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Articles:
The Empire State is Open for Business – Overview of Select New York Credits and Incentives

This edition of “Credits & Incentives Talk with Deloitte,” a monthly column by Kevin Potter of Deloitte Tax LLP featured in the *Journal of Multistate Taxation and Incentives* (a Thomson Reuters publication), is co-authored with Douglas Tyler and Jackie Hakimian of Deloitte Tax LLP and discusses the variety of tax and financial incentives programs that may provide a valuable return on investment for companies considering expanding or relocating operations in New York.
URL: https://www2.deloitte.com/us/en/pages/tax/articles/the-empire-state-is-open-for-business-overview-of-select-new-york-credits-incentives.html?id=us:2em:3na:stm:awa:tax:020918

Amnesty:
Pennsylvania DOR Issues Non-Participation Penalty Assessments to Delinquent Taxpayers that Failed to Partake in 2017 Tax Amnesty Program

Tax Update No. 194, Penn. Dept. of Rev. (12/17; 1/18). The Pennsylvania Department of Revenue announced that it has started mailing non-participation penalty assessments to delinquent taxpayers that failed to participate in the 2017 Tax Amnesty program – reminding that qualifying individuals and businesses that did *not* take advantage of the 2017 Tax Amnesty program will be assessed a five-percent penalty on their unpaid amnesty-eligible delinquencies.
URL: http://www.revenue.pa.gov/GeneralTaxInformation/News%20and%20Statistics/Documents/Tax%20Update/taxupdate_194.pdf

Note that the 2017 Tax Amnesty program ran for 60 days, between April 21, 2017 and June 19, 2017, and generally allowed eligible individuals and businesses to pay certain past-due state taxes while having all the underlying penalties and half of the underlying interest waived. Please contact us with any questions.

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Income/Franchise:
Indiana Ruling Holds that Taxpayer Successfully Showed Nexus with Foreign Jurisdiction for Sales Factor “Throwback” Purposes

Letter of Findings No. 02-20170109, Ind. Dept. of Rev. (1/31/18). The Indiana Department of Revenue (Department) recently ruled in favor of a taxpayer that operated an in-state rail fabrication and distribution facility regarding its sales factor computation for state adjusted gross income tax purposes, holding that it was entitled to a reduction because its sales to customers in Canada should not have been sourced to Indiana under Indiana’s “throwback” rule. More specifically, upon reviewing the taxpayer’s submitted facts and documentation, the Department held that the taxpayer successfully showed that its activities in Canada exceeded the protections afforded under P.L.86-272 and constituted “doing business” in Canada. Accordingly, Indiana’s throwback rule was deemed inapplicable to the income derived from the taxpayer’s sales in Canada during the tax years at issue. Please contact us with any questions.
URL: http://www.in.gov/legislative/iac/20180131-IR-045180029NRA.xml.pdf

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Income/Franchise:
Maine Revenue Services Comments on Recently Enacted Federal Tax Reforms and their Impact on State Income Taxation

Maine Tax Alert, Me. Rev. Serv. (1/18). Maine Revenue Services (Department) has explained that due to the recently enacted federal tax reform provisions, Governor Paul R. LePage has instructed the Department's Office of Tax Policy to prepare options for consideration by him and the Maine Legislature to determine how best to respond – especially given that while the amended federal tax items generally first apply to tax years beginning on or after January 1, 2018, the Maine Legislature must also consider conformity issues relating to certain federal retroactive changes applicable to tax years beginning before January 1, 2018 (*e.g.*, lowering the threshold for deducting medical expenses, continuing the Maine Capital Investment Credit in lieu of conforming to federal bonus depreciation, and the taxation of the deemed repatriation of post-1986 foreign earnings). As such, the Department states, "further guidance will be available once conformity issues have been determined." Note that on February 1, 2018, the Department's Office of Tax Policy issued a preliminary report on the state impact of the federal tax reform provisions.
URL: http://www.maine.gov/revenue/publications/alerts/2018/ta_jan2018_vol28_iss1.pdf
URL: http://www.maine.gov/dafs/forms/tcja/index.html

In the meantime, the Department states that downloadable Maine tax forms and instructions for 2017 that have been issued thus far are "consistent with conformity" to these provisions, and that the 2018 Maine estimated tax and withholding tables reflect Maine tax law as of December 31, 2017. The Department notes that if the Maine Legislature ultimately does *not* enact legislation conforming to these provisions, it will then inform taxpayers of those tax items and describe what taxpayers will need to do to correctly file their 2017 tax returns; to correct returns already filed; or to make changes to 2018 Maine estimated tax and withholding.

Note that under current law, applicable to tax years beginning on or after January 1, 2016, Maine 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, 2016, and that Maine allows the Maine Capital Investment Credit in lieu of full conformity with federal bonus depreciation. Please contact us with any questions.

