KPMG

TaxNewsFlash

United States

No. 2023-265
July 31, 2023

KPMG reports: California (sales tax audit methods); New Jersey (convenience of employer rule); Oklahoma (franchise tax returns): Texas (franchise tax reports)

KPMG This Week in State Tax—produced weekly by the KPMG State and Local Tax practice—focuses on recent state and local tax developments.

- **California:** The Office of Tax Appeals (OTA) concluded that the Department of Tax and Fee Administration's (CDTFA) application of differing audit methods to determine unreported sales was not rational or reasonable. Notably, for each tax year, the CDTFA applied the indirect audit method that resulted in a higher amount of unreported sales, as opposed to applying the same method for the entire period. In the OTA's view, when the CDTFA alternated between indirect audit methods because one method produced a higher result, the CDTFA was no longer attempting to estimate the correct measure of tax but was instead arbitrarily increasing the tax measure.

- **New Jersey:** Assembly Bill 4694 is intended to alleviate the tax burdens imposed on New Jersey residents who are assigned to work locations outside of the state. First and foremost, the bill adopts a so-called "convenience of the employer" test for sourcing nonresident employee wages if the nonresident's state of residence applies a convenience of the employer rule to source similar wages to their state. Assembly Bill 4694 also provides tax credits to incentivize New Jersey residents to file legal actions against other states that collect taxes from them for services they perform while physically located in New Jersey. Finally, the bill establishes a pilot program to award grants to businesses that assign New Jersey resident employees to New Jersey business locations.

- **Oklahoma:** The Tax Commission reminded taxpayers that the 2023 tax year is the last year that franchise tax returns will need to be filed. Beginning with the 2024 tax year, the franchise tax is repealed, and there is no longer a filing requirement. The due date for 2023 tax year returns varies depending on whether the taxpayer files a standalone franchise tax return or reports franchise tax with the corporate income tax return.

- **Texas:** Senate Bill 3 increases the franchise (margin) tax exemption from $1.0 million to $2.47 million effective for reports originally due on and after January 1, 2024. This amount is adjusted for inflation. Furthermore, also effective for reports originally due on or after January 1, 2024, the bill repeals the requirement that certain businesses that owe no franchise tax due to the exemption file a No Tax Due Report with the Comptroller. As a reminder, for the 2023 report year, these entities will still need to file a No Tax Due Report.

Read a July 2023 report prepared by KPMG LLP

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.