

STATE & LOCAL TAX NEWSLETTER



National Tax Recovery LLC
(State & Local Tax Services)

State & Local Tax Refund Program identifies and recovers overpaid state and local taxes paid directly to the State through use taxes or tax paid to vendors.

State & Local Tax Audit Assistance Program helps clients to defend and lower their state tax audit assessment.

State & Local Tax Advisory Program helps clients develop and implement tax strategies that will make state and local taxes a controllable expense and explore every legitimate way to limit your tax obligation.

Income Tax Advisory Service gives clients the proper knowledge and expertise needed to interpret the complex and ever changing IRS regulations and laws.

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INDIVIDUAL INCOME TAX FILING - 2017

The Internal Revenue Service and partners from the states and tax industry today reminded taxpayers that the nation's 2017 individual income tax filing season opens Jan. 23.

The IRS expects more than 153 million tax returns to be filed this year and taxpayers have until Tuesday, April 18, 2017, to file their 2016 tax returns and pay any tax due. The deadline is extended because the Emancipation Day, a holiday in Washington, D.C., will be observed on Monday, April 17, pushing the nation's filing deadline to April 18.

Taxpayers that are e-filing can still submit returns to their software provider before Jan. 23. They will hold the return and transmit it to the IRS when the systems open. The IRS also reminds taxpayers that they don't have to wait until Jan. 23 to contact their tax professional.

The IRS *Free File* program, available at IRS.gov, opens Friday, Jan. 13. Commercial partners of the IRS offer free brand-name software to about 100 million individuals and families with incomes of \$64,000 or less. Seventy percent of the nation's taxpayers are eligible for IRS Free File.

The IRS also reminds taxpayers that a new law requires the IRS to hold refunds claiming the Earned Income Tax Credit (EITC) and the Additional Child Tax Credit (ACTC) until Feb. 15.

The Protecting Americans from Tax Hikes (PATH) Act mandates the IRS hold refunds on tax returns claiming the EITC or the Additional Child Tax Credit (ACTC) until mid-February. The change helps ensure that taxpayers get the refund they are owed by giving the IRS more time to help detect and prevent tax fraud.

The IRS will begin releasing EITC and ACTC refunds starting Feb. 15, but cautions taxpayers that these refunds likely will not start arriving in bank accounts or on debit cards until the week of Feb. 27.

The PATH Act requires that certain ITINs expire on Jan. 1, 2017. Any ITIN not used on a tax return at least once in the past three years and any ITIN with middle digits of either 78 or 79 (9NN-78-NNNN or 9NN-79-NNNN) must be renewed before a return can be processed. Anyone filing a tax return with an expired ITIN could experience return processing and refund delay as well as denial of some tax benefits until the ITIN is renewed.

An ITIN renewal application could take as long as 11 weeks to process during tax filing season. ITINs are used by people who have tax-filing or payment obligations under U.S. law but are not eligible for a Social Security number.

Again this year, meeting the tax obligation of the Affordable Care Act for the vast majority of taxpayers will simply mean checking a box to verify everyone on their return has health coverage.

The Affordable Care Act requires that a taxpayer and each member of their family either has qualifying health coverage for each month of the year, qualifies for an exemption, or makes an individual shared responsibility payment when filing their tax returns.

[HTTPS://WWW.IRS.GOV/UAC/NEWSROOM/IRS-AND-PARTNERS-LOOK-TO-START-OF-2017-TAX-SEASON-ENCOURAGE-USE-OF-IRSGOV-AND-EFILE-WARN-OF-REFUND-DELAYS](https://www.irs.gov/uac/newsroom/irs-and-partners-look-to-start-of-2017-tax-season-encourage-use-of-irsgov-and-efile-warn-of-refund-delays)

PUT YOUR HEART, MIND, AND SOUL INTO EVEN YOUR SMALLEST ACTS. THIS IS THE SECRET OF SUCCESS. ~ Swami Sivananda

RECENT TAX POLICY LETTER RULINGS & DECISIONS



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Texas ~ Corporate Income Tax: Credit Card Exchange Fees Could Not Be Excluded; Credit for Business Loss Carryforwards Denied

The Texas Comptroller has determined that a taxpayer could not exclude credit card interchange fees from its total revenue computation and was not eligible to claim a temporary credit for business loss carryforwards for Texas franchise tax purposes.

