Missouri Department of Revenue
TAX BULLETIN
08/03/2016
[Volume 5, Edition 2]
Resources for Businesses and Tax Professionals

HB1582 Withholding Tax

HB1582 sponsored by Rep. Mike Kelley (R-Lamar), changes the amount of withholding required to file an annual withholding tax return to less than $100 in each of the four preceding quarters if the employer is not otherwise required to file a withholding return on a quarterly or monthly basis.

The bill also specifies that beginning January 1, 2018, employers with 250 or more employees must file their Form W-2s electronically to the state unless a waiver is granted for the federal requirement by the IRS.

The bill was signed by the Governor on June 28, 2016.

SB814 Military Income Tax Deduction

SB814 sponsored by Sen. Wayne Wallingford (R-Cape Girardeau) specifies income earned as compensation for being a member of the active duty component of the armed forces may be deducted from the person's Missouri adjusted gross income to determine that individual's Missouri taxable income. If filing a combined return with a spouse, active duty income may be deducted from their Missouri combined adjusted gross income to determine their Missouri taxable income.

The bill was signed by the Governor on June 28, 2016.

SB823 Sales and Use Tax

SB823 sponsored by Sen. Will Kraus (R-Lee Summit) lowers the sales and use tax bonding requirement for businesses. The bill lowers the cap from 3 times the average monthly tax liability to 2 times and releases taxpayers from the bonding requirements after 1 year of satisfactory tax compliance instead of 2 years of tax compliance.

The Bill was signed by the Governor of June 28, 2016.

SB861 Bring Jobs Home Act and Transportation Facilities Tax Incentives

SB861 sponsored by Sen. Paul Wieland (R-Imperial), created an income tax deduction equal to 50% of the expenses associated with eliminating a business unit located outside Missouri and reestablishing that unit within the state. The elimination must occur under a written insourcing plan, but the elimination and relocation need not take place in the same year.

For the tax deduction to apply, the number of full-time employees in the state during the year the deduction is claimed must exceed the number during the year before the insourcing costs were paid. Insourcing costs are taken into account during the tax year where the plan is completed and the expenses were incurred, or the year immediately following that year.

Tax deductions under this section are capped at $5 million annually and are allowed on a first come, first served basis. Deductions may be carried forward for five years. A taxpayer must repay the deduction if the taxpayer eliminates the business unit for which the deduction was provided.

The bill also creates three types of income tax deductions beginning January 1, 2017 for entities transporting cargo through water port facilities and airports in Missouri. The deductions will be administered by the Department of Economic Development.

The bill was signed by the Governor on July 1, 2016.

Change in Taxation of Delivery Charges

The Department mailed letters in July to businesses registered as selling tangible personal property that may be delivered to Missouri customers. The purpose of the letter was to notify businesses about a change to the taxation of delivery charges.

A recent Missouri Supreme Court decision in *Alberici Contructors, Inc. v. Director of Revenue*, 452 S. W. 3d 632 (Mo.banc 2015) held charges for delivery of a rented crane are subject to use tax because the parties intended for delivery of the crane to be part of the crane rental. The Supreme Court relied upon a previous case, *Southern Red-E-Mix Co. v. Director of Revenue*, 894 S. W. 2d 164 (Mo.banc 1995) that had identified a number of factors relevant to determining whether delivery is intended to be part of a sales. The factors include:

1. When title passes from the seller to the purchaser;
2. Whether the delivery charges are separately stated;
3. Who controls the cost and means of delivery;
4. Who assumes the risk of loss during delivery; and
5. Whether the seller derives financial benefit from delivery.

In general, if parties intend delivery to be part of the sale of tangible person property, the delivery charge is subject to tax even when the delivery charge is separately stated.