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Jnet newsletter

U.S. business update for Japanese companies

Issue 2 - 2017

ENGLISH EDITION

KPMG's U.S. Japanese Practice

Contents

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Published since 1997, Jnet is issued quarterly to update you on audit, accounting, tax, and other business issues relevant to Japanese companies operating in the United States.

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KPMG Ignition

Pushing beyond what's expected

KPMG Ignition is a dynamic network of teams that helps businesses spark innovation and fuel change to unlock value and prepare for the future.

From idea generation to strategy to execution or at any stage in between, KPMG Ignition can help you discover emerging opportunities through our far-reaching innovation and intelligence capabilities; design bold scenarios using state-of-the-art interactive technology; and deliver the insights and solutions that only come from efficient cross-team collaboration.

At the core of KPMG Ignition are multidisciplinary teams where we design, build, and deliver digitally enabled technology solutions with our clients.

Space with a purpose

Our Ignition centers are unique environments that encourage technological creativity. With project-focused work spaces that foster inventive technology-driven solutions, these centers empower and inspire us. They feature:

Project, meeting, and recreation spaces to encourage creative thinking

An open floor plan designed to enhance collaboration, both internally and externally

High-tech visualization tools that allow us to demonstrate solutions

Additional KPMG Ignition capabilities

The Innovation Lab at KPMG Ignition – helps organizations develop the breakthrough ideas they need to get ahead of their greatest challenges. We provide insights on signals of change from an outside-in perspective. Working shoulder-to-shoulder with our clients in an immersive process, we apply design thinking for business model innovation to drive from signals to action.

The Insights Center at KPMG Ignition – In this collaborative environment, using interactive visual technology and real-time scenario testing, you can interact directly with your organization's data and see it come to life in ways never imagined. We offer a range of immersive sessions that can range from analytics showcases to idea generation and project activation.

Build partnership, shape capabilities

To help our clients incorporate the latest in technological advancements, we facilitate working relationships with our strategic partners, which include: **Apptio**, **Oracle**, **ServiceNow**, **IBM Watson**, **Coupa**, and **Workday**.

KPMG Ignition centers are designed to push innovation and efficiency, delivering the following capabilities:

Mobile, digital, and data analytics technology

– Capitalize on data and reimagine the customer and employee experience:

— Use digital and mobile technologies to drive business transformation

— Motivate workforce and increase productivity of your mobilized teams

— Create value-added innovation for existing products

— Using data and analytics, turn insights and innovative ideas into business solutions

Tax transformation & technology

– Tap into advanced tax software to empower your tax function:

— Develop, deliver, and support your tax software applications

HR and business transformation

– Adapt to a changing external environment by evolving your internal business:

— Deliver intelligent business models centered around people, process, and technology

— Develop strategies, structures, systems, and processes that align to your people priorities, including HR technology deployment

Cloud-based human capital management & financials

– Better manage your people and books with Cloud platforms:

— Bridge the gap between transformation strategy and execution, from helping to define your vision to designing, embedding, and improving solutions in your organization

IT service management

– Enable IT to advance the business, not just support it:

— Analyze challenges and opportunities, enhance decision-making, and accelerate progress and performance, all while helping to optimize costs

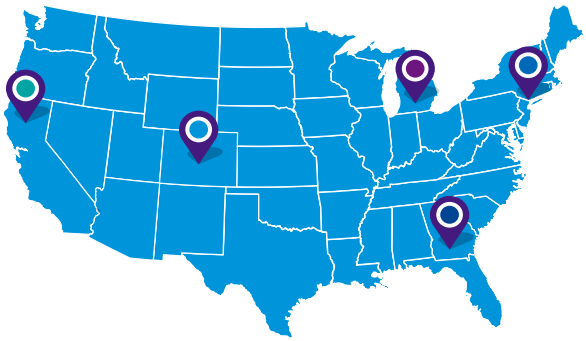
— Manage the business of IT through an integrated view of technology, cost, performance, supply, and demand

Drive innovation, build excellence

We've created an integrated network of collaborative spaces where our people can optimize opportunity and expand the art of the possible. We are continuously looking for strategic geographical locations for our next Ignition center.

