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**Amnesty:
Rhode Island Division of Taxation Reminds that Current Amnesty Program Ends February 15**

Advisory 2018-02, R.I. Div. of Tax. (1/10/18). Pursuant to legislation enacted in 2017 [H.B. 5175; see *State Tax Matters*, Issue 2017-32, for more details on this new law] that requires the Rhode Island Division of Taxation (Division) to establish a tax amnesty program that must be conducted for a 75-day period ending on February 15, 2018, and which generally is open to eligible taxpayers owing any tax (including state corporate income and sales/use taxes) imposed by the Division, the Division has issued an another advisory explaining that the program began on December 1, 2017 and will end on February 15, 2018. During this timeframe, the Division reminds that it will accept

amnesty-related paperwork and payments, and that “under the terms of amnesty, if you pay what you owe in back taxes, we’ll eliminate all penalties and erase 25 percent of the interest you owe.” Note that this amnesty program generally applies to any taxable period ending on or before December 31, 2016. Please contact us with any questions.

[URL: http://www.tax.ri.gov/Advisory/ADV%202018-02.pdf](http://www.tax.ri.gov/Advisory/ADV%202018-02.pdf)

[URL: http://webserver.rilin.state.ri.us/BillText/BillText17/HouseText17/H5175Aaa.pdf](http://webserver.rilin.state.ri.us/BillText/BillText17/HouseText17/H5175Aaa.pdf)

[URL: http://newsletters.usdbriefs.com/2017/Tax/STM/170811_4.html](http://newsletters.usdbriefs.com/2017/Tax/STM/170811_4.html)

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Income/Franchise:

MTC’s Section 18 Alternative Apportionment Regulatory Project Moves Forward with Two Proposed Model Rules; Public Hearing Scheduled for February 20

Public Hearing Notice, Multistate Tax Comm. (1/12/18). Under the Multistate Tax Commission’s (MTC’s) ongoing “Section 18 Regulatory Project” and pursuant to Multistate Tax Compact (Compact) Art. VII.(2)(a) and MTC Bylaw 7(c), the MTC has scheduled a public hearing on February 20 on proposed draft amendments to Section 18 of its Model General Allocation and Apportionment Regulations, which were advanced by the MTC Executive Committee on January 8 – namely

1. Proposed Model Regulation IV.18.(c) Receipts Factor; and
[URL: http://www.mtc.gov/getattachment/The-Commission/Committees/Executive-Committee/Executive-Committee-Agenda-1-2018/Proposed-Regulation-IV-18-\(c\)-Gross-Receipts-Appportionment-final12_8_17.pdf.aspx](http://www.mtc.gov/getattachment/The-Commission/Committees/Executive-Committee/Executive-Committee-Agenda-1-2018/Proposed-Regulation-IV-18-(c)-Gross-Receipts-Appportionment-final12_8_17.pdf.aspx)
2. Proposed Model Regulation IV.18.(d) Receipts Factor – Bank Holding Companies and Subsidiaries.
[URL: http://www.mtc.gov/getattachment/The-Commission/Committees/Executive-Committee/Executive-Committee-Agenda-1-2018/Proposed-Regulation-IV-18-\(d\)-Bank-Holding-Co-and-Subsidiaries.pdf.aspx](http://www.mtc.gov/getattachment/The-Commission/Committees/Executive-Committee/Executive-Committee-Agenda-1-2018/Proposed-Regulation-IV-18-(d)-Bank-Holding-Co-and-Subsidiaries.pdf.aspx)

The proposals include special rules for determining a taxpayer’s receipts factor if its receipts are zero or minimal (an entity’s apportionment factor would be considered “*de minimis*” under the proposal if the denominator is less than 3.33 percent of the entity’s apportionable gross receipts or if the factor is insignificant in producing income), or if the taxpayer is considered a bank holding company and/or one of its subsidiaries that are *not* currently covered by state financial institution apportionment rules. The proposals also include special rules for assigning certain types of income – such as dividends, capital gains, investment income, and interest income – to a particular state(s). The MTC is asking for any persons making an oral presentation at the February 20 public hearing to file written comments in addition to their oral presentation, and that any written comments be received no later than February 15, 2018.

Note that the Section 18 Regulatory Project generally has been considering issues that arose as a result of amendments made in 2014 and 2015 to Article IV of the Compact – more specifically, issues relating to alternative apportionment in an attempt to address possible distortion that may be caused by the exclusion of functional receipts from the receipts factor; exceptions to the definition of receipts which now generally excludes receipts from securities and hedging transactions; consideration of factoring receipts; situations where application of general population data may result in distortion; the necessity of a *de minimis* rule; and other special industry rules. Please contact us with any questions.

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Income/Franchise: Kentucky DOR Discusses How Recently Enacted Federal Tax Reforms May Affect State Income Taxation

Kentucky and Federal Tax Reform, Ky. Dept. of Rev. (1/12/18). The Kentucky Department of Revenue (Department) has issued some initial guidance on how recently enacted federal tax reforms may affect state income taxation in Kentucky – noting that because the Kentucky Legislature has not yet amended Kentucky tax law to include the new federal tax reform provisions, Kentucky’s general conformity reference date to the Internal Revenue Code (IRC) remains as in effect on December 31, 2015. As such, “none of the changes in the new federal tax reform are applicable to 2017 Kentucky tax returns,” including:

URL: [https://revenue.ky.gov/Software-](https://revenue.ky.gov/Software-Developer/Software%20Development%20Documents/Kentucky%20and%20Federal%20Tax%20Reform-12JAN18.pdf)

[Developer/Software%20Development%20Documents/Kentucky%20and%20Federal%20Tax%20Reform-12JAN18.pdf](https://revenue.ky.gov/Software-Developer/Software%20Development%20Documents/Kentucky%20and%20Federal%20Tax%20Reform-12JAN18.pdf)

- The new accelerated depreciation benefits effective after September 27, 2017;
- Gains or losses on the sale of a partnership interest being treated as “effectively connected income” for certain sales, exchanges, and dispositions after November 26, 2017; and
- Certain dividends from surrogate foreign corporations no longer being considered “qualified.”

