

Mississippi **SALT** Focus

News, updates and tips on Mississippi State and Local Tax



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Mississippi State Tax Commission Reorganizes

Effective July 1, 2010, the Mississippi State Tax Commission (MSTC) will be reorganized into the Department of Revenue (Department), which will be responsible for administration, and an independent Board of Tax Appeals (BTA) to hear administrative appeals.

Under the new law, the Department will perform the administrative functions, including the processing of tax returns and the auditing of taxpayers, with the BTA independently undertaking the appellate role of the MSTC.

The BTA will consist of a Chairman and two associate members all appointed by the Governor to serve staggered six year terms. The Chairman of the new BTA will appoint an executive director admitted to practice law in Mississippi and familiar with the appellate process. The head of the Department will be the Commissioner of Revenue, also appointed by the Governor for a six year term.

In addition to a number of procedural changes affecting the appeals process, the new law will increase the amount of time a taxpayer has to file an appeal with the BTA from 30 days to 60 days.

In another notable change, the Department will also be granted the authority to appeal decisions made by the BTA, a power formerly exclusively afforded to taxpayers.

Important Reporting Dates

January 31, 2010: Last day to file paper copies of Wage and Tax Statements, W-2s and the accompanying Annual Information Return Form 99-140 with the State.

February 28, 2010: All W-2s filed by magnetic media and the accompanying Annual Information Return Form 99-140 are due to be filed with the State.

March 15, 2010: All 1099 paper forms or magnetic media and the accompanying Annual Information Return Form 99-140 are due to be filed with the State.

Magnetic Media filings are those informational filings required by certain taxpayers to be filed by means of magnetic media or electronically pursuant to Mississippi Code Annotated Section 27-3-83 and in Revenue Rule 4.

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New Property Tax Opinions

Record owner of property sold after assessment date.

Mississippi Attorney General Opinion, 2009-00691 (December 11, 2009): The Mississippi AG recently ruled that ad valorem taxes are assessed on real property on January 1 of each tax year and the record owner on that date is liable for the entire ensuing year's taxes, even if the property is sold after January 1. Therefore, for tax assessment purposes, the tax records as of January 1 may not be altered, notwithstanding a subsequent sale. This AG's opinion highlights that even though the taxpayer sold a portion of its property after the January 1 assessment date, the Town Clerk was required to keep the conveyed property included with the taxpayer's retained (and unsold property), as January 1 records reflected title in this manner.

Extinguishment of Tax Lien as to Tax Exempt Public Body.

Mississippi Attorney General Opinion, 2009-00060 (March 16, 2009): The Mississippi AG recently ruled that when real property has been acquired mid-year by a tax exempt public body, any tax lien existing at the time of the acquisition is extinguished and the property thereafter may not be sold for unpaid taxes. This AG opinion also noted that upon the nonexempt property owner's mid-year sale of the property to the tax exempt public body, the nonexempt record-owner as of January 1 remains personally liable for the entire year's taxes. The property taxes for the year of sale are not pro-rated by time of ownership.

MSTC Moves Toward Paperless System

Mass Mailing of Income Forms Discontinued - The MSTC recently announced that it is discontinuing its annual mailing of personal income tax forms to taxpayers, as the MSTC believes computer generated returns have become standard among most Mississippians. As a result, beginning January 11, 2010, forms and instructions will be available on the MSTC website at www.mstc.state.ms.us, or forms may be picked up at a district office or any state public library.

Mass Mailing of Annual Informational Returns - In addition to the MSTC decision to discontinue its annual mailing of personal income tax forms for individuals, preprinted Form 89-140-09, Annual Informational Returns will not be sent to employers this year. The Form 89-140-09 will be available on the MSTC website at www.mstc.state.ms.us.

Major Economic Impact Act Projects

In anticipation of German steelmaker Schulz GMBH's plans to construct a \$300 million stainless steel pipe plant in northwestern Mississippi, the Mississippi Legislature passed H338, effective January 12, 2010, expanding the definition of "project" contained in the Mississippi Major Economic Impact Act to include certain pipe manufacturers. "Project" now includes any enterprise that owns or operates a facility for the manufacture of pipe that will have an investment of not less than \$300 million not later than December 31, 2015 from any source other than the state of Mississippi and its subdivisions; and that will create at least 500 new full-time jobs within 5 years after the start of commercial production and maintain such jobs for at least 10 years, all with an average annual compensation of at least \$32,000, excluding benefits which are not subject to Mississippi income taxes.



SALT BLOCKS

Did you know...

...in Mississippi sales of services are generally not subject to sales tax unless such services are specifically designated by statute as taxable.

Unfortunately, this is one area where the exception swallows the rule. Currently, there are over 50 miscellaneous services now taxed at the regular retail tax rate of 7%.

Mississippi Tax Incentives... Focus on Job Creation



Advantage Jobs Incentive Program

The Advantage Job Incentive Program (Program) provides rebates to encourage businesses (Enterprise) creating quality jobs to locate in Mississippi (State) by providing a rebate of a percentage of Mississippi payroll to the Enterprise for a period up to 10 years. The Enterprise must (1) create a minimum number of direct jobs determined by the development ranking of the county in which it locates; (2) the salaries must be at least 100% to 150%, depending on the industry, of the State or the county annual wage whichever is lower; and (3) provide a health and benefit plan within 180 days of the date it receives its first incentive payment.

