



ALERT

State & local tax update

OCTOBER 20, 2017

INCOME & FRANCHISE TAX

Illinois Reinstates and Modifies EDGE Credit

Illinois Governor Bruce Rauner signed legislation that reinstates and modifies the EDGE credit program until June 30, 2022. The program had previously expired on April 30, 2017.

The Economic Development for a Growing Economy Tax Credit Act (EDGE credit) may be claimed by new or existing businesses that create or retain jobs in Illinois. It is available to any individual, corporation, partnership or other business entity that has an Illinois income tax liability and that is engaged in interstate or intrastate commerce. The business purpose can be for manufacturing, processing, assembling, warehousing, or a variety of specific other processes or services. The credit is not available to retail, retail food, health, or professional services.

There is a requirement of a minimum of \$2.5 million of capital improvements placed in service in Illinois for businesses with more than 100 employees, while companies with 100 or fewer employees have no capital investment requirement. On the date a credit application is filed with the Department of Commerce and Economic Opportunity (DCEO), the number of new jobs created in Illinois must be equal to the lesser of 50 new employees or:

- 10% of the full-time employees employed world-wide by businesses with more than 100 employees; or
- 5% of the full-time employees employed world-wide by businesses with 100 or less employees.

Similar to previous years, businesses must show that the credit is essential to their decision to create new jobs in Illinois with evidence showing the cost differential between Illinois and other states. Under the new program, the business must show that there are other possible locations to which they could reasonably and efficiently locate outside of the state, and provide the information showing their options. Additionally, each taxpayer claiming the credit must submit an annual diversity report to the DCEO that shows all procurement goals and actual spending for female-owned, minority-owned, veteran-owned, and small business enterprises in the previous calendar year. The report is due by April 15 of each taxable year in which the taxpayer claims a credit.

The new EDGE credit is equal to the lesser of:

- 50% of the income tax withheld from new employees, plus 10% of their training costs; or
- 100% of the income tax withheld from new employees.

If the business is located in an underserved area that meets certain poverty, unemployment and federal assistance rates, then the amount of the credit may not exceed the lesser of:

- 75% of the income tax withheld from new employees, plus 10% of their training costs; or
- 100% of the income tax withheld from new employees.

Businesses that agree to hire the required number of new employees may claim an additional credit of 25% of the income tax withheld for employees that are retained at the same location as the new employees. Recapture may be required if the taxpayer fails to comply with the agreement or ceases operations at its business location during the term of the credit agreement. For further information see P.A. 100-0511 (H.B. 162), Laws 2017, effective September 18, 2017

Trust earned.



Rhode Island Tax Amnesty Program

Rhode Island's budget bill signed by Governor Gina Raimondo included a provision for the establishment of a tax amnesty program for all taxpayers owing any tax. The program will run from December 1, 2017 to February 15, 2018. During this amnesty period, all late filing penalties will be waived. In addition, participants will only be required to pay 75% of the interest that has accrued on their late filings. The state will not pursue criminal or civil prosecution against any taxpayer under this program, assuming the taxpayer has either paid or entered into an installment payment agreement to pay all taxes and interest due.

Virginia Tax Amnesty Program

Virginia has announced a Tax Amnesty Program for 2017. Virginia allows eligible taxpayers relief for delinquent returns filed from September 13, 2017 through November 14, 2017. Taxpayers will only have to pay the tax due and ½ the interest. All remaining interest and penalties on eligible bills, and delinquent tax returns will be waived. At the end of the amnesty period, taxpayers with any unpaid taxes that were eligible for relief and did not participate in the Amnesty Program, will be subject to an additional 20% penalty.



Hurricane Tax Relief: Harvey and Irma

In wake of the recent hurricanes that struck the southeastern United States, many states are providing tax relief for taxpayers residing in areas designated as disaster areas by the federal government. In general, most states are extending deadlines to January 31, 2018 for tax returns that had original or extended due dates between September 4, 2017 and January 31, 2018. Florida and Virginia have later extension deadlines of February 15, 2018 and March 2, 2018, respectively.

Some states provide additional specifications for taxpayers seeking relief. Alabama, for example, requires the taxpayer who is relying on the extension to write "Irma Relief 2017" in red ink on any paper return filed with the state. Georgia, Idaho, and Kentucky have similar requirements. Rhode Island will consider requests for relief on a "case-by-case" basis from taxpayers that submit written requests to the Division of Taxation.