Our locations:

- Atlanta, GA
- New York, NY (two locations)
- Denver, CO
- San Francisco, CA
- Grand Rapids, MI



Deliver more

We're driven by passion, efficiency, and creativity. At our Ignition centers, we dream bigger, build better, and push the line further. These centers are another way we can deliver greater genuine value to our clients, every day.

To find out more about our Ignition centers—and the impact they can have on your business—please contact: us-mktkpmgignition@kpmg.com or visit www.kpmg.com/us/ignition.

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Audit Committee Challenges and Priorities

Given expectations for slow growth and economic and political uncertainty in the US and around the world, technology advances and business model disruption, cyber threats, continued regulatory scrutiny, and investor demands for transparency, it's hardly surprising that most audit committees point to risk management as the top challenge facing the company in the year ahead. More than 40 percent of the more than 800 audit committee members responding to our survey say their risk management systems require substantial work. Indeed effective risk oversight, along with vigilance and agility, will be particularly important given the potential for significant changes in US policies--economic, regulatory, trade, and more--ahead. (Our survey closed in October, prior to the US election.)

Our 2017 Global Audit Committee Pulse Survey shows that audit committees, by and large, continue to express confidence in financial reporting and audit quality; yet nearly 4 in 10 said the committee's effectiveness would be most improved by having a "better understanding of the business and key risks," while nearly a third said additional expertise related to technology or cyber security would be helpful.

Overall, audit committees are largely satisfied that their agendas are properly focused on legal and regulatory compliance issues, maintaining internal controls over financial reporting, and key assumptions underlying critical accounting estimates. However, they see room for improvement when it comes to focusing on CFO succession planning, talent and skills in the finance organization, tone at the top and culture, and aligning the company's short- and long-term priorities.

Most audit committees say their organizations have a long way to go in their efforts to implement major new accounting standards. Fewer than 15 percent report a clear implementation plan for the new revenue recognition standard, and fewer than 10 percent reported a clear plan for implementation of the new leasing standard. And of those whose companies are affected by the Organisation for Economic Co-operation and Development's (OECD) country-by-country tax reporting, many expressed concern about the lack of clarity or communication with their committee on that issue. Survey respondents also cited ongoing opportunities to improve their company's ability to manage cyber risks.

Of course, these challenges will vary by company and by country (and it is difficult to compare data from 15 countries, often with markedly different business environments, regulatory requirements, and corporate governance practices). But our survey findings offer insights that audit committees around the world can use to sharpen the committee's focus, benchmark its responsibilities and practices, and strengthen its oversight.

Jose R. Rodriguez
Partner in Charge and Executive Director
KPMG's Audit Committee Institute

Six takeaways

Risk management is a top concern for audit committees.

The effectiveness of risk management programs generally, as well as legal/regulatory compliance, cyber security risk, and the company's controls around risks, topped the list of issues that survey participants view as posing the greatest challenges to their companies. It's hardly surprising that risk is top of mind for audit committees— and very likely, the full board—given the volatility, uncertainty, and rapid pace of change in the business and risk environment. More than 40 percent of audit committee members think their risk management program and processes "require substantial work," and a similar percentage say that it is increasingly difficult to oversee those major risks.

Internal audit can maximize its value to the organization by focusing on key areas of risk and the adequacy of the company's risk management processes generally.

The survey results show that audit committees are looking to internal audit to focus on the critical risks to the business, including key operational risks (e.g., cyber security and technology risks) and related controls—and not just compliance and financial reporting risks. They also want the audit plan to be flexible and adjust to changing business and risk conditions.

Tone at the top, culture, and short-termism are major challenges—and may need more attention.

A significant number of audit committee members—roughly one in four —ranked tone at the top and culture as a top challenge, and nearly one in five cited short-term pressures and aligning the company's short- and long-term priorities as a top challenge. Meanwhile, nearly the same percentage of audit committee members said they are not satisfied that their committee agenda is properly focused on those issues.

CFO succession planning and bench strength in the finance organization continue to beweak spots.

