



Multistate Tax

State Tax Matters

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Articles:

Play. Live. Work. A Case Study in the Next Generation of Live, Work, Play

Technology drives convenience, and community allows for sharing of ideas and experiences. Millennials are being drawn to jobs in urban centers that provide cool and unique services-driven work/live communities.

This case study by Charles L. Ruby of Deloitte Tax LLP examines MidAmerica Industrial Park’s creative concept of implementing a planned urban development in a rural setting to out compete big cities for today’s top talent by providing technology rich housing, modern conveniences, top-notch services and public spaces all in one location.

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/a-case-study-in-the-next-generation-of-live-work-play.html?id=us:2sm:3na:stm:awa:tax:120415>

Income/Franchise: Multistate Tax Commission Released Draft of Model Regulations for Market-Based Sourcing of Receipts from Sales of Services and Intangible Property

Draft: Multistate Tax Commission Allocation and Apportionment Regulations, UDITPA Section 17 Work Group, Multistate Tax Commission (11/30/15). A draft of the Multistate Tax Commission's (Commission) revised model regulations for market-based sourcing of receipts from sales of services and intangible property has been released for presentation to the Commission's Uniformity Committee, which will meet to review the draft on December 10, 2015. The proposed revisions to these model regulations stem from the Commission's 2014 adoption of changes to Article IV of the Multistate Tax Compact, which included model statute amendments to the sourcing of service and intangible revenue under Article IV, Section 17.

URL: <http://www.mtc.gov/Uniformity/Project-Teams/Section-17-Model-Market-Sourcing-Regulations>

As currently proposed, these draft model regulations offer separate specific sales factor sourcing rules for the sale of various delineated categories of services and intangible property, as well as incorporate certain rules for "reasonable approximation" when the market state cannot be determined.

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Income/Franchise: Texas: New Administrative Rule Implements R&D Sales/Use Tax Exemption and Franchise Tax Credit

34 TAC section 3.340, Texas Comptroller of Public Accounts (eff. 11/30/15). Pursuant to legislation enacted in 2013, which effective January 1, 2014, allowed taxpayers to elect to either claim a sales/use tax exemption for the purchase of tangible personal property used for research and development ("R&D") activities or take an R&D credit against the franchise tax for qualifying research expenditures, the Texas Comptroller has issued a new R&D administrative rule to help implement these provisions. The new rule defines terms and concepts such as "combined group," "qualified research," and "depreciable tangible personal property used in qualified research," as well as explains that depreciable tangible personal property is directly used in qualified research if it is used in the actual performance of activities that are part of the qualified research. "For example, machinery, equipment, computers, software, tools, laboratory furniture such as desks, laboratory tables, stools, benches, and storage cabinets, and other tangible personal property used by personnel in the process of

experimentation are directly used in qualified research.” However, tangible personal property is *not* directly used in qualified research under the new rule if it is used in ancillary or support activities such as administration, maintenance, marketing, distribution, or transportation activities, or if it is used in activities excluded from qualified research. “For example, machinery and equipment used by administrative, accounting, or clerical personnel are not directly used in qualified research.” The new rule also lists activities that are specifically excluded from the concept of “qualified research.”

[URL: http://www.sos.state.tx.us/texreg/pdf/backview/1127/1127adop.pdf](http://www.sos.state.tx.us/texreg/pdf/backview/1127/1127adop.pdf)

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Income/Franchise:

Texas: Comptroller Ruling Emphasizes that Centralized Management Must be “Strong” to Require Unitary Combined Report

SOAH Docket No. 304-15-4111.13; TCPA Hearing No. 111,577, Texas Comptroller of Public Accounts (10/22/15). In a case involving horizontally organized affiliated companies that were not engaged in the same line of business but which employed a common administrator, the Texas Comptroller recently held in an administrative ruling that the taxpayer successfully showed it was *not* engaged in a unitary business with its affiliate for Texas franchise tax purposes. In doing so, the Comptroller agreed with the administrative law judge that there must be “strong” centralized management to show that a unitary business exists in such cases, and the two affiliates’ shared administrative functions in this case did *not* amount to such strong centralized management. Under the facts, the two affiliates shared a common administrator who was responsible for certain accounting functions of both entities and for overseeing, in a very general manner, the purchasing activities of both entities. Both entities operated independently of each other with respect to their more critical functions such as the delivery of their mutual services; the hiring, firing, and management of personnel; the direct purchasing of goods and services; and their marketing activities.

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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 York Proposes Sourcing Regulations for Services, Other Business Receipts, and Digital Products

The New York State Department of Taxation and Finance (Department) recently proposed regulations that would amend 20 NY Codes, Rules and Regulations Section 4-4.6 (“Receipts from Other Services and Other Business Activities”) and add new Section 4-4.9 (“Receipts from Sales of Digital Products”). These regulations address the sourcing of receipts from other services and other business activities and sales of digital products that are currently governed by the hierarchies described in Tax Law Sec. 210-A.10 (for other services and other business activities) and 210-A.4 (for digital products), respectively. These proposed regulations are part of a broader effort by the Department “to amend the Article 9-A Business Corporation Franchise Tax Regulations to incorporate the changes made by the corporate tax reform legislation contained in the 2014-2015 and 2015-2016 enacted New York State Budgets.”

This Multistate Tax Alert summarizes the two proposed regulations and then offers some general thoughts regarding how the various examples included in the regulations provide clarity while in some instances may create uncertainty or ambiguity. Taxpayers may wish to consider whether the regulations and related examples could benefit from further clarification, keeping in mind that the deadline for submitting public comment on these regulations is January 16, 2016.

[Issued: November 30, 2015]

[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-proposes-sourcing-regulations-for-services-other-business-receipts-and-digital-products.html?id=us:2sm:3na:stm:awa:tax:120415](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-york-proposes-sourcing-regulations-for-services-other-business-receipts-and-digital-products.html?id=us:2sm:3na:stm:awa:tax:120415)

Have a question?

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