

State and Local Tax Bulletin

April 21, 2011
Tennessee Edition



Prominent Tax Attorney Brett R. Carter Joins Bradley Arant Boulton Cummings in Nashville

Upcoming Seminars Involving Members Of Our SALT Practice Group

May 10, 2011

The annual Council On State Taxation (COST) Southeast Regional State Tax Update will be held in Birmingham, Alabama at the Regions Bank headquarters. The seminar presenters, which include representatives from industry, the BABC SALT Practice Team, and key Alabama Department of Revenue officers, will provide an update on significant state tax issues for the Southeast States. With the tax arena constantly changing, this seminar is a must for SALT professionals. For details, visit the COST website at www.cost.org.

May 23, 2011

COST's 2011 Spring Audit Session/Income Tax Conference will be held in Albuquerque, New Mexico. BABC attorneys Chris Grissom and Will Thistle will be speaking on "State Taxation of Owners of Pass-Through Entities". For more information, visit the COST website at www.cost.org.

June 24, 2011

The Tax Executives Institute (TEI) Region VII Annual Conference will be held on Hilton Head Island. Chris Grissom and David Huizenga of Jefferson Wells will be co-presenting "Developing State Tax Audit Management Strategies & Current Trends". For more information, visit the TEI website at www.tei.org.

June 27, 2011

The Institute for Professionals in Taxation's (IPT) Annual Conference will be held in San Antonio, Texas. Chris Grissom and Ben Turner of Aaron's Inc. will be co-presenting "Developing State Tax Audit and Appeals Strategies and Audit Maxims to Live By". For more information, visit the IPT website at www.ipt.org.

Bradley Arant Boulton Cummings LLP is pleased to announce that Brett R. Carter, a leading Tennessee tax attorney, has joined the firm's Nashville office as a partner. Carter, who previously was a partner with Waller Lansden Dortch & Davis LLP, practices primarily state, and local tax law, including controversy, resolution, planning and compliance.

"We are excited to welcome Brett to the firm and to our team," said Bruce Ely, who heads the State and Local Tax Practice Group at Bradley Arant Boulton Cummings. "Brett brings with him a wealth of experience and the respect of both the legal and business communities in Tennessee. We know our clients will benefit significantly from his addition to the group."

Carter has experience in Tennessee sales and use taxes, franchise and excise taxes, property tax and business tax. He has assisted corporations, limited liability companies, and other business entities in challenging tax assessments as well as in seeking tax refunds.

"Bradley Arant Boulton Cummings is known throughout Tennessee, and the Southeast, for its leading work on state and local tax matters, and that makes the firm a natural fit for my practice," said Carter. "This move provides me with a strong base from which to expand my practice and serve their clients."

Carter regularly serves as legal counsel regarding multistate tax issues for mergers and acquisitions; lease and financing transactions; and areas such as nexus, tax exemptions, and voluntary disclosure agreements. He also counsels both emerging businesses and multistate corporations regarding structuring business operations for state and local tax efficiencies, as well as structuring and negotiating state tax incentives.

Carter holds a J.D. from the University of Memphis, an LL.M. in Taxation from Georgetown University, and a B.S. in Accounting from the University of Tennessee. He is also a Major in the JAG Corp of the Tennessee National Guard and served a tour of duty in Iraq.

Brett can be reached at brcarter@babcm.com or 615.252.2383.



Tennessee Legislative Update

By Pat Moskal, Joe Gibbs, Brett Carter, and Brian Shelton

The Tennessee General Assembly has picked up the pace in the past few weeks passing four tax bills that have been signed into law by Governor Bill Haslam. Based on reports from the legislature, it appears that the new administration will not continue the trend of introducing an omnibus "Technical Corrections Bill" late in the legislative session containing the bulk of the proposed tax laws. The new tax laws are summarized as follows:

Public Chapter 72 (Senate Bill 1520), Effective Dates for "Streamlined Sales Tax Act"; Revision to Headquarters Relocation Tax Credit; and Extension of Filing Date for State Tax Returns. Public Chapter 72 delays the effective date of the Streamlined Sales Tax Act provisions for an additional two years, from July 1, 2011 to July 1, 2013.

The Public Act also amends the headquarters relocation tax credit, Tenn. Code Ann. § 67-4-2109(h), to provide that if a "headquarters staff employee position" is not filled in Tennessee during the investment period or does not remain filled in Tennessee for a period of at least five years, the taxpayer previously receiving the credit will be subject to an assessment in the amount of the credit or refund taken for such position, plus interest.

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The Public Act further authorizes the Commissioner of Revenue to extend the deadline for filing state tax returns when the due date occurs on a legal holiday. This change was precipitated by the Internal Revenue Service's decision to move the 2011 federal tax filing deadline to April 18 in observance of Emancipation Day in the District of Columbia.

Public Chapter 76 (Senate Bill 636), Telecommunications Tax Reduction Refund. This Public Chapter amends Tenn. Code Ann. § 67-6-222 to eliminate carryovers of the shortfall in ad valorem tax equity payments made to telecommunications service providers. The Public Act further provides that it applies to carryovers accrued as of the effective date of the act, April 14, 2011, and applies retroactively. The telecommunications tax reduction fund was enacted in 2001 to address perceived inequities in the assessment rate of public utility property as well as industrial and commercial property.

Public Chapter 77 (Senate Bill 638), Property Tax Payments During Appeal. This Public Chapter amends Tenn. Code Ann. § 67-5-1512 to revise the provisions governing a taxpayer's obligation to pay property taxes during an appeal of the taxpayer's property tax assessment and the accrual of penalty and interest.

Public Chapter 17 (Senate Bill 462), Property Tax Relief Amendments. This Public Act amends Tenn. Code Ann. § 67-5-701(d)(2) and revises the deadlines for filing applications for property tax refunds or presentments of credit vouchers by taxpayers who qualify as elderly low-income homeowners, disabled homeowners, and disabled veterans. The Public Act also revises Tenn. Code Ann. § 67-5-701(g)(2) to clarify that repayment of property tax relief payments made in error is not required if a governmental entity determined that a person was eligible for property tax relief, but later determined that the person was ineligible. These amendments apply to pending claims for the 2011 tax year and thereafter.

Other Bills of Interest:

Senate Bill 1614, House Bill 1914, "Tennessee Small Business Protection Act." Legislation that would have required combined reporting for unitary businesses and would have also made other changes to the definition of business earnings under Tennessee's excise tax failed to make it out of the House and Senate tax subcommittees.

Senate Bill 1489, House Bill 1912, "Out of State Sales Tax Act." A bill similar to the New York bill known as the Amazon.com bill has again been introduced in Tennessee. It proposes to establish a rebuttal presumption that out-of-state internet retailers are subject to Tennessee's sales tax jurisdiction if the retailer receives potential customer referrals from Tennessee residents, whether by a link on an Internet website or otherwise, and the retailer's cumulative gross receipts through such referrals are in excess of \$4,800 for four consecutive quarterly periods. This type of bill has been introduced in previous legislative sessions, but has yet to gain traction.

For more information, please contact Joe Gibbs, Pat Moskal, Brett Carter, or Brian Shelton at the numbers listed below.

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