Forty-four percent of audit committees are not satisfied that their agenda is properly focused on CFO succession planning, and another 46 percent are only somewhat satisfied. In addition, few are satisfied with the level of focus on talent and skills in the finance organization. Given the increasing demands on the finance organization and its leadership—financial reporting and controls, risk management, analyzing mergers and acquisitions (M&A) and other growth initiatives, shareholder engagement, and more—audit committees want to devote more time to the finance organization, including the talent pipeline, training, and resources, as well as succession planning for the CFO and other key finance executives.

Two key financial reporting issues may need a more prominent place on audit committee agendas: Implementation of new accounting standards and non-GAAP financial measures.

Few audit committees say their companies have clear implementation plans for two major accounting changes on the horizon—the new revenue recognition and lease accounting standards. Given the scope and complexity of those implementation efforts and their impact on the business, systems, controls, and resource requirements, those efforts should be a key area of focus. In addition, audit committees ought to consider whether to increase attention to any non-GAAP financial measures, which are an area of significant attention and comment by nearly a quarter of those surveyed say their role with respect to the presentation of those metrics is very limited.

Audit committee effectiveness hinges on understanding the business.

Audit committee members say a better understanding of the business and the company's key risks would most improve their oversight effectiveness. They also view additional expertise in technology/cyber security as being key to greater effectiveness, since it would strengthen their ability to oversee those risks.

For more information, download the full report below.

Download Now
Audit Committee Challenges and Priorities > (PDF/1.65MB)

https://assets.kpmg.com/content/dam/kpmg/us/pdf/2017/06/jnet-2017-issue2-article2-en.pdf

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Building Trust in Data Analytics

Data and Analytics (D&A) holds the power to unlock untold value. But first you need to trust what it is telling you.

Our report shows that organizations do not fully trust their analytics. Just 38 percent have a high level of confidence in their customer insights. And only a third seem to trust the analytics they generate from their business operations.Yet the vast majority say these insights are critical to their business decision-making.

While trust in D&A is a significant challenge for organizations, few seem to be talking openly about it. That is why we developed this report. We wanted to shine a light on the trust gap that threatens every organization. We wanted to measure and benchmark the current level of trust in the market. And we wanted to understand what leading organizations are doing to improve the trust they have in their data and in their analytics.

We believe this report provides a very unique view into a fundamental challenge facing most organizations today. And we believe it creates a significant opportunity. Indeed, those that are able to overcome the trust gap quickly will be the ones that will be better-placed to make faster decisions, more accurately and with much greater confidence. Those will be the organizations that will win in the future.

I would like to thank the organizations that participated in this research, particularly Elizabeth Keyes of McKesson and Cindy Forbes of Manulife Financial Corp, for the time and insights they have invested into this report. I would also like to thank Imperial College, London and Microsoft for sharing their insights and perspectives.

To learn more about KPMG's perspective on Trusted D&A, I encourage you to contact your local KPMG member firm or any of the contributors listed at the back of this report.

Christian Rast
Global Head of Data & Analytics
KPMG LLP

About the research

KPMG International commissioned Forrester Consulting to examine the power of trust in data and analytics by exploring organizations' capabilities across four anchors of trust. More than 2,000 organizations from around the world participated in the survey. Leaders from KPMG, clients and alliance partners also contributed analysis and commentary to this study.

This report is part of KPMG's wider Trusted Analytics article series, which can be found online at kpmg.com/trust.

For more information, download the full report below.

Download Now
Building Trust in Data Analytics > (PDF/2.18MB)

https://assets.kpmg.com/content/dam/kpmg/us/pdf/2017/06/jnet-2017-issue2-article3-en.pdf

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Auditing & Accounting Update

In this section, we provide brief updates on regulatory developments in auditing and accounting that may impact Japanese companies in the United States. Further discussion of the issues can be found in KPMG's Department of Professional Practice's Defining Issues
http://search.kpmginstitutes.com/?bigi=1&q=Defining+Issues&x=0&y=0

FASB clarifies scope of derecognition of nonfinancial assets

KPMG reports on Accounting Standards Update (ASU) 2017-05, which clarifies the guidance in ASC 610-20 on accounting for the derecognition of nonfinancial assets. The ASU also defines in-substance nonfinancial assets and includes guidance on partial sales of nonfinancial assets.

