In this issue:

Income/Franchise:
Arizona: New Law Includes “Sales from Intangibles” in Defining Multistate Service Providers that May Elect Use of Special Sales Factor Sourcing Provisions

S.B. 1405, signed by gov. 3/29/18. Applicable to taxable years beginning from and after December 31, 2019, new law revises the definition of a qualifying “multistate service provider” eligible to use Arizona’s special sales factor sourcing

provisions for state corporate income tax apportionment purposes to include sales from intangibles. The new law defines such sales from intangibles as "sales derived from credit and charge card receivables, including fees, merchant discounts, interchanges, interest and related revenue." Under Arizona law, qualifying multistate service providers may elect to treat certain sales as sourced to Arizona based solely on market sales (versus income-producing activity sales); the election to be treated as a multistate service provider is made on a taxpayer's timely filed original income tax return and is binding for at least five consecutive taxable years. Please contact us with any questions.
URL: https://apps.azleg.gov/BillStatus/BillOverview/70573?SessionId=119

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Income/Franchise:
New York City: Memo Explains Limited-Time Withdrawal Procedure from Some Commonly Owned Group Elections

Finance Memorandum 18-3, N.Y.C. Dept. of Fin. (3/29/18). Similar to the New York Department of Taxation and Finance's recently issued memorandum [TSB-M-18(1)C; see *State Tax Matters*, Issue 2018-13, for more details on this New York State memo], the New York City Department of Finance (Department) has now issued its own memorandum that provides a procedure for withdrawing the commonly owned group election made on a tax year 2015 or 2016 "Form NYC-2A, Combined Business Corporation Tax Return" for a limited time period expiring on June 1, 2018. This procedure generally only applies to the limited situation in which the designated agent of a combined group made a timely commonly owned group election under certain circumstances on the combined group's tax year 2015 or 2016 combined return. In such qualifying situations, the Department states that it will allow the designated agent to withdraw that election, "but only if all the corporations in the original combined group follow all the procedures required in this memorandum by June 1, 2018."
URL: http://www1.nyc.gov/assets/finance/downloads/pdf/fm/2018/fm-18-3.pdf
URL: https://www.tax.ny.gov/pdf/memos/corporation/m18_1c.pdf
URL: http://newsletters.usdbriefs.com/2018/Tax/STM/180330_9.html

The Department explains that this special limited-time withdrawal procedure is available *only if*:

- A combined return was filed for a combined group and the designated agent of the combined group made the commonly owned group election for the first time on the combined group's original, timely filed tax year 2015 or 2016 return;
- The corporations included in the combined return identically matched the corporations in the designated agent's federal consolidated return for that tax year; *and*
- The tax year 2015 or 2016 combined return did not include any other corporations that met the applicable ownership or control requirements.

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Income/Franchise:
Ohio: New Law Updates State Conformity to Internal Revenue Code

S.B. 22, signed by gov. 3/30/18. Effective immediately, new law generally incorporates into Ohio's corporate and individual income tax laws those Internal Revenue Code (IRC) changes made since March 30, 2017 (previously, February 14, 2016), and permits a taxpayer whose taxable year ends after that date, but before the effective date of these incorporated changes (*i.e.*, before March 30, 2018), to elect to apply the IRC as it existed for that taxable year. Note 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. Please contact us with any questions.
URL: https://www.legislature.ohio.gov/legislation/legislation-status?id=GA132-SB-22

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Income/Franchise:
Tennessee DOR Issues Notice on Franchise and Excise Tax Treatment of Repatriated Earnings Subject to New Federal Transition Tax

Notice No. 18-05, Tenn. Dept. of Rev. (4/18). The Tennessee Department of Revenue (Department) has issued guidance on the Tennessee franchise and excise tax implications of the 2017 Federal Tax Reform Act's Internal Revenue Code (IRC) Sec. 965 amendments that require certain US shareholders to pay a new "transition tax" on the untaxed foreign earnings of certain specified foreign corporations as if those earnings had been repatriated to the United States. The notice explains that for federal income tax purposes, these deemed repatriated earnings are subject to the new transition tax for the 2017 and 2018 tax years, and that the state franchise and excise tax treatment of such earnings varies depending upon how taxpayers report them for federal tax purposes. Based upon "the guidance recently published" by the Internal Revenue Service, the Department explains that corporations and other entities filing a Federal Form 1120 must report repatriated earnings on the IRC 965 Transition Tax Statement and not on Federal Form 1120; accordingly, repatriated earnings should *not* be included in the net earnings calculation on Tennessee's Form Schedule J-4. Similarly, they should *not* be deducted as dividends, and they should *not* be included in the apportionment formula for Tennessee franchise and excise tax purposes.
URL: https://www.tn.gov/content/dam/tn/revenue/documents/notices/fae/18-05fe.pdf

The Department additionally explains the underlying Tennessee franchise and excise tax implications of the new transition tax for S corporations filing a Federal Form 1120-S; partnerships and other entities filing a Federal Form 1065; and real estate investment trusts (REITs) filing a Federal Form 1120-REIT. Please contact us with any questions.

