

AN ALERT FROM THE BDO STATE AND LOCAL TAX PRACTICE

BDO KNOWS:

SALT



SUBJECT

CHICAGO PERSONAL PROPERTY LEASE TRANSACTION TAX VDA PROGRAM

SUMMARY

The Chicago Department of Finance (“Department”) issued on June 9, 2015 Ruling #12 that provided that the Chicago Personal Property Lease Transaction Tax (“Lease Tax”) applies to non-possessory computer leases, including cloud-based products and services, on-line searchable databases, and other items. The Department has taken the position that these transactions have always been subject to the Lease Tax, which has caught many companies off-guard and who may now be subject to substantial amounts of Lease Tax, interest, and penalties for previous transactions. The Department is currently offering a Voluntary Disclosure Agreement (VDA) Program that can assist companies to significantly reduce the amount of Lease Tax, interest, and penalties associated with the Department’s expanded interpretations in Ruling #12.

DETAILS

The Chicago Department of Finance (“Department”) issued on June 9, 2015 Lease Tax Ruling #12 that provides that taxable transactions include, but are not limited to, the following:

1. **Cloud-Based Products and Services:** Word processing, calculations, data processing, tax preparation, spreadsheet preparation, presentations and other applications available through access to a provider’s computer and its software. These examples are often referred to as cloud computing, cloud services, hosted environment, software as a service (SaaS), platform as a service (PaaS), or infrastructure as a service (IaaS)
2. **On-Line Searchable Databases:** Real estate listing and prices, stock prices, economic statistics, weather statistics, job listings, resumes, marketing data, company profiles, consumer profiles, and similar information that has been compiled, entered and stored on the provider’s computer.

CONTACT:

MARIANO SORI
Partner - State & Local Tax
(312) 616-4654
msori@bdo.com

KATIE GIRMSCHIED
Manager - State & Local Tax
(312) 730-1406
kgirmscheid@bdo.com

The Department has taken the position that these transactions have always been subject to Lease Tax. The Department may assess Lease Tax on providers that have not charge Lease Tax on taxable transactions as well as companies where the provider did not charge Lease Tax on taxable transactions.

VDA Program Opportunity

The Department is offering a VDA program for taxpayers that have not addressed or underreported their Lease Tax obligations. This VDA program should provide significant cost savings for companies that were unaware of their Lease Tax liabilities. The potential benefits of the VDA program include:

1. Limited look back period (depending on company's set of facts, the look back period is to January 1, 2015, January 1, 2016, or 4 years from the VDA filing date)
2. Abatement of penalties
3. Abatement of interest

Note - BDO has successfully worked with the City of Chicago on Lease Tax VDAs for our clients that meet the required conditions. It is imperative that you contact us if you meet the Lease Tax requirements for filing a VDA.

What To Do

Given the above, companies that provide or use taxable products or services within the city of Chicago should:

1. Determine if your organization has received prior correspondence from Chicago
2. Determine what historical tax compliance, if any, has been with the city of Chicago.
3. Evaluate the VDA Decision Tree , and
4. Take action and contact BDO for further guidance and best practices.

Companies at Highest Risk

1. Companies located in Chicago that have not addressed or underreported their Lease Tax obligations.
2. Companies located in other states but with nexus and customers in Chicago who have not addressed or underreported their Lease Tax obligations.
3. Companies that provide or use cloud based products or services within Chicago.

BDO INSIGHTS

BDO's State and Local Tax Practice BDO has significant experience with Chicago's VDA Program and has successfully assisted many clients with this VDA program. BDO's success is largely attributable to our experience working with the Chicago Department of Finance.

The Tax Practice at BDO is among the largest tax advisory practices in the United States. With 63 offices and more than 450 independent alliance firm locations in the United States, BDO has the bench strength and coverage to serve you.

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, advisory and consulting services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through 63 offices and over 450 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multinational clients through a global network of 1,408 offices in 154 countries.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. For more information, please visit www.bdo.com.

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.