

Strafford

# State Income Tax Monitor

Complete State-By-State Coverage • Tax Reduction Strategies • Compliance Solutions

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Yet another state will let public see report listing who gets credits, for how much

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## Tax Talk

*“Guess what? Businesses are singing a similar tune across the pond.”*

— State tax blogger **Kay Bell** after beverage maker **Diageo** threatened to leave the U.K. over high income taxes.

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## State May Find Out How Few Tax Agency Lawyers Are Necessary

*Timely guidance could really suffer if cuts stick at N.Y. tax department*

Slowness in turning around tax letter rulings requested by corporate taxpayers has been a problem for some time in many states. But, such delays could seem like nirvana if the New York revenue agency's legal staff is sliced at anything close to the level sought by the governor.

Gov. **Andrew Cuomo**'s budget staff said recently that 37 of 42 staff attorneys in the Taxation and Finance Department's legal department could be laid off in early November, as officials wrestle with yet another major budget shortfall (\$450 million this time).

Meanwhile, Cuomo and the Public Employee Federation union have failed to reach agreement on a new contract, and the union has voted down proposals that would put members back to work already.

PEF spokeswoman **Darcy Wells** said the cuts suggested by the Cuomo administration would leave only five lawyers and a handful of

exempt employees to handle legal work for Taxation and Finance. The legal staff help draft tax-related legislation and changes to the state revenue code, issue general advisory opinions and taxpayer-specific letter rulings, and represent the state in taxpayer grievance cases.

### At Best, Skeletal Crew Would Remain?

**Paul Comeau**, chairman of the **Hodgson Russ**/Albany, N.Y., law firm, told *SITM* he was surprised by the scale of potential layoffs of the state tax lawyers. He is worried the impact will result in delays for his firm's clients, whether they are seeking guidance or trying to resolve an assessment dispute.

“It would be devastating, I would think, because the handful of people who are left aren't going to be able to handle all the cases they

TAX ATTORNEYS continues on PAGE 11

## Temp Staff Prove Useful In Helping Tax Depts. Survive Filing Crunches

*Veteran tax people willing to take contract in hopes of something bigger*

With corporations continuing to resist adding fulltime headcount, their tax departments have increasingly leveraged independent contractors to stay on top of state and local return-filing deadlines.

Particularly if the tax department gets on top of return deadlines far enough in advance to approach the use of contract tax staff on a short term or case-by-case basis, this can be an effective staffing solution in a rocky economy, tax managers tell *SITM*.

Department leaders can turn to general or specialty accounting temporary staffing services, or to the stack of resumes on their desks. A tax specialist who has struggled to find a permanent position may be willing to work on a contract basis to get his or her foot in your company's door.

**Mike Johnston**, state tax manager at **Pitney Bowes Inc.**/Stamford, Conn., is think-

ing about taking the temp help route in his department. “We are considering bringing someone in for a month or so.

“There are so many people out of work right now that the talent pool available is very good, and they are looking for any kind of work.”

That said, corporate tax leaders can expect a reasonably steep learning curve for a contract staffer. The orientation can be shortened if the contractor will work exclusively on returns, but if the work is more extensive, you'll have to create a crash course on the company's unique tax issues.

In some cases, tax departments have made that crash course more effective by having the contractor shadow an experienced manager for a day or two. And, tax leaders tell *SITM*, you must emphasize an open door pol-

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## Another State Will Air A Report Studying If Tax Incentives Deliver

Add New Mexico to the list of states deciding it makes sense to require an annual tax expenditure report reviewing expenditures in, and success in meeting stated goals by, each statutory tax credit and exemption program. [SP **TAXLINK** S1110B-001] Moreover, individual corporate recipients and amounts will be listed in the report, which the Taxation and Revenue Department will turn over to the Legislature and also post online. Several other state agencies will help put together the report. New Mexico typifies states facing unprecedented (in recent times) fiscal crises and heightening demands for better accountability on business tax incentives.

One corporate tax pro in the state recalls the impact of business tax breaks was discussed during the FY12 budget negotiations. "The Legislature was looking at what some considered draconian cuts to education funding, and the state's film credit came up," said **Robert Banagay**, manager of property, sales and use tax at **Sun Healthcare System/Albuquerque**. "People were wondering why we were making these cuts, while the state could be giving away the farm on other credits where we couldn't even tell if the state was getting a benefit." **Contact Info: Robert Banagay**, (505) 468-5025.

## Here's An Irony: A Florida Auditor Accused By IRS Of Cheating

A longtime sales tax auditor with the Florida Revenue Department is in hot water for allegedly underreporting his own income to the IRS. **Jaime A. Negron** of Jacksonville, Fla., faces up to nine years in federal prison for reporting less income received from income tax return work on the side than he actually received. Negron pleaded guilty to three counts of filing false tax returns, according to the U.S. Attorney's Office. A significant amount of the auditor's income came from his outside federal tax preparation business, according to his plea agreement. The government says he now owes about \$126,000.

One Florida corporate tax pro did not remember ever working with Negron on an audit but couldn't resist a chuckle. "I think that there is definitely some irony in this situation," he said. "Maybe he is one of those 'Do as I say, not as I do' believers. But, seriously, I hope he doesn't wind up going to prison."

## Taxpayers Aim For More Help As IRS Reforms NMTC Regulations

The IRS is considering revisions to the federal new markets tax credit (NMTC) rules, and taxpayers are lobbying the government to go farther than it currently plans in liberalizing them. Testifying at a late September hearing, representatives of consulting firms and venture capital funds urged the IRS to, for example, also minimize the current credit recapture provisions. The government potentially can recapture NMTCs at any time during the statutory seven-year life. Also, witnesses called on the agency to reshape the credit to incent investing in non-real estate businesses and to adopt a safe harbor provision. NMTCs reward investment in local community development organizations. **T**

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## Awarding Power Of Attorney In State Tax Matters: Forms You'll Use And What You'll Need To Disclose *(also see pp. 4-5)*

