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## Amnesty:

### Coming Soon in April: Pennsylvania's Amnesty Program Offering Potential 100% Penalty Waiver and 50% Interest Waiver – 5% Non-Participation Penalty May Apply

*Fact Sheet: Pennsylvania 2017 Tax Amnesty Program*, Penn. Dept. of Rev. (12/16). Pursuant to legislation enacted in 2016 [H.B. 1198 (Act 84)] requiring the Pennsylvania Department of Revenue (Department) to establish a 60-day

amnesty program ending no later than June 30, 2017, the Department has issued guidelines reminding that such tax amnesty program will run from April 21, 2017 through June 19, 2017. The 2017 tax amnesty program will generally apply to all taxes administered by the Department that are delinquent as of December 31, 2015, whether known or unknown to the Department. Under this program, amnesty will be granted for eligible taxes to qualifying taxpayers, and potentially will permit 100% waiver of the underlying penalties and 50% waiver of the underlying interest.

Individuals, businesses and other entities that participated in Pennsylvania's 2010 tax amnesty program are ineligible to participate in this upcoming 2017 tax amnesty program. The Department also reminds that this 2017 tax amnesty program includes a non-participation penalty of 5% of the unpaid eligible tax liability and penalties and interest.

[URL: http://www.revenue.pa.gov/taxamnesty/Documents/tax\\_amnesty\\_fact%20sheet.pdf](http://www.revenue.pa.gov/taxamnesty/Documents/tax_amnesty_fact%20sheet.pdf)

[URL: http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syar=2015&sind=0&body=H&type=B&bn=1198](http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syar=2015&sind=0&body=H&type=B&bn=1198)

The Department suggests checking back on its amnesty website "closer to April 21, 2017 for more details on how to apply." Please contact us with any questions.

[URL: http://www.revenue.pa.gov/taxamnesty/Pages/default.aspx#.WNrZZMjD\\_IU](http://www.revenue.pa.gov/taxamnesty/Pages/default.aspx#.WNrZZMjD_IU)

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## Income/Franchise:

### Georgia: New Law Updates State Conformity to Internal Revenue Code

*H.B. 283*, signed by gov. 3/21/17. Effective immediately and applicable to all taxable years beginning on or after January 1, 2016, new law generally updates corporate and personal income tax statutory references to the Internal Revenue Code (IRC) as it existed on or before January 1, 2017 (previously, January 1, 2016). For taxable years beginning on or after January 1, 2016, provisions of the Internal Revenue Code of 1986, as amended, which were as of January 1, 2017 enacted into law but not yet effective generally shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes. Note that Georgia continues to decouple from certain federal income tax provisions, including those involving i) the IRC Section 179 deduction; ii) IRC Section 168(k) bonus depreciation; iii) the IRC Section 199 deduction for income attributable to domestic production activities; and iv) certain federal net operating loss (NOL) carryback provisions. Recently updated guidance from the Georgia Department of Revenue further explains this law change, including how it affects 2016 tax returns.

[URL: http://www.legis.ga.gov/Legislation/20172018/168099.pdf](http://www.legis.ga.gov/Legislation/20172018/168099.pdf)

[URL: http://dor.georgia.gov/federal-tax-changes](http://dor.georgia.gov/federal-tax-changes)

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## Income/Franchise:

### Iowa Supreme Court Affirms that Parent Must be Excluded from Subs' State Consolidated Return

*Case No. 15 – 0296*, Iowa (3/24/17). In a case involving an affiliated group of companies in the business of natural gas pipeline transmission/storage that challenged the Iowa Department of Revenue's (Department) determination that the affiliated group's parent company *cannot* be included on the group's Iowa consolidated corporate income tax return for the 2009 tax year at issue, the Iowa Supreme Court recently affirmed both the Department and trial court's decision that such exclusion was warranted because the parent company did not receive in-state taxable income under Iowa Code section 422.33(1). The parent and its subsidiaries had contended that the parent company's inclusion on the state consolidated return was warranted because the parent company derived Iowa taxable income in the forms of distributed earnings and each member's allocated share of the group's consolidated tax liability. Under the facts, the parent company held interests in several subsidiaries, including member interests in two majority-owned limited

