Chicago budget includes ‘cloud tax’ increase

December 2, 2020

In brief

The Chicago City Council has approved an increase to its personal property lease transaction tax as it applies to nonpossessory computer leases. Effective January 1, 2021, the tax rate applied to certain cloud services will increase from 7.25% to 9%, which is the rate generally applied to personal property leases.

[Ordinance, Record No. O2020-5743, passed 11/24/20]

In detail

Chicago imposes a tax of 9% of the lease or rental price paid by the lessee at the time of each lease or rental payment. However, a lower rate has applied to nonpossessory computer leases, which Chicago tax authorities have interpreted as applying to certain cloud services (also known as the ‘cloud tax’). The cloud tax specifically applies to a nonpossessory lease of a computer primarily for the purpose of allowing the customer to use the provider’s computer and software to input, modify, or retrieve data or information that is supplied by the customer.

Last year, the Chicago City Council approved an increase of the cloud tax from 5.25% to 7.25% as part of the 2020 budget process, effective January 1, 2020. On November 24, the City Council approved Mayor Lori Lightfoot’s (D) 2021 budget proposal, including a revenue ordinance that among other changes increases the cloud tax to the generally applicable lease tax rate of 9%, effective January 1, 2021.

The takeaway

The City of Chicago applies the ‘cloud tax’ to remote software access, which generally is sourced to the location of software use. Taxpayers may apportion the tax when software use occurs both inside and outside the city. Especially in the current remote work environment, taxpayers should examine such use in their organizations to determine the appropriate sourcing of remote software access charges and file refund claims where supported by such analysis.
Let’s talk

For more information on how this development may impact your business, please contact:

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