

## Multistate Tax News Update

### **Oregon-Corporate Income Tax: Unitary Business Rule Amended**

The Oregon Department of Revenue (DOR) has amended its rule regarding the determination of a unitary business for corporate excise (income) tax purposes. The former rule was entitled "Single Trade or Business". The unitary business rule provides, as before, that the presence of all of the factors described in ORS 317.705(3) will demonstrate that a unitary business exists, but the presence of one or two such factors may also demonstrate the flow of value requisite for a unitary business determination. However, the amended rule has been expanded to be based partially on a model regulation adopted by the Multistate Tax Commission to promote uniform treatment of the unitary business principle by the states. Those provisions of the amended rule apply to tax years beginning after 2006, but the principles outlined in those provisions may also be applied to years prior to 2007 to the extent that they reflect case history and the policy of the DOR.

OAR 150-317.705(3)(a), Oregon Department of Revenue, effective July 31, 2009

### **Connecticut - New law imposes economic nexus, 10% corporate surcharge, IRC §199 decoupling H.B. 6802**

Effective 9/8/09 (i.e., five days from general assembly passage w/o governor's signature). Effective immediately and applicable to income years commencing on or after January 1, 2010, new law states that any company that derives income from sources within Connecticut, or that has a "substantial economic presence" within Connecticut as "evidenced by a purposeful direction of business toward [Connecticut], examined in light of the frequency, quantity and systematic nature of a company's economic contacts with [Connecticut], without regard to physical presence," and to the extent permitted by the U.S. Constitution is liable for Connecticut's corporation business tax on its apportioned income. This same economic nexus standard applies in determining whether partnerships and "S" corporations are "doing business" in Connecticut for purposes of nonresident partner/shareholder individual income tax withholding. Effective immediately and applicable to income years commencing on or after January 1, 2009 and prior to January 1, 2012, the law also imposes a 10% surcharge on Connecticut's corporation business tax. This new surcharge does not apply to companies whose corporation income tax liability equals the \$250 minimum tax, or whose gross income for the income year is less than \$100 million (however, note that this gross income exemption does not apply to companies filing state combined and/or unitary returns). Effective immediately, the law also increases the maximum preference tax for companies filing combined corporation business tax returns from \$250,000 to \$500,000.

Effective immediately and applicable to income years commencing on or after January 1, 2009, the new law decouples from the federal qualified domestic production activities deduction under Internal Revenue Code Sec. 199.

### **Pennsylvania - New law changes NOL limitation, increases sales factor weighting, and extends franchise tax phase-out H.B. 1531**

Effective immediately, new law that applies to taxable years beginning after December 31, 2008, limits the net operating loss deduction for state corporate income tax purposes to the greater of 15% (previously 12.5%) of taxable income or \$3 million. For taxable years beginning after December 31, 2009, this net operating loss deduction is limited to the greater of 20% of taxable income or \$3 million. For taxable years beginning after December 31, 2008, the weight of the sales factor for state corporate income tax purposes is increased to 83% (previously 70%), while the property and payroll factors are decreased to 8.5% (previously 15%) each. For taxable years beginning after December 31, 2009, the weight of the sales factor for state corporate income tax purposes is increased to 90%, while the property and payroll factors are decreased to 5% each. Also, applicable to taxable years beginning after December 31, 2009, the new law increases the fixed formula deduction from the value of capital stock for state franchise tax purposes from \$150,000 to \$160,000. The law additionally extends the capital stock/franchise tax phase-out date from 2011 to 2014.

**Source:** CCH Tax Research Network.

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