Go to Defining Issues 17-6 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-6-derecognition-nonfinancial.pdf

FASB proposes simplifying the accounting for share-based payments to nonemployees

KPMG reports on the FASB's proposed Accounting Standards Update (ASU), which would align the accounting for employee and nonemployee share-based payments.

Go to Defining Issues 17-7 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-7-share-payments-nonemployees.pdf

FASB ASU disaggregates pension cost presentation

KPMG reports on FASB ASU 2017-07, which amends ASC 715. The FASB ASU requires a company to present service cost separately from the other components of net benefit cost.

Go to Defining Issues 17-8 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-8-net-periodic-benefits.pdf

EITF clarifies the customer in a service concession arrangement

KPMG reports on the EITF's final consensus that the customer in a service concession arrangement is always the grantor. This consensus will reduce diversity in practice in identifying the customer in these arrangements.

Go to Defining Issues 17-9 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-9-eitf-service-concession.pdf

Income tax implications of Brexit

KPMG reports on the US GAAP income tax accounting implications of the UK's notice that it will leave the EU. Companies should provide clear and transparent disclosures about the withdrawal process and its potential effects.

Go to Defining Issues 17-10 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-10-brexit.pdf

FASB changes premium amortization period for certain callable debt securities

KPMG reports on ASU 2017-08, which shortens the premium amortization period for purchased non-contingently callable debt securities.

Go to Defining Issues 17-11 >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-11-callable-debt.pdf

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Questions?

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Tax Update

In this section of Jnet, we provide brief updates on legislative, judicial, and administrative developments in tax that may impact Japanese companies operating in the United States.

April 2017

Trump Administration releases tax reform principles

Treasury Secretary Mnuchin and National Economic Council Director Gary Cohn announced on April 26 at a White House press conference what they called the "core principles" of the president's plan for tax reform and simplification. They said the administration is working with the House and the Senate on details and on turning the plan into legislation, with the goal of moving as quickly as possible.

The White House has not yet posted an official document summarizing its principles for tax reform.

Overview

According to Director Cohn, President Trump is making tax reform a priority and is proposing the most significant tax legislation since the Tax Reform Act of 1986 and "one of the biggest tax cuts in American history." Secretary Mnuchin indicated that tax reform would pay for itself with a combination of economic growth, reducing deductions, and closing loopholes.

Director Cohn and Secretary Mnuchin did not say whether the president's plan might include a proposal similar to the border adjustment in the House Republican blueprint that was released in June 2016. Further, although they mentioned eliminating business tax breaks for special interests, they did not identify specific provisions the administration might be considering in this regard. They also did not reference using tax law changes to fund infrastructure.

Individual tax proposals

Director Cohn indicated that the president proposes to:

- Reduce the number of individual income tax brackets from seven to three, resulting in 10%, 25%, and 35% brackets
- Double the standard deduction
- Repeal the 3.8% net investment income tax, reducing the maximum capital gains rate to 20%
- Repeal the individual alternative minimum tax
- Repeal the estate tax (which Secretary Mnuchin indicated, in response to a question, could happen immediately, rather than being phased in)
- Eliminate all itemized deductions, except the mortgage interest and charitable contribution deductions
- Provide tax relief to help families with child and dependent care expenses

Business tax proposals

Secretary Mnuchin explained that the president proposes to:

- Lower the income tax rate on corporations, as well as on passthroughs that are "small" or "medium" in size, to 15% (with an unspecified mechanism to be discussed with Congress to address concerns that some individuals might attempt to use passthroughs as a mechanism to avoid paying the properly applicable individual tax rate)
- Move from a worldwide to a territorial tax system
- Impose a one-time tax on existing overseas profits (with the rate to be determined in consultation with the House and Senate)
- Eliminate tax breaks for "special interests"

KPMG observation

The plan outlined today appears quite similar to proposals President Trump made during the presidential campaign. Many details, such as the tax rate for repatriated foreign earnings, the treatment of capital gains at death, and the application of the business tax rate to passthrough businesses have been left to future discussions with Congress.

