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**Amnesty:
Texas Comptroller Reminds that Tax Amnesty Program will Run from May 1 to
June 29; Provides for Potential Waiver of Penalties and Interest**

Release, Tex. Cmptlr. (4/1/18). Pursuant to legislation enacted in 2017 [S.B. 1; see *State Tax Matters*, Issue 2017-34 for more details on this new law] that requires the Texas Comptroller of Public Accounts (Comptroller) to establish a limited-duration tax amnesty program, the Comptroller reminds that such program will run from May 1, 2018 to June

29, 2018, and provide delinquent taxpayers with relief from penalty and interest on qualifying taxes due. The Comptroller additionally reminds that such tax amnesty will apply to periods prior to January 1, 2018, and *only* include certain tax liabilities (including state franchise and sales/use taxes) that have *not* been previously reported to the Comptroller. The Comptroller explains that if a taxpayer has been notified that a period or periods are scheduled for an audit review, or if they are already under audit review, then those periods are ineligible for this upcoming amnesty program. The Comptroller also notes that the amnesty program will *not* apply to the local motor vehicle tax, IFTA taxes, PUC gross receipts assessments and unclaimed property payments, as well as lists responses to a series of related “frequently asked questions.” Please contact us with any questions.

[URL: https://comptroller.texas.gov/tax-amnesty/](https://comptroller.texas.gov/tax-amnesty/)

[URL: http://www.capitol.state.tx.us/tlodocs/85R/billtext/pdf/SB00001F.pdf#navpanes=0](http://www.capitol.state.tx.us/tlodocs/85R/billtext/pdf/SB00001F.pdf#navpanes=0)

[URL: http://newsletters.usdbriefs.com/2017/Tax/STM/170825_3.html](http://newsletters.usdbriefs.com/2017/Tax/STM/170825_3.html)

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Income/Franchise:

Arizona: New Law Updates State Conformity to Some Provisions of Internal Revenue Code

H.B. 2647, signed by gov. 4/5/18. Effective ninety-one days after adjournment of the 2018 legislature, new law generally updates the definition of the federal Internal Revenue Code (IRC) to the IRC as in effect on January 1, 2018. However, *specifically for state corporate and personal tax income purposes*, and applicable for tax years beginning from and after December 31, 2016 through December 31, 2017, the new law generally conforms state corporate and personal income tax references to the federal Internal Revenue Code (IRC) as in effect on January 1, 2017, including those provisions of the:

[URL: https://apps.azleg.gov/BillStatus/GetDocumentPdf/459096](https://apps.azleg.gov/BillStatus/GetDocumentPdf/459096)

1. Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63);
2. 2017 Federal Tax Reform Act (*i.e.*, P.L. 115-97); and
3. Bipartisan Budget Act of 2018 (*i.e.*, P.L. 115-123),

That are retroactively effective during the tax years beginning from and after December 31, 2016 through December 31, 2017. In this respect, the new law appears to incorporate the new federal repatriation transition tax on earnings and profits accumulated abroad for tax year 2017; however, for Arizona corporate taxpayers, the deemed repatriation transition income may be deductible in Arizona as a dividend from a foreign corporation (similar to foreign dividends and Subpart F income). Additionally, applicable for tax years beginning from and after December 31, 2017, the new law generally conforms *state corporate and personal income tax references* to the IRC as in effect on January 1, 2017 – and thus does *not* include the provisions of the 2017 Federal Tax Reform Act (*i.e.*, P.L. 115-97). Note that the provisions of the 2017 Federal Tax Reform Act applicable for tax year 2018 and going forward have *not* been adopted in this Arizona legislation for tax year 2018 and onward; accordingly, additional Arizona legislation would be needed to incorporate these changes for tax year 2018 and going forward.

For Arizona transaction privilege tax purposes, this new law effectively updates the definition of the IRC to include all provisions that were in effect as of January 1, 2018. Please contact us with any questions.

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Income/Franchise: Connecticut: Administrative Guidance Discusses Treatment of IRC Sec. 965 Federal Repatriation “Transition Tax”

Office of Counsel Guidance (OCG) 4: Regarding the Connecticut Treatment of the Federal Repatriation Transition Tax under IRC Sec. 965, Conn. Dept. of Rev. Serv. (4/6/18). The Connecticut Department of Revenue Services (Department) has issued some administrative guidance with respect to how some of the recently enacted federal tax reform provisions may impact Connecticut corporate business and individual taxpayers – specifically regarding Connecticut’s treatment of the federal repatriation transition tax under Internal Revenue Code (IRC) Sec. 965. The guidance states that taxpayers generally must report their IRC Sec. 965 income, in its entirety, on their 2017 Connecticut return as Connecticut “conforms to the federal rule that such income is recognized and must be included on a taxpayer’s return for its last taxable year beginning before January 1, 2018.” However, the guidance states that Connecticut generally does *not* allow a taxpayer to elect to defer payment of any portion of the tax associated with its IRC Sec. 965 income. The guidance additionally notes that Connecticut treats “Subpart F income” as dividend income; therefore, because IRC Sec. 965 income is treated as Subpart F income for federal tax purposes, Connecticut will treat such income as dividend income.

