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Spotlight on Illinois: Illinois Raises Corporate Income Tax Rates by 45%; Enacts Affiliate Nexus Sales and Use Tax Legislation

Overview

In an effort to reduce an estimated \$13 billion budget deficit, the Illinois legislature, with the support of Governor Pat Quinn, decided to increase corporate income tax rates by 45%. Retroactive to January 1, 2011, corporate income tax rates will increase from 4.8% to 7.0%. When added to Illinois's personal property replacement tax, corporations in Illinois will be taxed at a rate of 9.5%.

Effective Dates

Senate Bill 2505, which includes the increased income tax rates, was passed by both houses of the Illinois General Assembly on January 13, 2011 and signed into law by the governor. While the bill is retroactive to January 1, 2011, the income tax rate increase gradually diminishes over time as follows:

Tax Years	Corp. Income Tax Rate
2011-2014	7.00%
2015-2024	5.25%
2025+	4.80%

State Spending

Since one of the goals of the bill was to alleviate Illinois' enormous deficit, the bill has a provision which forces the Corporate Income Tax Rate to revert back to 4.8% if the state exceeds

specified spending limits in fiscal years 2012 through 2015.

Net Loss Carryover

Net loss carryover deductions, available to C Corporations under ILCS § 5/207, will not be permitted for any taxable year ending after December 31, 2010 and prior to December 31, 2014.

Sales and Use Tax – Affiliate Nexus

HB 3659 was passed on January 6, 2011 by both houses of the legislature, was signed into law on March 10, 2011, and became effective immediately. The law requires retailers and serviceman to collect sales tax in Illinois, regardless of their physical presence in Illinois, if an affiliate of the retailer or serviceman is located in Illinois. The new law will have the greatest effect on online merchants who have commission based contracts with retailers, physically located in Illinois, to refer customers to the Illinois retailer by a link on the online merchant's website. Consequently, this new law has been referred to in the popular press as the "Amazon Law."

Additionally, the new law creates nexus for a retailer who has a contract with a person located in Illinois in which (1) the retailer sells a substantially similar line of products as the person located in Illinois and does so using a similar name as the



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person in Illinois, and (2) the retailer pays a commission to the person located in Illinois based on the sale.

To effectuate this new nexus standard, the definitions of "Retailer maintaining a place of business in this State," and "Serviceman maintaining a place of business in this State," were amended.

New York, Rhode Island, North Carolina, and Colorado have previously enacted similar legislation.

Action Items

GBQ SALT professionals are available to assist in understanding the applicability of the current legislation and the effects it may have on your business.

For more information, please contact:

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