President directs Treasury to begin tax simplification process

President directs Treasury to begin tax simplification process
President Trump signed on April 21 an executive order directing the Department of Treasury to examine recent tax regulations to determine whether any excessively burden taxpayers. It is unclear what the consequences of this examination would be for any specific regulation, but this process could apply to regulations such at the section 385 debt/equity rules released last year.

Read the executive order released by the White House. The executive order [PDF 173 KB] was also eventually released on April 25, 2017, for publication in the Federal Register.

In a statement released by the Treasury Department, Secretary Mnuchin stated:

> *"Finally, today's Executive Order launches a reexamination of last year's major tax regulations to make sure they do not unduly strain the American economy. The order calls for revision or repeal of harmful rules that impose unnecessary costs and complexity on taxpayers. I look forward to taking a hard look at the immense regulatory burden of our tax code, which consumes billions of productive hours in compliance costs."*

Secretary Mnuchin also said:

> *"The purpose of this is that the President will be instructing us to review all significant tax regulations since the beginning of 2016, so all of 2016 and this year, and to look at where there are undue financial burdens, unnecessary complexity and requirements, and for us to issue a report that goes through what the issues are and comes up with solutions by repealing or modifying them."*

California: FTB Issues guidance on application of IRC sections 382-384

The California Franchise Tax Board recently issued a Technical Advice Memorandum (TAM 2017-03) that addresses the application of Internal Revenue Code (IRC) sections 382-384 to California-apportioning taxpayers. These federal code sections generally place limitations on the use of losses and other tax attributes after there is a substantial change in ownership by one corporation in another corporation. The TAM answers five different questions as to whether IRC sections 382, 383, and 384 are to be applied on a pre- or post-apportionment basis. Notably, the TAM concludes that the IRC section 382 limitation, which is the product of the value of the loss corporation multiplied by the long-term interest rate allowed by the federal government, is applied in California on a pre-apportionment basis. The reason for this is that neither of the components (value of the loss corporation and federal interest rate) used in computing the 382 limitation involve items that relate to net income, and those sections of the California Revenue and Tax Code governing apportionment deal only with items such as income, deductions, gains, and losses. Therefore, there is no basis to apportion the loss limitation. The TAM does note that the California treatment is somewhat different than in other states. Notably, the taxing authorities in Alabama, Georgia, Pennsylvania, and South Carolina have all concluded that the IRC section 382 limitation should be applied on a post-apportionment basis. With respect to determining net unrealized built-in gains, net unrealized built-in losses, recognized built-in gains, and recognized built-in losses, such amounts relate to net income and would be determined on a post-apportionment basis. Because these items each relate to an ownership change, the apportionment factor percentage that existed at the date of the ownership change should be applied. In addition, the TAM clarifies that when utilizing the examples contained in Treasury Regulation section 1.383-1(f), which illustrates the application of IRC section 383, the California corporate franchise tax rate should be substituted for the applicable federal corporate income tax rate referenced in the examples.

Texas: Taxpayer could not amend reports to change election to expense or capitalize COGS

A Texas Administrative Law Judge (ALJ) recently addressed whether a corporate taxpayer was allowed to amend its franchise tax reports to change its method of deducting Cost of Goods Sold (COGS). Under Texas law, a taxable entity that elects to deduct COGS and that is subject to Internal Revenue Code (IRC) sections 263A, 460, or 471 may choose, on an annual basis, to capitalize or expense its COGS. The election is made by filing the franchise tax report using one method or another. A taxable entity may file an amended report to correct a mathematical or other error, but under a Texas regulation the annual election to capitalize or expense COGS may not be changed after the due date of the report or the date the report is filed, whichever is later. The taxpayer at issue was audited for the 2009-2012 tax years. The auditor determined that, for three of the audited tax years, the taxpayer had changed its accounting methodology from the prior year and had not properly computed the COGS deduction. The auditor made certain adjustments to the COGS deduction to reflect what it determined to be the chosen method and assessed the taxpayer additional franchise tax. The taxpayer protested the adjustment, arguing that it had intended to use the capitalization method each year and that it should be allowed to amend its reports because the changes in accounting methodologies identified by the auditor were actually mathematical errors. The taxpayer also argued that, to the extent the ALJ determined that it had made accounting methods changes from year to year, the regulatory prohibition against amending returns was not supported by statute and exceeded the Comptroller's authority.

