



# STATE AND LOCAL TAX INSIGHTS

SCHNEIDER DOWNS

INSIGHT ■ INNOVATION ■ EXPERIENCE

Winter 2011

ASSURANCE & TAX ADVISORS ■ BUSINESS ADVISORS ■ CORPORATE FINANCE ADVISORS ■ TECHNOLOGY ADVISORS ■ WEALTH MANAGEMENT ADVISORS

## SALT INSIGHTS TO BECOME AN ELECTRONIC NEWSLETTER!

Beginning with the spring edition, we will be issuing this newsletter electronically. To make sure you are on the email list, please subscribe at [www.schneiderdowns.com/subscribe](http://www.schneiderdowns.com/subscribe).



## >> SALT BRIEFS

### Pennsylvania Tax Incentives for Expanding Businesses

As the economy continues to show positive momentum, businesses may be considering an increase to their workforce in order to keep up with increases in consumer demand. Pennsylvania's Job Creation Tax Credit Program ("JCTC") was developed to help existing businesses that want to expand, as well as to attract new businesses to the Commonwealth. Under this program, eligible businesses will receive a \$1,000 tax credit for each new job created as long as 25 or more new jobs have been created or employment has been increased by 20% within a three-year period. The resulting tax credits may be used to pay a number of state business taxes, including, but not limited to, personal income tax, corporate net income tax, capital stock/franchise tax, gross premiums tax and gross receipts tax.

Businesses that fail to maintain operations for a minimum number of years or that fail to create the approved number of new jobs will be required to refund the total amount of credits utilized.

For more information on the JCTC Program, contact one of our State and Local Tax representatives. ■

## FEATURE STORY

# ARE YOU CREATING NEXUS FOR STATE TAXES?

Due to evolving nexus standards for state taxes, businesses may be unknowingly creating filing responsibilities for many state taxes such as gross receipts, income, franchise or sales and use taxes. Businesses that are conducting certain activities in states where they are not filing returns may need to review the nexus standards for that state's various taxes. Those activities include:

- Having significant and recurring sales.
- Registering with the Secretary of State to do business.
- Soliciting sales in the state via employees or independent or related third parties.
- Owning or leasing real property in the state, such as a warehouse, sales office or any undeveloped realty.
- Owning or leasing personal property located in the state, including raw materials or inventory.
- Using employees or any related/independent third party to make deliveries (other than common carriers), supervise installations, make repairs, perform warranty services, provide training, resolve customer disputes or provide any service to customers.
- Attending trade shows.
- Having printed materials stored or distributed in the state.
- Advertising in the state.
- Having affiliates located or doing business in the state.

- Issuing any licenses or agreements to customers for the use of intellectual property in the state (such as software licenses, trademarks, etc.).

If any of the above describes your business activities in states where you are not currently registered and filing returns, a significant nexus and a registration requirement may exist for various state taxes. Should these activities be representative of your business in a number of states where you are not currently registered and filing returns, you should consider performing a nexus review, since rules vary by state.

In the event that you discover a registration and filing requirement in a state where you have been conducting business for an extended period of time, you may want to inquire about a tax amnesty program or consider a voluntary disclosure agreement. Amnesty programs are infrequent; however, almost all states have some type of voluntary disclosure program. Taking advantage of an amnesty program or voluntary disclosure agreement can result in significant saving of penalties, interest and/or tax by potentially limiting the number of prior years subject to review and reporting. A Schneider Downs State and Local Tax professional can assist you in navigating the best course of action to resolve your state tax issues. ■

**Disclaimer:** The information presented is general information and is not intended to be relied upon without consulting a tax professional regarding your specific facts and circumstances. This advice is not intended or written to be used for, and it cannot be used for, the purpose of avoiding any federal tax penalties that may be imposed, or for promoting, marketing or recommending to another person, any tax-related matter.

