



## **State Governments Running Out of Money and What This Means to You**

It is already happening in California and this may be a sign of things to come. The Golden State is running out of cash. With a budget deficit, excessive debt, lack of additional borrowing capacity, and reductions in taxable business profits, California has warned taxpayers not to expect refunds for 2008 returns anytime soon. Instead, they will give you the next best thing: a “registered warrant” which is a fancy way of saying “IOU.”

We at L&G have witnessed a sharp decline in tax return processing time by the State of Georgia. We have followed up on Georgia tax refunds for a multitude of clients and have heard the following excuses from the state: (1) the tax return has not been processed yet; (2) there is no evidence that the tax return is even filed; (3) the tax return has been filed but is lost somewhere in the system.

The Commissioner of the Georgia Department of Revenue has said that his employees are trying to save the state’s money by taking unpaid leave days through June 30, 2009. One consequence of this is that paper income tax returns may take three months longer to process. We are therefore advising clients who expect a refund to file returns electronically as a way of cutting in line in front of other taxpayers who await refunds.

The real disturbing thing is that state governments are holding on to money that individuals and businesses voluntarily pay in. With one hand, they might dole out entitlements to folks who contribute nothing to the economy, and with the other, they clench their fist with your money firmly in their palm.

Some states are looking for creative ways to raise more revenue in a way that is politically safe. For example, Alabama has begun withholding 3 to 4% of the sales price of real estate sold by a non-resident. The nonresident seller must then file an Alabama income tax return to try to get some or all of it back.

Many other states are decoupling from the Federal income tax system, especially in the wake of increased federal Section 179 limits and bonus depreciation. And they are doing so retroactively. For example, Alabama and Michigan have done this. This means that some states are choosing not to accept the more rapid tax write-offs for equipment that are allowed by the federal government, thereby slowing down tax deductions for state income tax purposes. The result of this is often higher taxable income at the state level than originally projected.

Ohio has a minimum fee of \$1,000 for filing a business tax return, even if it is to report no activity there during the year.

Maryland has taken a penalty approach by assessing \$10,000 per day per entity for the first 30 days and \$5,000 per day per entity thereafter for failure to file by companies where it is debatable as to whether they are even required to file a Maryland return.

Given this backdrop, it makes sense for each business to reconsider what states it is registered to do business in, and to consider withdrawing from states where no business activity is anticipated in the foreseeable future.

States are also increasing their corporation renewal fees as well as penalties for failure to renew on time. Florida charges \$550 for renewing a corporate charter after May 1. The Florida Secretary of State recently increased the late renewal fee for a limited liability company to \$538.75 if filed after May 1. The State sends out postcard reminders in January but offers no reminder close to the actual due date. Corporation or LLC renewal is something that is typically done by an officer of the company, not by a tax return preparer, because the laws of most states do not permit a tax preparer to file the renewal.

In Georgia, the Secretary of State is now assessing a fee of \$25 for any Annual Registration submitted after the April 1 deadline. Prior to July 1, 2008, there was no charge for late Annual Registration filings.

If you have any questions about how to reduce your exposure to onerous state taxation policies, please let us know and we will be happy to assist you with initiative and involvement.

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