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Missouri General Assembly approved franchise tax cap, phase-out

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Legislation approved by the Missouri House and Senate would cap the state's annual franchise tax at 2010 levels and, beginning with the 2012 tax year, begin to phase-out the tax until completely eliminated in 2016. The legislation has been sent to Governor Jay Nixon for his consideration. The Governor has 15 days in which to sign or veto the legislation, or otherwise take no action and allow it to become law without his signature. The most recent total franchise tax collections for the state were $87.5 million (for the year ended June 30, 2010). [S.B. 19, Truly Agreed To and Finally Passed, 4/6/2011]

Currently, the annual Missouri franchise tax is imposed at a rate of one-thirtieth of one percent (0.033%) of a corporation's outstanding shares and surplus, if the outstanding shares and surplus exceed $10 million. Under the legislation, a corporation's annual franchise tax liability would be capped, beginning with the 2011 tax year, at the amount of its franchise tax liability for the tax year ending on or before December 31, 2010. Corporations that had no annual franchise tax liability in 2010, either because they were not in existence or were not doing business in the state, would have their franchise tax liability capped at the liability amount for the first full taxable year in which the corporation was in existence or doing business in Missouri.

The schedule for the franchise tax phase-out would be as follows:

- For tax year 2012, a rate of one-thirty-seventh of one percent (0.027%).
- For tax year 2013, a rate of one-fiftieth of one percent (0.02%).
- For tax year 2014, a rate of one-seventy-fifth of one percent (0.013%).

- For tax year 2015, a rate of one-hundred-fiftieth of one percent (0.006%).
- For tax year 2016 and thereafter, no annual franchise tax would be imposed.

For tax years 2012-2015, the "threshold amount" for outstanding shares and surplus -- above which the franchise tax is imposed -- would remain at $10 million.

PwC observes

"The main benefit from this phase-out would likely be felt by Missouri-based companies, given that the tax is imposed at a relatively low rate on business assets and is apportioned," observes Jeff Dardick, PwC State and Local Tax Partner in St. Louis. "However, all companies currently subject to the franchise tax obviously would benefit, and should pay special attention to their 2010 liabilities given that this would cap the tax beginning in 2012 until it is eliminated. Thus, taxpayers should ensure that they are taking advantage of deductions and properly applying the unique apportionment rules for this tax." Dardick notes that business interest groups have increased activity recently in advocating for business-friendly tax changes in the state, including the reduction of the corporate tax rate and even the elimination of the corporate income tax. The cap and phase-out of the franchise tax is a concrete step toward adopting such business-friendly policies.

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