State	Form Used To Designate Tax Power Of Attorney	Information Required On Form	How To Submit Form	Link(s) For Additional Information
Alabama	Form 2848A	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, whether the representative can receive refund checks, and for what periods the power of attorney will be in effect. Also, the form must bear signatures of the taxpayer and representative.	File form with appropriate division of the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-002]
Alaska	Alaska Department of Revenue Power Of Attorney	Taxpayer name, SSN, contact info and type of business entity; representative name and contact info; type of tax and period to which power of attorney applies; and type of matters on which representative will appear for taxpayer. Also, the form must bear signatures of the taxpayer and representative.	File form with the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-003]
Arizona	Form 285	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, whether the representative can receive refund checks, and for what periods the power of attorney is in effect. Also, the form must bear signatures of the taxpayer and representative.	If the taxpayer is working with a specific section or department employee, the form should be mailed to that section or person. Otherwise, send it to the Revenue Department Taxpayer Information and Assistance Office.	[ <a href="#">SP TAXLINK</a> ] S1110B-004]
Arkansas	Power of Attorney Form	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and for what periods the power of attorney is in effect. Also, the form must bear the taxpayer's signature.	File form with the Finance and Administration Department office that handles the issue for which power of attorney is granted here.	[ <a href="#">SP TAXLINK</a> ] S1110B-005]
California	Form BOE-392	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and for what periods the power of attorney is in effect. Also, the form must bear the taxpayer's signature.	File form with the BOE or other state agency before which taxpayer is appearing.	[ <a href="#">SP TAXLINK</a> ] S1110B-006]
Colorado	Form DR-1045	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and for what periods the power of attorney will be in effect. Also, the form must bear signatures of the taxpayer and representative.	While the form doesn't specify a section of the Revenue Department, processing should be speedier if it is directed to Taxpayer Services.	[ <a href="#">SP TAXLINK</a> ] S1110B-007]
Connecticut	Form LGL-001	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and for what periods the power of attorney will be in effect. Also, the form must bear the taxpayer's signature.	Mail, fax or hand-deliver an LGL-001 directly to the Revenue Services Department employee or unit with whom or which the attorney-in-fact will interact.	[ <a href="#">SP TAXLINK</a> ] S1110B-008]
Delaware	Federal Form 2848	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, whether the representative can receive refund checks, and for what periods the power of attorney will be in effect. Also, the form must bear signatures of the taxpayer and representative.	Mail form to the Revenue Division.	[ <a href="#">SP TAXLINK</a> ] S1110B-009, S1110B-010]
Florida	Form DR-835	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, for what periods the power of attorney will be in effect, and whether you want notices sent only to yourself or also to the representative. Also, the form must bear signatures of taxpayer and representative.	If Form DR-835 is for a specific matter, mail or fax it to the office or employee handling that matter, accompanying the document to which it relates.	[ <a href="#">SP TAXLINK</a> ] S1110B-011]
Georgia	Form RD-1061	Taxpayer and representative contact information, which tax matters the representative may handle, and periods for which power of attorney will be in effect. Also, information on representative such as whether he/she has passed the bar or CPA exams. If the representative is not an attorney, CPA or registered agent, the form must be witnessed or notarized.	Send form to Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-012]
Hawaii	Form N-848	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, periods for which the power of attorney will be in effect, and whether you are revoking or continuing to use prior powers of attorney. Also, the form must bear signatures of taxpayer and representative, and show the last four numbers of any representative's Social Security number.	File with the Taxation Department the original form, or a photocopied or fax version, with each letter, request, form or other document for which power of attorney is required.	[ <a href="#">SP TAXLINK</a> ] S1110B-013]
Idaho	Form EF000104	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, periods for which the power of attorney will be in effect, for how long it will be in effect or if it is open-ended, and whether the taxpayer is revoking or continuing to use prior powers of attorney. Also, the form must bear signatures of the taxpayer and representative.	If working with a specific section and/or employee of the Tax Commission, mail or fax the completed POA to that section and/or employee. Otherwise, mail or fax the completed form to Tax Commission's accounts registration department	[ <a href="#">SP TAXLINK</a> ] S1110B-014]
Illinois	Form IL-2848	Taxpayer and representative contact information, which tax matters the representative may <i>not</i> handle, periods for which the power of attorney will be in effect, and where notices regarding the matter should be sent. Also, information on the representative such as whether he/she has passed the bar or CPA exams. If the representative is not an attorney, CPA or registered agent, the form must be witnessed or notarized.	Attach a copy of form to each specific return or item of correspondence for which you are requesting power of attorney from the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-015]
Indiana	Form POA-1	Taxpayer's name and/or DBA, address and telephone number, and tax ID number; representative's ID number, name, address and telephone number; and representative's company's name, address and telephone number. Also, the specific type of tax, tax form number and tax years for which the individual representative has been appointed. Plus, an attachment listing any restrictions or limitations that the taxpayer has imposed on the representative. And, the form must bear signatures of the taxpayer and representative.	Fax form to (317) 615-2605, e-mail it to poa1forms@dor.in.gov, or mail it to the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-016]
Iowa	Form IA 2848	Taxpayer's and representative's names and contact information, specific tax matters the representative can handle, specific taxes he/she is authorized to work on, and whether he/she is allowed to accept refund checks. Also, the form must bear signatures of the taxpayer and representative. Forms are valid for three years from the date of signature.	Mail form to the Revenue Department's registration services office or fax it to (515) 281-3906.	[ <a href="#">SP TAXLINK</a> ] S1110B-017]
Kansas	Form DO-10	Taxpayer's name and DBA, address and contact information; representative's name, ID number, firm name and address; and specific tax matters and taxes on which he/she is authorized to work. Also, whether taxpayer is revoking prior powers of attorney. And, form must bear taxpayer's and representative's signatures.	Mail or fax form to the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-018]