The taxpayer, a payment processing company, had argued that its credit card interchange fees qualified as flow-through amounts that could be excluded from its total revenue computation. The taxpayer contended that it had a fiduciary mandate to distribute the interchange fees to card-issuer banks.

The Comptroller disagreed and held that the interchange fees for credit card processing did not create a fiduciary duty and could not be excluded.

The Comptroller also denied the taxpayer's temporary credit, business loss carryforwards claims because the taxpayer did not properly preserve the

amounts of the unused business loss carryforwards by notifying the Comptroller, on the first report originally due under the revised Franchise Tax Act on or after January 1, 2008.

Decision, Hearing Nos. 110,908, 111,913, 111,914, 111,915, 111,916, 112,078, Texas Comptroller of Public Accounts, September 23, 2016, released December 2016, ¶404-210

<http://news.cchgroup.com/2016/12/22/texas-corporate-income-tax-credit-card-exchange-fees-not-excluded-credit-business-loss-carryforwards-denied/>

Indiana ~ Sales and Use Tax: Cloud Computing Services Were Not Taxable

Cloud computing fees, remote storage fees, and data transfer fees were not subject to Indiana sales tax because the fees were paid for services and not for tangible personal property, specified digital products, prewritten computer software, or telecommunication services. Indiana imposes sales tax on products transferred electronically only if the products meet the definition of specified digital products, pre-written computer software, or telecommunication services.

Neither the open source cloud computing software nor the third-party owned cloud computing software used by customers was ever transferred to customers. The customers pay remote storage fees based on the storage capacity used each month, and based on the amount of data stored and the volume of data uploaded and download to and from the server. But the company did not charge customers for software used to store, upload, or download data, as customers could use third-party software.

Finally, transferring data within the company's network, as part of the customer's usage of computation services, was a nontaxable service.

<http://news.cchgroup.com/2016/12/02/indiana-sales-use-tax-cloud-computing-services-not-taxable/>

Louisiana ~ Amazon Set to Collect Louisiana Sales Tax in 2017

Amazon.com Inc. will begin collecting and remitting state and local sales tax on purchases shipped to Louisiana in 2017, after the state's new tax regime was implicitly endorsed by a recent U.S. Supreme Court ruling.

The high court earlier this month declined to review a Colorado law that imposes reporting and notification requirements on out-of-state retailers, a law similar to one passed in Louisiana in July. The new laws are essentially mirror New York and Colorado statutes.

Several e-retailers, including Wayfair Inc., have contested regimes in Alabama and South Dakota. But Amazon, largely speaking, has complied with the new laws. With Louisiana, the top e-retailer now will collect taxes from online sales in 32 states and the District of Columbia. The company lacks a physical presence in many of these states.

<https://www.bna.com/amazon-set-collect-n73014448992/>

U.S. Hotel Spas: A Great Source of Revenue

In 2015, hotel spa department revenue grew at a faster pace compared to other sources of hotel revenue. According to the recently released data, U.S. hotel spa departments were able to increase their revenue by 5.6 percent from 2014 to 2015, as compared to a 3.3 percent rise in room revenue and a 5.5 percent increase in total hotel revenue growth. Spa operations with less than \$1 million in sales were the only properties where spa revenue growth lagged behind the increase in total hotel revenues.

https://www.hotel-online.com/press_releases/release/u.s.-hotel-spas-a-great-source-of-revenue

HOSPITALITY NEWS

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