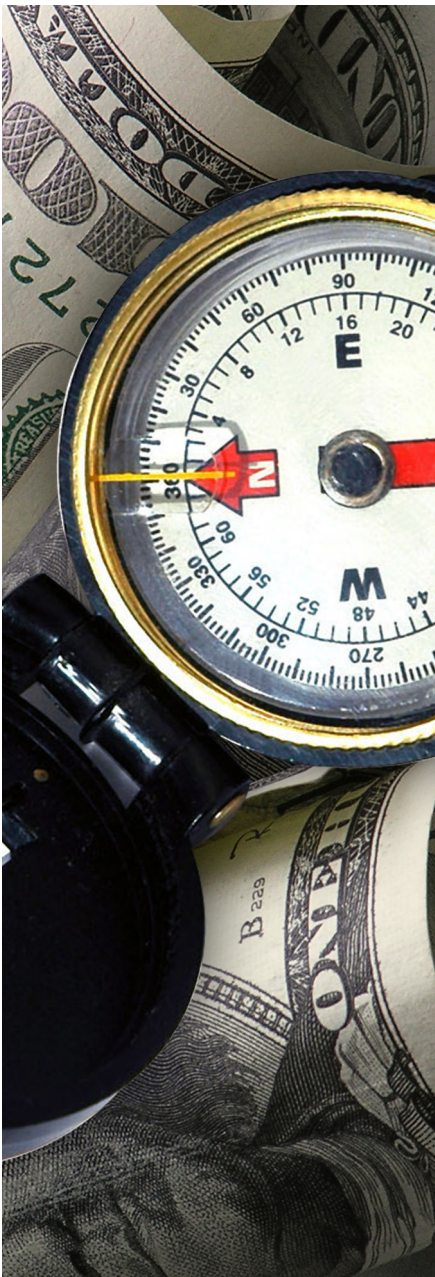




Managing state and local taxes: Certain strategies for uncertain times



In today's uncertain economy, it is critical for businesses to save money and reduce expenses wherever possible in order to remain competitive. Many companies have been forced to make difficult decisions pertaining to the structure of their business, including the elimination of jobs and product or service lines.

The necessity to conserve liquidity and the difficult credit market are making strategies that require investment, such as developing new product or service offerings, or strategic mergers and acquisitions, more difficult.

In this environment, a thorough review of a company's overall state and local tax (SALT) situation is an opportunity that too many companies are failing to pursue. By exploring all available tax credits, refunds and incentives, and by examining nexus exposure for opportunities to concentrate tax obligations in low-tax jurisdictions, companies can save a significant amount of money without making additional investments.

SALT planning opportunities are often overlooked because many treat these taxes as a necessary cost of doing business. Yet SALT costs can and should be managed just like any other business expense. Some companies neglect to invest in SALT planning because they believe the up front effort does not justify the eventual savings. But in today's environment, where every bit of revenue is critical and there is tremendous pressure on a company's bottom line, any opportunity to uncover additional revenue should be explored.

Compliance is an unavoidable challenge

Compliance is one aspect of a company's SALT picture that it cannot ignore – and compliance becomes more challenging in a tight economy. State and local taxing jurisdictions are seeing tax revenues contract. Therefore, they are being more aggressive in pursuing tax revenue. Audit activity is increasing at every level. Companies that do not have their compliance processes and documentation in good order could well face unnecessary additional tax expense.

Taxing jurisdictions also are increasing efforts to identify non-filers, so companies must be sure that they have identified all jurisdictions in which they have a taxable presence, and that they are filing the appropriate returns.



If your company is claiming a credit or incentive that is based on certain financial, operational or employment metrics, this is a good time to check that you are in compliance. It is also important to document these credits and incentives, as taxing jurisdictions will be stepping up audit review activities in these areas as well. Some jurisdictions are eliminating various credits and incentives in order to boost tax revenue. As a result, this may be your last year to capitalize on such opportunities in many jurisdictions, so move quickly to identify such options.

SALT footprint analysis

From both compliance and planning perspectives, the first step to an effective SALT strategy is to understand your current SALT position. For companies with operations in multiple states and localities, a SALT footprint analysis is the right place to start.

A footprint analysis helps to detail where a business has property, payroll and sales – all factors that may create a taxable presence in a state. This allows a company to identify areas of concern, and possibly areas to consolidate in order to reduce liability. The goal is to accurately show where a company is filing, and whether they are properly filing and focusing on their effective state tax rate.

After developing the footprint, companies then can benchmark their overall SALT performance against key competitors to assess their competitive position. A footprint analysis also can show missed opportunities that could still be captured. A company can look back at past credits, exemptions or other decreased liability opportunities they could have received, and possibly, in certain situations, retroactively claim such benefits. The sooner companies do this the better, as these opportunities do expire. Past incentives are not available to be claimed as they are non-statutory, but looking back can help the company plan for future opportunities.

Companies also should look at possible structural changes that could reduce SALT liabilities going forward. Many companies find opportunities to consolidate operations in lower tax jurisdictions, which can substantially reduce SALT liabilities.

Credits and incentives

States and localities want to provide economic incentives for a multitude of reasons. They want to encourage increased commerce and jobs in their respective jurisdictions, especially in the current depressed economy. Just as many businesses and individuals are struggling financially, many states and local areas are suffering as well. There is competition between cities and states, and that can create a great opportunity for existing businesses as well as those looking to relocate or expand.