liability companies (LLCs) doing business in Iowa that were treated as corporations for both federal and state tax purposes. Citing relevant state statutes and case law generally concerning whether Iowa can subject a foreign corporation to income taxation when the corporation has no physical presence in Iowa but receives revenue from entities that do business within Iowa, the Court concluded that any underlying activities performed by the parent company constituted activities of owning and controlling subsidiary corporations that did business in Iowa – all of which fell “comfortably within the safe harbor from taxation established in [Iowa Code] section 422.34A(5) for foreign parent corporations without a physical presence in Iowa.” The Court additionally concluded that the parent company did *not* acquire a taxable nexus by virtue of owning “shares of stock” or “money” in Iowa. In doing so, the Court commented that by electing to have the two LLCs at issue taxed as “corporations” for both federal and state tax purposes, the filing group “chose to receive not only the tax advantages of corporate taxation but any disadvantages, as well.”

URL: [http://www.iowacourts.gov/About\\_the\\_Courts/Supreme\\_Court/Supreme\\_Court\\_Opinions/Recent\\_Opinions/20170324/15-0296.pdf](http://www.iowacourts.gov/About_the_Courts/Supreme_Court/Supreme_Court_Opinions/Recent_Opinions/20170324/15-0296.pdf)

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## Income/Franchise:

### Massachusetts: Beginning with 2017 Tax Year, New Law Updates Business Income Tax Return Filing Deadlines to Conform with Federal Due Date Changes

*H. 3348*, signed by gov. 3/28/17. Effective on January 1, 2018, new law generally conforms the filing deadlines for Massachusetts business income tax returns to the federal income tax filing due date changes that were enacted during 2015. Accordingly, effective for state business income tax returns for taxable years beginning after December 31, 2016 (i.e., beginning with the 2017 tax year and thus generally applicable to state business income tax returns due in 2018 and thereafter), the following filing due dates will apply for Massachusetts purposes:

URL: <https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter5>

- The state corporation excise tax return due date for C corporations, including those filing state financial institution excise tax returns, generally changes from March 15 to April 15 for calendar year taxpayers, or from the fifteenth day of the *third* month after the end of the fiscal year to the fifteenth day of the *fourth* month after the end of the fiscal year for fiscal year taxpayers;
- The state corporation excise tax return due date for S corporations (i.e., Form 355S) remains unchanged, with such returns generally due on March 15 for calendar year taxpayers, and the fifteenth day of the third month after the end of the fiscal year for fiscal year taxpayers; and
- The state partnership information return due date generally changes from April 15 to March 15 for calendar year taxpayers, or from the fifteenth day of the *fourth* month after the end of the fiscal year to the fifteenth day of the *third* month after the end of the fiscal year for fiscal year taxpayers.

Please contact us with any related questions.

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## Income/Franchise:

### Utah: New Law Requires Certain Auto Manufacturers to Use Single-Sales Factor, Addresses Optional Sales Factor Weighted Taxpayers, and Taxation of Insurance Companies

*S.B. 132*, signed by gov. 3/22/17. Effective for taxable years beginning on or after January 1, 2018, new law adds certain automobile manufacturing to the eligible North American Industry Classification System (NAICS) codes that may qualify some businesses as “sales factor weighted taxpayers” required to use a single sales factor to apportion their business income for state corporate income tax purposes, rather than an equally-weighted three-factor apportionment formula (consisting of property, payroll, and sales), or a double-weighted sales factor apportionment formula (consisting of property, payroll, and double-weighted sales). The new law additionally provides that taxpayers *not* qualifying as “sales factor weighted taxpayers” may determine before the due date for filing their returns (including extensions) for each taxable year whether they constitute eligible computer and electronic product manufacturing businesses that qualify as “optional sales factor weighted taxpayers.” “Optional sales factor weighted taxpayers” generally may elect use of:

URL: <https://le.utah.gov/~2017/bills/sbillenr/SB0132.htm>

1. An equally-weighted three-factor apportionment formula (consisting of property, payroll, and sales),
2. A double-weighted sales factor apportionment formula (consisting of property, payroll, and double-weighted sales), or
3. A single sales factor to apportion their business income for state corporate income tax purposes.