## Awarding Power Of Attorney In State Tax Matters: Forms You'll Use And What You'll Need To Disclose (Cont.)

State	Form Used To Designate Tax Power Of Attorney	Information Required On Form	How To Submit Form	Link(s) For Additional Information
Kentucky	Federal Form 2848	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, whether the representative can receive refund checks, and for what periods the power of attorney will be in effect. Also, the form must bear signatures of the taxpayer and representative.	Mail form to the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-019, S1110B-020]
Louisiana	Form R-7006	Taxpayer and representative contact information, which taxes and specific issues the representative may handle and which he/she may not. Also, time periods to which the power of attorney will apply, and whether the new power of attorney replaces or enhances existing powers on file with the Revenue Department. And, the form must bear signatures of the taxpayer and representative.	Mail form to the appropriate Revenue Department division.	[ <a href="#">SP TAXLINK</a> ] S1110B-021]
Maine	Form 2848ME	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, whether the representative receives notices on the taxpayer's behalf, and whether the power of attorney replaces or extends existing powers. Attach form to forms for prior power of attorney to be extended. And, the form must bear signatures of the taxpayer and representative.	Mail form to the appropriate Revenue Services Department division.	[ <a href="#">SP TAXLINK</a> ] S1110B-022]
Maryland	Federal Form 2848	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and whether the representative receives notices on the taxpayer's behalf. Also, form must bear signatures of the taxpayer and representative. Form is valid until revoked or until taxpayer or representative dies.	Power of attorney forms can be mailed, faxed, or scanned and e-mailed. Mail to Comptroller's Office Revenue Administration Division, fax to (410) 974-3248, or e-mail to RADPOA@comp.state.md.us.	[ <a href="#">SP TAXLINK</a> ] S1110B-023]
Massachusetts	Form M-2848	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and whether the representative receives notices on the taxpayer's behalf. Also, whether the representative is an attorney, CPA or other registered tax practitioner; if not, then the form must be notarized with his/her signature. And, form must bear signature of the taxpayer and representative.	File an original form or send copy or fax version to each Revenue Department office before which the representative will appear.	[ <a href="#">SP TAXLINK</a> ] S1110B-024]
Michigan	Form 151	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization, and whether it revokes or adds to previous power-of-attorney filings. And, form must bear signature of the taxpayer.	Mail form to Treasury Department or fax it to (517) 636-5245.	[ <a href="#">SP TAXLINK</a> ] S1110B-025]
Minnesota	Form REV184	Taxpayer and representative contact information, which taxes and specific issues the representative can handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization, whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf, and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signature of taxpayer.	Attach form to a secure e-mail send to MNDOR_POA@state.mn.us, fax it to (615) 556-5210, or mail it to the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-026]
Mississippi	Form 21-002-11	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, time period for which power of attorney is valid, and whether it is a general or limited authorization. Also, whether the power of attorney revokes or enhances previous power-of-attorney filings. And, the form must bear preparer's signature.	Mail or fax to Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-027]
Missouri	Form 2827	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and whether the representative receives notices on the taxpayer's behalf. Also, whether the representative is an attorney, CPA or other registered tax practitioner; if not, then the form must be notarized with his/her signature. And, form must bear signature of the taxpayer and representative(s).	Mail to Revenue Department's Taxation Division.	[ <a href="#">SP TAXLINK</a> ] S1110B-028]
Montana	Power of Attorney (POA) Authorization to Disclose Tax Information	Taxpayer name, contact info and SSN/FEIN; representative name and contact info; type(s) of matters the representative will handle; whether a previous power of attorney is being revoked; and taxes, tax matters and tax years covered. And, form must bear signature of taxpayer.	Mail or fax to Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-029]
Nebraska	Form 33	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization; whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf; and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signature of taxpayer and representative.	Mail, send by fax, or scan and send via e-mail to the Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-030]
New Hampshire	Form DP-2848	Taxpayer and appointee contact information, which returns and tax matters the appointee may handle, whether the appointee is authorized to receive confidential taxpayer information, and whether prior powers of attorney should be revoked. Also, form must bear signature of taxpayer and appointee (if appointee is not an attorney, CPA or paid preparer).	Mail original, signed form to Central Taxpayer Services.	[ <a href="#">SP TAXLINK</a> ] S1110B-031]
New Jersey	Form M-5008-R	Taxpayer and representative contact information, which taxes and specific issues the representative can handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization; whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf; and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signatures of taxpayer and representative.	Mail form to Taxation Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-032]
New Mexico	Form ACD-31102	Taxpayer and representative contact information, and which taxes and specific issues the representative can handle. Also, form must bear signatures of the taxpayer and representative.	Mail form to Taxation and Revenue Department.	[ <a href="#">SP TAXLINK</a> ] S1110B-033]
New York	Form POA-1	Taxpayer and representative contact information, which taxes and specific issues the representative can handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization; whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf; and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signatures of taxpayer and representative.	File original Form POA-1 with the agency office before which a matter is pending. If a form pertains to tax matters administered by both the state Taxation and Finance Department and New York City Finance Department, a copy must be filed with each agency. Photocopied and faxed versions are acceptable.	[ <a href="#">SP TAXLINK</a> ] S1110B-034]

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State	Form Used To Designate Tax Power Of Attorney	Information Required On Form	How To Submit Form	Link(s) For Additional Information
North Carolina	Form Gen-58	Taxpayer and representative contact information, which taxes and specific issues the representative may handle, and for what periods the power of attorney will be in effect. Also, whether representative can open an electronic account on taxpayer's behalf, and whether the form extends or terminates existing powers of attorney. And, form must bear signatures of the taxpayer and representative.	File form with the applicable office (either the Revenue Department main office or its taxpayer service center). The applicable office is the one from which a taxpayer requests information or before which a matter, such as an audit, is pending.	[ <a href="#">SP TAXLINK</a> S1110B-035 ]
North Dakota	Form 500	Taxpayer and representative contact information, which taxes and specific issues the representative may handle and, if the representative works for a firm, that firm's name and contact information. Also, whether the form extends, alters or revokes previous power of attorney. And, form must bear signatures of the taxpayer and representative.	File form with Tax Commission by telephone, letter, fax or e-mail.	[ <a href="#">SP TAXLINK</a> S1110B-036 ]
Ohio	Form TBOR-1	Taxpayer and representative contact information, any restrictions on which matters the representative may handle, and form's expiration date. Also, form must bear signatures of taxpayer and representative.	Mail form to Taxation Department.	[ <a href="#">SP TAXLINK</a> S1110B-037 ]
Oklahoma	Form BT-129	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and the form's expiration date. Also, form must bear the taxpayer's signature.	Mail form to Tax Commission.	[ <a href="#">SP TAXLINK</a> S1110B-038 ]
Oregon	Form 150-800-005	Taxpayer's name, contact info and SSN/FEIN of taxpayer; representative's name and contact info; whether representative can receive confidential information on taxpayer's behalf; and specific tax matters the representative can handle. Also, form must bear signature of taxpayer.	Mail form to Revenue Department.	[ <a href="#">SP TAXLINK</a> S1110B-039 ]
Pennsylvania	Form REV-667	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and the power of attorney's expiration date. If the representative is not a registered tax professional, then his/her signature must be notarized. Also, form must bear signatures of the taxpayer and representative.	Mail form to Revenue Department.	[ <a href="#">SP TAXLINK</a> S1110B-040 ]
Rhode Island	Form RI-2848	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and power of attorney's expiration date. If the representative is not a registered tax professional, then his/her signature must be notarized. Also, form must bear signatures of the taxpayer and representative.	Mail form to Taxation Division.	[ <a href="#">SP TAXLINK</a> S1110B-041 ]
South Carolina	Form SC-2848	Taxpayer and representative contact information, which taxes and specific issues the representative can handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization; whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf; and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signatures of taxpayer and representative.	File an original or photocopied form with, or fax it to, the office from which the taxpayer requests information or before which a matter, such as an audit, is pending.	[ <a href="#">SP TAXLINK</a> S1110B-042 ]
Tennessee	Power of Attorney Form	Taxpayer and representative contact information, which taxes and specific issues the representative can handle, and time period for which power of attorney is valid. Also, whether it is a general or limited authorization; whether the representative is authorized to receive notifications and refund checks on the taxpayer's behalf; and whether the power of attorney revokes, amends or adds to prior power-of-attorney filings. And, form must bear signatures of taxpayer and representative.	Mail form to Revenue Department.	[ <a href="#">SP TAXLINK</a> S1110B-043 ]
Texas	Form 01-137	Taxpayer and representative information. The form also can be used to seek a refund of Texas taxes and addresses the right to request and receive any documentation on file with the Comptroller's Office in order to prove that right and sign any return(s) originally filed during the associated time periods, and to receive pertinent information.	Mail form to Comptroller's Office.	[ <a href="#">SP TAXLINK</a> S1110B-044 ]
Utah	Form TC-737	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and form's expiration date. Also, whether the form revokes, replaces or retains prior powers of attorney. And, form must bear taxpayer and representative signatures.	Mail form to Tax Commission.	[ <a href="#">SP TAXLINK</a> S1110B-045 ]
Vermont	Form PA-1	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and form's expiration date. Also, whether the form revokes, replaces or retains prior powers of attorney; and whether the representative has any special skills or expertise. And, form must bear taxpayer and representative signatures; the latter must be notarized.	Mail form to Taxes Department.	[ <a href="#">SP TAXLINK</a> S1110B-046 ]
Virginia	Form PAR-101	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, whether the representative can receive electronic notices and notifications on the taxpayer's behalf, and whether the representative is a registered tax professional. Also, form must bear taxpayer and representative signatures.	Mail or fax form to the Taxation Department.	[ <a href="#">SP TAXLINK</a> S1110B-047 ]
West Virginia	Form WV-2848	Taxpayer and representative contact information, which taxes and specific matters the representative may handle, and power of attorney's expiration date. If the representative is not a registered tax professional, then his/her signature must be notarized. Also, form must bear signatures of taxpayer and representative.	Mail form to Tax Department.	[ <a href="#">SP TAXLINK</a> S1110B-048 ]
Wisconsin	Form A-222	Taxpayer and representative contact information, which taxes and specific matters the representative may handle and any exceptions thereto, whether the representative can receive notices and notifications on the taxpayer's behalf, and whether he/she is a registered tax professional (if not, the signature must be notarized). Also, whether form revokes, replaces or extends other powers of attorney. And, form must bear signatures of the taxpayer and representative.	Mail or fax form to Revenue Department.	[ <a href="#">SP TAXLINK</a> S1110B-049 ]

