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Moss Adams Construction Group Newsletter

August 2009

State Tax: New Legislation, New Opportunities

Washington: Reseller Permits to Replace Resale Certificates

With the passage in April of Senate Bill 6173, Washington State is moving to implement a new process that will replace resale certificates with reseller permits. Effective January 1, 2010, a registered Washington business will no longer be able to issue a resale certificate to exempt a purchase from sales tax.

Reseller permits will include new, unique permit numbers that will be issued to all registered businesses normally engaged in making purchases for resale. The Department of Revenue is working to identify companies that automatically qualify and will contact them in the fall. Generally, companies will need to renew their permits every four years.

Contractors, however, will not automatically receive a reseller permit and must renew their permits annually. In addition, they must meet certain criteria in order to qualify for a reseller permit:

- Must be a registered contractor based on North American Industry Classification System code.
- Must have reported business activity within the past six months or on their last annual tax return.
- Retail construction must make up at least 25 percent of their construction activity.

As part of the permit application, contractors must report the dollar amount of all purchases of materials and labor for the preceding 12 months for retail construction, speculative building, public road construction, and government contracting. These figures will be used to substantiate the retail activity of the business to meet the 25 percent threshold.

The Department of Revenue is developing the permit application, the details of the permits themselves, and the processes for applying for and renewing permits as well as revising the administrative rules to reflect this change. The application process should be available in September, and it's important to apply as early as possible in order to ensure you have a permit for purchases made at the beginning of 2010.

Moss Adams is participating in the Department of Revenue stakeholder meetings to stay abreast of this issue and provide input on the implementation of this change. We're available to help you complete the application process. Please contact us if you have any questions.

Arizona: Transaction Privilege Tax Opportunities

Arizona imposes a Transaction Privilege Tax on prime contractors such that 65 percent of their total contract cost is subject to tax. Work done by subcontractors is exempt.

However, recent legislative changes have made it possible to reduce the overall tax by formalizing contracts under certain guidelines. These guidelines must be met to capture the exemptions appropriately, so planning is key. Moss Adams can assist qualified contractors with this planning opportunity.

California: Sales Tax Increase

On April 1, the statewide California sales and use tax rate increased by 1 percent. Historically, when California has enacted sales tax rate increases, construction contractors were exempt from the increase on fixed-price contracts and taxable lease agreements entered into prior to the rate increase.

Legislation has been introduced (Assembly Bill 1523) to extend the fixed-price exemption to the 2009 rate increase. However, given the current California budget crisis, such legislation has not yet passed, since the projected fiscal impact is a net decrease in state revenues. The California Board of Equalization has indicated it will not permit a fixed-price exemption until the pending legislation is passed.

New Mexico: Gross Receipts Tax

Tax on construction projects for work done by certain professional services firms can result in the pyramiding of gross receipts tax. Contract bifurcation and transaction planning can help businesses avoid this and possibly lower the overall gross receipts tax assessed on companies doing business within the state.

Oregon: Corporate Income Tax Increases

On July 20, Governor Kulongoski signed into law several tax-related bills that had been passed by the state legislature. Effective for tax years beginning on or after January 1, 2009, House Bill 3405 will raise the minimum income tax for businesses. It will increase from \$10 to \$150 for S corporations, and for other corporations it will be between \$150 and \$100,000 (based on sales figures). In addition, the corporate income tax rate will increase in increments over the next several years, and House Bill 2649 will increase personal income tax rates for 2009 through 2012.

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