June 4, 2013

California's Nonresident Withholding Requirements for Passthrough Entities

The Franchise Tax Board ("FTB") requires that California state taxes be withheld at a rate of 7% on payments and distributions of CA-source income to domestic (U.S.) non-CA residents when such payments exceed, or are expected to exceed, $1,500 to any such recipient in a given year. If you are an entity that is doing business in CA, please note that you are generally required to withhold on:

- payments to out-of-state independent contractors or vendors performing services in CA, and
- distributions of CA-source income to domestic non-CA resident partners, members, or shareholders.

If a payee meets certain criteria, you may be able to request a waiver of the withholding requirement on his or her behalf. All waiver requests are subject to FTB approval, generally take up to 21 business days to process, and, if approved, are valid for a maximum term of 24 months. The two most common exceptions are as follows:

- Payee has CA tax returns on file for the two most recent taxable years in which the payee has a filing requirement, and is considered current on any outstanding tax obligations.
- Payee is making timely estimated tax payments for the current taxable year, and is current on any outstanding tax obligations.

CA tax withholdings are required to be remitted quarterly to the FTB with ***CA Forms 592 and 592-V***, as follows:

Payment Period	Due Date
Jan. 1 - Mar. 31	4/15
Apr. 1 - May 31	6/15
June 1 - Aug. 31	9/15
Sept. 1 - Dec. 31	1/15

If you have foreign (non-U.S.) partners, members, or shareholders, you must also withhold both federal and CA taxes on their allocable share of taxable income (as opposed to cash distributed):

- CA withholding rates are based on CA's highest tax rate for each partner's entity type (currently 12.3% for noncorporate partners and 8.84% for corporate partners), and payments are due quarterly on 4/15, 6/15, 9/15 and 12/15 of each year with ***CA Form 592-A***.
- Federal withholding rates of 30% or 35% generally apply depending on the type of allocable income. There may be tax treaties between the U.S. and the partner's country of residence that provide for lower withholding rates.

Please contact us if you have any questions about how these withholding rules may apply to you.

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