Source: *SITM* research and analysis.

Notes: Nevada, South Dakota and Wyoming are not listed because they have no corporate income taxes. Washington is not listed because it utilizes no state or federal form; its power-of-attorney process is informal.

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## FEDERAL

### Fed Court Lets Franchisee Royalty Nexus Decision Stand

U.S. Supreme Court declined to review an Iowa court ruling that the state did not violate the Commerce Clause by imposing tax on an out-of-state franchisor's receipt of royalty and license payments from in-state franchisees. The state Supreme Court had held the Commerce Clause did not require physical presence for nexus to be imposed on payments for use of intangibles. ▶Denial of *Certiorari* in *KFC Corp. v. Iowa Department of Revenue*, U.S. Supreme Court Docket No. 10-1340, Oct. 3, 2011. [[SP TAXLINK](#)]S1110B-050]

### USSC Won't Take Up Case On Extending *Quill*

The Washington state Supreme Court held that an out-of-state company's practice of sending sales representatives to meet with in-state customers two or three times per year was significantly associated with its ability to establish a market. Thus, the taxpayer had nexus for purposes of the state business and occupation (b&o) tax. Here, the U.S. Supreme Court decides not to review the decision. ▶Denial of *Certiorari* in *Lamtec Corp. v. Washington Department of Revenue*, U.S. Supreme Court Docket No. 10-1289, Oct. 3, 2011. [[SP TAXLINK](#)]S1110B-051]

## ARKANSAS

### State's Employee Mileage Rate Deduction Goes Up

Given the change in the federal standard mileage rate deduction for business vehicle use, Arkansas' rate for employees also rise to 55.5 cents per mile from 51 cents effective July 1-Dec. 31, 2011. ▶Ark. Finance & Administration Department *Arkansas State Revenue Tax Quarterly*, October-December 2011. [[SP TAXLINK](#)]S1110B-052]

### ATAP Touted As Free, Fast Service For Compliance Activities

Taxpayers are reminded they can use the free, Web-based Arkansas Taxpayer Access Point (ATAP) system to make tax payments, register a business, file a return online or by using XML return upload, and change account information, among other activities. ▶Ark. Finance & Administration Department *Arkansas State Revenue Tax Quarterly*, October-December 2011. [[SP TAXLINK](#)]S1110B-053]

## CALIFORNIA

### Gov. Lobbies For Expanded Jobs Credit, Mfg. Exemption

Gov. **Jerry Brown** pushes plan to boost jobs creation with help from an expanded new jobs tax credit and a partial sales and use tax exemption on new manufacturing equipment. He would make the jobs credit available to businesses with up to 50 employees (vs. 20 now) and hike it to \$4,000 per year from \$3,000. The sales tax break would be limited to the state portion of tax (3.9375%) on purchases of new manufacturing equipment by start-up businesses during their first three years of operation. ▶Calif. Governor's Office News Release. [[SP TAXLINK](#)]S1110B-054]

### Single-Sales Apportionment Mandated Under New Plan

Governor's new jobs plan would be funded in part by making the optional single-sales apportionment formula mandatory. Gov. **Jerry Brown** calls elective single-sales apportionment "an outrageous and perverse tax incentive that encourages multi-state businesses to create jobs outside of the state." ▶Calif. Governor's Office News Release. [[SP TAXLINK](#)]S1110B-055]

### FTB Will Consider General 'Doing Business' Ruling Requests

In specific circumstances in which a state taxpayer is uncertain whether its activities constitute "doing business" in California, the FTB will accept requests for written advice. However, the agency won't rule on whether specific fact thresholds have been met under Sect. 23101(b). ▶Calif. Franchise Tax Board Notice 2011-06, Oct. 12, 2011. [[SP TAXLINK](#)]S1110B-056]

### Motion Picture Tax Credit Extended By One Year

The California Film Commission's authority to allocate as much as \$100 million a year of motion picture production tax credits is extended to June 30, 2015 from June 30, 2014. Other amendments clarify that a taxpayer purchasing a motion picture credit will be treated as the "qualified taxpayer," for purposes of that incentive, effective with tax years starting on or after Jan. 1, 2011. ▶Calif. Assembly Bill 1069, signed by governor Oct. 9, 2011. [[SP TAXLINK](#)]S1110B-057]

### CDFI Deposit Tax Credit Extended And Revised

Corporate income and insurance premium tax credits for qualifying deposits made into a community development financial institution will be available through tax years starting before Jan. 1, 2017 (previously, Jan. 1, 2012). However, the California Organized Investment Network (COIN) will not be able to certify investments for the credits after Jan. 1, 2015. When COIN determines that total qualifying investments by all taxpayers exceeds \$10 million a year, priority will be given to credit applications that meet specific requirements. Effective Jan. 1, 2012. ▶Calif. Assembly Bill 624, signed by governor Oct. 3, 2011. [[SP TAXLINK](#)]S1110B-058]

## DISTRICT OF COLUMBIA

### More Exemptions Allowed For District Withholding Tax

Employers take note: Emergency budget amendment legislation says that for periods starting after Dec. 31, 2011, taxpayers can take additional withholding exemptions, based on the number of itemized deductions. ▶District of Columbia Act 19-157, signed by mayor Oct. 4, 2011. [[SP TAXLINK](#)]S1110B-059]

## FLORIDA

### Gov.: Cutting Corp. Income, Property Taxes Aids Growth

Gov. **Rick Scott's** 2012 jobs/economic growth agenda includes an increase in the corporate income tax exemption to \$50,000 and a proposed state constitutional amendment to waive any business personal property tax if a business has less than \$50,000 worth of tangible personal property. ▶Fla. Governor's Office, "2012 Job Creation and Economic Growth Agenda," Oct. 12, 2011. [[SP TAXLINK](#)]S1110B-060]

