NYC Proposed Tax Code Changes Would Affect Businesses Large and Small

January 13, 2015

A proposal by the Mayor of New York City to change the City's corporate tax structure would, for the first time***, tax certain businesses that have no physical presence in New York City but that do business in the City or with City residents.*** If adopted, the changes would take effect retroactively as of January 1, 2015.

Under the proposal, some companies with $1 million in receipts from sales to New York City customers will be deemed to have an "economic nexus" with New York City and will be subject to New York City business income taxes for the first time. This economic nexus approach will allow the City to subject a business to tax even if it has no physical presence. Similar taxing power was adopted by New York State last year, but there remain questions as to whether such taxation is permissible under the U.S. Constitution.

Additionally, the proposal will make some New York City corporate tax provisions conform with changes enacted last year to the New York State corporate tax code, which may ease the compliance burden on businesses. Significantly, the proposal adopts the New York State approach requiring combined reporting for certain related entities, which may eliminate tax planning strategies resulting from some intercompany transactions. The proposal also includes a number of special rate reductions for certain small businesses (with less than $1 million in income) and small manufacturers (with less than $20 million in income).

The proposal must be approved by the state legislature and signed by the Governor.

Businesses of all sizes should be aware of these potential retroactive changes, and should consult with tax professionals regarding potential benefits of the plan and to reconsider any tax planning strategies that may be undermined by the proposal.

Caplin & Drysdale's Corporate, Business & Transactional Tax Group has broad experience advising and representing public companies, other business entities, and their principals in tax planning and controversy matters. Such business entities include domestic and foreign financial institutions, manufacturing companies, insurance companies, and hedge fund managers. The firm's areas of substantive tax experience relevant to these business entities include corporate tax, partnership tax, subchapter S, the taxation of regulated investment companies and real estate investment trusts, the taxation of insurance companies and products, tax accounting, financial products, and payroll and other withholding taxes. If you have questions concerning this Alert, please contact:

Mark D. Allison	Rachel L. Partain	Clinton G. Wallace
mallison@capdale.com	rpartain@capdale.com	cwallace@capdale.com
212.379.6060	212.379.6071	212.379.6074

Caplin&Drysdale
ATTORNEYS

For half a century, Caplin & Drysdale has been a leading provider of a full range of tax, tax controversy, and related legal services to companies, organizations, and individuals throughout the United States and around the world. With offices in New York City and Washington, D.C., the firm also provides counseling on matters relating to bankruptcy, creditors' rights, political activity, exempt organizations, complex litigation, employee benefits, private client services, corporate law, and white collar defense. For more information, please visit us at www.caplindrysdale.com.

Washington, DC, Office:
One Thomas Circle, NW
Suite 1100
Washington, D.C. 20005
202.862.5000

New York, NY, Office:
600 Lexington Avenue
21st Floor
New York, NY 10022
212.379.6000

Disclaimer

This communication does not provide legal advice, nor does it create an attorney-client relationship with you or any other reader. If you require legal guidance in any specific situation, you should engage a qualified lawyer for that purpose. Prior results do not guarantee a similar outcome.

Attorney Advertising

It is possible that under the laws, rules, or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation.