



Multistate Tax

State Tax Matters

The power of knowing.

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Income/Franchise:

Alabama: Proposed New Rules Reflect MTC Executive Committee's Recommended Changes to Model Apportionment Regulations

Proposed New Rules 810-27-1.01, .02, .09 through .19, Ala. Dept. of Rev. (12/15/15). The Alabama Department of Revenue (Department) is proposing to adopt new administrative rules intended to generally incorporate some of the recommended amendments to the Multistate Tax Commission's (MTC) model apportionment regulations, as approved by the MTC Executive Committee in 2015, which stemmed from the MTC's 2014 adoption of changes to Article IV of the Multistate Tax Compact, and included model statute amendments reflecting market-based sourcing of service and intangible revenue under Article IV, Section 17. As currently proposed, Alabama's administrative rule would require that a taxpayer petitioning the Department for use of an alternative allocation and apportionment method to do so in writing "at least six months before the due date of the first return with which the taxpayer seeks to use the alternative methodology," and states that a petition attached to an original or amended return will *not* be considered a valid petition for an alternative allocation and apportionment method.

URL: <http://www.alabamaadministrativecode.state.al.us/JCARR/JCARR-DEC-15/REV%20810-27-1.pdf>

— Forrest Hunter (Atlanta)
Senior Manager
Deloitte Tax LLP
fhunter@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Income/Franchise:

Idaho: New Law Updates State Conformity to Internal Revenue Code

H.B. 425, signed by gov. 2/9/16. Effective immediately and retroactively to tax years beginning on and after January 1, 2016, new law generally updates select corporate and personal income tax statutory references in Idaho to conform to federal Internal Revenue Code (IRC) provisions as in effect on January 1, 2016 (previously, January 1, 2015). Subsequently issued guidance by the Idaho State Tax Commission explains that while Idaho conforms with the IRC section 179 expense provisions, Idaho does *not* conform to federal bonus depreciation.

URL: <http://legislature.idaho.gov/legislation/2016/H0425.htm>

URL: <http://tax.idaho.gov/n-feed.cfm?idd=2040>

— Scott Schiefelbein (Portland)
Senior Manager
Deloitte Tax LLP
sschiefelbein@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Income/Franchise:

New York: Department of Finance Issues Updated FAQs to Further Clarify Corporate Tax Reform Changes within 2014-2015 and 2015-2016 New York State Budgets

Corporate Tax Reform FAQs, N.Y. Dept. of Tax. & Fin. (updated 2/16). The New York Department of Taxation and Finance (Department) has issued updated frequently asked questions (FAQs) intended to further clarify corporate tax reform legislative amendments, many of which took effect for taxable years beginning on or after January 1, 2015. The updates include answers and/or explanations for the following issues:

URL: https://www.tax.ny.gov/bus/ct/corp_tax_reform_faqs.htm

- How are the activities of unitary corporations reported on a combined report, when the capital stock requirement is met for only part of a tax year?
- Is the capital of a captive REIT, captive RIC, or combinable captive insurance company included in the computation of a combined group's capital base?
- How does one dissolve a domestic corporation or surrender the authority of a foreign corporation to do business in New York State for a tax year that begins on or after January 1, 2015, if the form is not yet available?
- Is a foreign corporation organized as a bank in another state that has interest income solely from federal funds sourced to New York State under the statutory 8% rule but no other apportionable New York receipts "deriving receipts" in New York?

- How does the designated agent of a newly formed combined group make the 2nd, 3rd and 4th estimated tax payments for the group?

— Ken Jewell (Parsippany)
Director
Deloitte Tax LLP
kjewell@deloitte.com

Mary Jo Brady (Jericho)
Senior Manager
Deloitte Tax LLP
mabrady@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Income/Franchise:

Ohio: New Law Updates State Conformity to Internal Revenue Code

S.B. 2, signed by gov. 2/14/16. Effective immediately, new law generally incorporates into Ohio's corporate and individual income tax laws those Internal Revenue Code (IRC) changes made since April 1, 2015, and permits a taxpayer whose taxable year ends after that date, but before the effective date of these incorporated changes (i.e., February 14, 2016), to elect to apply the IRC as it existed for that taxable year. In this respect, Ohio now generally adopts the changes to the IRC enacted under the federal "Protecting Americans from Tax Hikes Act of 2015" on December 18, 2015. Note, however, that Ohio continues to decouple from certain federal income tax provisions, including those involving the IRC Section 179 deduction and IRC Section 168(k) bonus depreciation.

