



Multistate Tax

## State Tax Matters

### The power of knowing.

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#### Income/Franchise:

### Louisiana: Recently Enacted Tax Legislation Includes Important Corporate Income and Franchise Tax Changes

Governor John Bel Edwards recently signed into law a number of tax bills that include significant modifications to Louisiana law such as i) imposing the state franchise tax on all entities treated as subchapter C corporations for federal income tax purposes (such as electing limited liability companies and partnerships); ii) imposing the state franchise tax on corporations that own property in Louisiana indirectly through a partnership, joint venture, or any other business organization; iii) limiting utilization of net operating losses (NOLs) to 72% of Louisiana net income for state corporate income tax purposes; iv) requiring NOLs be applied on a LIFO method, applying earliest NOLs first; v) requiring an “addback” adjustment for related party intangible expenses, interest expense and management fees for state corporate income tax purposes; vi) contingent upon adoption of a state constitutional amendment at a statewide election in November 2016, eliminating the graduated corporate income tax rates and instead establishing a flat 6.5% corporate income tax rate; and vii) restoring the state corporate income tax dividends received deduction for dividends from certain banking institutions.

Another tax bill awaiting Governor Edwards’ signature would possibly repeal the state corporate income tax deduction for federal income taxes. If enacted, this legislation would only become operative upon adoption of a state constitutional amendment at a statewide election in November 2016.

Stay tuned for forthcoming Multistate Tax Alert for more details on this recently enacted tax legislation.

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## **Income/Franchise:**

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

*L.D. 1583 (S.P. 633)*, signed by gov. 3/10/16. Effective immediately and applicable to tax years beginning on or after January 1, 2015, and “to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2015,” new law generally conforms state corporate and personal income tax references to the “Internal Revenue Code” to the federal Internal Revenue Code as in effect as of December 31, 2015 (previously, December 31, 2014). Note that Maine continues to allow the Maine capital investment credit in lieu of full conformity with federal bonus depreciation.

**URL:** <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0633&item=4&snum=127>

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## **Income/Franchise:**

### **New York: Overview of Proposed Legislation Relating to Corporate Franchise Tax under Article 9-A**

Late last week, New York’s Senate and Assembly each released proposed budget legislation (see S. 6409B and A. 9009B, respectively) in anticipation of finalizing New York’s 2016-17 budget before the state’s new fiscal year which begins on April 1. What follows is a brief overview of the more significant proposed legislation relating to the Corporate Franchise Tax under Article 9-A and, in some cases, the corresponding legislation under the New York City Business Corporation Tax:

- In determining the inclusion of receipts and net gains for apportionment purposes from specified types of “qualified” financial instruments that are marked to market under I.R.C. Secs. 475 or 1256 (and generally any non-marked instrument of the same type as such instruments), taxpayers may annually elect to use a fixed percentage method. Under such method, generally 8% of all income from qualified financial instruments is treated as business income. This election could have resulted in inadvertently converting “other exempt income” into taxable business income.
  - Proposed legislation clarifies that stock that would otherwise be treated as a qualified financial instrument (although not marked to market) would not include

- stock that generates other exempt income as defined in N.Y. Tax Law § 208.6-a (i.e., exempt CFC income and exempt unitary corporation dividends) with respect to that income. The corresponding change was proposed to the New York City Business Corporation Tax. This proposal is contained in both the Senate and Assembly bills and would apply retroactively to enactment in 2014 and 2015 of New York State and New York City's adoption of Tax Reform.
- In 2015, New York amended the definition of investment income to clarify that exempt investment income, determined without regard to interest deductions, cannot exceed 8% of a taxpayer's entire net income.
    - The New York Senate proposed to narrow this restriction. Under the New York Senate proposal, the 8% limitation on exempt investment income would apply only if 50% or more of the receipts, dividends, interest income, net interest income, net interest, net income and net gain in the denominator of the taxpayer's apportionment fraction are from transactions and sources described in N.Y. Tax Law Sec. 210-A.5 (pertaining to financial transactions). This proposal appears to be limited to the Corporate Franchise Tax under Article 9-A (not the New York City Business Corporation Tax) and would take effect immediately.
  - For tax years beginning in 2015, New York created a mechanism to convert pre-apportioned net operating losses (NOLs) into post-apportioned NOLs by a formula that reflected the "base year" or 2014 business allocation percentage. These converted post-apportioned NOLs are known as "PNOLs."
    - The New York Senate proposed to allow taxpayers to elect to use an apportionment rate based on the average business allocation percentage in effect during a defined loss period instead of their base year apportionment in computing their PNOLs. This proposal appears to be limited to the Corporate Franchise Tax under Article 9-A (not the New York City Business Corporation Tax) and would take effect immediately.
  - For tax years beginning in 2015, New York's tax law provided the Commissioner with the authority to adjust the MTA surcharge tax rate based on the financial projections for the State.
    - The New York Senate proposed to remove this authority for tax years beginning after 2016.
  - For federal tax purposes, the required due dates for filing calendar year corporate and partnership returns for tax years beginning after December 31, 2015 have changed. Corporate returns will be due April 15 and partnership returns will be due March 15 for calendar year taxpayers.
    - The proposed legislation generally conforms the New York State and New York City tax return due dates to the federal due dates. Please note that the first installment payment for corporations will not change and will remain as March 15. The corresponding change was proposed to the New York City Business Corporation Tax. This proposal is contained in both the New York Senate and Assembly bills and would take effect immediately.

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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:2em:3na:stm:awa:tax](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:2em:3na:stm:awa:tax)

### **IRS Provides Additional Time to File Form 8850 to Claim WOTC**

On March 7, 2016, the Internal Revenue Service (IRS) issued Notice 2016-22, providing guidance to employers claiming the Work Opportunity Tax Credit (WOTC) under Internal Revenue Code (IRC) §§51 and 3111(e). For certain employers seeking to qualify for the WOTC, the Notice provides additional time beyond the 28-day deadline specified in IRC §51(d)(13)(A) to submit Form 8850 (Pre-screening Notice and Certification Request for the Work Opportunity Credit) to Designated Local Agencies (DLA).

This Multistate Tax Alert summarizes this IRS guidance.

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[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-tax-mts-irs-provides-additional-time-to-file-form-8850-to-claim-wotc.html?id=us:2em:3na:stm:awa:tax:031816](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-tax-mts-irs-provides-additional-time-to-file-form-8850-to-claim-wotc.html?id=us:2em:3na:stm:awa:tax:031816)

### **Delaware phases in single sales factor and makes other tax filing changes**

On January 27, 2016, Governor Jack Markell signed into law the Delaware Competes Act of 2016 (Act), which phases in single sales factor apportionment for purposes of Delaware's corporation income tax (CIT), with certain exceptions. The Act also increases various gross receipts tax and employer withholding filing thresholds and changes CIT estimated payment requirements for certain taxpayers in an effort to simplify compliance for smaller businesses.

This Multistate Tax Alert summarizes the Act, including apportionment changes and smaller business filing implications, as well as discusses some related taxpayer considerations.

[Issued: March 14, 2016]

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-tax-mts-delaware-phases-in-single-sales-factor-and-makes-other-tax-filing-changes.html?id=us:2em:3na:stm:awa:tax:031816>

**Have a question?**

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