The ALJ first determined that the taxpayer's computations and workpapers did not support its position that it intended to use the capitalization method each year and simply made computational and data input errors on its returns for certain of the years under audit. In the ALJ's view, the taxpayer's computations indicated it made a decision to use an expensing methodology for certain years. The ALJ next addressed the taxpayer's position that there was no statutory authority for the regulation that prohibited it from changing its COGS accounting method on an amended return. The taxpayer observed that the same regulation allowed taxpayers to file amended reports changing their election to deduct COGS, compensation, or just pay based on 70 percent of total revenues and that the rule must be interpreted consistently. The ALJ again disagreed with the taxpayer, noting that the decision to expense or capitalize COGS affected not only a taxpayer's current year COGS deduction, but also COGS deductions allowed in subsequent years. Thus, the regulatory limitation on changes to the COGS methodology was, in the ALJ's view, necessary to address the accounting complexities associated with taxpayers changing their accounting methods. The ALJ concluded that the regulation promoted administrative convenience with respect to the administration and enforcement of the franchise tax and was a reasonable interpretation of the statute, both of which would require the regulation to be upheld. The fact that the same rule allowed amended reports changing the election to deduct COGS or compensation was not inconsistent, as the provisions addressed different aspects of franchise tax reporting.

IRS reminder: New deadline for reporting foreign accounts

On April 13, the IRS reminded U.S. persons with a foreign bank or financial account that a new deadline now applies to file required reports for these accounts, often referred to as FBARs

According to the IRS release [PDF 84 KB], starting this year, the deadline for filing the annual Report of Foreign Bank and Financial Accounts (FBAR) is now the same as for an individual's federal income tax return. This means that the 2016 FBAR must be filed electronically with the Financial Crimes Enforcement Network (FinCEN) by April 18, 2017, using FinCEN Form 114. Also new this year, FinCEN will now grant filers missing the April 18 deadline an automatic extension until October 16, 2017, to file the FBAR.

A specific request for an extension of time to file the FBAR is not required. In the past, the FBAR deadline was June 30 and no extensions were available.

In general, the FBAR filing requirement applies to U.S. persons who had an interest in, or signature or other authority over, foreign financial accounts whose aggregate value exceeded $10,000 at any time during calendar year 2016.

Massachusetts: Internet retailers meeting bright-line receipts test required to collect sales and use taxes

The Massachusetts Department of Revenue recently issued Directive 17-1 outlining when it believes out-of-state Internet vendors are required to collect and remit Massachusetts sales or use tax. In the Directive, the Department adopts a bright-line rule based on the dollar amount of Massachusetts sales or number of Massachusetts transactions. In general, Internet retailers with over $500,000 of sales into Massachusetts, or 100 or more sales transactions delivered into Massachusetts are deemed to have a collection and remittance obligation. The measurement period is July 1, 2016 to June 30, 2017 for the six-month period from July 1, 2017 to December 31, 2017. For each calendar year beginning with 2018, the measurement period is the preceding calendar year.

March 2017

Alabama: Proposed rule would tax streaming services as rentals of tangible personal property

The Alabama Department of Revenue has proposed to amend a regulation addressing the "Leasing and Rental of Tangible Personal Property" (Rule 810-6-5-.09) to extend the rental tax to streaming services. The proposed amendments provide that tangible personal property includes "personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses." The rule next states that "digital transmissions" such as "on demand" movies, television programs, streaming video, streaming audio, and other similar programs, regardless of the period of the rental or the method of transmission, are considered tangible personal property subject to the rental tax. Cable or satellite television providers, on-line movie and digital music providers, app stores, and other similar providers of digital transmissions will, therefore, be considered engaged in the business of leasing tangible personal property and will be subject to the rental tax under the proposed rule.