## Term 'Written Notice' May Include Income Tax Returns

Under state rules, the term "written notice" would also include any original or amended corporate income or franchise tax return, or any original or amended excise tax return due before Jan. 1, 2012. ▶Fla. Revenue Department Proposed Amended Rule 12C-1.003, October 2011. [[SP TAXLINK](#)S1110B-061]

## Changes Eyed In Rules For Corporate Tax Interest

Interest on overpaid corporate income tax would be calculated under terms of the same rules section (220.807) as for underpaid tax. ▶Fla. Revenue Department Proposed Amended Rule 12C-1.343, October 2011. [[SP TAXLINK](#)S1110B-062]

## INDIANA

### Taxability Of Revenue From Prof'l Entertainers Explained

Directive discusses the Indiana tax treatment of revenue flow from ticket purchasers to performers in scenarios involving athlete and entertainer employees of a promoter or organization, independent contractors and employees of a production company; and the enforcement aspects therein of employees and independent contractors. ▶Ind. Revenue Department Commissioner's Directive No. 5, November 2011. [[SP TAXLINK](#)S1110B-063]

### Employer Proves Several Were Contractors; No Withholding

An engineering and drafting company successfully argued, based on IRS guidance, that several individuals served it as independent contractors, so it didn't need to withhold Indiana taxes on their behalf. However, two people were judged to be employees requiring withholding. ▶Ind. Revenue Department Letter of Findings No. 03-20110079, September 2011. [[SP TAXLINK](#)S1110B-064]

### Counties With Income Taxes Hold The Line On Increases

Ninety-two Indiana county income tax rates stayed the same as of Oct. 1, 2011. ▶Ind. Revenue Department News Release, Oct. 3, 2011. [[SP TAXLINK](#)S1110B-065]

## IOWA

### No Change In 2012 In Interest On Tax Refunds, Assessments

The state's interest rate on overpaid and underpaid taxes will be 5% in calendar 2012, the same as this year. ▶Iowa Revenue Department Release, Oct. 17, 2011. [[SP TAXLINK](#)S1110B-066]

## MARYLAND

### More State Tax Forms Are Now Scannable

The list of state computer-printed corporate and personal income tax substitute forms that are scannable now includes forms CRA, 502B, 502XS, 505SU and 510C. ▶Md. Comptroller's Office Administrative Release No. 26, September 2011. [[SP TAXLINK](#)S1110B-067]

## MICHIGAN

### An 'Actively Solicits' State Nexus Standard Sails Through

House and governor quickly sign off on measure to define "actively solicits," for purposes of corporate income tax nexus. A business would have to, through speech, conduct or activity, invite orders explicitly or ancillary. ▶Mich. Senate Bill 669, signed by governor Oct. 20, 2011. [[SP TAXLINK](#)S1110B-068]

### MBT Return Due Date For Disregarded Entities Now Dec. 31

The due date for disregarded entities (for federal tax purposes) to file Michigan Business Tax returns has been extended to Dec. 31, 2011 from Oct. 31, 2011. Before this year, such disregarded entities didn't have MBT responsibilities. ▶Mich. Treasury Department Notice, updated Oct. 3, 2011. [[SP TAXLINK](#)S1110B-069]

### No Change In Mispaid Tax Interest For 1st Half 2012

Michigan will keep its interest rates on state tax underpayments and overpayments at 4.25% each for the Jan. 1-June 30, 2012 period. ▶Mich. Treasury Department Revenue Administrative Bulletin 2011-4, Oct. 10, 2011. [[SP TAXLINK](#)S1110B-070]

## MINNESOTA

### New Online Tax Platform Lets Taxpayers Share Acct. Info

The state has rolled out a new e-Services online system to replace the former e-File Minnesota for 400,000 business taxpayers. Business tax accounts were transitioned to the new system starting Oct. 17, 2011. Under e-Services, taxpayers can create unique user IDs and passwords letting their tax practitioner partners view account information. ▶Minn. Revenue Department News Release, Oct. 3, 2011. [[SP TAXLINK](#)S1110B-071]

## MISSOURI

### House, Senate Spar Over Corp. Income Rate Cut Bill

Under House-approved version of Senate legislation, the state corporate income tax rate would be cut to 5.5% from 6.25%. Also, new income and sales tax incentives would be created to stimulate development of data storage centers and exports of Missouri products, and to attract amateur sporting events. And, new funding would be provided for job training and company retention grants programs. However, at press time, the Senate had balked at House amendments and wanted the House to reconsider and pass the earlier version of the bill. ▶Mo. Senate Bill 8, Senate refused to concur in House amendments Oct. 17, 2011. [[SP TAXLINK](#)S1110B-072]

## MONTANA

### Various Categories Of Tax Certificates Contemplated

New rule would implement provisions of a 2011 state law affecting issuance of tax certificates at the request of legal entities. It would explain the a number of categories such as: 1) A Title 15 certificate issued to a domestic corporation or LLC that has been involuntarily dissolved by the state; 2) A dissolution/withdrawal certificate given to a domestic C or S corpora-

tion that is voluntarily dissolving; and 3) A tax clearance certificate issued to a domestic C or S corporation verifying it has filed all returns. ▶Mont. Revenue Department Proposed Rule I, Sept. 22, 2011. [[SP TAXLINK](#)S1110B-073]

## NEBRASKA

### Tax Incentives Annual Activity Report Published

Revenue staff issues the legally mandated, annual activity report on state tax incentives to the Legislature. This one covers 2010 activity and lists awards by industry and specific taxpayer in the Nebraska Advantage Act, Advantage Rural Development Act, Advantage Microenterprise Tax Credit Act, Advantage Research and Development Act programs and in four other incentive programs. ▶Neb. Revenue Department, "Nebraska Tax Incentives: 2010 Annual Report to the Nebraska Legislature." [[SP TAXLINK](#)S1110B-074]

## NEW JERSEY

### State Parts From Feds On Bonus Depreciation, Sect. 179

Taxpayers are reminded that New Jersey does not conform to the federal increase in allowable bonus depreciation to 100% or the extension of 50% bonus depreciation through the 2011 tax year. The state also does not conform to the federal Sect. 179 deduction limit and phase-out provisions. Adjustments must be made on state Form CBT-100. ▶N.J. Taxation Division Technical Advisory Memorandum TAM-20, updated Oct. 11, 2011. [[SP TAXLINK](#)S1110B-075]

### Credit For Employing Reserve Members Passes Senate

Senate passes a bill to create a corporate income tax credit for businesses employing members of the National Guard or Reserves who are called up for active service. The credit would equal 20% of salary and wages paid during the privilege period or tax year, up to a maximum \$2,000 credit per affected employee. A seven-year carryforward privilege would apply. Measure awaits consideration by the House and governor. ▶N.J. Senate Bill 1015, passed by Senate Sept. 26, 2011. [[SP TAXLINK](#)S1110B-076]

## NEW MEXICO

### Out-Of-State Standard With Service Personnel Could Change

Under proposed rule amendments, a business with no physical location or resident sales personnel in New Mexico, but with service technicians in the state, would no longer have to indicate on Form CRS-1 that its location is "out of state." Public hearing Nov. 17, 2011. ▶N.M. Taxation and Revenue Department Proposed Amended Rule 3.1.9.13, October 2011. [[SP TAXLINK](#)S1110B-077]

