



Multistate Tax

State Tax Matters

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Amnesty:

Oklahoma: New Law Authorizes Voluntary Compliance Initiative to Run From September 14 through November 13, Permitting 100% Penalty and Interest Waiver

H.B. 2236, signed by gov. 5/20/15. Effective immediately, new law authorizes and directs the Oklahoma Tax Commission to establish a two-month voluntary compliance initiative for various types of administered taxes (including state corporate income and sales/use taxes) due and payable for any tax period or periods ending before January 1, 2015. This initiative will provide qualifying participants that file their delinquent return(s) and pay the taxes due (or enter into a payment program) during the two-month time period with a potential waiver of related penalties and interest. The Commission’s authority to implement such an amnesty is limited to the time period beginning on September 14, 2015 and ending on November 13, 2015.

URL: http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20ENR/hB/HB2236%20ENR.PDF

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Income/Franchise:

Hawaii: New Law Updates State Conformity to Internal Revenue Code

S.B. 1133, signed by gov. 5/20/15. Effective immediately, new law generally updates statutory references to the Internal Revenue Code (IRC), providing that for taxable years beginning after December 31, 2014, references to the IRC in Hawaii corporate and individual income tax laws refer to the federal law in effect as amended as of December 31, 2014 (previously, December 31, 2013).

URL: http://www.capitol.hawaii.gov/session2015/bills/SB1133_HD1_.htm

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Income/Franchise:

Tennessee: New Law Adopts Economic Nexus Thresholds, Modifies Apportionment and Intercompany Expense “Addback” Provisions, and Includes “Click-Through” Nexus Presumption

H.B. 644, signed by gov. 5/20/15. Recently enacted legislation known as the “Revenue Modernization Act” includes the following modifications to Tennessee law:

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

Adopts economic nexus thresholds for the business tax and the franchise and excise tax;

- Replaces the existing apportionment double-weighted sales factor with a triple-weighted sales factor for calculating franchise and excise tax;
- Amends the excise tax deduction for intangible expenses paid to an affiliate;
- Adopts market-based sourcing for sales other than the sale of tangible personal property; and
- Adds an elective apportionment calculation for high-volume sellers who choose distribution centers in Tennessee.

Additionally, the new law expands Tennessee sales tax to include remotely accessed software, as well as adds a presumption of “click-through” nexus for state sales and use tax purposes for certain dealers.

See forthcoming Multistate Tax Alert for more details on these Tennessee tax law changes.

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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)

Supreme Court Rules Maryland Individual Income Tax Scheme Unconstitutional

On May 18, 2015, the US Supreme Court delivered a much anticipated decision in *Comptroller of the Treasury of Maryland v. Wynne* in favor of the taxpayers. The litigation focused on the constitutionality of the credit for taxes paid to other states as applied under Maryland's individual income tax regime, which is comprised of two components – a "State" income tax and a "County" income tax. In previous state-level litigation, the Maryland Court of Appeals (Maryland's highest court) had held that despite their labels, both the state and county components of the income tax were state-imposed taxes. Under Maryland's regime, residents who earn income in other states may take a credit – based on income taxes paid to other states – against the "State" component of the Maryland tax but not against the "County" component. In a 5-4 decision, the US Supreme Court affirmed the decision of the Maryland Court of Appeals and held that this partial-credit scheme is unconstitutionally discriminatory and "operates as a tariff," thereby violating the dormant Commerce Clause. This Multistate Tax Alert summarizes the opinion of the US Supreme Court and provides some taxpayer considerations.

[Issued: May 22, 2015]

[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:052915](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:052915)

Minnesota's Up-front Capital Equipment Sales Tax Exemption

In 2014 Minnesota enacted House Bill 1777, amending the capital equipment sales tax exemption statute. This Multistate Tax Alert summarizes the amended law, which provides a new "up-front" exemption for qualifying sales, purchases, and leases of capital equipment beginning July 1, 2015.

[Issued: May 27, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-minnesota-up-front-capital-equipment-sales-tax-exemption.html?id=us:em:na:stm:eng:tax:052915](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-minnesota-up-front-capital-equipment-sales-tax-exemption.html?id=us:em:na:stm:eng:tax:052915)

New Jersey *Morgan Stanley* Decision is Now Final

As of May 11, 2015, neither the New Jersey Division of Taxation ("Division") nor Morgan Stanley & Co, Inc. had appealed the Tax Court of New Jersey's October 29, 2014 decision in *Morgan Stanley & Co., Inc. v. Director, Division of Taxation* ("*Morgan Stanley*"). Thus, the appeal period has expired and the Tax Court's decision in this case is now final. The court in *Morgan Stanley* interpreted the application of the "subject to tax" and "unreasonable" exceptions to New Jersey's Corporate Business Tax related-party add-back statute. In its decision the court concluded that while the taxpayer did not qualify for the "subject to tax" exception, the Division "acted unreasonably" in its failure to "examine the facts of any of the cited transactions to determine if they presented facts and circumstances supporting [application of the]...unreasonable exception." As part of its analysis, the court also outlined several factors that it recognized as pertinent to a determination of whether the exception applies. These factors potentially may be relevant for other taxpayers that have related-party

interest subject to statutory add-back. This Multistate Tax Alert summarizes the arguments and holdings in the *Morgan Stanley* decision and offers taxpayer considerations.

[Issued: May 22, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-jersey-morgan-stanley-case-now-final.html?id=us:em:na:stm:eng:tax:052915](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-jersey-morgan-stanley-case-now-final.html?id=us:em:na:stm:eng:tax:052915)

Texas Comptroller Releases New Policy for Certain COGS Expenses

On May 13, 2015, the Texas Comptroller (“Comptroller”) released a memorandum announcing a new policy related to the Franchise Tax cost of goods sold (“COGS”) deduction for taxpayers that do not produce the goods they sell (*i.e.*, taxpayers that contract out the manufacturing of their product). In the policy memorandum, the Comptroller stated: “regardless of whether the taxable entity is the producer of the good or not, that taxable entity may include in its COGS deduction research, experimental, engineering, and design activity costs....” This Multistate Tax Alert summarizes the new Comptroller policy.

[Issued: May 26, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-texas-comptroller-releases-new-policy-for-certain-cogs-expenses.html?id=us:em:na:stm:eng:tax:052915](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-texas-comptroller-releases-new-policy-for-certain-cogs-expenses.html?id=us:em:na:stm:eng:tax:052915)

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