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>> SALT BRIEFS UPDATE

Pennsylvania Use Tax Voluntary Compliance for Individuals

The Pennsylvania Department of Revenue ("Department") is expanding their use tax voluntary compliance program from companies that have not remitted use tax during the past three years to individual taxpayers.

In letters now being sent, individual taxpayers are requested to review their records and remit use tax on any purchases for which they were not charged or did not pay Pennsylvania sales tax. The letters give the taxpayers an opportunity to become compliant with their use tax obligations by remitting the tax and appropriate interest. In exchange for taxpayer compliance, the Department will waive penalties.

Even if taxpayers do not owe any tax, the Department is requesting that taxpayers complete the forms for a zero return. The Department notes that failure to respond to the letter will result in a non-filer status and could subject a taxpayer to an audit of their financial records.

FEATURE STORY

Pennsylvania Appeals Process Changed

Act 119 eliminates Pennsylvania's settlement process for Corporate Net Income Tax, Capital Stock Tax, Franchise Tax, and other corporate taxes in an attempt to standardize the appeal process for all major Pennsylvania taxes.

Act 119 contains three new provisions. 1.) The Pennsylvania Department of Revenue ("Department") is required to send by certified mail any assessment of $300 or more. 2.) The current settlement process for corporate taxes is replaced with an assessment process. 3.) All major state taxes will adopt consistent appeal procedures. The Department is no longer issuing Notices of Settlement for corporate taxes. Instead the Department will only issue a Notice of Assessment when tax is increased.

Previously, some taxpayers used the settlement notice to reexamine their return and file protective refund claims or appeals to any adjustments made by the Department. The new process limits a taxpayer's time to file a refund to the statute of limitations unless the assessment arises from an audit. Petitions for reassessment must be filed within 90 days of the date of assessment. A petition for refund must be filed within three years of the date that the tax was paid.

New York Issues New Combined Reporting Guidelines

The New York Department of Taxation and Finance has issued a corporate and insurance franchise tax memorandum, TSB-M-08(2)C, explaining the state's revised combined reporting requirements that are effective for tax years beginning on or after January 1, 2007. The new memorandum, which replaces and supersedes TSB-M-07(6)C, does the following:

- Changes what constitutes a substantial intercorporate asset transfer

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Ohio - Incumbent Worker Training Program

Governor Strickland recently signed into law 2007 Sub. H.B. 372 creating the Ohio Incumbent Worker Training Program ('IWTP"). The new grant-based program is effective beginning March 24, 2008 and is a replacement for the Ohio Training Tax Credit which expired on December 31, 2007.

Ohio has allocated $15 million to fund grants for the 2008-2009 fiscal year. IWTP grants will be capped at $1,000 per employee and $200,000 per company. The IWTP will be administered by the Ohio Department of Development.

It is been indicated that the new IWTP will be application based and will not incorporate the previous tax credit program's lottery system. This will allow the Department of Development greater flexibility in determining who will be awarded job training grants. The Ohio Department of Development is in the process of developing operational procedures for the IWTP. At this time, no formal guidelines or requirements have been issued.

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West Virginia – Eligibility Expansion for the Economic Opportunity Credit

Recently enacted legislation expands the eligibility for the West Virginia Economic Opportunity Credit to businesses that either do not satisfy the new jobs percentage requirement or are small businesses that do not create at least ten new jobs within twelve months after placing a qualified investment into service, but otherwise satisfy the remaining requirements of the credit.

Businesses may take a $3,000 credit per year for a period of five consecutive years for every new job filled by a new employee provided that the job meets all three of the following requirements:

- Pays at least $32,000 annually;
- Provides health insurance and might offer other benefits; and
- Is a full-time, permanent position.

The credit may be exercised the first year the employee is hired and may be applied to corporate net income tax, business franchise tax, personal income tax, and/or business and occupational taxes. Unused credits may not be carried forward. Credits are to be reduced by $3,000 for every job lost in the year the credits are being claimed or in any of the four years following the period in which a credit is claimed.

New York Issues New Combined Reporting Guidelines
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- Changes which items are excluded when determining the necessary amounts to determine whether the taxpayer has substantial intercorporate receipts or substantial intercorporate expenditures
- Adds language to clarify Example 2 of TSB-M-07(6)C
- Provides new information relating to combined reporting for real estate investment trusts (REITs), regulated investment companies (RICs), and insurance companies subject to Article 33 of the Tax Law.

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