

2016 New Laws Impacting County Revenue Officers

ACT 2016-110 SIMPLIFIED SELLERS USE TAX

This legislation amends the Simplified Sellers Use Tax Remittance Act to allow an out-of-state company that participates in the Simplified Sellers Use Tax Remittance Program to continue participating if it establishes a physical location in Alabama as long as the instate business is not established for the purpose of making instate retail sales and does not sell retail items from the location. It is estimated this change could generate as much as \$10 million dollars for the county general funds.

In response to concerns voiced by counties related to whether or not applicants to the program have nexus in the state, the Alabama Department of Revenue has agreed to “crosscheck” applications to lists of entities with reported nexus provided by counties. If you believe an out-of-state company has nexus in your county and that the company is likely to consider participating in the Simplified Sellers Use Tax Remittance Program, please provide the name of that entity to the Alabama Department of Revenue.

Effective April 4, 2016.

ACTS 2016-405 and 2016-403 ABATEMENT OF COUNTY TAXES

In January 2016, the Attorney General issued an opinion authorizing a municipality or municipal public industrial authority to abate county taxes where there is no corresponding municipal tax. This opinion interjected confusion into a process of tax abatement that had previously run smoothly. Act 2016-405 makes it clear that a municipality or municipal public industrial authority can only abate a county tax if there is a corresponding municipal tax that is abated as well and provides that any abatement granted by a municipality or municipal public industrial authority can only be in the same amount or percentage as the abatement of the corresponding municipal tax.

Effective May 13, 2016.

In addition, Act 2016-403 made further changes to the same tax abatement code section. Current law provides that any payment, contribution, or other financial or in-kind award received from an entity whose taxes have been abated shall be divided between the governmental entities whose taxes were abated on a pro-rata basis, unless the party receiving the award can prove it is not related to the granting of any abatement. This act amends current law to allow any county or municipality whose taxes are subject to abatement to waive these requirements by resolution adopted by affirmative vote of a majority of its members.

Effective on August 1, 2016.

ACT 2016-127

APPOINTING OUTSIDE COUNSEL FOR LITIGATION OF PROPERTY TAX CASES

In the past, the local district attorney was required to handle all ad valorem tax cases within their respective circuit. Due to the need for specialized counsel with expertise in certain ad valorem tax cases, the newly passed law allows the county commission to contract with outside counsel in property tax appeals and to appropriate funds for that representation to be paid from the county's reappraisal budget. The law will also allow for self-insurance liability funds (the ACCA Self-Insured Liability Fund) to provide a premium for coverage of these cases.

The ACCA Self-Insured Liability Fund Board determined that the Fund will not collect a premium at this time, but will instead provide the coverage and require any county which elects this coverage to reimburse the Fund for its defense costs. The Board wants to study the impact of this approach for a few years and develop a body of knowledge significant enough to eventually underwrite the costs and collect a premium for coverage. While there will not be a liability fund premium increase this year related to this change in the law, counties are encouraged to look at amounts expended for these tax appeal cases in recent years, if any, when considering how to factor "expense reimbursement" costs into next year's budget.

Effective October 1, 2016.

ACT 2016-280

PROTECTING COUNTY FIET MONIES

In an effort to ensure that counties do not inadvertently lose county revenues from any new credits of the financial institutions excise tax, this act prohibits any future FIET tax credits from being applied to the county distributed portion of this state tax. Several bills are introduced each year to allow certain businesses a tax credit against income or financial institutions excise taxes, and with passage of this legislation county revenues are now protected from being reduced as a result.

Effective May 10, 2016.

ACT 2016-406

PRIVATE AUDIT AND COLLECTING FIRMS

This act makes several technical changes to the law authorizing counties and municipalities to contract with a private auditing and collecting firm for the administration of local tax collection and enforcement, including requiring that a copy of the contract with the municipality or county be provided at first contact with a taxpayer, requiring that a final assessment or forced collection action based upon an audit conducted by a private firm be signed by a public official or designated employee of the county or municipality, and requires a municipality or county that has opted-out of the Alabama Tax Tribunal to utilize an independent hearing or appeals officer not affiliated with the private firm to conduct any administrative hearings required. The act also requires training on customer relations and professional courtesy and the creation of a hotline for taxpayer complaints related to audits from private firms.

Effective January 1, 2017.

ACT 2016-267
MAJOR 21ST CENTURY MANUFACTURING ZONES

In 2013, the Legislature enacted legislation authorizing a county or municipality to establish a tax increment district within a Major 21st Century Manufacturing Zone, which was defined as any area of not less than 250 acres of real property within a municipality determined to be suitable for automotive or similar industrial facilities. This act proposes a constitutional amendment that, if ratified, would grant any municipality or county that has established a tax increment district within a Major 21st Century Manufacturing Zone the sole discretion to determine the consideration it will receive for the redevelopment, rehabilitation, or conservation of property disposed of for the benefit of a private interest without regard to constitutional provisions restricting or prohibiting the use of public property or monies for private interests. Questions have been raised regarding the ability to issue bonds for such a purpose. This proposed constitutional amendment would remove those concerns and also validate and confirm the Major 21st Century Manufacturing Zone Act enacted in 2013.

Will be on the November ballot.

ACT 2016-389
REPORTING ECONOMIC TAX INCENTIVES

This act requires state agencies which administer economic tax incentives to prepare and submit an annual report to the Legislature regarding each economic tax incentive that the agency administers. The report shall include information related to whether the incentive has been successful in meeting its purposes, whether there has been a positive return on the investment with regard to state and local tax revenues from the business or industry granted the incentive, and what the economic results from the granting of the incentive have been. The agencies required to report may request necessary information from local agencies and officials needed to complete the report.

Effective May 12, 2016.

ACT 2016-130
DISTILLERIES SALES FOR OFF-PREMISES CONSUMPTION

This act allows a licensed distillery to sell up to 750 milliliters of its product per day for off-premises consumption. The distillery is required to keep records of sales for off-premises consumption and must ensure that liquor sold for off-premises consumption is sealed, labeled, packaged, and taxed in accordance with state and federal laws and regulations.

Effective July 1, 2016.