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State Tax

Pennsylvania's 2016–2017 Revenue Budget Bill Includes Tax Amnesty and Extends Sales Tax to Digital Products

Action Item: A new Pennsylvania tax amnesty program is coming. It was enacted as part of the state's 2016–2017 budget process. Taxpayers with unfiled state tax returns or returns that need to be amended will be able to pay the tax and half of the interest they owe, with the balance of the interest and all penalties being forgiven. Depending on individual circumstances, there may be only a five-year look back with all prior year tax liabilities forgiven. The effective date has not yet been announced, but when it is there will be a 60-day window to take advantage of the program. We will issue another Tax Alert when the details are published. This Alert also highlights other tax changes made in the recent budget legislation.

State Tax Alert

The revenue package needed to balance Pennsylvania's 2016–2017 budget has been enacted as House Bill 1198, signed into law on July 13, 2016. The Bill includes a 60-day tax amnesty program, starting on a date yet to be determined. Among other tax changes, the Bill extends the Pennsylvania sales and use tax to digital downloads of books, games, music, and other products;

adds exemptions to the realty transfer tax; significantly expands the tax on cigarettes and some other tobacco products; taxes Pennsylvania lottery winnings and imposes taxes and fees on the gambling industry; makes certain changes to the corporate net income tax and bank shares tax; and revises various Pennsylvania tax credit programs and enacts some new ones.

The Amnesty Program

Any tax administered by the Department of Revenue that is delinquent as of December 31, 2015, will be eligible for the tax amnesty program, which will go into effect for 60 consecutive days beginning on a date to be established by the Governor. Under the amnesty program, one-half of all interest and 100 percent of all penalties on eligible taxes that are delinquent as of December 31, 2015, will be waived for taxpayers who file tax amnesty returns and pay delinquent taxes and one-half the interest that is due within the amnesty period.

A taxpayer with “unknown” liabilities who participates in the program and complies with all of its requirements will not be

liable for any taxes of the same type that were due prior to January 1, 2011. “Unknown” means that either no return has been filed, no payment has been made, and the taxpayer has not been contacted by the Revenue Department concerning the unfiled returns or unpaid tax, or if a return has been filed, the tax was underreported and the taxpayer has not been contacted by the Revenue Department concerning the underreported tax.

A taxpayer with liabilities known to the Revenue Department may participate in the amnesty program and get the benefit of the waiver of all penalties and half the interest, but must file or amend all unfiled or deficient tax returns.

A taxpayer under criminal investigation or that is the subject of a criminal complaint or a pending criminal action for an alleged violation of any law imposing an eligible tax may not participate. A taxpayer who participates in the program is not eligible to participate in any future amnesty program. Additionally, if within two years after the end of the program a taxpayer that is granted amnesty becomes delinquent for certain periods in payment of any taxes that are due or in the filing of any required returns, the Department of Revenue may assess and collect all penalties and interest waived through the amnesty program.

The Department of Revenue is expected to publish guidance on participation in the amnesty program by no later than mid-September. Until then, many of the details of the program will not be available.

Sales and Use Taxes

Beginning August 1, 2016, the sales and use tax is extended to the electronic or digital delivery, streaming, or accessing of videos, photographs, books and any other printed matter that is otherwise taxable, applications, games, music, satellite radio service, and any otherwise taxable tangible property that is delivered in such a manner. Also, discounts for vendors that timely file their sales tax returns are reduced.

Corporation Taxes

For tax years beginning after December 31, 2015, the deadline for filing Pennsylvania corporate tax reports is extended to on or before 30 days from the federal tax return due date. The law also makes changes to the rules for filing amended corporate tax reports. The Bank Shares Tax rate is increased from 0.89 percent to 0.95 percent effective January 1, 2017, and some definitions impacting the tax base have been amended.

Realty Transfer Taxes

Effective September 12, 2016, transfers of certain conservation and preservation easements are excluded from the realty transfer tax, as are transfers of real estate to or by a land bank.

Tobacco Taxes

The Bill increases the tax on a pack of cigarettes from \$1.60 to \$2.60, and imposes a tax on electronic cigarettes, roll-your-own tobacco, and smokeless tobacco.

Gambling Taxes

In addition to subjecting Pennsylvania lottery winnings to the personal income tax, the Bill imposes additional taxes or fees on Internet gaming, casino slot licenses, and table game licenses.

Tax Credits

The Bill amends many of Pennsylvania’s tax credit programs, including the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone, and Keystone Opportunity Improvement Zone Credits, and the former Film Tax Credit, now part of the new Entertainment Production Tax Credit. The Bill adds several new tax credits, including a Coal Refuse Energy and Reclamation Credit, and a Manufacturing and Investment Tax Credit, which is available after June 30, 2017, to manufacturers that show they have the ability to create and retain new jobs by increasing payroll by at least \$1,000,000 over a base year computation. Most credits require the approval of the Department of Community and Economic Development. — ©2016, BLANK ROME LLP

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