Multistate Tax Update: October 15, 2015

David M. Kall | Thursday, October 15, 2015

South Carolina: Department of Revenue postpones filing deadlines in wake of October storms

The South Carolina Department of Revenue (SCDOR) has issued Information Letter 15-14 detailing its assistance to taxpayers impacted by the severe storms and flooding that started on Oct. 1, 2015. At the same time, the IRS announced that it will offer tax relief to flood victims located within the Federal Emergency Management Agency (FEMA) designated disaster areas, and to those who live outside the disaster areas, but whose records are located in the affected area. Both the IRS and South Carolina offer relief in the form of deadline extensions.

Flood victims will now have until Feb. 16, 2016, to file their returns and pay whatever taxes are due. This includes individuals and businesses that previously received a tax-filing extension to October 15, as well as workers assisting the relief activities and are affiliated with a recognized government or philanthropic organization.

In addition to the October 15 extension, there are others. The Jan. 15, 2016, deadline for making quarterly estimated tax payments, and the Nov. 2, 2015, and Feb. 1, 2016, deadlines for quarterly payroll and excise tax returns, are all extended to Feb. 16, 2016.

The information letter directs affected taxpayers to write “SC Flood” at the top of any paper return relying on this relief, or to complete the “disaster area” check box if one is provided on the return. Taxpayers filing their returns electronically through MyDORWAY do not require any additional action to qualify for this relief.

The tax relief applies to those individuals and businesses in the following counties, though other locations may be added later, based on FEMA’s damage assessments:

- Bamberg
- Berkeley
- Calhoun
- Charleston
- Clarendon
- Colleton
- Dorchester
- Florence
- Georgetown
- Greenwood
- Horry
- Kershaw
- Lee
- Lexington
- Newberry
- Orangeburg
- Richland
- Sumter
- Williamsburg

Illinois: Did tax incentives entice ConAgra's corporate move from Omaha to Chicago?

ConAgra Foods, the packaged foods giant, has just announced its "$300 million efficiency plan," which involves moving its world headquarters from Omaha, Nebraska to Chicago, Illinois. ConAgra is a $15.8 billion Fortune 500 company that employs 33,000 people globally and owns many familiar brands like Chef Boyardee®, Healthy Choice®, Peter Pan®, and Slim Jim®.

According to the company's press release, the restructuring plan will "improve profitability, advance its growth agenda and unlock shareholder value." Hoping to save $200 million and realize another $100 million in "efficiency benefits," ConAgra expects to eliminate about 1,500 positions, which make up about 30 percent of its global office-based workforce. It also intends to maintain a presence in Omaha of about 1,200 employees. Beginning in the summer of 2016, it will have approximately 700 employees in the new offices in Chicago's Merchandise Mart.

In reporting on the relocation, Omaha.com explained that Illinois used its Economic Development for a Growing Economy (EDGE) program to lure ConAgra to the Windy City. EDGE offers special tax incentives to encourage companies to locate or expand their operations in Illinois when there is active consideration of a competing location in another state. However, ConAgra was not open to competitive pitches, and did not respond to offers of help and incentives from Omaha mayor Jean Stothert and Gov. Pete Ricketts. In fact, ConAgra chief executive Sean Connolly claimed that the move was "strictly about company strategy."

Numerous outlets noted that the EDGE incentives require ConAgra to create 150 net new jobs over 15 years to receive credits to offset corporate income tax. Employee salaries, the state tax rate, and the total number of new jobs will determine the final amount of credits ConAgra actually collects.

Nebraska state Senator Burke Harr opined to Omaha.com that ConAgra officials thought the business could "do better in Chicago and recruit better in Chicago. It shows that business operates on more than just tax policies."

HOW MUCH INFLUENCE DO TAX INCENTIVES ACTUALLY HAVE?

Whether tax incentives compel corporate location decisions in the first instance, and hurt or help state and local economies thereafter, is a matter of ongoing debate. Earlier this month, we addressed New Jersey's Economic Opportunity Act of 2013, under which the state has issued $6.5 billion in tax subsidies since January 2010. But according to the New Jersey Policy Perspective, each job is actually *costing*taxpayers $108,362.

New Jersey Policy Perspective is not the only advocacy group that is critical of lucrative corporate tax deals that precipitate relocation. In 2012, Watchdog.org described Nebraska's 1986 Employment and Investment Growth Act, which amounted to $2.4 billion of corporate subsidies between 1987 and 2012, as a "costly package of corporate tax breaks." Indeed, Watchdog cited a 2011 Annual Report by the Nebraska Department of Revenue finding that "three of every four jobs subsidized by the program would have been created without incentives that cost the state $42 million in revenue in 2010-2011."

As for the relationship between previous tax breaks and ConAgra's upcoming relocation, Watchdog.org pointed out that the company has accepted $160 million in incentives and tax concessions from the Cornhusker State since lawmakers passed the act. The executive director of Good Jobs First decried this as "a bitter pill for Nebraska taxpayers to give away so much for 28 years and then have the company still disinvest…[w]hat else could the state have done?"

North Carolina: Governor signs several job growth and tax measures into law

On Sept. 30, 2015, North Carolina's Gov. Pat McCrory signed the North Carolina Competes Act into law. Touting North Carolina Competes as a key component of his plan to build and strengthen the state's economy, the governor declared a long term commitment to job creation and making North Carolina more competitive.

Under the Job Development Investment Grant Program (JDIG), North Carolina Competes increases the total annual job creation reimbursement limit from $15 million to $20 million, which could grow by an additional $15 million annually for high yield projects. A high yield project is one that requires a business investment of at least $500 million in private funds, and creates at least 1,750 eligible positions. Additionally, the Act extends the availability of the incentives for three years, through Jan. 1, 2019.

The Data Center Infrastructure Act is another important component of North Carolina Competes. On the condition that a datacenter owner invests at least $75 million of private funds within five years of the first tangible property investment in the datacenter (after Jan. 1, 2012), it provides a sales tax exemption on electricity and datacenter support equipment.

Gov. McCrory declared that the plan, "coupled with the quality of life improvements we've made in education, health care and transportation, will demonstrate to companies that nothing compares to North Carolina when it comes to growing their business."

The governor also reminded North Carolinians that effective January 1, 2016, the corporate tax rate will drop to four percent, making it the lowest top tax rate in the county. This occurred because the state met certain revenue goals that were established in a 2013 tax reform plan, as we explained in early August.

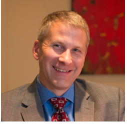
Another measure, SB 159, requires the payment of additional taxes when the state makes corrected revaluations and provides that a taxing body need not mail a refund if the amount due is less than $15.00.

HB 912 exempts from property taxes the real and personal property located on lands held in trust for the Eastern Band of Cherokee Indians, regardless of ownership. This takes effect Jan. 1, 2016. HB 912 also provides for agreements with the Cherokee Indians regarding the taxation of tobacco products and amends requirements for distillery permit holders.

Finally, SB 119, also effective on Jan. 1, 2016, renders a taxpayer eligible for tax credits for qualifying rehabilitation expenditures that were incurred in 2014 and 2015 under the following conditions:

1. The certified historic structure is located in a Tier 1 or a Tier 2 county;
2. The certified historic structure is owned by a city;
3. The qualifying rehabilitation activity commenced in 2014;
4. A certificate of occupancy is issued on or before December 31, 2015; and
5. The taxpayer meets all of the other conditions previously established.

This credit may be taken against the franchise, income, or gross premiums tax.



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Team member bio