SALES & USE TAX

Oklahoma – Sales and Use Tax: Rule Changes

The Oklahoma Tax Commission has adopted changes to sales and use tax rules, including:

- changes to the nexus definition of “maintaining a place of business in this state”;
- changes to documentation requirements for resale exemption claims;
- changes to procedures for submitting credit or refund requests;
- changes to the rule regarding an exemption related to the construction or expansion of a qualified aircraft maintenance facility;
- clarification of the exemption for prosthetic devices;
- changes to the rule regarding sales of parking privileges; and
- additional requirements for non-collecting retailers.



South Dakota State Supreme Court Rejects Internet Tax Law

In the on-going battle between states and the imposition of sales tax collection on retailers from outside of their states, comes a huge victory for the retailers. The South Dakota Supreme Court struck down the South Dakota law that requires out-of-state retailers to collect and remit sales tax on internet purchases. The law was trying to impose sales tax collection on out-of-state retailers that had annual gross revenue of more than \$100,000 from sales into South Dakota, or completed more than 200 sales annually into the state, and directly conflicted with the U.S. Supreme Court ruling in Quill Corp v. North Dakota. Quill Corp v. North Dakota held that retailers are not required to collect sales tax in states where they do not have a physical presence, hence the South Dakota Supreme Court struck down the new state law in agreement.

After the decision was announced, the South Dakota Attorney General issued a statement confirming the state’s intention to request review of this case by the U.S. Supreme Court.

South Dakota v. Wayfair, Inc., South Dakota Supreme Court, No. 28160, September 13, 2017.

MTC Extends Deadline for Voluntary Disclosure Initiative for Online Marketplace Sellers

The Multistate Tax Commission (MTC) has extended the deadline for the limited-time voluntary disclosure initiative for online marketplace sellers. The program is for relief of sales and use tax, income/franchise tax, or both. The participating states in this program include: Alabama, Arkansas, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, Nebraska, New Jersey, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, and Wisconsin. Please note that District of Columbia, Massachusetts, Minnesota, Missouri, and North Carolina also joined the initiative since our last SALT Alert was released.

Be sure to look closely at the rules for each states’ participation, as some states have limited their waiver of their lookback period. Please refer to the August SALT Alert for more details or go to the MTC website at <http://www.mtc.gov/Nexus-Program/Multistate-Voluntary-Disclosure-Program>.

UNCLAIMED PROPERTY

Illinois – Interagency Agreement for Unclaimed Property

As of August 11, 2017, legislation passed which authorizes the IL Department of Revenue to exchange personal income tax return information with the State Treasurer's office. The purpose of this interagency agreement is to improve the state in connecting rightful owners of abandoned property being held by the treasurer. The Treasurer will notify the DOR of the names and social security numbers of persons appearing to be owners of abandoned property being held by the Treasurer. In turn, the DOR will notify the Treasurer if any of those persons have filed an Illinois income tax return and provide the last known address, subject to certain restrictions.

The Treasurer may deliver property or pay an amount owed to a person matched under this process without the person filing a claim provided that:

- the value of the property is less than \$2,000;
- the property is neither tangible property nor securities;
- the person's last known address is less than 12 months old; and
- there is evidence sufficient to establish the person as the owner of the property who currently resides at the last known address.

If the property does not meet the above criteria, the Treasurer must provide notice to the person that he or she is the owner of abandoned or unclaimed property and may file a claim.

Illinois – Significant changes to Illinois Unclaimed Property Law

Under the Senate Bill 9 passed July, 6, 2017, drastic changes occurred to the state's unclaimed property law. Some of the changes that the Illinois Revised Uniform Unclaimed Property Act includes are:

- Elimination of the business to business exemption;
- Gift cards (defined in the revised law as those with no expiration date and not subject to certain fees that can be redeemed only at one merchant or affiliated merchants) are excluded from the definition of reportable property. Other gift cards which expire or are redeemable at more than one type of merchant, are stored value cards that must be reported;
- Reduction of dormancy periods for many property types from 5 years down to 3 years;
- New property types added such as Health Savings Accounts, tax deferred accounts, and custodial minor accounts; and
- Increase to statute of limitations and record retention from 5 years to 10 years.