



Multistate Tax

State Tax Matters

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In this issue:

Amnesty: Puerto Rico: New Law Includes Amnesty Program that Runs through June 30, 2015 and Provides for Penalty and Interest Waiver	1
Income/Franchise: Iowa: New Law Provides for Imposition and Calculation of State Corporate Income Tax on Broadcast Companies Based on Economic Nexus Principles	2
Income/Franchise: Texas: State Supreme Court Denies Review of Decision Permitting Transporter of Aggregate to Claim Franchise Tax Revenue Exclusion	3
Multistate Tax Alerts	3

Amnesty:

Puerto Rico: New Law Includes Amnesty Program that Runs through June 30, 2015 and Provides for Penalty and Interest Waiver

Act 44 (H.B. 2316), signed by gov. 3/30/15. New law permits certain taxpayers that duly filed declarations or returns to elect to pay, on or before June 30, 2015, the principal balance on tax liabilities already assessed, or awaiting assessment as of December 31, 2014, on select taxes administered in Puerto Rico in exchange for interest, surcharge, and penalty abatement if such taxes are paid on or before June 30, 2015. Eligible taxes under this amnesty program include:

URL: <http://www.oslpr.org/2013-2016/leyes/pdf/ley-44-30-Mar-2015.pdf>

- Income tax (both corporate and individual), excluding taxable years beginning after December 31, 2013;
- Estate and gift tax;
- Excise tax;
- Sales and use tax, for taxable periods ended before July 1, 2014;
- Income tax withholding at source, for taxable periods ended before January 1, 2015; and
- Any other tax imposed by Act 7-2009, Act 73-2008, Act 74-2014, Act 83-2010, Act 27-2011, and Act 20-2012.

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Income/Franchise:

Iowa: New Law Provides for Imposition and Calculation of State Corporate Income Tax on Broadcast Companies Based on Economic Nexus Principles

S.F. 479, signed by gov. 5/1/15. Effective July 1, 2015, but applicable retroactively to January 1, 2015, for tax years beginning on or after January 1, 2015, new law provides that broadcast companies are subject to Iowa corporate income tax based on their broadcasting income attributable to business within Iowa, which “shall be in the proportion that the gross receipts from broadcasting derived from customers whose commercial domicile is in this state bears to the total gross receipts from broadcasting.” However, if such income is derived by a broadcaster from national or local political advertising that is directed exclusively at one or more markets in Iowa, all gross receipts from such advertising must be attributable to business within Iowa.

URL: <http://coolice.legis.iowa.gov/linc/86/external/govbills/SF479.pdf>

Under the new law, a “broadcaster” includes a television network, a cable program network, and a television distribution company; however, it does *not* include a cable system operator, a direct broadcast satellite system operator, or a television or radio station licensed by the federal communications commission. Furthermore, “broadcasting” means the transmission of film programming by an electronic or other signal conducted by microwaves, wires, lines, coaxial cables, wave guides, fiber optics, satellite transmissions, or through any other means of communication directly or indirectly to viewers and listeners. A “customer” refers to “a person who has a direct contractual relationship with a broadcaster from whom the broadcaster derives gross receipts,” and includes but is not limited to an advertiser or licensee.

Underlying fiscal notes to this legislation explain that this new law provides for the imposition and calculation of Iowa corporate income tax on national broadcast companies based on economic nexus principles pursuant to Iowa case law – allowing national broadcasting companies to appropriately remit Iowa corporate income tax even during any legal challenges to this imposition in order to avoid potential tax penalties should such challenges be unsuccessful.

URL: <https://www.legis.iowa.gov/docs/publications/fn/656725.pdf>

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Income/Franchise:

Texas: State Supreme Court Denies Review of Decision Permitting Transporter of Aggregate to Claim Franchise Tax Revenue Exclusion

Titan Transportation, LP v. Susan Combs, Comptroller, Tex. (petition for review denied 5/1/15). The Texas Supreme Court has denied the Texas Comptroller's petition to review a 2014 Texas Court of Appeals ruling that previously held a taxpayer was entitled to the franchise tax revenue exclusion under former Texas Tax Code ("TTC") § 171.1011(g)(3) for certain "flow-through" payments made to its subcontractors during the 2008 tax year at issue [see previously issued Multistate Tax Alert for more details on the Texas Court of Appeals' 2014 ruling]. The Texas Comptroller had unsuccessfully argued that the taxpayer was a trucking company rather than a construction company and thus was not engaged in a type of business that qualified for this revenue exclusion. The Texas Court of Appeals had held that i) there was no textual support for the Texas Comptroller's position that the exclusion statute was limited to construction companies, and ii) under the facts before it, there was a "reasonable relationship" between the construction of improvements on real property and the taxpayer's services to qualify the taxpayer for the revenue exclusion.

URL: <http://www.txcourts.gov/supreme/orders-opinions/2015/may/may-1,-2015.aspx>

URL: <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-texas-franchise-tax-revenue-exclusion-032014.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>

Maryland Tax Amnesty Program

Maryland Governor Larry Hogan recently signed Senate Bill 763 (Chapter 50, Acts of 2015), requiring that the Comptroller create a Tax Amnesty Program ("Program"). The Program:

- Runs from September 1, 2015, through October 30, 2015;
- Applies to the failure, on or before December 31, 2014, to file a required return or pay the tax imposed under the Maryland state and local corporate and personal income tax, withholding tax, sales and use tax, or admissions and amusements tax;
- Waives all civil penalties (except previously assessed fraud penalties) and one-half of the interest imposed as a result of the nonreporting, underreporting or nonpayment of eligible taxes; and
- Is not available to taxpayers who were eligible for or participated in certain prior Maryland amnesty programs.

This Multistate Tax Alert summarizes the benefits provided under the Program, the limitations to participation and the process by which taxpayers may avail themselves of the Program.

[Issued: May 5, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-maryland-tax-amnesty-program.html?id=us:em:na:stm:eng:tax:050815](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-maryland-tax-amnesty-program.html?id=us:em:na:stm:eng:tax:050815)

Mississippi Court Holds Dividend Received Exclusion Unconstitutional

A recent decision by a Mississippi Chancery Court in *AT&T Corp. v. Mississippi Department of Revenue* held that the state's dividend exclusion statute violates the US Constitution's Commerce Clause. The Mississippi statute allows an exclusion from a taxpayer's gross income for intercompany dividends received from domestic affiliates doing business and filing income tax returns in Mississippi. The Chancery Court held in favor of AT&T Corporation and its subsidiaries, ruling that such an exclusion discriminates against interstate commerce because it "clearly favors domestic corporations over foreign competitors and discourages corporations from choosing to locate their operations outside Mississippi." The Mississippi Department of Revenue has appealed the Chancery Court's decision to the Mississippi Supreme Court. Thus, the case is not yet final.

This Multistate Tax Alert summarizes the Chancery Court's decision and offers some taxpayer considerations.

[Issued: April 29, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-mississippi-court-holds-dividend-received-exclusion-unconstitutional.html?id=us:em:na:stm:eng:tax:050815](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-mississippi-court-holds-dividend-received-exclusion-unconstitutional.html?id=us:em:na:stm:eng:tax:050815)

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