Rental tax will be based on the gross receipts derived from charges for digital transmissions which are used in Alabama, and a digital transmission will be considered used in Alabama if the customer's service address is within Alabama. The proposed rule also provides that monthly cable television subscriptions whereby the customer must view pre-set programming, on the providers pre-set schedule, will not be subject to the rental tax regardless of the number of programming channels available. Furthermore, cable television boxes that are used solely to access basic cable services are not subject to the rental tax. Multi-purpose cable boxes that function as digital video recorders (DVR) and/or perform other functions in addition to accessing basic cable are subject to the rental tax. Other accessories including, but not limited to, remote controls, modems, internet routers, etc. not related solely to delivery of basic cable service are subject to the rental tax, as well.

A hearing on the proposed rule will be held on April 11, 2017. If adopted, the rule would become effective July 1, 2017. In 2015, identical amendments to the rule were proposed by the Department, but were subsequently withdrawn. If finalized as proposed, the changes would be effective July 1, 2017. Please contact Scott Jackson at 404-614-8688 with questions.

California: Proposed Senate Bill 567 would eliminate water's-edge election

Senate Bill 567, entitled "The Millionaire Tax Accountability Act," has recently been introduced in California. If enacted, Senate Bill 567, per the legislative factsheet, would close four "popular loopholes." Two of these "loopholes" would affect corporate taxpayers and two generally apply to individuals. One big change for corporate taxpayers would be the elimination of the water's-edge election, which has been in place since 1987. Currently, the water's-edge election, once made, applies for 84 months. Senate Bill 567 would eliminate the ability to make the election for tax years beginning on or after January 1, 2017. Furthermore, any currently electing taxpayers would be unable to file on a water's-edge basis for tax years beginning on or after January 1, 2023. Thus, it appears that current water's-edge filers would be able to file under that method until their current election expires at which point they would be required to file on a worldwide basis. The other provision in Senate Bill 567 specific to corporations is that for tax years on or after January 1, 2017, corporations would be required to add back compensation deducted for federal tax purposes that is payable to the chief executive officer based on commission or on meeting certain performance goals. This would essentially prohibit corporations from deducting compensation paid to an executive exceeding $1 million.

For individuals, the bill would eliminate the "basis step-up" option on inherited property for taxpayers with income over a certain amount and would require that the value of a charitable remainder annuity trust (as defined under the IRC) be at least 40 percent of the initial fair market value of the property placed in the trust. Currently, California conforms to the federal rule, which requires that the value of the remainder interest be at least 10 percent of the initial net fair market value of the property placed in trust. As a bill that would raise taxes, Senate Bill 567 would need to be approved by a majority in both the Assembly and Senate. Interestingly, legislation is currently pending in Massachusetts (Senate Bill 1548) and Montana (Senate Bill 105) that would also eliminate the ability to file combined reports on a water's edge basis. Please stay tuned to TWIST for legislative updates on these and other bills.

