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Economic Development Fundamentals

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INCOME TAX COMPARISONS

Income Tax Rates
(C Corps)

SC: 5%

NC: In 2013 the General Assembly lowered the corporate income tax rate from 6.9% to 6% for 2014 and to 5% for 2015. At the same time, the General Assembly provided for further automatic rate reductions to 4% if general fund revenues hit a target of $20.2B in the 2014-15 fiscal year and to 3% if general fund revenues hit a target of $20.975B in the 2015-16 fiscal year. The general fund target for 2014-15 was exceeded, and the rate reductions to 4% for 2016 has been codified. In addition, the 3% rate trigger has been made permanent, so that the rate will drop to 3% for the year following the attainment of the $20.975B revenue target, whenever that may occur

Income Tax Apportionment for Manufacturers

- States typically use one of three forms of apportionment:
- Three factor formula

$$\frac{\dfrac{\text{In-State Property}}{\text{Total Property}} + \dfrac{\text{In-State Payroll}}{\text{Total Payroll}} + \dfrac{\text{In-State Sales}}{\text{Total Sales}}}{3}$$

- Double-weighted Sales
  - Sales is counted twice
- Single Factor (Sales) →

$$\frac{\text{Sales Here}}{\text{Sales Everywhere}}$$

Income Tax Apportionment for Manufacturers

- A manufacturer with property and/or payroll in a state generally prefers Single Factor of Sales.
- Manufacturers in small states like South Carolina typically sell very little in the state.

Income Tax Apportionment for Manufacturers

- South Carolina now has a single factor (Sales) apportionment for manufacturers and other sellers of tangible personal property.
- North Carolina had a double-weighted Sales factor, NC Gen. Stat. § 105-130.4(i), and is seen in following slide is transitioning to single factor sales for all corporations (and not just manufacturers).

Income Tax Apportionment

- South Carolina offers a single factor sales apportionment formula for manufacturers.

$$\text{Net Income Remaining After Allocation} \times \frac{\text{Value of Sales Made in SC}}{\text{Value of Sales of the Taxpayer everywhere}}$$

- Once the ratio is determined it is then applied to the corporation's total income to determine the amount of income attributed to South Carolina operations.

Income Tax Apportionment

NORTH CAROLINA

Single Sales Factor Phase-in. N.C. will phase in a single sales factor apportionment over a three-year period beginning in 2016. Under current law, a multistate corporate taxpayer apportions its business income to North Carolina by multiplying such income by the average of three factors representing the proportion of its total property, payroll and sales that are located in or sourced in N.C. In 1989, N.C. began to double-weight the sales factor. Under the single sales factor phase-in, the sales factor will be given triple weight in 2016 and quadruple weight in 2017. In 2018, the property and payroll factors will be repealed altogether, and business income will be apportioned solely on the basis of the sales factor.

Comparison of North Carolina and South Carolina Single Factor Sales

- South Carolina single factor only applies to corporations who sell tangible personal property (*e.g.*, manufacturers).
- North Carolina single factor applies to all corporations.

Apportionment of Income for Multi-State Manufacturers

- When are sales considered to be made into South or North Carolina for purposes of the sales factor?

Apportionment of Income for Multi-state Manufacturers

- The destination Rule is now the leading test. But the identification of the destination of the sale presents a number of issues.
- UDIPTA, as construed by the Multistate Tax Commission attributes sales to the state in which they are delivered to a purchaser whether or not that is the ultimate destination of the goods.
- Under UDIPTA, if the Gossett Manufacturing Company in Richland County sold widgets to AutoZone, who sent its trucks to Richland County to pick up the goods and transport them to other states, the sale would be taxed in South Carolina.

Apportionment of Income for Multi-State Manufacturers

States have historically 5 different methods in determining whether a sale has been made in their state:

- Destination – sales shipped into or delivered to customers in the state
- Origin – sales shipped from a location in the state
- Sales Office in the state
- Sales Activity in the state; and
- Place of Acceptance

Apportionment of Income for Multi-State Manufacturers

Other states look at:

- The ultimate destination of the goods
- Shipping terms (f.o.b. point)
- Whether the shipment is made by common or contract carrier
- Fla.: "sales of tangible property occur in this state if the property is delivered or shipped to a purchaser within the state, regardless of the…ultimate destination of the property, unless shipment is made via a common or contract carrier."

Apportionment of Income For Multi-state Manufacturers

Hellerstein & Hellerstein, State Taxation, states, “The statutes of some states, including Louisiana, North Carolina, and South Carolina, set forth rather detailed descriptions of the sales destination test.”

What sales are considered to be made in South Carolina?

Definition of "sales" in South Carolina:

The term "sales in this State" includes sales of goods, merchandise, or property received by a purchaser in this State. The place where goods are received by the purchaser after all transportation is completed is considered the place which the goods are received by the purchaser. Direct delivery into this State by the taxpayer to a person designated by a purchaser constitutes delivery to the purchaser in this State.