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

H.B. 1049, signed by gov. 2/5/18. Effective July 1, 2018, new law generally updates statutory references to the Internal Revenue Code as it existed from January 1, 2017 to January 1, 2018, for state financial institution/bank franchise tax purposes.
URL: http://www.sdlegislature.gov/docs/legsession/2018/Bills/HB1049ENR.pdf

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Income/Franchise:
Wisconsin DOR Comments on Recently Enacted Federal Tax Reforms and their Impact on State Income Taxation

Wisconsin Tax Bulletin, Wis. Dept. of Rev. (1/18). The Wisconsin Department of Revenue (Department) has issued some guidance on how the recently enacted federal tax reform provisions may affect 2017 income tax returns, noting that for purposes of computing Wisconsin taxable income, Wisconsin law generally follows the Internal Revenue Code as of December 31, 2016, with certain exceptions. The Department explains that "as federal provisions are adopted by Wisconsin's legislature, notification will be provided in the *Wisconsin Tax Bulletin*," and that in the meantime the following provisions in the recently enacted federal tax reform bill will automatically apply for Wisconsin and accordingly are identified in the 2017 Schedule I instructions:
URL: https://www.revenue.wi.gov/WisconsinTaxBulletin/200-01-18-WTB.pdf

- Increased Section 179 expensing to $1 million with a phase-out range beginning at $2.5 million and expanded definition of qualified property;
- Repeal of technical termination of partnerships; and
- Requirement that Historic Rehabilitation Credits be claimed over five years.

Please contact us with any questions.

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Indirect/Sales/Use:
Rhode Island Division of Taxation Issues Consumer Guide on New Information Reporting & Notices Provided by Some Remote Sellers

Publication 2018-01: FAQs – Consumer Guide to Notices from Non-Collecting Retailers, R.I. Div. of Tax. (2/2/18). 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 a consumer guide in "frequently asked questions and answers" (FAQs) format regarding its implementation of the new law with respect to certain non-collecting retailers. More specifically, the Division explains that, for the first time, many Rhode Island taxpayers will be receiving notices in the mail this tax filing season from certain retailers regarding the taxpayers' obligations involving Rhode Island sales and use tax. Pursuant to the new law, on or before January 31 of each year, a non-collecting retailer – "such as a website that does not collect or remit Rhode Island sales/use tax" – must send a written notice to each of its Rhode Island customers who had cumulative annual taxable purchases from the non-collecting retailer totaling $100 or more for the prior calendar year. According to the Division, such notice is intended to help taxpayers determine their own Rhode Island use tax obligation. The Division's guidance includes instructions on resulting taxpayer filing and payment obligations. Please contact us with any questions.
URL: http://www.tax.ri.gov/notice/FAQs%20on%20non-collecting%20retailer%20notices%20--%2002-18.pdf
URL: http://webserver.rilin.state.ri.us/BillText/BillText17/HouseText17/H5175Aaa.pdf
URL: http://newsletters.usdbriefs.com/2017/Tax/STM/170811_9.html

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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

New Jersey modifies provisions applicable to certain tax credit transfers
On January 16, 2018, Governor Christie signed Senate Bill 3305 (S3305), modifying New Jersey's tax credit transfer provisions under the Grow New Jersey Assistance Act and the Public Infrastructure Tax Credit Program as follows:

- Gain or income derived from the sale or assignment of certain tax credit transfer certificates is excluded from New Jersey income;
- The period for transferees to use the credit is extended from three years to twenty years; and
- The sale or assignment of a tax credit transfer certificate to an affiliate is exempted from the 75 percent measure of consideration.

The changes provided by S3305 relate only to tax credit transfer certificates received pursuant to the Grow New Jersey Assistance Act and the Public Infrastructure Tax Credit Program.

This Multistate Tax Alert summarizes these law changes, which are effective January 16, 2018.
[Issued February 6, 2018]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/new-jersey-modifies-provisions-applicable-to-certain-tax-credit-transfers.html?id=us:2em:3na:stm:awa:tax:020918

Texas Ruling – Oil & Gas Joint Venture Subject to Franchise Tax
On December 11, 2017, the Texas Tax Policy Division published Private Letter Ruling (PLR) No. 201010157, addressing whether a joint development agreement between two entities creates a taxable entity for Texas franchise tax purposes. The PLR further addresses whether certain contributions to the joint venture qualified as costs of goods sold (COGS).

This Multistate Tax Alert summarizes the guidance provided by Tax Policy in PLR No. 201010157, as well as offers some taxpayer considerations.
[Issued February 2, 2018]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/texas-ruling-oil-gas-joint-venture-subject-to-franchise-tax.html?id=us:2em:3na:stm:awa:tax:020918