## NEW YORK

### Transformation Program Incentive Rules Put In Place

Emergency regs implement the Economic Transformation and Facility Redevelopment Program, which was created by a

2011 state law. Investment and jobs-creation tax credits, and sales tax refunds, are available to qualifying taxpayers in communities affected by the closure of correctional and juvenile justice centers. Effective Sept. 8, 2011 through Dec. 6, 2011. ▶N.Y. Economic Development Department Emergency Rule No. EDV-39-11-0004-E, Sept. 28, 2011. [[SP TAXLINK](#)S1110B-078]

### More Emergency Rules Additions For Excelsior Jobs

Latest additional emergency rules incorporate recent statutory amendments and update the application process for the Excelsior Jobs Program. Effective Sept. 2, 2011. ▶N.Y. Economic Development Department Emergency Rule No. EDV-48-10-00010-E, Sept. 21, 2011. [[SP TAXLINK](#)S1110B-079]

### Business Taxpayer Backed On Presumption Of Distortion

With some modifications, Tribunal upholds an ALJ's decision that a taxpayer was able to meet its burden of rebutting the presumption of distortion on remand. The out-of-state corporation did not have to file New York combined returns with its wholly owned, non-taxpayer subsidiaries. Decided Sept. 22, 2011. ▶In re: *Kellwood Company*, N.Y. Tax Appeals Tribunal Decision DTA No. 820915. [[SP TAXLINK](#)S1110B-080]

## NORTH CAROLINA

### New Policy Guidance Out For Mandatory Combined Reporting

Agency issues two pieces of guidance on procedures for requiring combined reporting by unitary group members. One outlines the procedures, the other gives the effective date (tax years starting on or after Jan. 1, 2012). ▶N.C. Revenue Department Important Notices, posted Oct. 11, 2011. [[SP TAXLINK](#)S1110B-081, S1110B-082]

### 2011 Tax Credit Expansions, Contractions Reviewed

Corporate taxpayers are reminded about a number of developments in business tax incentives resulting from the 2011 session. A few examples are the expanded renewable energy property facility tax credit, new definition of "tier one" and new conditions under which the William S. Lee investment credit will expire. ▶N.C. Revenue Department, "2011 Tax Law Changes," updated Sept. 27, 2011. [[SP TAXLINK](#)S1110B-083]

### Activity Brisk in Small Business Recovery Program

Thus far, more than 400 businesses have signed up for the Small Business Taxpayer Recovery Program, in hopes of getting penalties and fees on withholding and sales taxes waived while they get state help. ▶N.C. Revenue Department News Release, Oct. 3, 2011. [[SP TAXLINK](#)S1110B-084]

## NORTH DAKOTA

### New Resource Reviews Business Tax Incentives

New brochure discusses state business income tax credits, sales and use tax exemptions, and non-tax incentives available. ▶N.D. Tax Commissioner's Office, "North Dakota Tax Incentives for Business," September 2011. [[SP TAXLINK](#)S1110B-085]

**OHIO****Deadline For Third Quarter CAT Return Is Nov. 10**

Reminder: The state's third-quarter commercial activity tax return will be due Nov. 10, 2011. Also, taxpayers that filed a rule-based, estimated CAT return for the second quarter of 2011 will need to file a reconciliation return by Nov. 10. ▶Ohio Taxation Department Release, Oct. 11, 2011. [SP TAXLINK]S1110B-086]

**OKLAHOMA****New Form Created To Transfer State Tax Credits**

New form is released to transfer or allocate a corporate income tax credit. Form 569 must be used with transfers or allocations on or after July 1, 2011 and be filed by the 20th day of the second month after the tax year in which the transfer occurs. ▶Okla. Tax Commission Informational Notice, Sept. 22, 2011. [SP TAXLINK]S1110B-087]

**OREGON****Procedures Created For Selling Off State Tax Credits**

Temporary rule gives the rules and procedures for conducting a state tax credit auction under House Bill 3672 of 2011. ▶Ore. Revenue Department Temporary Rule No. 150-315.HB3672, Oct. 11, 2011. [SP TAXLINK]S1110B-088]

**Real Estate Brokers Shielded From City's License Law**

In 2008, the city of Portland redesignated its business license "fee" (based on net income) as a "tax." Doing so did not affect the Legislature's decision to exempt statewide certain licensed real estate brokers from business license taxes. ▶Proctor v. City of Portland, Ore. Appeals Court No. A144782. [SP TAXLINK]S1110B-089]

**State Holding A Tax Credit Auction Through Nov. 4**

The Revenue Department and state Energy Department are auctioning 1,500 \$1,000 tax credit certificates from Oct. 24 through Nov. 4, 2011. Three-year carryforwards are available if a buyer doesn't use a certificate on its 2011 state tax year return. ▶Ore. Revenue Department Announcement, Oct. 13, 2011. [SP TAXLINK]S1110B-090]

**PENNSYLVANIA****Special Tax Oversight Coming For State License Holders**

Revenue agency is directed to develop a program to identify holders of various state licenses that/who are failing to timely report and/or pay state taxes. Licensees in arrears on taxes will get a warning notice from the Revenue Department on at least an annual basis. ▶Pa. Governor's Office Executive Order No. 2011-06, Sept. 15, 2011. [SP TAXLINK]S1110B-091]

**Philadelphia: Mandatory E-Pay, Interest/Penalty Waivers**

Effective starting in 2012, Philadelphia will mandate that businesses with \$10,000 or more in wage, hotel and other city taxes e-pay by ACH Credit or ACH Debit. Also, the city now is empow-

ered to waive up to \$15,000 of interest and up to \$35,000 of penalties in situations where the taxpayer acted in good faith, with no negligence or intent to defraud. ▶Philadelphia Revenue Department *ReveNews*, Summer 2011. [SP TAXLINK]S1110B-092]

**TENNESSEE****Tax Implications For Corp. Group Reorganization Examined**

Revenue staff discusses how state franchise and excise taxes apply to the reorganization of an affiliated group. For example, an LP's net earnings or losses that are disregarded for federal tax purposes will be determined as if they were corporations, for Tennessee tax purposes. And, there is no specific adjustment to net earnings or losses under state law that would make a corporate conversion gain or loss be included. ▶Tenn. Revenue Department Letter Ruling No. 11-46, posted Oct. 11, 2011. [SP TAXLINK]S1110B-093]

**State Handling Of Discharge-Of-Indebtedness Discussed**

Tennessee does not require, for state excise tax purposes, an addback to net earnings of income excludable under federal Sect. 108(a) on discharge of indebtedness. Thus, a taxpayer's net earnings won't include a discharge of indebtedness under the federal bankruptcy code, and a corresponding reduction in property basis is not required. Also, a state NOL for the year of discharge must be computed without regard to unincorporated discharge-of-indebtedness income. ▶Tenn. Revenue Department Letter Ruling No. 11-44, posted Oct. 7, 2011. [SP TAXLINK]S1110B-094]

