

State and Local Tax Bulletin

April 7, 2010
Alabama Edition



BRADLEY ARANT
BOULT CUMMINGS
LLP

ADOR Announces Amnesty Program for Taxpayers with Offshore Bank Accounts

By Bruce P. Ely and James E. Long, Jr.

Upcoming Seminars Involving Members Of Our SALT Practice Group

April 25 – 29, 2010

Council On State Taxation (COST) – 2010 Intermediate/Advanced State Income Tax School, Atlanta, Georgia. Chris Grissom will be a co-speaker with Kent Clay of Deloitte Tax on the State Taxation of Pass-Through Entities and Their Corporate Owners. For more information, please visit the COST website: www.statetax.org.

May 3, 2010

Tax Executives Institute, Houston Chapter. Chris Grissom will be speaking on the State Taxation of Pass-Through Entities. For more information, please visit the TEI website: www.tei.org.

May 13-14, 2010

Alabama Society of CPAs Business and Industry Conference, Hyundai Motor Manufacturing Plant, Montgomery, Alabama. Jimmy Long and Will Thistle will be speakers in a presentation on Recent Alabama Tax Developments. For more information, please visit the ASCPA website: www.ascpa.org.

The Alabama Department of Revenue (“ADOR”) recently announced a new amnesty program for individuals and businesses with offshore bank accounts, providing taxpayers with the opportunity to avoid penalties and criminal prosecution if they voluntarily pay certain delinquent taxes and interest attributable to those undisclosed bank accounts and related income. Interested taxpayers have until September 30, 2010 to voluntarily report their income tax liability by filing past-due or amending their prior year Alabama income tax returns, likely for the past six years.

As most readers are aware, the Internal Revenue Service offered a similar voluntary disclosure program last year for taxpayers with undeclared foreign bank accounts. That program concluded on October 15, 2009; reportedly, more than 7,500 taxpayers took advantage of the program. Several states, such as Connecticut, Ohio and New Jersey, have implemented similar amnesty programs in response to the federal voluntary disclosure initiative, and the authors are aware of a few informal programs being offered by other state revenue departments.

Commissioner of Revenue Tim Russell stated that the ADOR encourages “individuals and businesses who can take advantage of this program to do so. Do not let this opportunity pass ... When these accounts are disclosed to the department by other sources, it will be too late to expect leniency.” Certain taxpayer information disclosed to the IRS as a result of the offshore initiative will likely be shared with the ADOR, at some point soon, due to information exchange agreements between the IRS and the ADOR.

The ADOR said its decision to follow the IRS’ lead, and several other states with official amnesty programs, was based in part on the success of last year’s general amnesty program, dubbed “Operation Clean Slate,” which brought in approximately \$8.1 million in unpaid taxes. Alabama’s offshore bank account amnesty program applies to both individual and corporate income taxes; however, the program is not available to taxpayers already under investigation by the ADOR or if the ADOR learns of the taxpayer’s identity through exchange of information with the IRS.

More information may be obtained from the ADOR by calling **866-326-6755** or **334-242-1380**.

continued on page 2

Alabama Tax Legislative Update

With only five legislative days remaining until the 2010 regular session must adjourn *sine die* on April 26, it appears that both the Education Trust and General Fund budgets will pass this session. There are a few tax proposals that have a chance of crossing the finishing line, including **HB 504** (conforming estimated income tax payments to federal law) and **HB 260** (Reemployment Act of 2010), which was recently passed by the Senate and is expected to be signed by the Governor. Although we will provide a comprehensive tax legislative summary after the Legislature adjourns, the following noteworthy tax proposals have been enacted this session:

HB 109 (Act 2010-254): provides a six-month transition period, delaying the recently increased base wage threshold in order to qualify for Alabama's capital income tax credit, otherwise known as the Capital Credit. An investing company that filed its statement of intent with the Department of Revenue on or before November 21, 2009 would only be required to satisfy the base wage requirements in effect prior to May 21, 2009 (the effective date of Act 2009-722), *i.e.*, \$8 per hour (or \$10 per hour, including benefits).

SB 179 (Act 2010-220): makes certain technical corrections to Act 2009-561, which imposes a "fee" on general and sub-contractors performing commercial construction jobs in the state, based on in-state wages paid to their employees (broadly defined). For example, the bill would clarify that in order for an "employer" to be subject to the act, it must receive at least 5% of its gross revenue from business described in North American Industry Classification System Code 236, 237 and/or 238.

Bradley Arant Boulton Cummings LLP Office Locations:

ALABAMA

One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203
(205) 521-8000

200 Clinton Avenue West, Suite 900
Huntsville, AL 35801
(256) 517-5100

The Alabama Center for Commerce
401 Adams Avenue, Suite 780
Montgomery, AL 36104
(334) 956-7700

MISSISSIPPI

188 E. Capitol Street, Suite 400
Jackson, MS 39201
(601) 948-8000

NORTH CAROLINA

100 North Tryon Street, Suite 2690
Charlotte, NC 28202
(704) 332-8842

TENNESSEE

1600 Division Street, Suite 700
Nashville, TN 37203
(615) 244-2582

WASHINGTON, DC

1133 Connecticut Avenue NW,
12th Floor
Washington, DC 20036
(202) 393-7150

This newsletter is sent to our friends as a courtesy of Bradley Arant Boulton Cummings LLP. If you would prefer not to receive future emailings of this type, please email our practice group assistant, Sherry Barber, at sbarber@babac.com.

This newsletter is a periodic publication of Bradley Arant Boulton Cummings LLP and should not be construed as legal advice or legal opinions on any specific facts or circumstances. The contents are intended for general information only, and you are urged to consult your own lawyer or other tax advisor concerning your own situation and any specific legal questions you may have. For further information about these contents, please contact your lawyer or any of the lawyers in our practice group.

The Alabama State Bar requires the following disclosure: "No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

©2010 Bradley Arant Boulton Cummings LLP

SALT Practice Group:

Bruce P. Ely, Chair
(205) 521-8366
bely@babac.com

Joseph W. Gibbs
(615) 252-2317
jgibbs@babac.com

W. Stanley Gregory
(334) 956-7604
sgregory@babac.com

Christopher R. Grissom
(205) 521-8514
cgrissom@babac.com

K. Wood Herren
(205) 521-8505
wherren@babac.com

James E. Long, Jr.
(205) 521-8626
jelong@babac.com

Patricia Head Moskal
(615) 252-2369
pmoskal@babac.com

Brian S. Shelton
(615) 252-2313
bshelton@babac.com

William T. Thistle, II
(205) 521-8985
wthistle@babac.com

Robert D. Thorington
(334) 956-7609
rthorington@babac.com

Robert C. Walthall
(205) 521-8308
rwalthall@babac.com

www.babac.com