SALT WATCH

Illinois General Assembly Overrides Governor's Veto and Enacts Budget Bill – Income Tax Rate Increases and Other Tax Changes

Summary

After Illinois Governor Bruce Rauner (R) vetoed the Illinois budget bill (S.B. 9) on July 4, 2017, the General Assembly overrode the governor's veto by the Senate on July 4 and by the House on July 6, 2017. As a result, the Illinois personal and corporate income tax rate will increase, effective July 1, 2017. In addition to other income tax changes enacted, Illinois Public Act 100-0022 also enacts certain other tax changes, including for sales and use taxes and tax liens.

Details

Income Tax Rate Increases

The Illinois corporate income tax rate will be increased from 5.25 percent to 7 percent, effective July 1, 2017. Likewise, also effective July 1, 2017, the personal income tax rate is increased from 3.75 percent to 4.95 percent. For an individual's (or trust's or estate's) and a corporation's 2017 taxable year, Illinois taxpayers are provided two options to calculate income subject to different rates when such taxpayers are subject to two different rates in the same tax year. A taxpayer may divide its full year net income proportionally based on the number of months subject to the former rate and the new rate. Alternatively, a taxpayer may elect to specifically account for items of income and deduction based on when they were generated during the tax year. The specific accounting election is irrevocable and must be made on the taxpayer's original return for the tax year.

Other Income Tax Changes

While the Illinois state government shut-down and fiscal situation after the General Assembly and Governor could not reach a budget agreement prior to June 30, 2017 (the end of the Illinois fiscal year) received most of the attention, Public Act 100-0022 also enacts other certain changes to Illinois income taxes, including:

- For taxable years ending on or after December 31, 2017, the federal domestic production activities deduction under Internal Revenue Code ("IRC") § 199 must be added-back to federal taxable income when determining Illinois net income for purposes of the corporate income tax, personal property replacement income tax, and the personal income tax.

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- The research and development credit is retained for Illinois corporate income tax, personal property replacement income tax, and personal income tax purposes, and the sunset date is extended for the R&D tax credit from January 1, 2016, to January 1, 2022. The legislation also provides that the R&D tax credit is intended to apply continuously from January 1, 2004, including for the period that began on January 1, 2016.
- Effective for taxable years ending on or after December 31, 2017, the definition of a "unitary business group" is changed in two respects. First, prior to Public Act 100-0022, members that were required to use a different apportionment formula (e.g., insurance companies, financial organizations, and transportation companies) than a general business corporation could not be included in an Illinois "unitary business group." However, for taxable years beginning on or after December 31, 2017, members that are required to use a different apportionment formulas can be included in an Illinois "unitary business group."

Second, Illinois is a water's-edge unitary combined reporting state. Effective for taxable years beginning on or after December 31, 2017, the definition of "United States" is changed, and expanded. For a taxable year ending prior to December 31, 2017, the term "United States" means the 50 states and the District of Columbia, but does not include an U.S. territory, possession, or any area over which the United States has asserted jurisdiction or exclusive rights related to the exploration or exploitation of natural resources. For a taxable year beginning on or after December 31, 2017, the term "United States" will now include an area over which the United States has asserted jurisdiction or exclusive rights related to the exploration or exploitation of natural resources, but still excludes a U.S. territory or possession.

- Public Act 100-0022 also enacts other personal income tax changes, including an increase to the education expense and earned income tax credits, enacts a school instructional materials and supplies credit for school teachers, and prohibits individual taxpayers having an adjusted gross income of $500,000 or more (for taxpayers filing a joint return) or $250,000 (for all other taxpayers) from claiming an education expense credit, the five percent credit for property taxes paid on residential property, and/or personal income tax exemptions.

Sales, Use and other Tax Changes

Effective for purchases made on or after July 1, 2017, Public Act 100-0022 includes sales of graphic arts machinery and equipment in the manufacturing exemption for sales tax, service occupation tax, use tax, and service use tax purposes. One hundred percent of the proceeds from sales of gasohol are subject to sales tax, service occupation tax, use tax, or service use tax, effective July 1, 2017. Previously, only 80 percent of the proceeds were subject to such taxes. The exemptions from sales tax, service occupation tax, use tax, and service use tax for sales of majority blended ethanol, biodiesel, and biodiesel blends are extended from December 31, 2018, to December 31, 2023.

Public Act 100-0022 also enacts a Tax Lien Registry Program, effective January 1, 2018. The program establishes a uniform, state-wide system for filing notices of tax liens and their enforcement.

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Insights

- Taxpayers should make note of the Illinois tax changes enacted as part of Public Act 100-0022, including the corporate income tax rate increase that was effective on July 1, 2017.

Taxpayers affected by Illinois Public Act 100-0022 should consult with their financial statement auditor and tax advisor to evaluate and determine the potential financial statement implications under ASC 740, including the impact on current and deferred taxes, uncertain tax benefits, and disclosures.

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