



Multistate Tax

State Tax Matters

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Articles:

State Corporate Income Tax Update: What’s Happened During the 2015 Legislative Sessions

With most state legislative sessions having come to a close for 2015, this article by Shona Ponda, James M. McNiff, Kathleen Rudis, Namrata Jhaver, and Dashrath Phulwary of Deloitte Tax LLP highlights, jurisdiction by jurisdiction, some of the corporate income tax legislative changes that have been enacted thus far during the 2015 legislative season.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/state-corporate-income-tax-update-legislative-sessions.html?id=us:em:na:stm:eng:tax:101615>

Articles:

Credits and Incentives, Timing is Everything

This edition of “Credits & Incentives Talk with Deloitte,” a monthly column by Kevin Potter of Deloitte Tax LLP featured in the *Journal of Multistate Taxation and Incentives* (a Thomson Reuters publication), and co-authored with Nancy Foster of Deloitte Tax LLP, discusses timing throughout the entire process of obtaining, securing, and monetizing credits and incentives benefits.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/credits-and-incentives-timing-is-everything.html?id=us:em:na:stm:eng:tax:101615>

Income/Franchise:

Massachusetts: US Supreme Court Vacates State High Court Decision and Remands for Reconsideration Previous Holding that Subsidiary Qualifying as a “Financial Institution” Must Attribute its Securitized Student Loan Portfolio Property Entirely to Massachusetts for Property Factor Purposes

The First Marblehead Corp. v. Mass. Comm’r of Revenue, US (cert. granted and remanded 10/13/15). Granting the taxpayer’s petition for certiorari, the US Supreme Court has vacated the Massachusetts Supreme Judicial Court’s decision from earlier this year, and remanded the case back to the Massachusetts Supreme Judicial Court “for further consideration in light of” the US Supreme Court’s recent decision in *Comptroller of the Treasury of Maryland v. Wynne* [see previously issued Multistate Tax Alert for more details on the Wynne case]. Note that in *The First Marblehead Corporation v. Mass. Comm’r of Revenue* case, the Massachusetts Supreme Judicial Court had previously held that a subsidiary qualifying as a “financial institution” subject to the state financial institution excise tax, rather than a “foreign corporation” that must be included on its parent company’s combined Massachusetts corporate excise tax return, was required to determine the situs of its property factor using only its own activities and was not permitted to include the activities of third parties that performed activities on the subsidiary’s behalf. As a result, the subsidiary was required to attribute its securitized student loan portfolio property entirely to Massachusetts for purposes of computing its property factor.

URL: <http://www.supremecourt.gov/search.aspx?filename=/docketfiles/14-1422.htm>

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-supreme-court-rules-maryland-individual-income-tax-scheme-unconstitutional.html?id=us:em:na:stm:eng:tax:101615>

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Income/Franchise:

Tennessee: DOR Issues Preliminary Draft Market-Sourcing Rule for Informal Comment

Preliminary Draft Rule 1320-6-1-.34, Tenn. Dept. of Rev. (10/7/15). Pursuant to recently enacted legislation that adopts market-based sourcing for sales other than the sale of tangible personal property effective for tax years beginning on or after July 1, 2016, for state corporate excise and franchise tax apportionment purposes [*H.B. 644*; see previously issued Multistate Tax Alert for more details on this new law], the Tennessee Department of Revenue (Department) is currently soliciting informal feedback on a preliminary draft market-sourcing rule from parties who previously expressed an interest in being involved in the administrative rulemaking process. In doing so, the Department explains that this selective dissemination of a preliminary draft market-sourcing rule is done “prior to initiating the formal rulemaking process,” and that informal remarks and suggestions on the preliminary draft are due on October 26, 2015.

URL: <http://www.capitol.tn.gov/Bills/109/Bill/HB0644.pdf>

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-tennessee-enacts-broad-changes-to-state-tax-code.html?id=us:em:na:stm:eng:tax:101615>

The lengthy preliminary draft rule attempts to cover i) determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Tennessee, ii) reasonably approximating the state or states of assignment where such state or states cannot be determined, and iii) excluding the sale where the state or states of assignment cannot be determined or reasonably approximated. Among many other items, the preliminary draft rule addresses the assignment of sales of services delivered by electronic transmission; the rental, lease, or license of intangible property; software transactions; and the sale or license of digital goods or services – as well as includes numerous example scenarios to help illustrate application.

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Sales/Use/Indirect:

Idaho: State Tax Commission Proposes Amended Rule Reflecting Legislative Changes on Taxation of Digital Products

Proposed Amended Rule 35.01.02.027, Idaho State Tax Comm. (10/7/15). Pursuant to recently enacted legislation which clarifies that digital videos, digital music, digital books, and digital games are considered taxable tangible personal property only when the purchaser has a permanent right to use the digital product [*H.B. 209*], the Idaho State Tax Commission has released a proposed amended rule generally reflecting that certain online digital product streaming services involving mere leases and rentals are exempt from state sales/use

taxation. The proposed amended rule also addresses the taxation of digital games to reflect previous legislative changes (i.e., primarily *H.B. 598 (2014)*).

[URL: http://adminrules.idaho.gov/bulletin/2015/10.pdf](http://adminrules.idaho.gov/bulletin/2015/10.pdf)

[URL: http://legislature.idaho.gov/legislation/2015/H0209.pdf](http://legislature.idaho.gov/legislation/2015/H0209.pdf)

[URL: http://legislature.idaho.gov/legislation/2014/H0598.pdf](http://legislature.idaho.gov/legislation/2014/H0598.pdf)

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Multistate Tax Alerts

What's new in the States? Our Multistate Tax Alerts highlight selected state tax developments relevant to taxpayers, tax professionals, and other interested persons. Read our more recent alerts below or visit the archive for ones you may have missed.

[Archive: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax)

New Law Provides for Alabama Tax Amnesty Program

On September 14, 2015, Governor Robert Bentley signed into law the Alabama Tax Delinquency Amnesty Act of 2016, which includes:

- Amnesty program terms and conditions for certain taxes due before, or for tax periods that began before, January 1, 2015;
- An amnesty application process for eligible taxpayers;
- A waiver of one-half of the interest and all of the penalties associated with the eligible taxes for approved tax amnesty program applicants;
- A three-year “look-back period” for all taxes eligible under the amnesty program; and
- A requirement that the amnesty program run for at least two months during 2016.

This Multistate Tax Alert summarizes the tax amnesty provisions included in this recently enacted legislation.

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[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-law-provides-for-alabama-tax-amnesty-program.html?id=us:em:na:stm:eng:tax:101615](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-law-provides-for-alabama-tax-amnesty-program.html?id=us:em:na:stm:eng:tax:101615)

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