Labhart Miles consulting group, inc.

States of Affair

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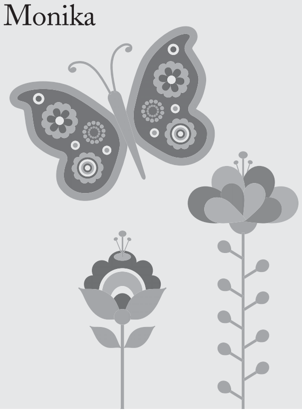
INSIDE THIS ISSUE:

Dear Readers,

Every spring, on the anniversary of our business launch, we take a few moments to reflect on how we got here. We've built our organization over the years by focusing on excellent client service with trusted relationships. Thank you to our clients for assisting in our success. Our business grows by referrals and references, and we appreciate your continued support!

Kindest Regards,
Bill & Monika



California Budget Update – Corporate Taxes

Open any newspaper and you'll find an article about California's deficit. For those of you that do not hang on every antic of the California legislature, following is a brief synopsis of the legislative changes signed by the Governor in late February. Those measures that have the greatest impact upon our corporate clients include changes to the corporate franchise and income tax provisions applicable to nexus, apportionment for multi-state corporations, and a new hiring credit. The new provisions become effective for the 2011 taxable year, unless otherwise noted. Highlights include:

- Revision of the definition of "doing business" to include specific parameters related to the amount of sales, compensation paid, and property placed in service in the state.
- Adoption of an alternative single sales factor apportionment formula. The current method is a three factor formula of property, payroll, and double weighted sales factor.
- Adoption of the Finnigan rule applicable to the sales factor of the apportionment formula, which applies to combined groups of related corporations and how sales are apportioned for income tax purposes.
- Adoption of new sourcing rules in determining where sales proceeds from services/non-tangible property transactions should be sourced. These new rules replace the current "cost of performance" standards.
- Adoption of a statutory definition of "gross receipts" for purposes of the sales factor, and
- A new hiring credit against income tax for employers with 20 or fewer employees. The credit, which begins in 2009, is equal to $3,000 for each net increase in qualified full time employees from the previous taxable year.

Note: The change in the apportionment calculation is expected to have a significant positive impact to California based companies selling to out of state destinations, since less income will be apportioned to California.

Further, individuals and businesses alike, will bear the burden of a "temporary" sales/use tax increase of 1 (one) percent, effective April 1, 2009.

Speaking Out:

Conferences:

Pacific Coast Bankers' Bank – Executive Management Conference:

Bankers – look for the Labhart Miles booth at PCBB's annual conference, to be held in San Francisco May 3 – 6, 2009. This will be our fifth year as a sponsor. We encourage all participants to stop by our booth to hear about tax benefits available to community banks. (See related article – next page!)

Special Events:

Labhart Miles is sponsoring the American Society of Women Accountants (ASWA) – Silicon Valley's 3rd Annual Wine Gala and Membership Event on May 26, 2009 by providing wines for the wine tasting! The event will be held at the Biltmore Hotel & Suites in Santa Clara. For more information see www.aswasiliconvalley.org.

Speaking:

Monika Miles will present on the topic of Sales Tax to ASWA – Silicon Valley on June 23, 2009.

Attended:

Labhart Miles attended an "interested party" meeting in Sacramento on April 3rd conducted by the FTB, to discuss the new tax credit sharing rules in California. Beginning in 2010, members of a combined group can assign certain credits to one another.

Multi-State Tax News

Is your company filing where it should be?

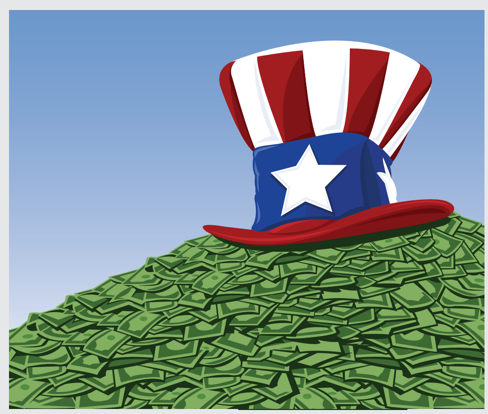
As states address their budget shortfalls, they are becoming more aggressive in their audit and non-filer programs. Multi-state businesses should ask themselves whether they are doing business in a state and adhering to all applicable tax filing requirements. If not, there is a good chance a tax liability is accumulating. And for medium to small businesses, this is more of an issue than one might imagine.

> *California uses more than 350 million income records it receives annually from third parties such as the IRS, banks, employers, state departments, occupational licenses, and mortgage interest payment information and other sources to detect non-filers.*

In our experience with clients, in addition to the tax implications, there are some potentially huge business downsides to not addressing these issues as well. Following is one scenario.