The Program is available to all businesses as determined and approved by the Mississippi Development Authority (MDA) except for retail establishments and gaming businesses or casinos. The MDA has previously approved and set forth guidelines for data or information processing enterprises, manufacturers or distributors, any business except retailers, certain services and gaming establishments, research and development enterprises, and technology intensive enterprises.

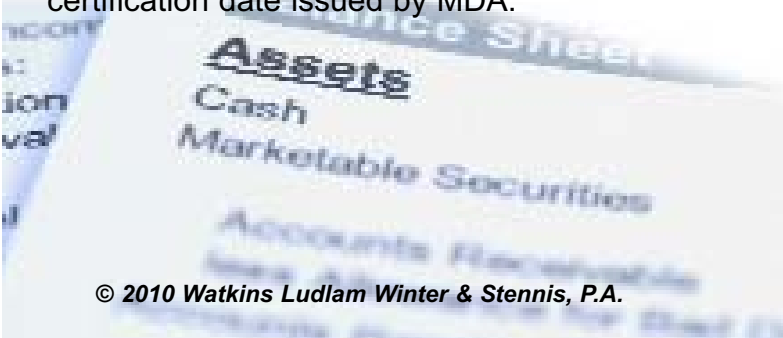
The Enterprise must apply to MDA for certification into the Program. MDA will determine the eligibility criteria. The Enterprise will execute a Performance Agreement with MDA specifying the criteria and manner of compliance. Copies of the certification will be submitted to the Mississippi State Tax Commission (MSTC). The Enterprise must complete the certification within 24 months of the certification date issued by MDA.

Jobs Tax Credit

The Jobs Tax Credit (Credit) is available to businesses that increase employment by a certain minimum number based on the county in which the jobs are created. The Credit is available for a 5 year period and can be applied against the employer's Mississippi State Income Tax. The Credit may be used to offset up to 50% of the employer's income tax liability and any unused portion of the Credit may be carried forward for up to 5 years.

Eligible businesses which qualify for the Credit include manufacturers, wholesalers, processors, research development facilities, distributors and warehouses. Upon receiving a designation by MDA, the following businesses may also qualify for the Credit: air and transportation maintenance facilities, telecommunication companies, data and interim information processing companies, computer software development enterprises, recreational facilities that impact tourism, resort hotels having a minimum of 150 rooms, movie industry studios, and technology intensive facilities. In addition, employers must create and maintain an average annual employment of a minimum number of jobs required based on the development ranking of the county.

To "lock in" the county's development designation, an employer must complete an Application for Certification for Economic Incentive, Form 70-801. When filing its state income/franchise return, an employer should also attach a Jobs Tax Credit Worksheet, Form 83-405 showing each separate 5 year period of new job creation and an Income/Franchise Tax Credit Summary, Form 83-401 schedule showing all credits taken and any credit carryforward.



Withholding Threshold Increased to \$50,000

Similar to the collection of sales taxes, Mississippi businesses also are required to withhold taxes from wages paid to Mississippi residents (or wages paid to a non-residents performing services in Mississippi). Returns and payments are due to the MSTC on or before the 15th day following the end of the reporting period. For most larger businesses, this reporting period is on a monthly basis. Under current law, the MSTC requires accelerated payments of at least 75% of such business's estimated withholding tax liability for the month of June if such business had an average monthly withholding tax liability exceeding \$20,000 per month for the previous calendar year. Accelerated payments not received by June 25 are then subject to a 10% penalty. Beginning July 1, 2010, the average monthly sales tax liability threshold is increased to \$50,000. Furthermore, the first payment due date under the new threshold amount will be extended to June 25, 2011.

2009 Mississippi Withholding Instructions are posted on MSTC's website at www.mstc.state.ms.us. A summary of withholding instructions for the 2009 Annual Information Return and guidance for the filing of 2009 W-2s after January 31, 2010 are included.

2010 Sunset Provisions for Corporate Income Tax

Credit for Using State Port Facilities

Expiration Date July 1, 2010: Miss. Code Ann. §27-7-22.23 provides an income tax credit to taxpayers using the port facilities at any state, county, or municipal port or harbor for the import of cargo. Qualification of the credit is limited to taxpayers locating its U.S. headquarters in Mississippi or employing at least five (5) permanent full-time employees who actually work at the headquarters, in addition to making certain minimum capital investments in Mississippi. The final date qualifying taxpayers may obtain this credit is July 1, 2010.

Growth and Prosperity Tax Incentives

Application Date December 31, 2010: The Growth and Prosperity Program (GAP) is an incentive program designed to encourage development in economically challenged areas of the state. This program designates specific counties as GAP counties and provides income, franchise, sales and property tax incentives to companies that locate or expand in these areas of the state. The final date that a county may apply to the MDA for certification as a growth and prosperity county is December 31, 2010.

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