



Multistate Tax

## State Tax Matters

June 26, 2015

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### Amnesty:

#### **Kansas: New Law Includes Amnesty Program that Will Run from September 1, 2015 through October 15, 2015, and Provide for Potential 100% Penalty and Interest Waiver**

*S. Sub. for H.B. 2109*, signed by gov. 6/16/15.; *S.B. 270*, signed by gov. 6/16/15. Effective July 1, 2015, new law implements a tax amnesty program that will:

URL: [http://www.kslegislature.org/li/b2015\\_16/measures/documents/hb2109\\_enrolled.pdf](http://www.kslegislature.org/li/b2015_16/measures/documents/hb2109_enrolled.pdf)

URL: [http://www.kslegislature.org/li/b2015\\_16/measures/documents/sb270\\_enrolled.pdf](http://www.kslegislature.org/li/b2015_16/measures/documents/sb270_enrolled.pdf)

- Run from September 1, 2015 through October 15, 2015;
- Apply to certain delineated taxes administered by the Kansas Department of Revenue (including the state corporate income tax, as well as state and local sales and use taxes); and
- Provide for a potential waiver of all penalties and interest with respect to unpaid taxes or taxes due and owing.

The amnesty program will apply only to certain tax liabilities due and unpaid for tax periods ending on or before December 31, 2013. Also, for the eligible taxes and tax periods, the amnesty will apply to the under-reporting of such tax liabilities, the nonpayment of such taxes and the non-reporting of such tax liabilities. The new law also explains that amnesty participants will relinquish all administrative and judicial rights of appeal with respect to such tax liabilities, and that no tax payment received pursuant to this program is eligible for a refund

or credit. The new law additionally provides that i) no payment of penalties or interest made prior to September 1, 2015 is eligible for the amnesty, and ii) the amnesty shall *not* apply to any matter involving individual or corporate income tax liability resulting from an audit or adjustment by the federal Internal Revenue Service and reported to the Kansas Department of Revenue pursuant to K.S.A. 79-3230(f).

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## **Income/Franchise:**

### **New Mexico: New Law Provides Optional Single Sales Factor Election for Certain In-State Headquartered Taxpayers**

*H.B. 2*, signed by gov. 6/15/15. Applicable to taxable years beginning on or after January 1, 2015, new law provides that a taxpayer whose principal business activity in New Mexico is a “headquarters operation” may elect to have its business income apportioned to New Mexico by a single sales factor. Electing taxpayers must notify the New Mexico Taxation and Revenue Department (“Department”), in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. Such an election would then apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the Department, in writing, that the election is terminated – except that the taxpayer cannot terminate the election for at least three consecutive taxable years. The new election applies to separately filed returns, as well as to combined or consolidated returns in New Mexico. Taxpayers making this election will be excluded from the “throwback” rule.

**URL:** <http://www.nmlegis.gov/Sessions/15%20Special/final/HB0002.pdf>

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## **Income/Franchise:**

### **Oregon: New Law Updates State Conformity to Internal Revenue Code**

*S.B. 63*, signed by gov. 6/16/15. Effective on the 91st day after the date on which the 2015 session of the 78th Legislative Assembly adjourns sine die, new law generally updates Oregon’s corporate and personal income tax statutory references to the Internal Revenue Code as it existed on December 31, 2014 (previously, December 31, 2013), applicable “to transactions or activities occurring on or after January 1, 2015, in tax years beginning on or after January 1, 2015.” The department will waive interest and penalties related to any deficiencies resulting from this law change for tax years beginning before January 1, 2015.

**URL:** <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB63/Enrolled>

Note that even with this new law, Oregon continues to have “rolling conformity” with respect to the definition of “taxable income.”

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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)

### California Court Addresses “Elective” Separate Accounting and Agency Nexus

The California Court of Appeal recently issued a decision in *Harley-Davidson, Inc., v. Franchise Tax Board*, concluding that the trial court erred in sustaining the Franchise Tax Board’s demurrer to the taxpayer’s US Commerce Clause challenge of California Revenue and Taxation Code section 25101.15. Section 25101.15 allows intrastate unitary businesses to choose annually whether to compute their tax using the combined reporting method or the separate accounting method, but requires interstate unitary businesses to compute tax using only the combined reporting method. The taxpayer based its challenge on the assertion that this statutory scheme facially discriminates against interstate businesses in violation of the Commerce Clause. In holding for the taxpayer, the Court of Appeal ruled that “the statutory scheme facially discriminates on the basis of an interstate element in violation of the [C]ommerce [C]ause[.]” reversed the trial court’s decision, and remanded the case to the trial court with instructions that it determine “whether the taxation scheme...’advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives.’”

The Court of Appeal also concluded that the taxpayer’s two special purpose entities, which were engaged in owning and holding loans that originated from customer purchase finance contracts, had taxable nexus in California due to the activities of a related entity that the trial court found was acting as the special purpose entities’ agent.

This Multistate Tax Alert summarizes the Court of Appeal’s decision and provides some taxpayer considerations.

[Issued: June 23, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-california-court-addresses-elective-separate-accounting-and-agency-nexus.html?id=us:em:na:stm:eng:tax:062615](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-california-court-addresses-elective-separate-accounting-and-agency-nexus.html?id=us:em:na:stm:eng:tax:062615)

### Georgia Re-enacts and Amends Healthcare Sales and Use Tax Exemptions

The State of Georgia recently enacted House Bill 426, which re-enacts and amends sales and use tax exemptions applicable to nonprofit health centers and nonprofit volunteer health clinics. These exemptions were previously in effect from July 1, 2008 to June 30, 2010. The amended law, which adds informational requirements that taxpayers must satisfy in order to

claim the exemptions, is effective for the period of July 1, 2015 to June 30, 2018. This Multistate Tax Alert summarizes these exemptions.

[Issued: June 19, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-georgia-reenacts-and-amends-healthcare-sales-and-use-tax-exemptions.html?id=us:em:na:stm:eng:tax:062615](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-georgia-reenacts-and-amends-healthcare-sales-and-use-tax-exemptions.html?id=us:em:na:stm:eng:tax:062615)

### **Pending Louisiana Tax Bills Would Apply to Returns Filed After June 30**

The Louisiana Legislature, which adjourned its 2015 Regular Session sine die on June 11, 2015, passed several tax bills. The four tax bills summarized in this Multistate Tax Alert have been delivered to Governor Jindal. If enacted into law, these four bills would be effective for tax returns filed on or after July 1, 2015, and would generally reduce various tax benefits available under current law. Accordingly, taxpayers may wish to consider whether it may be potentially beneficial to file their 2014 Louisiana tax returns prior to July 1 in order to preserve currently applicable tax treatment. This Multistate Tax Alert contains more information on this legislation.

[Issued: June 18, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-pending-louisiana-tax-bills-would-apply-to-returns-files-after-june-30.html?id=us:em:na:stm:eng:tax:062615](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-pending-louisiana-tax-bills-would-apply-to-returns-files-after-june-30.html?id=us:em:na:stm:eng:tax:062615)

#### **Have a question?**

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