Effective July 1, 2017, this legislation also provides new state sales and use tax exemptions on amounts paid or charged by eligible automobile manufacturers and/or industrial gas manufacturers with in-state facilities for certain purchases or leases of qualifying equipment or normal operating repair or replacement parts.

*H.B. 42*, signed by gov. 3/21/17. Effective retroactively for taxable years beginning on or after January 1, 2017, another bill recently signed into law provides that insurers subject to Utah's premium taxes (i.e., under Utah Title 59, Chapter 9, Taxation of Admitted Insurers) generally are not subject to Utah corporate franchise and income taxes – regardless of whether the insurance company has a tax liability under Utah's premium tax provisions. This new law additionally provides that the following insurance companies are *not* subject to Utah corporate franchise and income taxes:

URL: <https://le.utah.gov/~2017/bills/hbillenr/HB0042.htm>

1. Insurance companies that engage in transactions that are subject to tax under Utah's surplus lines insurance provisions, regardless of whether the insurance companies have a tax liability under Utah's surplus lines insurance provisions, and
2. Certain captive insurance companies that pay Utah's captive insurance company fees.

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## Income/Franchise:

### West Virginia: New Law Updates State Conformity to Internal Revenue Code

*H.B. 2590*, signed by gov. 3/23/17. Effective immediately, new law adopts all amendments made to federal law after December 31, 2015, but prior to January 1, 2017, for West Virginia corporation net income tax purposes “to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective.” However, “no amendment to the laws of the United States made on or after January 1, 2017, shall be given any effect.” The law also states that “with respect to taxable years that began prior to January 1, 2017, the law in effect for each of those years shall be fully preserved as to that year” except as otherwise provided.

URL: [http://www.legis.state.wv.us/Bill\\_Text\\_HTML/2017\\_SESSIONS/RS/bills/hb2590%20ENR.pdf](http://www.legis.state.wv.us/Bill_Text_HTML/2017_SESSIONS/RS/bills/hb2590%20ENR.pdf)

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## Indirect/Sales/Use: Connecticut Department of Revenue Services Commissioner Announces that Economic Nexus Standard Will be Enforced Against Some Remote Sellers

*Media Release: Connecticut Pursues Sales Taxes Not Paid by On-Line Retailers*, Conn. Dept. of Rev. Serv. (3/28/17). Commissioner Kevin Sullivan of the Connecticut Department of Revenue Services (Department) recently announced in a media release that the Department is “stepping up its effort to collect sales taxes not paid by on-line and other out-of-state retailers with a significant volume of sales into Connecticut.” In doing so, the announcement explains that, “current state law requires out-of-state sellers of goods that have a substantial economic presence in the state to collect and remit sales tax.” According to the media release, Commissioner Sullivan additionally stated:

[URL: http://www.ct.gov/drs/cwp/view.asp?Q=591496&A=1436](http://www.ct.gov/drs/cwp/view.asp?Q=591496&A=1436)

“We are not going to chase out-of-state retailers that make a modest amount of sales into Connecticut. We are going to close this tax loophole for big retailers doing big business in Connecticut and not competing fairly. States have waited for decades in the hope that Congress would help, but that is clearly not going to happen. So it’s up to the states to assure the promise of the federal Commerce Clause that neither in-state nor out-of-state retailers will have an unfair advantage in the marketplace and in taxes paid to help maintain that marketplace.”

Please contact us with any questions.

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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.

*No new alerts were issued this period. Be sure to refer to the archives to ensure that you are up to date on the most recent releases.*

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