

## *Corporate Taxes*

### **Corporate Taxpayers Face Major Changes In Louisiana, Mississippi, Attorneys Say**

**L**egislative sessions in 2014 and 2015, along with some notable cases, have brought significant changes for corporate taxpayers in Louisiana and Mississippi, and more changes are expected in 2016, Jones Walker attorneys told Bloomberg BNA during a preview of the firm's Oct. 8 state and local tax conference in Houston.

In addition to reviewing recent legislative amendments, the conference will look ahead to the 2016 legislative session in both states and the issues that are expected to be divisive. In Mississippi, this includes a school funding ballot initiative in November that could affect property tax rates.

**Louisiana Corporations Irate.** The Louisiana Legislature, facing a budget deficit and cuts to health care and higher education, passed about a dozen revenue-raising bills in June, raising about \$720 million in new revenue (115 DTR H-4, 6/16/15).

Corporate taxpayers have decried the bills, saying they are bearing all the new tax burden.

"I think monumental would be a good word to describe the changes that were made and the way they were made," William Backstrom, a partner at Jones Walker LLP who leads the firm's tax and estates practice group, told Bloomberg BNA Oct. 7. "All these changes are retroactive and taxpayers have to all file those returns this month, so [the Oct. 8 seminar] couldn't be more timely."

It's unclear if the bills will fill the budget deficit, Kimberly Robinson, a partner at Jones Walker, told Bloomberg BNA. The fiscal notes are estimates and as the price of oil continues to fall, less revenue is coming into the general fund. Louisiana will elect a new governor in November who will almost certainly call a special session in early 2016, Robinson added.

**Deduction Lawsuit.** The attorneys said that the Louisiana Chemical Association has filed a lawsuit in state district court contesting one of the new bills, House Concurrent Bill 8. HCR 8 will scale back, for one year, a 1 percent sales and use tax deduction that businesses receive on their utility bills. The association contends that the new law is unconstitutional.

On Oct. 5, a district judge allowed the group to proceed with its case and set a Dec. 7 hearing on the merits, Robinson said. Other companies have also sued regarding the tax and are paying under protest.

The Louisiana Department of Revenue has issued guidance stating that if courts decided in a non-appealable judgment that HCR 8 is unconstitutional, the department would give a refund even to taxpayers that paid without paying under protest Robinson said.

"We found that to be a little interesting because there's a specific statute that governs refunds in Louisiana," Robinson said. "Within that statute, there's a provision that says if you disagree with the secretaries' interpretation of the law, then your remedy is to pay under protest. So we had some concerns advising clients to just go forward with the [guidance] and you'll be able to get your refund if HCR 8 is declared unconstitutional."

In the legislative fiscal note, it is estimated that HCR 8 would bring in an additional \$100 million to the general revenue. The taxes paid in protest are in an escrow account and cannot be used by the state government, Robinson said.

**Good News.** However, there is good news for corporate taxpayers coming out of Louisiana, said Jesse Adams, a partner at Jones Walker. Previously, when companies wanted to protest a local sales tax assessment in the state, they would have to protest in the parish court. With 63 parishes, a company could face a number of assessments across the state as well as a different assessment on the state level.

"Each parish is like its own fiefdom," Adams said. "One parish could say I think this is taxable and another one say, I don't think it is."

With a law passed in 2014, however, all appeals—both local and state—now go through the Louisiana Board of Tax Appeals in Baton Rouge, Adams said, adding that this should lead to more consistent results.

**Mississippi.** Meanwhile, in Mississippi in 2014, officials also enacted significant legislation, said John Fletcher, a partner at Jones Walker.

The bills "really strengthened taxpayers' rights on appeal," such as by eliminating pay-to-play, Fletcher said.

The state also amended its corporate income tax provisions and is gradually reducing the statutory interest

rate on deficiencies and refunds, from 12 percent to 6 percent, Fletcher said.

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*More information on the conference is available at <http://www.cookingwithsaltlaw.com/2015/09/ready-set-hut-the-jw-salt-team-is-back-in-houston-for-the-7th-annual-state-local-tax-seminar/>.*

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