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Income/Franchise:
Utah: New Law Revises Certain Single Sales Factor Apportionment Method Provisions

S.B. 72, signed by gov. 3/27/18. Applicable for taxable years beginning on or after January 1, 2019, new law mandates certain taxpayers that have apportioned their business income using Utah's single sales factor method in the previous taxable year for state corporate income tax purposes to continue using such apportionment method in subsequent taxable years. The new law also lists some instances (*i.e.*, defined instances of "qualifying status changes") when changes from the single sales factor apportionment method to another apportionment method are permitted. Note that Utah generally mandates single sales factor apportionment for most corporate taxpayers except for corporate taxpayers in specified industries (*e.g.*, in certain mining, manufacturing, transportation, finance, and insurance industries). This new law also changes the method for determining if a taxpayer is an "optional apportionment taxpayer" for taxable years beginning on or after January 1, 2018.
URL: https://le.utah.gov/~2018/bills/static/SB0072.html

Other recently enacted legislation in Utah [H.B. 293, see *State Tax Matters*, Issue 2018-13, for more details on H.B. 293] begins phasing in mandatory use of single sales factor apportionment on business income for all corporations except defined "optional apportionment taxpayers" for taxable years beginning on or after January 1, 2019. Under this legislation, Utah's new single sales factor apportionment will be fully phased in for Utah corporate income tax purposes for taxable years beginning on or after January 1, 2021. The new law defines "optional apportionment taxpayers" as generally those taxpayers meeting certain specified relative thresholds for maintaining in-state property and payroll; such taxpayers will be able to apportion their business income using either an equally-weighted three-factor apportionment formula of property, payroll, and sales, or the new phased-in single sales factor apportionment method. The change in definition and thresholds for an "optional apportionment taxpayer" are applicable for taxable years beginning on or after January 1, 2018.
URL: https://le.utah.gov/~2018/bills/static/HB0293.html
URL: http://newsletters.usdbriefs.com/2018/Tax/STM/180330_10.html

S.B. 233, signed by gov. 3/27/2018. Other recently enacted legislation creates sales and use tax exemptions relating to some qualifying purchases or leases of business inputs such as machinery, equipment, normal operating repair or replacement parts, and materials.
URL: https://le.utah.gov/~2018/bills/static/SB0233.html

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Income/Franchise:
Wisconsin: New Law Updates State Conformity to Internal Revenue Code; Couples and Decouples from Various Provisions of the 2017 Federal Tax Reform Act

A.B. 259, signed by gov. 4/3/18. Generally effective on the day after publication and applicable for tax years beginning after December 31, 2016 and before January 1, 2018, new law generally updates Wisconsin's corporate and individual income tax laws to the Internal Revenue Code (IRC) as in effect as of December 31, 2016, except that it specifically incorporates certain amendments made by the 2017 Federal Tax Reform Act, and decouples from others. Applicable for tax years beginning after December 31, 2017, the new law generally updates Wisconsin's corporate and individual income tax laws to the IRC as amended to December 31, 2017, with certain enumerated exceptions.
URL: https://docs.legis.wisconsin.gov/2017/proposals/reg/asm/bill/ab259

Stay tuned for a forthcoming Multistate Tax Alert for more details on this legislation.

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Indirect / Sales / Use:
Ohio: Republished Amended Rule Addresses Bad Debts, Assignment of Accounts Receivables, & Financing Companies

Republished Amended Ohio Admin. Code §5703-9-44, Ohio. Dept. of Tax. (4/3/18). As part of a five-year review process, the Ohio Department of Taxation (Department) has republished amendments to its administrative rule concerning Ohio's "bad debt" sales and use tax deduction, which apparently are intended to address a 2009 Ohio Supreme Court decision involving this deduction. The amendments include added language stating the following:
URL: http://www.registerofohio.state.oh.us/pdfs/5703/0/9/5703-9-44_RV_A_RS_20180403_1219.pdf

> "In situations where the vendor has assigned the account receivables to a third party or where the vendor uses a third party to facilitate the financing of the taxable sale, to qualify for the bad debt deduction, the claimant must be the vendor and the bad debt deduction must appear on the books and records of the vendor."

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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

Enacted Florida legislation provides for IRC conformity update and other tax law changes
On March 23, 2018, Florida Governor Rick Scott signed House Bills 7087 and 7093, which amended Florida's tax laws affecting corporate income tax, sales and use tax and fuel tax. Notable amendments include the following:

- Updating Florida's federal tax conformity date to the Internal Revenue Code in effect on January 1, 2018;
- Extending Florida's current decoupling from federal bonus depreciation to include assets placed in service before January 1, 2027;
- Requiring the Department of Revenue to conduct a study to evaluate the impact of federal tax reform on the Florida Corporate Income Tax (CIT);
- Establishing a one year reduction to the current 5.5 percent CIT tax rate contingent upon satisfaction of a specified tax revenue target, for taxable years beginning on or after January 1, 2019;
- Reducing the sales tax rate on leases of commercial real property;
- Establishing a three-day back-to-school sales tax holiday beginning August 3, 2018; and
- Establishing a seven-day disaster preparedness sales tax holidays beginning June 1, 2018.

This Multistate Tax Alert summarizes the more significant provisions of the tax amendments provided by H.B. 7087 and 7093, as well as provides some taxpayer considerations.
[Issued March 30, 2018]
URL: https://www2.deloitte.com/us/en/pages/tax/articles/enacted-florida-legislation-provides-for-irc-conformity-update-and-other-tax-law-changes.html?id=us:2em:3na:stm:awa:tax:040618