

ALERTS AND UPDATES

Illinois, Michigan and California State Tax Advisory

July 15, 2011

Recent developments in state tax laws include sales tax changes in Illinois and California, including the latter's "Amazon law," as well as replacement of the business tax in Michigan.

California

Expanded Nexus

California has joined a number of states that have passed "Amazon laws" that seek to make [non-California retailers subject to California use tax](#) on their sales when they advertise through websites associated with California companies (*i.e.*, click-through nexus). Basically, it requires that a retailer register to collect California use tax when such retailer enters into an agreement under which a person in California, for a commission or other consideration, refers potential purchasers of tangible personal property to the retailer, whether such referral is by an Internet-based link or an Internet website or otherwise, provided that both of the following conditions are met:

1. The retailer's total sales of tangible personal property to California consumers that are referred pursuant to all of those agreements with persons in California in the preceding 12 months must be in excess of \$10,000.
2. The retailer's total sales of tangible personal property to California consumers in the preceding 12 months must be in excess of \$500,000.

Lower Sales Tax Rates

On the brighter side for retailers, California has [lowered its sales/use tax rates](#) by 1 percent effective July 1, 2011. The statewide rate is now 7.25 percent rather than 8.25 percent before applicable district taxes.

Michigan

Repeal of Michigan Business Tax with Enactment of New Corporate Income Tax

Effective January 1, 2012, the Michigan Business Tax is repealed and replaced with a new 6-percent corporate income tax. In addition, for those companies operating multistate businesses, a single sales-factor sourcing will be required. See Michigan's [House Bill No. 4361](#), [House Bill No. 4362](#), and [House Bill No. 4479](#).

Illinois

Local Sales Tax Sourcing Legislation

A taxpayer coalition was able to pass SB 2194 through the Illinois State Assembly's senate, but not the house of representatives. This bill was designed to codify decades of regulations, administrative decisions and court rulings on the sourcing of local sales taxes—*i.e.*, what local tax rate to charge. This was attempted since the local rates can vary by as

much as 3½ percent and the Illinois Department of Revenue had decided to abandon its previous regulations on the bright-line sourcing of such sales and move to a more subjective facts-and-circumstances test. Currently, the matter is on hold with discussions to be held this summer on a possible compromise. **It is likely some type of new local tax sourcing law will be passed in fall of 2011.**

For Further Information

If you would like more information on how this may affect your company, please contact [Stanley R. Kaminski](#), any other [member](#) of the [State and Local Tax Practice Group](#) or the lawyer in the firm with whom you are regularly in contact.

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