Regarding whether Kentucky will update its tax laws to include some or all of the new federal tax reform provisions, the Department explains that this decision “is the responsibility of the General Assembly of the Commonwealth” and that it does not know “if or when this may be considered.”

Note that while Kentucky law generally conforms to the IRC as in effect on December 31, 2015, state law continues to decouple from certain federal income tax provisions, including those involving:

1. The IRC Section 179 deduction;
2. The IRC Section 168(k) bonus depreciation; and
3. The IRC Section 199 deduction for income attributable to domestic production activities. Please contact us with any questions.

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Income/Franchise: Louisiana: Proposed Regulation Reflects Changes to Intercompany “Addback” Provisions Enacted in 2016

Proposed Amended LAC 61:1.1115, La. Dept. of Rev. (1/20/18). The Louisiana Department of Revenue has issued proposed administrative rule amendments pursuant to legislation enacted in 2016 [see previously issued Multistate Tax Alert for more details on this 2016 legislation] that requires an “addback” adjustment for certain related party interest expense, intangible expense, and management fees for Louisiana corporate income tax purposes. The proposed rule incorporates related definitions and illustrative examples, as well as application of the underlying exceptions to these intercompany expense addback requirements. Any interested person may submit written data, views, arguments, or comments regarding this proposal; all such comments must be received by February 23, 2018. A related public hearing is scheduled to be held on February 26, 2018. Please contact us with any questions.

URL: <http://www.doa.la.gov/osr/REG/1801/1801.pdf>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-us-tax-new-louisiana-corporate-income-and-franchise-laws-address-budget-issues.html?id=us:2em:3na:stm:awa:tax:011918>

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Indirect/Sales/Use:

Rhode Island Division of Taxation Explains New Information Reporting & Notice Requirements on Some Remote Sellers, Including Marketplace Facilitators

Advisory 2018-03, R.I. Div. of Tax. (1/11/18). Pursuant to legislation enacted in 2017 [H.B. 5175; see *State Tax Matters*, Issue 2017-32, for more details on this new law] that imposes new Rhode Island sales and use tax registration and/or notice and reporting requirements for some non-collecting retailers, retail sale facilitators, and referrers, the Rhode Island Division of Taxation (Division) has released additional details on its implementation of the new law. Under this advisory, the Division explains that certain defined retail sale facilitators having in calendar year 2017, \$100,000 or more in gross revenue from the sale of taxable goods/services delivered in Rhode Island; or 200 or more transactions of taxable goods/services delivered in Rhode Island must as of January 16, 2018, provide the Division with a list of the names and addresses of retailers for whom they have collected Rhode Island sales tax. Also on or before January 16, 2018, such retail sale facilitators must provide the Division with a list of the names and addresses of retailers for whom they did *not* collect Rhode Island sales tax but who still used their services in calendar year 2017. To this end, the Division states that it has developed an online tool that is intended to “make the annual filing more convenient.”

URL: <http://www.tax.ri.gov/Advisory/ADV%202018-03.pdf>

URL: <http://webserver.rilin.state.ri.us/BillText/BillText17/HouseText17/H5175Aaa.pdf>

URL: http://newsletters.usdbriefs.com/2017/Tax/STM/170811_9.html

Regarding certain defined non-collecting retailers, the Division explains that on or before January 31 of each year, they must send a written notice to all in-state customers who have cumulative annual taxable purchases from the non-collecting retailer totaling \$100 or more for the prior calendar year. Accordingly, on or before January 31, 2018, such non-collecting retailers must send such notices to each Rhode Island customer who had \$100 or more in cumulative annual purchases for the 2017 calendar year, showing their respective purchases made during the entire calendar year of 2017. In addition, such non-collecting retailers must provide the Division by February 15 each year with an annual attestation that these various customer notice requirements (as detailed in the statute) have been fulfilled. Please contact us with any questions or comments.

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Multistate Tax Alerts

Throughout the week, we highlight selected developments involving state tax legislative, judicial, and administrative matters. The alerts provide a brief summary of specific multistate developments relevant to taxpayers, tax professionals, and other interested persons. Read the recent alerts below or visit the [archive](#).

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

US Supreme Court to revisit *Quill's* Physical Presence Standard

On January 12, 2018, the US Supreme Court granted certiorari in *South Dakota v. Wayfair, Inc. et al.*, a case challenging South Dakota's anti-*Quill* sales tax nexus law. This significant development suggests that the US Supreme Court may be ready to reconsider the decades-old "physical presence" nexus standard required in order for a state or locality to impose a use tax collection duty upon a remote seller.

This Multistate Tax Alert summarizes the 2016 South Dakota law by which sellers without a physical presence in the state are required to collect sales tax on South Dakota sales (if a certain level of in-state sales or transactions occur) and the recent litigation challenging the constitutionality of such a nexus standard.

[Issued January 13, 2018]

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/us-supreme-court-to-revisit-quills-physical-presence-standard.html?id=us:2em:3na:stm:awa:tax:011918>

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