# Ten New Louisiana Taxing Provisions That Could Affect Your Business

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May 19, 2015

Louisiana's legislature is targeting businesses this session. While a broad array of businesses are affected, whether by remote connection to Louisiana or because they operate in Louisiana, certain businesses, such as manufacturers, may be affected by quite a few new taxing provisions. Regardless of the industry, all businesses should take the precautions necessary to implement revised taxing provisions, prepare for additional liabilities, and adhere to new procedures. The following is a summary of some tax bills being considered by the Louisiana legislature:

- HB 355 and HB 555 expand the definition of "dealer" for sales and use tax purposes and require remote dealers to collect and remit sales and use tax and to electronically file Louisiana sales and use tax returns. If passed, the definition of "dealer" will also include manufacturers of tangible personal property; those who solicit business by compensating Louisiana-based referral sources (with a rebuttable presumption of dealer status if the person derives over $50,000 in cumulative gross receipts from sales of tangible person property to customers in Louisiana as a result of such referrals); those who sell the same or substantially the same line of products as a Louisiana retailer; those who solicit business and develop a market in Louisiana through the use and compensation of a Louisiana-based affiliated agent; persons holding a substantial ownership interest, directly or through a subsidiary, in a retailer maintaining sales locations in Louisiana; and persons who are owned in whole or substantial part by a retailer maintaining sales locations in Louisiana.
- HB 768 reduces numerous exemptions and exclusions from sales taxes by making them applicable to only 3% of the state's 4% rate. A few of the many exemptions and exclusions affected include those allowed for separately-billed installation charges, rebates on new vehicles, manufacturing machinery and equipment, items consumed in the manufacturing process, sale for lease or rental, pollution control devices, various exemptions related to services, and annual sales tax holidays.
- HB 361 and HB 362 propose constitutional amendments to the property tax exemption on manufacturing establishments or additions to manufacturing establishments under La. Const. Art. VII, § 21(F). HB 361 seeks to reduce the amount of the ad valorem property tax exemption on manufacturing establishments or additions to manufacturing establishments from a 100% exemption to a maximum exemption of 85% of the assessed value of the property. The exemption would be for an initial term of no more than 5 calendar years and may be renewed for an additional 2 years. Currently, the State Board of Commerce and Industry may, with approval of the governor, enter into contracts exempting new manufacturing establishments or additions to existing manufacturing establishments for an initial term of 5 calendar years with an additional 5 year renewal. HB 362 proposes to amend the term of the contracts to no more than 8 calendar years.
- HB 338 introduces many new procedural provisions, primarily with respect to the Board of Tax Appeals ("BTA"). Key provisions include establishing the Local Tax Division of the BTA and a position for a local tax judge; adding remedies for the collection of taxes by collectors, such as reconventional demand and third-party demand, in any court or before the BTA; providing additional circumstances in which prescription of both assessment and refunds may be suspended; establishing an Escrow Account for the BTA; and increasing notice requirements and allowing taxpayers to rely on the date of a notice of disallowance of a refund claim in determining timeliness of an appeal to the BTA.
- SB 105 and SB 106, if passed, will amend the motion picture investor tax credit under La. R.S. § 47:6007. SB 105 proposes to allow the Department of Revenue to recover the film tax credits from individuals who own interests in certain business entities that were created for the purpose of receiving or selling film tax credits. SB 106 provides for invalidation of motion picture investor tax credits if they were granted in violation of the applicable law or regulations or if an investor who was granted a film tax credit has been convicted of a criminal violation related to such credits, prohibits a motion picture production company from being owned in any part by a company or person who has been convicted of a criminal violation relating to the credits or who was granted such tax credits in violation of the applicable law or regulations, and exempts the application of such provisions to good faith transferees of the credits.
- HB 827 proposes to phase out the corporation income tax by 2019. The bill operates by decreasing the corporate tax rate for each taxable year beginning with tax years beginning on or after January 1, 2015. The phase out will be complete for tax years beginning on or after January 1, 2019, when the bill affirmatively states that no corporation income tax shall be levied in the state. HB 828 operates similarly, but proposes to phase out the corporation franchise tax, rather than the corporation income tax.