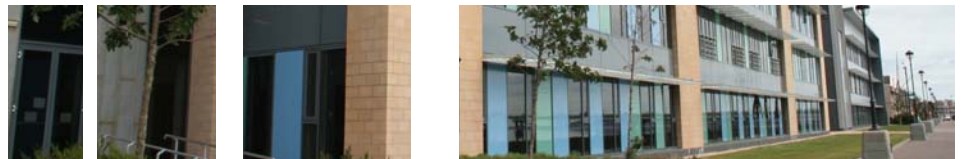




There are two advantages that may be available for a company from a state and local tax perspective. The first are statutory tax breaks, such as tax credits, and the second are non-statutory incentives that may be negotiated at a city, county or state level. Tax credits are normally tied to certain benchmarks that a company needs to attain, such as a certain number of employees, hiring from a specific group, or levels of production. Guidelines for tax credits are normally available from state departments of revenue, local economic development offices or websites for those organizations. In the current economy, companies need to educate themselves on available credits, as states and localities are not likely to actively educate taxpayers on ways to reduce their liability in an unstable economy. But these credits exist at every tax level, so be sure to check at the state, county and municipal levels.

Tax incentives are less cut and dried than credits. While credits are normally tied to a certain number or percentage, in order to gain incentives a company must demonstrate to a local or state economic development board the value they will bring to the community. The number of jobs, capital investment, the amount of tax revenue they will generate, and the local spending that their employees will produce are all factors that should be emphasized.

Incentives vary among jurisdictions, but those that are normally available to companies involve bonding, funding and generally streamlining the process to get projects approved. Tax abatements and sunset periods in certain situations may be available. Much like a business, economic development councils have benchmarks they are trying to reach. They have certain goals pertaining to increasing revenue and keeping or introducing jobs in their community. If a business is successful in demonstrating to the appropriate review board that they will bring a substantial amount of revenue to the area, they are more likely to be offered incentives.



Companies that are planning on moving to a new location or opening a new facility can often secure benefits by negotiating with local economic development authorities. However, substantial incentives can also be awarded to entice businesses to stay in a certain area.

In fact, many local economic development councils have turned their attention from attraction to retention. With today's uncertain economic conditions, many companies are not building new facilities or planning on moving. Jobs are not being created. Therefore, localities want to make sure that they keep those businesses they currently have, as companies may be receiving overtures for more advantageous tax and incentive-laden deals elsewhere.

While a company may be looking at current opportunities for tax breaks and incentives, development councils are more concerned with long-term stability. Companies that express the benefits that their presence could mean to the community, not just currently, but in the long term, stand a better chance at being granted incentives.

While the company selling itself to the council may be successful, an approach that involves the company and an experienced consultant is likely to be the most beneficial. A consultant is more familiar with the development officials and with decisions that have been made that may be applicable to a certain situation. They will also be more accustomed with the process and how to optimize available benefits.



Be flexible

If a company is moving or opening a new location, finding the right area from a tax perspective can be a valuable competitive advantage. In addition to obvious nexus issues concerning rates in various jurisdictions, companies also should proactively consider available credits and incentives. Many companies select an area, then look into available tax credits. But the opposite approach is likely to be more practical and result in greater benefit to the company. There are many jurisdictions that encourage a certain type of business or industry; therefore a greater number of credits and incentives may be available to businesses in those targeted industries. Localities with high unemployment rates or with a concentration of industries in a depressed sector also may be more aggressive with incentives in order to attract new jobs and to diversify their local economy.

The credits and incentives available should be part of a proactive location selection, not an afterthought to consider once a location has been chosen.

Go Green

Even in difficult economic times, many localities are offering credits and incentives based on green initiatives. In many cases, it does not take significant alterations to make a business more environmentally friendly, and it could be very beneficial to the bottom line.

Many jurisdictions offer a variety of incentives tied to environmental goals such as lowering pollution, increasing energy efficiency and using more environmentally friendly building materials. If a company is planning on building a new facility, such incentives can generate significant savings.

The research and development tax credit is also a valuable incentive that can sometimes be overlooked. Many have the misconception that the R&D credit equates with scientists in white lab coats, but it is available for a much broader range of businesses. The credit can be claimed for developing new or improved products, as well as various process improvements.

Conclusion

State and local taxes are a significant cost of doing business, but they can be managed like any other expense. There are considerable opportunities available for companies to successfully reduce their tax burden.

Companies spend a great deal of time and effort looking at ways to reduce costs and increase revenue. With sales and profits seemingly shrinking on a daily basis, a reduction in state and local tax liability is an opportunity that should not be ignored. Move as quickly as possible as the amount of benefits and credits available to companies is likely to decrease in the near future. With tax revenues dwindling at all levels, officials are not as quick to distribute incentives as they have been over the last decade. If company executives are proactive, credits and benefits that are being considered for reductions or cancellations may be grandfathered in.

This is a tenuous time for the economic well-being of businesses as well as state and local governments. While states and localities want to continue being generous with credits and incentives to encourage economic development, the window may be closing on some credits due to the substantial loss of tax revenue.