

Alert | State & Local Tax (SALT)



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San Francisco Business Taxes: Proposed Programs and Potential Guidance

On Aug. 28, 2024, the San Francisco Office of Treasurer and Tax Collector (the city) held a virtual meeting to discuss three proposed programs: (1) Voluntary Disclosure Agreements (VDAs), (2) Advance Written Determinations (AWDs), and (3) promulgation of sourcing regulations for certain San Francisco business taxes.

Key Details of the Proposals

VDAs

The proposed VDA program would enable the city to provide penalty relief for taxpayers who have not previously registered and have not filed tax returns or been contacted by the city about filing tax returns, allowing them to voluntarily come forward and engage with the city to comply with outstanding business tax liabilities. The proposed VDA program would cover various San Francisco business taxes, including third-party taxes (such as hotel taxes). Taxpayers accepted into the VDA program would need to (1) file returns and pay business taxes and interest for a six-year lookback period and (2) register as a business with the city.

AWDs

The proposed AWD program would allow the city to receive taxpayer requests, on a named basis, for a written determination on only apportionment and/or industry classification issues. At the outset, the proposed AWD program scope would be limited to no more than 30 written determinations per year. Once the city finalizes and issues an AWD to a taxpayer, the city plans to redact and publish the determination on its website as a resource for other taxpayers.

Sourcing Regulations

The city is also considering promulgating sourcing regulations to assist taxpayers in the application of the city's gross receipts apportionment provisions under Section 956.1 of the Business and Tax Regulations Code. Specifically, the city is considering either drafting standalone regulations and/or providing for static or rolling conformity to California's sales factor sourcing regulations, such that California's regulations would apply for San Francisco purposes either as they exist at a point in time or as they are revised over time. The Aug. 28 meeting allowed the city to gather input and gauge interest from stakeholders.

Other Considerations

The VDA and AWD proposals provide for a three-year authorization that would allow the city to review the programs after three years for efficacy and reception. The city could opt to extend, modify, or discontinue the programs at that point.

GT Takeaway

VDA and AWD programs have proven to be mutually beneficial for taxpayers and taxing authorities across the nation. Many large localities, including New York City, already have programs in place similar to those proposed in San Francisco.

Based on last month's meeting, the city is in the early stages of consideration, and it is not yet clear when potential sourcing regulations would take effect.

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