JONES WALKER

E*ZINES
May 2004 Vol. 8

Tax (International, Federal, State, & Local)
www.joneswalker.com
tax@joneswalker.com

EFFECTIVE DATE OF PHASE IN OF LOUISIANA MANUFACTURING EXCLUSION ACCELERATED

By

William M. Backstrom, Jr., Michael W. McLoughlin, and Mark T. Hennen
Jones, Walker, Waechter, Poitevent, Carrère & Denègre, New Orleans, LA

A bit of good news was delivered to Louisiana manufacturers on May 18 when the Louisiana Department of Revenue announced that the phase in of the newly enacted sales and use tax manufacturing exclusion would begin a year earlier than scheduled (*see* Revenue Information Bulletin No. 04-012-A, May 18, 2004). The phase in of the exclusion was originally scheduled to begin on July 1, 2005, with 14% of the purchase price excludable for state sales and use tax purposes (localities were given the option of whether to adopt the exclusion). However, the enacting legislation provided that if the Revenue Estimating Committee were to forecast additional 2004-2005 state general fund revenues of $235 million or more above the amount forecast on December 16, 2003, the effective date of the exclusion phase in would be moved up one year to July 1, 2004, at least to a limited extent based on the amount of the revenue revision.

When the Revenue Estimating Committee met on May 14, 2004, it forecast general revenues for 2004-2005 that were $268.8 million above its estimate of December 16, 2003, and thus the phase in was accelerated one year but only excludes 5% of the purchase price of qualifying manufacturing equipment purchased between July 1, 2004, and June 30, 2005. Thus, for example, for a manufacturer purchasing $1 million of qualifying equipment in Orleans Parish on or after July 1, 2004, the sales tax on that equipment would drop from approximately $90,000 to $88,000 (assuming Orleans Parish opts out of the exclusion). In enacting this manufacturing exclusion, Governor Blanco stated that it was her belief that such savings will entice manufacturers to relocate their facilities to Louisiana.

The phase in of the exclusion for manufacturing equipment was authorized by Act 1 of the 2004 First Extraordinary Session of the Louisiana Legislature and signed by the Governor on March 23, 2004. As enacted, the phase in was scheduled to begin on July 1, 2005, with a 14% exclusion, which would gradually increase over the next six succeeding years until the state sales and use tax on qualifying manufacturing equipment was completely excluded on July 1, 2011. The phase in period will now be as follows:

July 1, 2004	5%
July 1, 2005	19%
July 1, 2006	35%
July 1, 2007	54%
July 1, 2008	68%
July 1, 2009	82%
July 1, 2010	100%

At the same time the phased in manufacturing exclusion was enacted, the Governor also signed legislation that would phase out the franchise tax on borrowed capital for tax years beginning after December 31, 2005, with the tax being completely phased out by 2011 (Act No. 2 of the 2004 First Extraordinary Session of the Louisiana Legislature). However, there was no provision for the acceleration of this phase out based on the findings of the Revenue Estimating Committee. Thus, the phase out of borrowed capital from the franchise tax base will still not take effect until tax years beginning in 2005.

ADMIRALTY & MARITIME
ANTITRUST & TRADE REGULATION
APPELLATE LITIGATION
AVIATION
BANKING
BANKRUPTCY, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
BUSINESS & COMMERCIAL LITIGATION
CLASS ACTION DEFENSE
COMMERCIAL LENDING & FINANCE
CONSTRUCTION
CORPORATE & SECURITIES
EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
ENERGY
ENVIRONMENTAL & TOXIC TORTS
ERISA, LIFE, HEALTH & DISABILITY INSURANCE LITIGATION
GAMING
GOVERNMENT RELATIONS
HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
INTELLECTUAL PROPERTY & E-COMMERCE
INTERNATIONAL
INTERNATIONAL FINANCIAL SERVICES
LABOR RELATIONS & EMPLOYMENT
MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
MERGERS & ACQUISITIONS
PRODUCTS LIABILITY
PROFESSIONAL LIABILITY
PROJECT DEVELOPMENT & FINANCE
PUBLIC FINANCE
REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
TAX (INTERNATIONAL, FEDERAL AND STATE)
TELECOMMUNICATIONS & UTILITIES
TRUSTS, ESTATES & PERSONAL PLANNING
VENTURE CAPITAL & EMERGING COMPANIES
WHITE COLLAR CRIME

Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:

William M. Backstrom, Jr.
Jones, Walker Law Firm
201 St. Charles Avenue, Suite 5100
New Orleans, Louisiana 70170-5100
Telephone: (504) 582-8228
Email: bbackstrom@joneswalker.com

Tax (International, Federal, State, & Local)

WILLIAM M. BACKSTROM, JR.[1]
ALTON E. BAYARD
EDWARD B. BENJAMIN, JR.
JOHN C. BLACKMAN
ROBERT R. CASEY
MARIO A. DE CASTRO[2]
MARK T. HENNEN
MICHAEL B. MAULDIN[3]
MICHAEL W. MCLOUGHLIN[4]
LOUIS S. NUNES, III
RUDOLPH R. RAMELLI
ALEX P. TROSTORFF[4]

[1] Also admitted in Mississippi
[2] Admitted in Florida and Republic of Columbia
[3] Also admitted in Mississippi and Washington, DC
[4] Also admitted in New York

To subscribe to other E*Zines, visit www.joneswalker.com/news/ezine.asp