SALT Alert! 2017-13: Illinois Legislature Overrides Governor Rauner's Budget Veto

After two hours of the Statehouse being on lockdown due to a potential hazmat situation, the Illinois House of Representatives reconvened and voted today to end Illinois' two-year budget impasse. Earlier this week, facing an estimated $15 billion backlog in unpaid bills and the threat of a junk bond credit rating, Illinois lawmakers came to an agreement on a spending and tax plan. After the budget package passed both houses, it was promptly vetoed by Governor Rauner on July 4, 2017. Within hours, the Senate voted to override the Governor's veto and today the Illinois House of Representatives did the same. A key component of the now-enacted budget is a permanent tax increase for both individuals and corporations. More details on the tax rate increases and the other corporate income tax changes incorporated into the revenue bill, Senate Bill 9, are below.

Corporate and Personal Income Tax Rate Increases

Senate Bill 9 increases the current corporate income tax rate from 5.25 percent to 7.0 percent on July 1, 2017. Illinois' personal income tax rate is increased from 3.75 percent to 4.95 percent on July 1, 2017. Because the rate changes are effective as of July 1, 2017, calendar year taxpayers and taxpayers with fiscal years that do not begin on July 1, 2017 will compute their tax liability by applying the new rates to their net income for the period after June 30, 2017 and the old rates to their net income for the period prior to July 1, 2017. It is likely the Department of Revenue will issue guidance on the rate changes, including the effect on estimated payments.

Illinois also imposes a "personal property replacement tax" of 2.5 percent on top of the base corporate income tax rate, which makes the combined rate applied to corporations 9.5 percent going forward. These rate increases are permanent.

Decoupling from IRC section 199

Effective for tax years ending on or after December 31, 2017, in computing base income, corporate, individual, partnership, and trust and estate taxpayers must add back an amount equal to the deduction allowed under IRC section 199.

Repeal of the Non-Combination Rule

Under current law, unitary groups do not include members that are required to apportion their business income under different subsections of Illinois' apportionment statute. Senate Bill 9 provides that for tax years ending prior to December 31, 2017, no unitary group shall include members that are ordinarily required to apportion under different subsections. Thus, calendar year taxpayers with a December 31, 2017 year-end will file as a single unitary group for the 2017 tax year and forward, even if required to use different apportionment methodologies.

Under Illinois law, the unitary group does not include a member whose business activities outside the United States equal 80 percent or more of such member's total business activity. Senate Bill 9 revises the definition of the "United States" effective for tax years ending on or after December 31, 2017 to provide that the phrase "United States" means only the 50 states, the District of Columbia, and any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for or exploitation of natural resources, but does not include any territory or possession of the United States. For tax years ending before December 31, 2017, United States means only the 50 states and the District of Columbia.

Research and Development Credit

Senate Bill 9 reinstates the state's R&D credit, which had previously expired for tax years ending after December 31, 2015. The credit is extended through tax years ending prior to January 1, 2022. The bill states that it is the intent of the General Assembly that the research and development credit shall apply continuously for all tax years ending on or after December 31, 2004 and ending prior to January 1, 2022, including, but not limited to, the period when it was expired.

Next steps

The state has a budget, but Illinois' fiscal challenges are far from over. The state still faces a potential junk bond credit rating and it has been reported that the budget does not address Illinois' significant unfunded pension liabilities. Please contact Brad Wilhelmson at 312-665-2076 with questions on the tax changes in Senate Bill 9.