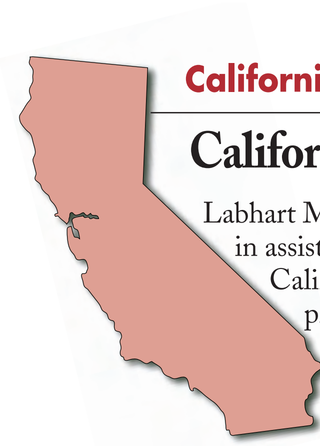
A growing business has a promising track record of increasing sales. Its owners have decided that they want to sell the business and are approached by suitors. The suitors begin their due diligence and find that there is a potential sales/use tax liability in states where the business had nexus and should have been collecting and remitting customer's use tax. The business did not have exemption or resale certificates from their customers and didn't even have a good estimate as to what the potential liability could be. The suitor rescinded its multi-million dollar offer to purchase the business and eventually walked away from the deal because of a significant potential sales tax issue that could not be resolved timely.

If you are the person responsible for tax matters, understand nexus rules; periodically review multi-state activities and make realistic nexus determinations; timely obtain customer's use tax documentation; and pro-actively seek assistance once a nexus situation arises. Remember, the state personnel are there to collect tax not minimize your tax.



Things to consider if your company is consistently doing business beyond your "home state":

- Are you regularly selling products and/or services outside the home state?
- If so, what is the level of activity of employees or third party agents representing the business?
- Do the company representatives engage in training, installation, or repairs?



California Corner

California Enterprise Zone Benefits — Q&A

Labhart Miles specializes in assisting clients with California's enterprise zone program benefits. Businesses located in one or more of the state's 42 enterprise zones can benefit from significant tax credits for hiring employees (**EZ Hiring Credit**) and purchasing certain equipment to be used in a zone (**EZ Sales/Use Tax Credit**). Banks making qualified commercial loans into the zones can benefit from the **EZ Net Interest Deduction for Lenders**.

During these economic conditions, we find ourselves answering questions about these programs more frequently. Here are some FAQs:

How much benefit can we expect?

For the Hiring Credit, an employer can expect to receive over $35,000 per qualified, full time employee retained for 5 years. Since the five year credit is front-loaded, companies can generate over $19,000 if a qualified employee is retained for just 2 years. (Thus, even if just a few of the company's new hires qualify, the benefit can add up quickly.) The Sales & Use Tax Credit allows tax credits for investments in qualifying capital equipment used within the zone. (With the recent increase in the state sales tax, this credit becomes even more beneficial!)

What benefit is available for banks?

Banks can take a deduction from California taxable income for "net interest" received from commercial loans made to customers located in an EZ. It is not necessary for the lender to be located within the boundaries of the EZ to take advantage of the deduction. Most California community banks make qualified loans and see substantial benefit in pursuing this deduction, even if they are not located in an EZ.

2008 was a rough year. Can we still utilize the EZ benefits?

The EZ tax credits carry forward until utilized. Thus, even if the company did not generate taxable income in 2008, the credits can be carried forward to profitable years. Similarly, for the net interest deduction, if a bank generates a net operating loss, the deduction will increase the amount of NOL that can be carried forward until utilized.

Why engage in an EZ project now?

Scenario 1: Our company is profitable. All of the EZ programs assist companies in generating tax savings immediately. In today's economy, who couldn't stand to save $50K, $100K, or more in taxes? Our complimentary analysis will provide an estimate of the potential benefit. Since the tax savings can be substantial, our projects always pay for themselves many times over.

Scenario 2: Our company is generating a net loss. It is more cost effective to engage in a project currently, when information is still fresh. We often work with clients whose systems or personnel have changed. Older information is simply more difficult to obtain. Next, with California's current cash flow issues, it is better to identify and quantify credits and deductions today and include them on a currently filed return to establish the benefit, rather than amend returns in the future and await the refund from the Franchise Tax Board. While retroactive look-backs and credit studies are a good idea if a company has left money on the table in prior years and wants to recapture it, if a company has the alternative, we would always recommend establishment of the credit or deduction currently. (Amended returns also mean additional accounting fees.) Finally, despite a net loss situation, the quantification of future credits or deductions may help a company's effective tax rate.

Four CA enterprise zones expire in 2009. At least three expiring zones (Los Angeles – Harbor area, Madera, and Sacramento – Florin Perkins) are expected to re-apply for designation. Other communities expressing interest and likely to apply are Escondido, Oxnard and Gardena. Winners of the zone designations are expected to be announced mid-May, 2009. New EZs are assigned an effective start date once all requirements are met, and will then be qualified for a 15 year period.

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State Tax Solutions

Please note our address change – same building, new suite #234!

Labhart Miles Consulting Group:

- *Member of the California Association of Enterprise Zones (CAEZ)*
- *Associate members - Western Independent Bankers*
- *Sponsors of the Pacific Coast Bankers' Bank Executive Management Conference*
- *Editors of the Journal of Multistate Taxation and Incentives*
- *A wealth of experience in Big 4, Industry, and State Government*
- **labhartmiles.com**

Insight

New Amnesty Programs — Spring 2009

Connecticut – established a tax amnesty program from May 1st through June 25th, 2009 for most business taxes. Penalties and part of the interest will be waived.

New Jersey – established a 45 day tax amnesty to end June 15th, 2009, for income and sales/use taxes due between Jan. 1, 2002 and Feb. 1, 2009. Half of the interest and all penalties will be waived.

Virginia – to establish a tax amnesty program for a period of between 60 and 75 days, to begin between July 1, 2009 and June 30, 2010. Dates and details to be announced.

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