Apportionment of Income For Multi-State Corporations in North Carolina

Definition of "sales" in North Carolina:

(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be treated as having been made in this State.

(2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, *the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser*. Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State shall constitute delivery to the purchaser in this State. (Emp. added.)

Corporate Income Tax Credits

- In addition to a low corporate income tax rate and a favorable formula for determining the income subject to that rate, South Carolina provides a myriad of credits that in some cases can reduce a company's corporate income tax liability for up to 10, or in some cases 15, years.
- NC also had a number of similar tax credit provisions. Several were sunsetted.

South Carolina Job Tax Credit

- South Carolina Code § 12-6-3360(C)(1) provides a tax credit against South Carolina income tax, bank tax, or insurance premium tax for a qualifying business creating new jobs in this state.
- Corporations, sole proprietorships, partnerships, S corporations, and limited liability companies are eligible for the credit.
- To qualify for the job tax credit, a business must:
  - Be a certain type of business, and
  - Create and maintain a required minimum number of “new, full time jobs” at the time a new facility or expansion is initially staffed.

South Carolina Job Tax Credits

- The following types of businesses qualify for the Jobs Tax Credit.
  - Manufacturing and Processing
  - Warehousing and Distribution
  - Research and Development
  - Agribusiness Operations
  - Qualifying Technology Intensive Facilities
  - Tourism
  - Corporate Office
  - Retail Facilities and Service Related Industries in Tier IV counties

South Carolina Job Tax Credit

- The value of the credit (per job, per year) depends on the county's development tier as set forth below:

COUNTY'S DEVELOPMENT TIER	
Tier I	$1,500
Tier II	$2,750
Tier III	$4,250
Tier IV	$8,000

- Multi-County Industrial Park: raises the value of the credits by $1,000 per job, per year.

South Carolina Job Tax Credit

- In general, a taxpayer must increase employment by a monthly average of 10 new, full time jobs to qualify for the credit.
- Exceptions include:
  - Tourism facilities that consist of new hotels and motels must create 20 new, full time jobs.
  - A qualifying service-related facility must create 25 to 175 new, full time jobs at a single location based upon average cash compensation.

South Carolina Small Business Job Tax Credit

- If the company is a manufacturing, processing, warehousing and distribution, research and development, agribusiness, or qualifies technology intensive facility, or a corporate office that has fewer than 99 employees worldwide, *the company could qualify for the* ***Small Business Jobs Tax Credit*** *by creating a monthly average of 2 net new jobs, instead of 10.* The amount of credits is generally half that of regular JTC's

South Carolina Job Tax Credit

Amount of credit available each year for 5 years, commencing in year after job created.

Capped at 50% of SC income tax liability.

15 year carry-forward.

North Carolina Article 3J Credits

- Originally the NC Article 3J Credits were very similar to the SC Job Tax Credit Act.
- The NC Act was amended to include credits for investing in real (lowest tier only) and business personal property, as well as job creation.
- The NC Act was also amended to include requirements very similar to the SC Job Development Credit Act.
- **Expired -2014**

South Carolina Investment Tax Credit

- South Carolina Code § 12-14-60 allows manufacturers locating or expanding in South Carolina a one-time credit against a company's corporate income tax of up to 2.5% of a company's investment in new production equipment.

- The actual value of the credit depends on the applicable recovery period for property under the Internal Revenue Code.

- The following table illustrates the credit value for the various years outlined in the code.

RECOVERY PERIOD	CREDIT VALUE
3 years	.5%
5 years	1%
7 years	1.5%
10 years	2%
15 years or more	2.5%

South Carolina Research & Development Tax Credit

- In order to reward companies for increasing research and development in a taxable year, South Carolina Code § 12-6-3415 provides a credit equal to 5% of the taxpayer's qualified research expenses as defined in Section 41 of the Internal Revenue Code.
- The credit taken in any one taxable year may not exceed 50% of the company's remaining tax liability after all other credits have been applied.
- Any unused portion of the credit can be carried forward for 10 years from the date of the qualified expenditure.

North Carolina R&D Tax Credit

- In 2013 the North Carolina Technology Development was renamed the R&D credit.
- Taxpayers that have qualified North Carolina research expenses during a taxable year are allowed a credit equal to a percentage of those expenses determined in the following manner:
  - Small business (annual receipts less than $1 million): If the taxpayer is a small business as of the last day of the taxable year, the business is allowed a credit of 3.25 percent.
  - Low-tier research: For expenses for research performed in a Tier 1 county, a business is permitted a credit of 3.25 percent.
  - Other research: For expenses not covered above, the percentages are:
    - $0 - $50 million 1.25%
    - $50 to $200 million 2.25%
    - More than $200 million 3.25%
    - A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to 20 percent of those expenses.
  - **Credit expired in 2015**