February 2017

Revised due dates and extension periods for various returns and forms*

*This chart is intended to be used as a starting point. Due dates and extension periods are subject to legislative and or regulatory change due to Executive and Legislative Branch policy decisions. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Entity/ Return	Due date for tax years beginning on or before 12/31/15 (and allowable extension period)	Due date for tax years beginning after 12/31/15	Extension period for tax years beginning after 12/31/15 and before 1/1/2026	Extension period for years beginning on or after 1/1/2026
C corporation Form 1120 non-calendar year	15th day of third mo. following close of year (automatic 6-mo. extension allowed)	15th day of fourth mo. following close of year	6 months -No Change-	6 months -No Change-
C corporation Form 1120 calendar year	3/15 (automatic 6-mo. extension allowed)	4/15	6 months (i.e., 10/15 under authority of section 6081(a))	6 months (i.e., 10/15)
C corporation Form 1120 June 30 year	9/15 (automatic 6-mo. extension allowed)	9/15 -No Change Until 2026-	7 months (i.e., 4/15)	6 months (i.e., 3/15)
Foreign corporation Form 1120-F With Office or Place of Business in U.S.	15th day of sixth month following close of year (automatic 3-mo. extension allowed)	15th day of sixth month following close of year (automatic 2-month extension allowed)	4 additional months	4 additional months
Foreign corporation Form 1120-F No Office or Place of Business in U.S.	15th day of sixth mo. following closing of tax year (automatic 6-mo. extension allowed)	15th day of sixth mo. following closing of tax year -No Change-	6 months -No Change-	6 months -No Change-
S corporation Form 1120S non-calendar year	15th day of third mo. following close of year (automatic 6-mo. extension allowed)	15th day of third mo. following close of year -No Change-	6 months -No Change-	6 months -No Change-
S corporation Form 1120S calendar year	3/15 (automatic 6-mo. extension allowed)	3/15 -No Change-	6 months (i.e., 9/15) -No Change-	6 months (i.e., 9/15) -No Change-
Partnership Form 1065 non-calendar year	15th day of fourth mo. following close of year (automatic 5-mo. extension allowed)	15th day of third mo. following close of year	6 months	6 months
Partnership Form 1065 calendar year	4/15 (automatic 5-mo. extension allowed)	3/15	6 months (i.e., 9/15)	6 months (i.e., 9/15)
Partnership Form 8804 and 8805 non-calendar year	15th day of fourth mo. following close of year (automatic 5-mo. extension allowed)	15th day of third mo. following close of year	6 months	6 months
Partnership Form 8804 and 8805 calendar year	4/15 (automatic 5-mo. extension allowed)	3/15	6 months (i.e., 9/15)	6 months (i.e., 9/15)
FBAR FinCEN Report 114	6/30 (No extension)	4/15	6 months automatic without application (i.e., 10/15)	6 months automatic without application (i.e., 10/15)
Employee benefit plan Form 5500 calendar year	July 31 (15th day of third month after normal due date, or to employer's extended income tax return due date)	July 31 -No Change-	Up to 2½ months automatic -No Change-	Up to 2½ months automatic -No Change-
Employee benefit plan Form 5500 non-calendar year	Last day of seventh mo. following close of year (15th day of third month after normal due date, or to employer's extended income tax return due date)	Last day of seventh mo. following close of year -No Change-	Up to 2½ months automatic -No Change-	Up to 2½ months automatic -No Change-
W-2 series & W-3 & 1099-MISC Box 7 Transmittal Statement	On or before the last day of February (paper filed) or on or before March 31 (electronically filed) of the year following the calendar year in which wages are paid (one automatic 30 day extension plus one discretionary 30 day extension allowed)	On or before January 31 of the year following the calendar year in which wages are paid—both paper filed and electronically filed	One 30 day discretionary extension to file W-2 with SSA – currently others can still obtain one automatic 30 day extension and one 30 day discretionary extension	One 30 day discretionary extension to file W-2 with SSA – currently others can still obtain one automatic 30 day extension and one 30 day discretionary extension

Delaware: Unclaimed property reforms are enacted

Delaware's governor in early February 2017, signed into law Senate Bill (SB 13)—a law that makes sweeping reforms to Delaware's unclaimed property statutes.

The new law incorporates provisions from the 2016 Revised Uniform Unclaimed Property Act (RUUPA). In general, the legislative changes will affect the compliance obligations of businesses, as well as how the state will enforce its unclaimed property law by means of audits and through participation in its voluntary disclosure agreement program.

Among the new rules provided by the legislation are provisions concerning:

- Due diligence requirements and a rule for reports of property presumed to be abandoned to be filed annually by holders with property owing to the state
- The "last known address" of a property's owner
- The jurisdiction that may take possession of unclaimed property
- A new "web-based" reporting, to be effective March 1, 2018
- Electronic communications allowed between the owner of the property and the holder (or the holder's agent) regarding the property
- Gift cards that continue to be subject to the state's unclaimed property reporting and remittance requirements, but excluding loyalty cards from the definition of "property" subject to reporting
- Record retention for a 10-year period
- A statute of limitations of 10 years for the state to commence an enforcement action
- The voluntary disclosure program
- Audits and expedited audits

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Questions?
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