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This Week in State Tax (TWIST)

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INDIANA

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Indiana: Omnibus Tax Bill Signed into Law

Senate Bill 419, an omnibus tax bill that includes a potpourri of tax changes, was recently signed into law by Governor Eric Holcomb. On the corporate income tax side, the bill updates the definition of "Internal Revenue Code" to mean the Internal Revenue Code of 1986 as amended and in effect on January 1,2023. A few important changes are made to the provisions addressing the computation of Indiana taxable income for corporations. Notably, the bill decouples from the Tax Cuts and Jobs Act changes to IRC section 174 by requiring a taxpayer to: (1) deduct from the taxpayer's adjusted gross income the amount of specified research or experimental expenditures charged to capital account for the taxable year; and (2) add to the taxpayer's adjusted gross income an amount equal to the deduction claimed under Section 174 of the Internal Revenue Code for the taxable year. The change is effective for taxable years beginning after December 31, 2021. Under current Indiana law, corporations are required to add back the amount excluded from federal gross income under IRC section 103 for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011. New provisions dictate when an obligation is deemed acquired under certain circumstances. Next, a new deduction is allowed for providing or expanding access to broadband services in Indiana. Specifically, a deduction applies to: (1) federal, state, or local grants received by the taxpayer; and (2) discharged federal, state, or local indebtedness incurred by the taxpayer; when used for purposes of providing or expanding access to broadband services in Indiana. Senate Bill 419 also makes significant revisions to the computation of Indiana net operating losses.

Another section of the bill adopts a new safe harbor provision for when an employer must begin withholding income taxes on a nonresident employee. Under Senate Bill 419, once an employee performs employment duties in Indiana for over thirty days in a calendar year, the employer must withhold from all compensation paid to the employee for every day on which the employee performed employment duties in Indiana. Income for less paid to a nonresident employee for less than 30 days in a calendar and who is not a professional athlete, entertainer or public figure is exempt from Indiana income tax.

On the sales and use tax side, a new exemption applies to transactions involving tangible personal property that (1) is a component of a solar energy system or wind energy system and (2) is acquired by a public utility or certain businesses that sell electrical energy to a public utility. In addition, provisions requiring separate manufacturers and wholesaler's exemption certificates are repealed. Finally, the bill adopts new successor liability provisions. Whenever a business engages in a transfer of more than one-half of its tangible personal property, including inventory, the potential successor in liability or the transferring business shall notify the Department of the transfer at least forty-five days before taking possession of the assets or paying the purchase price, on a form prescribed by the Department. If the notice is not provided, the potential successor in liability may be liable for unpaid tax liability to the extent of the purchase price. Please contact Marc Caito with Indiana questions.

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