URL: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-2>

— Dave Adler (Columbus)
Director
Deloitte Tax LLP
daadler@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Courtney Clark (Columbus)
Senior Manager
Deloitte Tax LLP
courtneyclark@deloitte.com

Income/Franchise:

South Dakota: New Law Updates State Conformity to Internal Revenue Code for Bank Tax Purposes

H.B. 1049, signed by gov. 2/12/16. Effective July 1, 2016, new law generally updates statutory references to the Internal Revenue Code as it existed from January 1, 2015 to January 1, 2016 for state financial institution/bank franchise tax purposes.

URL: <http://legis.sd.gov/docs/legsession/2016/Bills/HB1049ENR.pdf>

— Art Tilley (Charlotte)
Senior Manager
Deloitte Tax LLP
atilley@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Sales/Use:

Federal: Pending Legislation Would Permanently Ban Internet Taxation

H.R. 644, passed US House and Senate 2/11/16. Pending legislation that has passed the US House and Senate, and which the President is generally expected to sign into law, would amend the federal Internet Tax Freedom Act (ITFA) to permanently impose the moratorium prohibiting state and local taxation of Internet access and certain taxation of electronic commerce. Current federal law merely extends the ITFA through October 1, 2016.

URL: <https://www.congress.gov/114/bills/hr644/BILLS-114hr644enr.pdf>

The ITFA's original grandfathering provisions, which allow Internet access taxation if the tax was imposed and enforced prior to October 1, 1998, would extend until June 30, 2020 under this bill – currently, federal law extends such provisions until October 1, 2016.

— Dwayne Van Wieren (Los Angeles)
Partner
Deloitte Tax LLP
dvanwieren@deloitte.com

Shona Ponda (New York)
Senior Manager
Deloitte Tax LLP
sponda@deloitte.com

Stephanie Gilfeather (San Francisco)
Manager
Deloitte Tax LLP
sgilfeather@deloitte.com

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:2em:3na:stm:awa:tax>

New Jersey: New Law Permits Conversion of BEIP Grant to Refundable Credit

On January 11, 2016, Governor Chris Christie signed into law Senate Bill No. 3232 [1R] of 2015 (SB 3232). Effective immediately, a business that has been approved to receive a Business Employment Incentive Program (BEIP) grant from the New Jersey Economic Development Authority (NJEDA) may apply to voluntarily convert the grant to a refundable tax credit for use against its state corporation business or insurance gross premiums tax liability, or apply to sell or assign such credit. Businesses that had been approved for the BEIP grant should have received annual cash grants based on the number of new jobs they created in

New Jersey. However, apparently due to state budget priorities, many companies are still awaiting their cash grant payments. This enacted legislation essentially revises New Jersey's method of payment under the BEIP grants by potentially permitting receipt in the form of tax credits that may be used, sold, or assigned. Businesses seeking to convert a BEIP grant to a refundable tax credit have 180 days from the effective date of SB 3232 to direct the NJEDA to convert the grant.

This Multistate Tax Alert summarizes the provisions within SB 3232 related to converting qualifying BEIP grants to refundable tax credits, as well as discusses related taxpayer considerations.

[Issued: February 12, 2016]

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-new-jersey-new-law-permits-conversion-of-beip-grand-to-refundable-credit.html?id=us:2em:3na:stm:awa:tax:021916>

North Carolina: "Market-based Sourcing" Report Due April 15; No Extensions

On October 2, 2015, a Multistate Tax Alert summarizing House Bill 97 (*H.B. 97*) was issued, which made various modifications to North Carolina tax law. Among the changes is a requirement that corporate taxpayers with apportionable income greater than \$10 million must file an informational report (Form NCDOR CD-400 MS) with the Department of Revenue showing the calculation of the taxable year 2014 sales factor using market-based sourcing. The 2014 sales factor is required to be computed based on the market-based provisions outlined in *H.B. 97* (e.g., sales of services are to be sourced based on the "delivered to" location), as well as the model market-sourcing regulations drafted by the Multistate Tax Commission. All corporate taxpayers must file the informational report by April 15, 2016, regardless of whether they are calendar year or fiscal year taxpayers. A taxpayer may not request an extension of time to file the informational report, and a penalty of \$5,000 shall be assessed for failure to file the report in a timely manner. This Multistate Tax Alert discusses this informational report in further detail.

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URL: <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-north-carolina-informational-reporting-of-market-based-sourcing-calculation.html?id=us:2em:3na:stm:awa:tax:021916>

Have a question?

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