



Multistate Tax

State Tax Matters

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Articles:

US Sales and Use Tax: A survival guide for international business

Companies based outside of the United States are sometimes surprised by the differences between US sales and use taxes and international value added taxes. Both are indirect taxes with the similar purpose of taxing consumption, and both require attention and planning on the part of the seller – but there the resemblance ends. The task of identifying states in which sales and use tax compliance is required and how to apply each state’s tax may seem daunting, but it is not impossible.

This article authored by Robyn Staros and Stephanie Gilfeather of Deloitte Tax LLP discusses approaches and tools that businesses can use to proactively understand and take command of their US sales and use tax obligations.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/us-sales-and-use-tax-a-survival-guide-for-international-business.html?id=us:em:na:stm:eng:tax:020615>

URL: <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-US-sales-and-use-tax-a-survival-guide-for-international-business-020315.pdf?id=us:em:na:stm:eng:tax:020615>

Income/Franchise:

Massachusetts: State High Court Holds that Subsidiary Qualifying as a “Financial Institution” Must Attribute its Securitized Student Loan Portfolio Property Entirely to Massachusetts for Property Factor Purposes

The First Marblehead Corporation v. Commissioner of Revenue, Mass. (1/28/15). The Massachusetts Supreme Judicial Court has affirmed that a subsidiary qualifying as a “financial institution” subject to the state financial institution excise tax, rather than a “foreign corporation” that must be included on its parent company’s combined Massachusetts corporate excise tax return, was required to determine the situs of its property factor using only its own activities and was not permitted to include the activities of third parties that performed activities on the subsidiary’s behalf. As a result, the subsidiary was required to attribute its securitized student loan portfolio property entirely to Massachusetts for purposes of computing its property factor. Under the facts, the subsidiary’s student loan portfolios represented substantially all of its property for the tax years at issue. The subsidiary unsuccessfully argued that these loans should be assigned to the locations of the servicers, because those locations were where the “preponderance of substantive contacts” relating to the loans occurred. However, the Court agreed with the Massachusetts Appellate Tax Board’s previous determination that the governing state statute creates a rebuttable presumption that where a taxpayer seeks to assign loans to a location that is not a regular place of business of that taxpayer, the loans should be assigned to its commercial domicile without regard to the sites of origination of the loans in question. In this case, the subsidiary was commercially domiciled in Massachusetts, and the Court held that the subsidiary failed to show that the servicers’ activities in administering the student loans should somehow be attributed to the subsidiary for purposes of determining the “preponderance of substantive contacts” regarding the loans.

URL: <http://www.mass.gov/courts/docs/sjc/reporter-of-decisions/new-opinions/11609.pdf>

Under the facts, the parent company’s business was focused on the issuance and securitization of private student loans that were used by students to finance the cost of post-secondary education. The parent and its affiliates did not make any loans directly to student borrowers, but rather brought together various parties that participated in private student loan lending programs. The subsidiary at issue was an integral part of the student loan securitization process coordinated by the parent, and was formed to hold interests, directly or through its wholly owned subsidiary, in a number of Delaware statutory trusts that purchased student loan portfolios from the originating banks through the issuance of asset backed securities. The subsidiary had no employees, payroll, or tangible assets and did not own or lease office space for the years at issue. Substantially all of the subsidiary’s material assets consisted of its interests in the trusts, and substantially all of the subsidiary’s income consisted of interest income received from the trusts.

Note that while the Commissioner of Revenue originally had argued before the Massachusetts Appellate Tax Board that the subsidiary should *not* be considered a “financial institution,” the Commissioner of Revenue conceded this point and the consequent result that the sales factor was properly determined under the state financial institution excise tax apportionment rules in the proceedings before the Massachusetts Supreme Judicial Court.

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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>

LABT March 2 Filing Deadline: Internet business classifications extended

The Los Angeles Business Tax (LABT) is a gross receipts tax imposed on most businesses operating within the City of Los Angeles (the City). The tax separates business activities into a number of tax classifications, each with its own tax rate. In addition, the LABT is a location-based tax that requires taxpayers to register and obtain a business license for each business location within the City.

This Multistate Tax Alert summarizes the Los Angeles Business Tax, while highlighting the upcoming March 2, 2015, filing deadline and the extension of the internet-based tax classifications through the 2018 tax period.

[Issued: February 2, 2015]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/labt-march-2-deadline-internet-business-classifications-extended.html?id=us:em:na:stm:eng:tax:020615>

URL: <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-labt-march-2-filing-deadline-internet-business-classifications-extended-010315.pdf?id=us:em:na:stm:eng:tax:020615>

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