URL: <http://www.ct.gov/drs/lib/drs/publications/ocg/ocg-4-multipletaxes.pdf>

Regarding Connecticut’s corporation business tax specifically, the guidance explains that Connecticut provides a dividend received deduction (DRD) that fully offsets the dividend income that a corporation receives from foreign corporations to the extent such income is not otherwise deducted. Accordingly, even though a corporation must include the full amount of its Section 965 income on its 2017 Connecticut return, it is then entitled to claim a deduction equal to such income. After a corporation claims the DRD, Connecticut then requires the corporation to add back its expenses that are related to its dividend income. In this respect, the guidance explains that “a corporation must review its records to determine the extent to which its post-1986 expenses relate to its Section 965 income and add back such related expenses on its 2017 return” – noting that current pending legislation in Connecticut, if enacted, would “relieve corporations of this administrative burden by setting the amount of expenses related to dividend income at 10% of the dividend income.”

Regarding Connecticut resident individual taxpayers, the guidance states that no adjustment is required on the “CT-1040” – given that federal guidance has indicated that the net IRC Sec. 965 income is reported on IRS Form 1040 as “other income” and thus is included in federal adjusted gross income, which is the starting point for determining a Connecticut resident’s income tax liability. Please contact us with any questions.

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Income/Franchise:

New York: 2018-2019 State Budget Bill Addresses Treatment of Some Provisions of the 2017 Federal Tax Reform Act

S07509-C; A09509-C, passed State Assembly and Senate on 3/30/18. Governor Andrew Cuomo of New York is expected to sign the 2018-2019 Budget Act (Budget Act) into law. The Budget Act includes amendments to the Article 9-A franchise tax on business corporations (including certain state credits and incentives) and the Article 22 personal income tax, and addresses the treatment of certain federal tax provisions enacted in the 2017 Federal Tax Reform Act (*i.e.*, P.L. 115-97) for New York tax purposes.

URL: <http://assembly.state.ny.us/leg/?bn=s7509>

URL: <http://assembly.state.ny.us/leg/?term=2017&bn=A09509>

Among numerous other tax provisions, the Budget Act expands the definition of exempt controlled foreign corporations (CFC) income under Article 9-A to include the federal repatriation amount calculated pursuant to Internal Revenue Code (IRC) Sec. 965(a), as adjusted by IRC Sec. 965(b), and without regard to IRC Sec. 965(c). The Budget Act further clarifies that the repatriation amount allowed pursuant to IRC Sec. 965(a), and classified as exempt CFC income does *not* constitute investment income. The Budget Act also provides that entire net income will be determined without (i) the IRC Sec. 965(c) deduction; and (ii) the foreign derived intangible income deduction allowed pursuant to IRC Sec. 250(a)(1)(A). Additionally, the existing deduction from entire net income for amounts treated as dividends under IRC Sec. 78 is permitted only to the extent such amounts were not deducted under IRC Sec. 250. Applicable to taxable years beginning on or after January 1, 2017, the Budget Act also amends N.Y. Tax Law Sec. 1085 to provide that the underpayment of estimated tax penalty generally will not apply to the portion of tax related to interest attributable to the IRC Sec. 965(a) amount treated as exempt CFC income (or the 40% reduction of such exempt CFC income if the “safe-harbor” election is made). The same amendments were made to the New York City Business Corporation Tax.

Effective immediately and applicable to all amended returns filed after the effective date of the Budget Act, the Budget Act also amends New York State’s and City’s personal income tax and the New York State franchise tax on business corporations to extend the statute of limitations for assessing additional tax owed on an amended return to one year after such amended return was filed; for amended returns filed due to a change in federal taxable income, the statute of limitations to assess additional tax remains two years. This amendment would *not* apply to the New York City Business Corporation Tax.

The Budget Act does not address a number of issues raised by the 2017 Federal Tax Reform Act, some of which had been proposed in the budget process and some not. On April 4, 2018, the New York Department of Taxation and Finance issued a bulletin [Bulletin (April 4, 2018)] which states that it is “developing guidance for corporation and personal income tax filers whose 2017 tax year returns are affected by the federal Tax Cuts and Jobs Act, as well as by certain New York State Tax Law provisions in the recent New York State Budget;” in the meantime, it encourages affected filers to request the appropriate extension of time to file their 2017 returns.

URL: <https://content.govdelivery.com/accounts/NYTAX/bulletins/1e724c2>

Stay tuned for a forthcoming Multistate Tax Alert for more details on this legislation, and please contact us with any questions.

