany)
Managing Director
Deloitte Tax LLP
nlobins@deloitte.com

Mike Bryan (Philadelphia)
Managing Director
Deloitte Tax LLP
mibryan@deloitte.com

Income/Franchise:
Texas Comptroller Amends Rule on Calculating Cost of Goods Sold Under Franchise "Margin" Tax

Amended 34 Tex. Admin. Code § 3.588, Tex. Comptrlr. (eff. 3/22/18). The Texas Comptroller of Public Accounts (Comptroller) recently amended its state franchise (margin) tax regulation on cost of goods sold (COGS) by adding definitions to "interpret ambiguous statutory language." The amendments include definitions for "labor" and "material," which are taken almost verbatim from Texas Property Code, §§ 53.001 (3) and (4), except the franchise tax amendment replaces the term "work" with the term "project." In issuing these revisions, the Comptroller relied on 2016 case law that held a contractor may claim labor and material costs as part of COGS if they are "an essential and direct" component of a project, but *not* if they are "too far removed" from the project. As explained in the case, the boundaries between "essential and direct" and "too far removed" were arguably uncertain; thus, the Comptroller added definitions of "labor" and "materials" based on the Texas Property Code definitions, claiming "it is reasonable to assume that the Legislature intended similar definitions" for both tax types. Note that, based on comments submitted by the public, the final amendments were adopted with some changes to the proposed text as originally published on September 29, 2017. Please contact us with any questions.
URL: https://www.sos.state.tx.us/texreg/pdf/backview/0316/0316is.pdf

— Russell Brown (Dallas)
Partner
Deloitte Tax LLP
rubrown@deloitte.com

Robert Topp (Houston)
Managing Director
Deloitte Tax LLP
rtopp@deloitte.com

Grace Taylor (Houston)
Manager
Deloitte Tax LLP
grtaylor@deloitte.com

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

Alabama enacts tax amnesty program commencing on July 1

On March 6, 2018, Governor Kay Ivey signed the Alabama Tax Delinquency Amnesty Act of 2018, providing for a tax amnesty program to begin on July 1, 2018 and to end on September 30, 2018. Notable elements of the Alabama tax amnesty program including the following:

- Eligibility for certain taxes due before, or for taxable periods that began before, January 1, 2017;
- A three year or 36 month “look-back” period for eligible taxes; and
- A full waiver of interest and penalties for taxes paid with qualifying amnesty applications.

This Multistate Tax Alert summarizes the tax amnesty provisions provided by this recently enacted legislation. [Issued March 20, 2018]

URL: https://www2.deloitte.com/us/en/pages/tax/articles/alabama-enacts-tax-amnesty-program-commencing-on-july-1.html?id=us:2em:3na:stm:awa:tax:032318

Georgia H.B. 918 enacted – includes IRC conformity amendment and income tax rate reductions

On March 2, 2018, Governor Nathan Deal signed House Bill 918 (H.B. 918), which includes the following amendments to Georgia law:

- Reduces corporate and individual income tax rates from 6.0% to 5.75% for all taxable years beginning on or after January 1, 2019, with a potential reduction to 5.5% for all taxable years beginning on or after January 1, 2020;
- Effective for taxable years beginning on or after January 1, 2017, updates the state’s corporate and individual income tax conformity to the Internal Revenue Code of 1986 provided for in federal law enacted on or before February 9, 2018 and specifically decouples from certain provisions of the 2017 Tax Reform Act; and
- Provides that affiliated entities may apply certain assigned credits against payroll tax withholding obligations and modifies other rules related to income tax credits.

This Multistate Tax Alert summarizes the more significant Georgia tax law changes contained in H.B. 918. [Issued March 19, 2018]

URL: https://www2.deloitte.com/us/en/pages/tax/articles/ga-hb-918-enacted-includes-irc-conformity-amendment-and-income-tax-rate-reductions.html?id=us:2em:3na:stm:awa:tax:032318