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Pennsylvania enacts single sales factor, extends RAR reporting deadline to six months, authorizes the Department to engage contractors on a contingent fee basis, and imposes other tax changes

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In brief

For tax years beginning January 1, 2013, Pennsylvania taxpayers must apportion their business income based on a single sales factor. This change, and several others, took effect on July 2, 2012 following the enactment of [H.B. 761](#).

Also effective July 2, 2012, the Department of Revenue has the authority to enter into contingent fee contracts with contractors for refunds saved or for taxes, interest, penalty, or fees collected. [Pa. [S.B. 1263](#)]

In detail

Single sales factor

Under current law (for taxable years beginning on or after January 1, 2010), Pennsylvania's apportionment formula is based 90% on sales and 5% each on



property and payroll. Under H.B. 761, all business income will be apportioned based on a single sales factor for taxable years beginning on or after January 1, 2013.

Capital stock/franchise tax phase-out

Notably absent from the legislation is language deferring the phase-out of the capital stock/franchise tax. Such language was of a concern earlier this year when the budget deficit was projected to be higher than it ultimately turned out to be. However, the legislation does not affect the phase-out of the tax.

Under current law the capital stock/franchise tax is scheduled to be phased-out as follows:

- For taxable years January 1, 2012 to December 31, 2012, the rate of tax is 1.89 mills;
- For taxable years January 1, 2013 to December 31, 2013, the rate of tax is .89 mills; and
- For taxable years January 1, 2014 and after no capital stock/franchise tax shall be imposed.

Contractors hired on a contingent fee basis

Effective July 2, 2012, the Department of Revenue may enter into contracts allowing the contractor to be paid on a contingent fee basis for "taxes, interest, penalty or fees" or for "refunds saved."

Other miscellaneous tax provisions

The legislation contains several tax provisions, including:

- Changes the process of reporting federal changes to the Department of Revenue. In general, if the amount of taxable income is finally changed or corrected by the IRS, taxpayers are granted six months after the receipt of such change to report to the Department of Revenue. Prior law allowed taxpayers 30 days within which to report such change.
- Automatic extension of reports equal to 30 days after the termination of a federal extension. Prior law provided that such extension may be granted at the Department's discretion.
- Significant changes to the timing of filing for petitions for refund, which in many cases may be extended since they are tied to the payment of a tax under the new legislation rather than to the date of assessment or determination by the Department.
- Changes to several existing credits, including the educational improvement tax credit and tax credits for new jobs. In addition, the legislation provides for several new credits such as a resource manufacturing tax credit and a community-based services tax credit.

Actions to think about

The contingent fee language found in S.B. 1263 appears to be restricted to collections. It is unclear how the Department will interpret its authority.

Let's talk

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