



Multistate Tax

State Tax Matters

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The Many Rewards of Hiring Veterans: Credits and Incentives talk with Deloitte

“Credits & Incentives talk with Deloitte,” is a monthly column by Kevin Potter of Deloitte Tax LLP, featured in the Journal of Multistate Taxation and Incentives, a Thomson Reuters publication. This month’s article summarizes the federal programs and some of the programs offered by the larger states. These incentives, along with the skills that veterans bring to the workforce from their military training and service, present a strong business case for hiring veterans.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/credits-and-incentives-talk-with-deloitte-the-many-rewards-of-hiring-veterans.html?id=us:em:na:stm:eng:tax:010915>

Federal and state tax incentives

As we go about our daily life we continue to hear a great deal about veteran issues in America, including the focus on efforts to enhance private-sector employment opportunities for our unemployed veterans and transitioning military personnel. According to the Bureau of Labor Statistics, as of March 2014, unemployment for post-September 11 veterans (Gulf War-era II veterans) was 9.0 percent in 2013, which is significantly higher than the 6.6 percent national overall veteran unemployment rate and the current national average unemployment rate of 5.9 percent.¹ In addition to the veteran unemployment issue plaguing the country, the American labor force is anticipating a surge in newly retired members of the military over a period of five

years that began in 2012-with more than 1 million armed services personnel expected to transition to civilian life, according to former Veterans Affairs Secretary Eric K. Shinseki.

In an effort to address the veteran unemployment issue, the U.S. Government and approximately 10 states have adopted tax incentive programs directed at encouraging the hiring of veterans. In this article, we summarize the federal programs and some of the programs offered by the larger states. These incentives, along with the skills that veterans bring to the workforce from their military training and service, present a strong business case for hiring veterans.

Income/Franchise:

Massachusetts: Department of Revenue Issues Final Version of Market-Based Sourcing Regulations

830 CMR 63.38.1; 830 CMR 63.38.2; 830 CMR 63.38.3; 830 CMR 63.38.4; 830 CMR 63.39.1, Mass. Dept. of Rev. (1/2/15; 1/5/15). The Massachusetts Department of Revenue has issued lengthy finalized administrative regulations pertaining to the apportionment of income from sales other than sales of tangible personal property in accordance with “market-sourcing” legislation that was enacted during 2013 [*H.B. 3535*; see previously issued Multistate Tax Alert for more details on this 2013 legislation]. This 2013 legislation, which applies to taxable years beginning on or after January 1, 2014, made explicit that all such sales, except as otherwise provided, are sourced to Massachusetts “if the corporation’s market for the sale” is in Massachusetts. The finalized regulations provide specific market-based sourcing rules for:

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/63-00-taxation-of-corporations/830-cmr-63-38-1.html>

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/63-00-taxation-of-corporations/830-cmr-63-38-2.html>

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/63-00-taxation-of-corporations/830-cmr-63-38-3.html>

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/63-00-taxation-of-corporations/830-cmr-63-38-4.html>

URL: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/63-00-taxation-of-corporations/830-cmr-63391-corporate-nexus.html>

URL: <https://malegislature.gov/Document/Bill/188/House/H3535.pdf>

URL: <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-massachusetts-overrides-veto-changes-corporate-excise-sales-use-tax-072613.pdf?id=us:em:na:stm:eng:tax:010915>

- The sale, rental, lease or license of real property;
- The rental, lease or license of tangible personal property;
- The sale of a service;
- The license or lease of intangible property; and
- The sale of intangible property.

The regulations also include numerous examples illustrating the sourcing of each category of sale. Certain provisions in these new regulations that pertain to the 2013 legislation are stated to be effective for taxable years beginning on or after January 1, 2014.

Stay tuned for a forthcoming Multistate Tax Alert that further discusses these new regulations, as well as related taxpayer considerations.

— Bob Carleo
Director
Deloitte Tax LLP
rcarleo@deloitte.com

Shona Ponda
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Income/Franchise:

South Carolina: State High Court Affirms that Party Seeking Alternative Apportionment Has Burden of Proof

CarMax Auto Superstores West Coast, Inc. v. Department, S.C. (12/23/14). The South Carolina Supreme Court has partially affirmed a 2012 South Carolina Court of Appeals ruling in a case involving a national used-car retailer's corporate income tax apportionment formula computation – holding that the South Carolina Department of Revenue ("Department"), which proposed an alternate accounting method that deviated from South Carolina's statutory standard corporate income tax apportionment formula, failed to meet its burden of proof that the statutory apportionment method was not appropriate (i.e., failed to show that the standard method did not fairly represent the taxpayer's activities in South Carolina). In doing so, the Court additionally held that the Department, which was the party seeking to override the legislatively-determined apportionment method, bore the burden of proving via a preponderance of the evidence that both:

URL: <http://www.judicial.state.sc.us/opinions/HTMLFiles/SC/27474.pdf>

1. The statutory formula did not fairly represent the taxpayer's business activity in South Carolina, and
2. The proposed alternative apportionment method was reasonable.

The Court explained that while there was substantial evidence to support the Department's finding that its alternative accounting method was reasonable, the Department failed to prove the threshold issue that the statutory apportionment formula did *not* fairly represent the taxpayer's business activity within South Carolina.

Under the facts, the Department had unsuccessfully claimed that neither the standard three-factor apportionment formula nor the single-factor gross receipts formula fairly represented the extent of the taxpayer's in-state business and thus applied an alternative method to calculate its taxable income in South Carolina. The Department's proposed alternative apportionment formula segregated the taxpayer's retail activity income from its income from intangible licensing and financing activities under the reasoning that this bifurcation of activities was necessary to properly tax its South Carolina activities. This methodology resulted in the taxpayer's retail activities being excluded entirely from South Carolina taxable income and the South Carolina apportionment factor as these activities had no connection to the state. The Department's alternative apportionment methodology apportioned the income from financing and royalties by applying the ratio of the financing and intangible receipts in South Carolina to the financing and intangible receipts everywhere.

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

Shona Ponda
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Income/Franchise:

West Virginia: Governor Reminds Taxpayers that Business Franchise Tax is Repealed for Tax Years Beginning in 2015

Press Release, Office of the Governor (12/30/14). Pursuant to legislation enacted during 2008 that included a gradual phase-out of West Virginia's business franchise tax from a rate of .55% in 2008 to a rate of .10% in 2014, Governor Earl Ray Tomblin reminds taxpayers that the state business franchise tax is completely repealed for tax years beginning in 2015. The press release additionally notes that West Virginia's corporate net income tax, which is currently imposed at a tax rate of 6.5%, "is competitive nationally and lower than those found in multiple surrounding states."

URL: <http://www.governor.wv.gov/media/pressreleases/2014/Pages/Governor-Tomblin-Announces-the-Elimination-of-the-Business-Franchise-Tax.aspx>

— David Thies
Senior Manager
Deloitte Tax LLP
dthies@deloitte.com

Shona Ponda
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.

Archive: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng: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.

Have a question?

If you have needs specifically related to this newsletter's content, send us an email at clientsandmarketsdeloittetax@deloitte.com to have a Deloitte Tax professional contact you.

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