**Handling Of Sect. 754 Step-Up Election Is Fact-Specific**

Ruling discusses excise tax treatment of an LLC that has taken a federal Sect. 754 election for step-up basis. State excise and franchise law don't specifically address Sect. 754 elections; their treatment must be handled and calculated on a fact-specific approach. ▶Tenn. Revenue Department Letter Ruling No. 11-45, posted Oct. 7, 2011. [SP TAXLINK]S1110B-095]

**TEXAS****MTC 3-Factor Method Doesn't Apply To Franchise Tax**

A taxpayer originally filed a Texas franchise report using single-sales apportionment, but later filed an amended report using the **Multistate Tax Commission's** three-factor method and sought a refund. However, the Texas tax code chapter that adopted the MTC does not apply to franchise tax, and the refund was denied. ▶Texas Comptroller's Hearing No. 201108230H, released October 2011. [SP TAXLINK]S1110B-096]

**More Validation Needed On Combined Group NOLs**

Combined groups that claimed a temporary Texas franchise tax credit for business NOL carryforwards on a 2008, 2009 or 2010 report will have to verify some information. They will need to send the Comptroller's Office a letter providing the name of the entity or individual owing, directly or indirectly, more than 50% of the entities on the report. The reporting entity also must give the Texas NOL as of Jan. 1, 2008 for each affiliate filing a preservation form in 2008. ▶Texas Comptroller's Office *Tax Policy News*, September 2011. [SP TAXLINK]S1110B-097]

### Draft 2012 Franchise Return, Instructions Available

Revenue staff posts draft copy of 2012 state franchise tax report and instructions, which contain reminders of a \$50 late-filing penalty for next year and extension of the \$1 million no-tax-due threshold to Dec. 31, 2013 (\$1.03 million with an inflation adjustment). ▶Texas Comptroller's Office, "Draft, 2012 Texas Franchise Tax Report Information and Instructions," October 2011. [[SP TAXLINK](#)S1110B-098]

### Key Actions On R&D Tax Incentives Reviewed

Bulletin reviews 2011 developments affecting state R&D incentives, including HB 2383 (study of possible re-enactment of R&D credit) and SB 1 (four more years for credit carryforward). ▶Texas Comptroller's Office Letter Ruling No. 201108216L, posted October 2011. [[SP TAXLINK](#)S1110B-099]

### No Exclusions Of Oil And Gas Revenue For July-Aug.

Because the average closing price of West Texas intermediate crude oil was at a certain level (\$97.34 per barrel), a taxable entity cannot exclude total revenue from oil sales during July 2011 from its Texas taxable income. The same terms held for August 2011. ▶Texas Comptroller's Office Notice, Oct. 7, 2011. [[SP TAXLINK](#)S1110B-100]

## UTAH

### Pass-Throughs Get Updated Primer On Withholding Tax Duties

Revised publication explains withholding requirements in Utah for pass-through entities and pass-through taxpayers. ▶Utah Tax Commission Publication 68, revised October 2011. [[SP TAXLINK](#)S1110B-101]

### Mispaid Tax Interest Rates Dip By 1 Percentage Point In 2012

For calendar 2012, the state's interest rates on overpaid and underpaid taxes will dip to 2% from 3%. ▶Utah Tax Commission Publication 58, revised October 2011. [[SP TAXLINK](#)S1110B-102]

## VIRGINIA

### State Won't Consider Request For Addback Exception

State would not take up a taxpayer's request to exempt 100% of the discount on factoring accounts receivable, which it claimed on its federal income tax return. The taxpayer did not follow specific Virginia procedures (file a state return reporting the addition, then apply for relief based on a valid business purpose, then petition the commissioner to consider evidence on transactions). ▶Va. Tax Commissioner's Ruling No. 11-162, Sept. 26, 2011. [[SP TAXLINK](#)S1110B-103]

## WASHINGTON

### Local Tax Upheld On Company Serving Its Affiliates

Seattle was entitled to assess local business and occupation (b&o) tax on a local company providing administrative and managerial services to affiliates. Funds shifted from a cash management system to the taxpayer's bank account to cover administrative services were found to be taxable "compensation for the rendition of services." Decided Sept. 12, 2011.

▶*Getty Images (Seattle) v. City of Seattle*, Wash. Appeals Court, Division One No. 65113-7-I. [[SP TAXLINK](#)S1110B-104]

### Guidance Republished On Newspaper Special Tax Rate

Agency reissues notice on reduced business and occupation (b&o) tax rate (0.2904%) for newspaper printing and publishing businesses. As of July 1, 2011, electronic versions of newspapers did not qualify for the special rate, which must be claimed in an annual report filed with the Revenue Department. ▶Wash. Revenue Department Special Notice, posted Oct. 7, 2011. [[SP TAXLINK](#)S1110B-105]

### R&D Credits Can Be Donated To Scholarship Fund

Businesses eligible for a state high-technology R&D tax credit are able to voluntarily contribute all or part of the credit for the Opportunity Expansion Program, which provides tuition scholarships. Contributions can be made starting with the June 2011 state return. ▶Wash. Revenue Department Special Notice, Sept. 15, 2011. [[SP TAXLINK](#)S1110B-106]

## WEST VIRGINIA

### Business Tax Credit Primer Gets A Refresher

Revenue staff updates its general publication on state tax credits, which gives a brief overview of each incentive. ▶W.Va. Tax Department Publication TSD-110, updated. [[SP TAXLINK](#)S1110B-107]

### Inflation Updates Made In Three Key Tax Credits

Inflation adjustments in payroll, taxpayer gross receipts and median job compensation are made to the qualifying benchmarks for the investment and jobs expansion, small business economic opportunity and economic opportunity tax credit programs. ▶W.Va. Tax Department Administrative Notices 2011-19, 2011-20, 2011-21 and 2011-22, Sept. 22, 2011. [[SP TAXLINK](#)S1110B-108 through S1110B-111]

## WISCONSIN

### Calculation Refined For Job Creation Tax Deduction

Rule as amended provides relevant definitions and explains the method to compute average employee headcount, for purposes of determining the state job creation deduction. The new rule now also clarifies application to partnerships, LLCs, S corporations and professional employer organizations, with illustrations. Effective Dec. 1, 2011. ▶Wis. Revenue Department Rule 3.05, Oct. 1, 2011. [[SP TAXLINK](#)S1110B-112]

### Formula Tweaked For Job Relocation Tax Credit

Altered rule prescribes the approach to determine the percent of work force payroll and dollar amount of wages paid in a tax year, for purposes of calculating the relocation tax credit. Amendments also give new definitions and examples of a relocation to Wisconsin from another state or country. Effective Dec. 1, 2011. ▶Wis. Revenue Department Rule 2.957, Oct. 1, 2011. [[SP TAXLINK](#)S1110B-113]

## Tax Attorneys

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have,” he lamented. “This is a very sophisticated, focused group within the tax department, and what they do requires deep knowledge of the tax law and years of experience.”

