KILPATRICK TOWNSEND

5 KEY TAKEAWAYS

New York Corporate Tax Reform – Likely

At a recent New York tax conference, Jeffrey S. Reed, Chair of Kilpatrick T
Local Tax Group, discussed New York Corporate Tax Reform and likely au

Takeaways from the speech include:

1

Audits Underway

Audits are underway. Some audits cover the first year of th
Other audits include pre-corporate tax reform years and co
years (for example, 2013-2015). At this point, the audits ar
generally in the document request stage. Auditors are bein
draft regulations in the absence of final regulations.

Nexus

Service providers cannot claim PL 86-272 protection. If a corporation that provides services has over $1,000,000 in New York receipts it is a good candidate for receiving a nexus questionnaire under the new economic nexus provision. Service providers not currently filing New York corporate tax returns and that have over $1,000,000 in New York receipts may want to consider participating in New York's voluntary disclosure program.

3

Combined Reporting

Generally, combined reporting audits will be less contentious
tax reform law than they were under prior law. It seems mos
will generally deem related corporations unitary and will requ
documentation before accepting, if accepting at all, that relat
unitary, particularly if less tax is produced by treating the cor

Receipts Factor Sourcing – Diligence and Determining the Customer

Auditors may or may not seek to penalize corporate taxpayers that source receipts from business customers based on billing address (in many cases, this will be the only practical way to source the receipts), rather than by "exercising due diligence" under each method in the cascading sourcing hierarchy. Another issue: auditors may look to source receipts based on the taxpayer's customer's customer, rather than the taxpayer's customer, in some instances.

5

Receipts From Unusual Events

The draft regulations state that only receipts received "in th
the taxpayer's business" count for receipts factor purposes
"from unusual events" are excluded from the receipts factor
regulations do not define "unusual events" auditors will hav
in inquiring about large transactions during the year and ma
large transactions if doing so will increase New York apport

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