

Tax Day has come and gone – but compliance always remains

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The April tax deadline has passed and for most law firms and their partners, major income tax compliance is complete for the remainder of the year. However, there are still compliance filings and payments that both partners and law firms should keep on their radar.

Preparing an annual compliance checklist of required filings and payments is a great idea for most businesses. If your firm does not already have one, it may be wise to prepare one to stay organized and ensure the various federal, state and local business deadlines are met.

Compliance items are vital to a successful business, and you should be aware of some state and local compliance requirements that are commonly overlooked.

Quarterly estimates are required when a business or individual expects to owe tax to a jurisdiction based on the previous quarter's net income. The upcoming 2017 federal estimated tax payments for individuals are due June 15, 2017; Sept. 15, 2017; and Jan. 16, 2018. States tend to follow the federal deadlines.

One of the most overlooked filings is unclaimed property. Your accounting personnel likely can identify outstanding payroll and vendor checks through the monthly bank reconciliations. Outstanding checks that remain unsettled for a specified period of time typically need to be remitted to the state authorities depending on the state. The specified period of time depends on the state, but the obligation is on the business to remit the unclaimed property. Some states require businesses to file an annual unclaimed property report — even when there is no unclaimed property to report. This compliance requirement is often overlooked, and some states are beginning to issue notice letters to professional services firms. Fines and penalties can often arise with noncompliance.

Use tax filings are another area commonly disregarded. Use tax is required to be remitted when goods (and some services) are purchased outside of your resident state, the business intends to use the goods within their resident state and sales or use tax has not been collected by the seller for your resident state. Each state has its own regulations for when use tax should be remitted, but generally it is quarterly. Similar to unclaimed property, use tax reports are mandatory by some states even when there is no tax due.

Personal property tax returns are a requirement in almost all states. They necessitate businesses to calculate property taxes — and potentially remit tax at the time of filing — based on a predetermined formula of property owned. Personal property typically includes furniture, fixtures, computers, machinery and other similar equipment. A majority of states exempt leasehold improvements and software, but each state has different rules which you should confirm with your tax advisor. Also, some states have exemptions which could reduce a business' property tax bill to zero dollars if its personal property is under the threshold. Important to note though, even if a business owns no personal property but rather leases property from a vendor through an operating lease, the business likely is still required to file a zero dollar tax due return to report the value of the leased equipment used in the state. This way, the state will know to look for the tax from the lessor.

The due dates for unclaimed property returns, use tax returns and personal property tax returns all vary depending on the state. Consulting with your state and local governments and/or with your tax advisor can provide you with the necessary details on when to and what needs to be filed.

Connect with us.

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As you can see just from these three examples, state tax compliance has become increasingly more complicated and jurisdictions are becoming more aggressive on compliance. It is easier today for lawyers and law firms to do business in states in which they do not have a physical presence. Because of this, several states have adapted their laws to the changing times to increase tax revenue. Doing business in another state could lead to nonresident withholding compliance on behalf of law firm partners as well as nonresident payroll tax filings for the law firm's employees.

You may also need to review entity-level returns based upon gross receipts or other computational factors. For example, if you are doing business in the state of Washington, the business and occupation tax is a tax based upon gross receipts. The amount of your projected income in the state will determine how often this return needs to be filed and tax remitted (i.e., monthly, quarterly or annually). Ohio has a similarly computed Commercial Activity Tax (CAT). Some cities in California, including Los Angeles and San Francisco, follow a comparable model to Washington's B&O tax, taxing gross receipts sourced to these cities and requiring filings at various times during the year. Many other cities and counties across the country levy either income or gross receipts taxes on various business activities within their jurisdictions.

Foreign filing requirements are becoming increasingly complex for international law firms too. The most common foreign filing requirement outside of informational reporting within your law firm's business tax return is the foreign bank account report — FinCEN Form 114. If a U.S. business is operating overseas and has foreign financial accounts, they likely are aware of the U.S. filing requirement for the business, which is to report the balance in these accounts if the aggregate value of all foreign financial accounts exceeds \$10,000 at any time during the calendar year. What sometimes is overlooked from a compliance standpoint is the issue of U.S. individuals that have signature authority over these accounts. These individuals also have a filing requirement separate from the business. This isn't just limited to law firm partners either, it includes every employee that has signature authority on an account, typically the CEO, CFO, director of administration and/or the controller. The initial filing deadline for the foreign bank account report was April 15, 2017, but the report has an automatic extension for the 2016 calendar year reporting to Oct. 15, 2017. If you have not reviewed who has signature authority in a few years, it might be worth confirming with the bank. The penalties assessed by the U.S. government for noncompliance are high.

Staying in touch with your tax advisors throughout the year and keeping them informed of any new activity will help make sure you're up to date on these and other compliance filings. The cost of compliance is a necessary element of business, but the cost of failing to be compliant could be higher.

About the authors

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Jessica Mastropietro, partner in the the Tysons, Va. office, has been with Baker Tilly since 2004. With more than 12 years of experience in the profession, Jessica focuses on assisting her clients to effectively navigate complex tax return preparation, compliance and planning, as well as managing the delivery of retirement plan audits. She has substantial experience working closely with clients to address their tax, accounting, advisory and transaction needs with a primary focus on the professional services industry and owners. Jessica combines strong technical tax skills along with her knowledge of leading automated technology tools to serve many of our largest multi-state law firm partnership clients. Jessica was recently recognized as a nominee for the GWCPA "Women to Watch" in the CPA emerging category.

Brandon Wolf, tax manager in the Tysons, Va. office, has been with Baker Tilly since 2008. He focuses primarily on partnerships and corporations in a variety of industries including the professional services, software, and technology industries. Brandon has experience working with large multistate and international entities on federal and state compliance, state nexus studies, international compliance, mergers and acquisitions and various other business consulting projects.