**>> STATE AND LOCAL TAX UPDATES**

**MORE STATE AND LOCAL TAX UPDATES**

**Pennsylvania S Corporation Revocations**

For the first time since provisions went into effect in 2006, corporations that are federal S corporations have the opportunity in 2011 to revoke their election to not be taxed as a Pennsylvania S corporation. In order to revoke the election, shareholders holding more than half of the stock in the corporation on the revocation date must submit a signed letter to the Pennsylvania Department of Revenue. The letter must include the revocation date, corporation name, federal EIN and Pennsylvania corporate tax account number. If the corporation has qualified Subchapter S subsidiaries doing business in Pennsylvania, the letter must also include the names and corporate tax account numbers of the subsidiaries.

The deadline to file the revocation is the 15th day of the third month in which the revocation is to be effective. Any revocation that is submitted after the deadline will become effective in the next tax period. Note that a revocation may be submitted in advance. Any revocation submitted within five years of the election will be effective for the first tax period for which the taxpayer is eligible to revoke the election. ■

**Washington State Announces Tax Amnesty**

Washington State will be offering a temporary penalty and interest waiver program until April 18, 2011. The program has multiple due dates and many nuances. For program details, please refer to the Insight article on our website at [www.schneiderdowns.com](http://www.schneiderdowns.com). ■

**Retailers Win Round One in Colorado**

A U.S. District Court granted a preliminary injunction blocking the enforcement of a Colorado law requiring out-of-state retailers who do not have nexus or a collection responsibility for Colorado sales and use tax to perform burdensome administrative duties.

For more information about the injunction, please see the Insight article on our website at [www.schneiderdowns.com](http://www.schneiderdowns.com). ■

**Ohio Offering Financial Incentives to Encourage Use Tax Compliance**

With an estimated 380,000 businesses potentially owing use tax, the Ohio Department of Taxation (Department) is implementing a Use Tax Education Program (UTEP) aimed at small and mid-sized companies in an effort to bring businesses into compliance through education and financial incentives.

In order to participate through UTEP, a business must enter into a voluntary disclosure agreement to pay use tax on untaxed purchases plus applicable interest and agree to prospective compliance. Benefits include a limited look-back period of four years and waiver of the standard 15% penalty generally assessed on unpaid use tax. In addition, the Department will agree to waive any use tax liability for those years falling beyond the look-back period.

Should a business enter into a voluntary disclosure agreement prior to being contacted by the Department, the look-back period will be limited to three years.

Businesses failing to take advantage of the voluntary disclosure opportunity may be

the subject of a Departmental audit which typically encompasses the prior seven years.

For more information about the UTEP, please refer to the Insight article on our website at [www.schneiderdowns.com](http://www.schneiderdowns.com). ■

**New Withholding Requirements for Employers in PA**

Effective January 1, 2012, Pennsylvania Act 32 of 2008 (“Act 32”) requires employers to obtain a certificate of residency from all employees and withhold local earned income taxes from their employees. Act 32 consolidates the collection of local income taxes and imposes several new withholding requirements on Pennsylvania employers. Employers will need to update their payroll systems to utilize new tax collection codes prescribed by the Pennsylvania Department of Community and Economic Development.

For details, please refer to the Insight article on our website at [www.schneiderdowns.com](http://www.schneiderdowns.com). ■

For more information about any of these tax issues, contact:

**Timothy Adams**  
tadams@schneiderdowns.com  
**Jennifer Koehler**  
jkoehler@schneiderdowns.com

**Cathy Condrac**  
ccondrac@schneiderdowns.com  
**Mark Rossetti**  
mrossetti@schneiderdowns.com

**Matthew Dodge**  
mdodge@schneiderdowns.com  
**Jack Stewart**  
estewart@schneiderdowns.com



**Insight** is information filtered through experience. Schneider Downs' interdisciplinary teams understand the complex issues businesses face. Using the latest technology and in-depth resources, we help you make the most of your opportunities. **Innovation** occurs when creative ideas are tempered by study and vision. Clients trust Schneider Downs to stay current with new regulations and changing economic conditions. We aggressively seek a range of integrated, innovative solutions to each business situation. **Experience** results from applying lessons learned to new situations. Our shareholders have directed corporations, owned small businesses and managed nonprofits. They can understand your business and offer flexible paths to success.