Other tax professionals agreed. “The layoffs could not come at a worse time for taxpayers, who have been demanding more from the office of counsel,” said **Steve Kranz**, a tax partner at **Sutherland Asbill & Brennan/Washington**.

“Taxpayers have been requesting more guidance to obtain certainty, such as whether a service constitutes an information service. That takes on an even greater importance in the sales tax context, when companies are collecting and remitting tax for the department.”

A tax director with a manufacturer in upstate New York did not want to be identified because his company has an appeal pending before Taxation and Finance. Given recent developments, he

is very concerned about the possible outcome of that appeal.

“I don’t know that the attorney handling my appeal is among the ones who will be let go,” he said. “The odds are that he is. I am just worried that this [matter] is going to fall between the cracks during the transition.”

In his own company tax department, turnover has led to turmoil, important tasks getting overlooked and mistakes made, he said.

“And, that’s with one person leaving,” he said. “That is not with 90% staff turnover. It is a scary thing to deal with.”

“I think they should keep some lawyers and get rid of some auditors. That would make sense to me. I really don’t know how they are going to handle the workload going forward. I haven’t heard about any plan in place.”

### Brave Front From Tax Agency

In a prepared statement, Taxation and Finance Commissioner **Thomas Mattox** said his agency was asked to

shed 301 of 5,334 employees (the 37 attorneys, then, would represent 12.3% of department-wide layoffs. But, “our review of the counsel’s office demonstrates that with more effective case management, we can win the same cases and maintain or improve revenue collection with fewer lawyers,” he insisted.

Department spokesman **Ed Walsh** said he would not give a further breakdown of potential layoffs until they take effect.

However, it is known that Taxation and Finance also would axe a 40-employee satellite in Des Plaines, Ill., its only out-of-state facility. New York State has maintained an office there for 30 years to audit big companies in the Chicago area and in the western states.

Remote-meeting and e-auditing technologies are giving state cost-cutters ammunition to argue that a full staff of auditors in Illinois is a needless expense. **T**

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## Staff Resources

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icy for contract workers – and expect they will use it.

### Who Has Worked For You Before?

**David Moore**, state and local tax manager at **American Electric Power Corp./Canton**, Ohio, said his department also has gone the contractor route.

“We have two contract employees that we use now, and we took what I would call the former employee route,” he said. “One of them was an employee with AEP for about 35 years,” and both contractors had been forced to take an early retirement buyout even though they still needed to work.

Even if a former longtime staffer *wants* to keep working in tax more than he or she *needs* to, the benefits of bringing such experience into your fold are tremendous, Moore added.

“We wound up getting somebody we wouldn’t have been able to touch

otherwise. We wouldn’t be able to afford them, for one thing; they are probably working for about half of their [previous] salary.”

“We got one of them when he was 57, and he just turned 65. When he leaves, we will have to get someone to take his place, but we really won’t be able to replace him. His experience is invaluable.”

Experienced contractors, particularly those who worked at your company as fulltimers, require much less hand-holding from a managerial standpoint. That may not be the case 100% of the time, though. A newcomer to your company or industry may actually need a good deal of up-front coaching, Moore has found.

### Give It The Old College Try

In looking for temporary or contract tax staff, don’t be afraid to contact your university or community college, especially if it has a business school. Interns can prove to be an inexpensive source of acceptable

labor on administrative issues that are best left to staffers who are not also tied to tax compliance work. For example, interns can be assigned to check completeness of certificates or assist in return prep.

American Electric Power always uses two summer interns in corporate tax, Moore said, and those positions are pretty easy to fill.

“We get so many applications that it’s not difficult to fill those spots,” he said. “Really what we’re looking for is good students: Good grades, the right course work. That’s another situation where there is a lot of talent available for you to choose from.”

And, a little extra planning can go a long way in properly managing temporary tax staff, tax leaders told us. A couple or few extra hours on the front end discussing what work needs to be done and when can pay off in terms of fewer surprises later. **T**

**Contact Info:** **Mike Johnston**, (203) 351-7562; **David Moore**, (330) 438-7064.

## Suppose A State Axed A Credit Your Company Taps: What To Do Then?

*SITM* has noticed that the number of state credit programs allowed to sunset early or terminated abruptly (either because claims are down or because the incentives are unaffordable) is on the upswing during rough economic times. We asked several corporate tax pros if their companies had been affected by such decisions.



**Brian Nordling**, executive director of corporate tax, *Deluxe Corp.*/Shoreview, Minn.:

I actually have noticed that states are doing that, although it isn't something that has had a great effect on us to this point. I know that at one point, California was looking at eliminating its hiring credits, but those wound up being saved and continued. That's good, because we would have been hurt if they had gone away.

I think that it is a hard thing for states to deal with. They have been struggling for the past few years and they need to try and make the revenue up in different places. One of the areas where they are looking obviously is tax credits. Businesses obviously don't like that and don't want to see the credits go away, but it kind of is what it is. There's nothing that the companies can do about it. The states are going to do what they have to.



**Mark Cleaver**, state and local tax manager, *Danaher Corp.*/Cleveland:

As the tax manager of Danaher, I would say the best example of what you're talking about is what's gone on in Michigan, where they basically got

rid of all of their credits as of 1/1/12. Michigan is not a state where we have taken advantage of a lot of those incentives, so really the impact on us has not been that great. Is it a bigger hit for some companies? I'm sure. But, it's not something that has hurt us.

When it comes to incentives, all of our decisions come down to whether or not we are going to make money. But, a tax incentive is never going to be the sole reason we decide to do something, somewhere. I think that if we ever did something like a tax credit, and that program was pulled out from under us, the directors here would be pretty upset. I don't know how I feel about the states pulling back on the incentives. It seems like it is hurting business.



**Tom Swaney**, director of state tax services, *Unisys Corp.*/Blue Bell, Pa.:

I can tell you what I have seen. I have seen a reduction in the credits that are available rather than a sunset of the credits. The credit are still out there; they just aren't funded as well. For example, Pennsylvania has an education expense tax credit, and the pool of money that's available to be claimed has been reduced. The state is not putting as much money into the programs as before. It's not really something that's

affected us too much. If you look at our income situation, we really haven't been in a position to claim a lot of the credits that are out there anyway.

I think if you look at the reasons why, I think that the legislatures are under a lot of pressure from people not to provide tax credits for corporations. People see that the states are struggling and don't like the fact that credits are still being handed out.



**Jim Wade**, tax director, *Cessna Aircraft Co.*/Wichita, Kan.:

Kansas has done that this year. This past session, they passed a law that phases out the business and jobs investment credits and the high-performance investment credits as well. They replaced the HPIP with an additional write-off against capital expenditures. We definitely fought hard against the phase-out of the HPIP and helped get the replacement deduction put in there. The credit phase-out was part of the governor's economic plan, so it was going to happen regardless.

That was just Kansas. I am not aware of any similar activity in other states where we claim credits. States are being very aggressive, and one area where they can do that is eliminating credits and incentives. ①

### Rants

*"It's like asking what's harder: Climbing a mountain or running a marathon? Both are challenging."*

— State tax compliance manager at a midwestern corporation, on the relative difficulties of income and sales taxes.

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