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Income/Franchise:

Oregon: New Law Updates State Conformity to IRC for Specific Provisions, Addresses Some Federal Tax Reform Provisions, Repeals “Tax Haven” Provisions, and Extends Sunset Date of Modified Apportionment Regime for Interstate Broadcasters

S.B. 1529, signed by gov. 4/10/18. While Oregon generally conforms to the Internal Revenue Code (IRC) on a ‘rolling’ basis, Oregon tax law contains several references to the IRC as amended and in effect on a specific date. Effective on the 91st day after the date on which the 2018 session of the 79th Legislative Assembly adjourns sine die, new law updates several of these references to the IRC as in effect on December 31, 2017. This new law additionally requires an addback adjustment for amounts deducted under IRC Section 965(c); repeals Oregon’s “tax haven” provisions effective for tax years beginning on or after January 1, 2017; creates an Oregon tax credit equal to the lesser of i) the amount of Oregon tax paid pursuant to IRC Sec. 965, or ii) the amount of tax paid under ORS 317.716 (*i.e.*, Oregon’s “tax haven” statute); and requires the Oregon Department of Revenue to submit a report to the Oregon Legislature by December 1, 2020, regarding the “relative efficacy” of IRC Sec. 951A to Oregon’s tax haven laws with respect to the taxation of multinationals.

URL: <https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/SB1529>

S.B. 1523, signed by gov. 4/3/18. Effective on the 91st day after the date on which the 2018 session of the 79th Legislative Assembly adjourns sine die, new law extends the sunset date of Oregon’s special industry modified apportionment regime for interstate broadcasters for state corporate excise tax purposes to tax years beginning before January 1, 2019 (previously, January 1, 2017). Accordingly, for tax years 2017 and 2018 under this new law, interstate broadcasters must continue to source their gross receipts to Oregon for apportionment purposes, if the commercial domicile of the customer is in Oregon or if the customer is an Oregon resident.

URL: <https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/SB1523>

Stay tuned for a forthcoming Multistate Tax Alert for more details on *S.B. 1529*, and please contact us with any questions.

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Alabama: New Law Requires Certain Marketplace Facilitators to Collect and Remit Tax, or Else Adhere to Information Reporting Requirements

H.B. 470, signed by gov. 4/6/18. New law establishes a marketplace facilitator filing and remittance program in Alabama, providing that certain marketplace facilitators must collect and remit Alabama simplified sellers use tax on transactions made by or on behalf of third-party marketplace sellers, or else be subject to certain state information reporting and notice requirements. More specifically, the new law states that “by no later than January 1, 2019,” certain defined marketplace facilitators must either register with the Alabama Department of Revenue (Department) to collect and remit simplified sellers use tax on retail sales made through the marketplace facilitator’s marketplace by or on behalf of third-party marketplace sellers that are delivered in Alabama (whether by the marketplace facilitator or another person), *or* report such retail sales and provide customer notifications as provided under state law. The new law explains that this new requirement only applies to marketplace facilitators that have more than the qualifying amount (*i.e.*, \$250,000, or as otherwise defined by the Department) in retail sales in Alabama for the preceding twelve

months. Also, such retail sales only include those made directly by the marketplace facilitator through its marketplace, or those made by third-party marketplace sellers through the marketplace facilitator's marketplace. The new law additionally allows certain marketplace facilitators and out-of-state vendors that establish substantial nexus with Alabama through the acquisition of an in-state business to participate in Alabama's "Simplified Sellers Use Tax Program." Please contact us with any questions.

URL: <http://alisondb.legislature.state.al.us/alison/searchableinstruments/2018RS/bills/HB470.htm>

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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>

Georgia S.B. 328 enacted – provides for full subtraction of GILTI income

Governor Nathan Deal recently signed Senate Bill 328 (S.B. 328), which repeals a provision of recently-enacted House Bill 918 (H.B. 918) (see Multistate tax alert, March 19, 2018) related to Georgia's conformity to Section 951A of the Internal Revenue Code of 1986 (IRC). With the repeal, corporate taxpayers may now subtract the full amount of global intangible low-taxed income (GILTI) received in determining Georgia taxable income pursuant to Georgia's subtraction modification for Subpart F income. However, the related federal deduction provided by IRC Section 250 generally will not be allowable for taxpayers subtracting 100% of GILTI as Subpart F income.

URL: <http://www.legis.ga.gov/Legislation/en-US/display/20172018/SB/328>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/ga-hb-918-enacted-includes-irc-conformity-amendment-and-income-tax-rate-reductions.html?id=us:2em:3na:stm:awa:tax:041318>

This Multistate Tax Alert summarizes the repeal of the specific provision of previously-enacted House Bill 918 (H.B. 918) related to Georgia's treatment of Section 951A of the Internal Revenue Code of 1986 (IRC).

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URL: <https://www2.deloitte.com/us/en/pages/tax/articles/georgia-sb-328-enacted-provides-for-full-subtraction-of-gilti-income.html?id=us:2em:3na:stm:awa:tax:041318>

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