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Administrative:

Arizona: New Law Allows Some Taxpayers to Bypass Administrative Hearings Process and Appeal Tax Dispute Directly to Board of Tax Appeals

S.B. 1385, signed by gov. 4/12/18. Applicable retroactively to some tax disputes pending on or arising from and after December 31, 2016, new law allows certain qualifying taxpayers that receive a deficiency assessment or refund denial from the Arizona Department of Revenue for any tax, *other than state individual income tax*, to potentially bypass the Arizona Office of Administrative Hearings (OAH) hearing process and appeal directly to the Arizona Board of Tax Appeals or bring the action in tax court. Please contact us with any questions.

URL: <https://apps.azleg.gov/BillStatus/BillOverview/70539>

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Income/Franchise:

Arizona DOR Issues Notice Regarding Certain Fiduciary Return Filers with IRC Sec. 965 Repatriation Income for 2017 Tax Year

Notice for Fiduciary Return Filers, Ariz. Dept. of Rev. (4/19/18). The Arizona Department of Revenue (Department) has issued a notice with respect to trusts or estates required to file federal Form 1041 and that had Internal Revenue Code (IRC) Sec. 965 repatriation income for tax year 2017 that was not distributed to beneficiaries, and how certain adjustments may need to be made to report the income to Arizona. More specifically, the notice states that the net IRC Sec. 965 amount must be included in the amount on Line B3 "other additions to federal taxable income" on Arizona "Form 141AZ"; and the net IRC Sec. 965 amount may be determined by subtracting Line 3 from Line 1 of the "IRC Transition Tax Statement" filed with the federal Form 1041. The Department notes that if the Arizona Form 141AZ for tax year 2017 has already been filed without making this adjustment, impacted taxpayers must file a corrected Arizona Form 141AZ and check the box indicating that they are filing an amended state return. Please contact us with any questions.

URL: <https://www.azdor.gov/News/tabid/74/newsid530/857/Notice-for-Fiduciary-Return-Filers-/Default.aspx>

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Income/Franchise:

California FTB Issues Fourth and Final Report to Legislature on Recently Enacted Federal Tax Reforms

Summary of Federal Income Tax Changes 2017 – Final Report, Cal. FTB (4/18). The California Franchise Tax Board (FTB) has issued its fourth and final report summarizing California's conformity to P.L. 115-97 (*i.e.*, the federal 2017 Tax Reform Act (the Act)), including how some of the recently enacted federal tax provisions may impact California's tax system. This final FTB report generally consolidates findings from its earlier three reports [see previously issued Multistate Tax Alert for more details on these earlier three reports], as well as addresses California's conformity to

various provisions of the Act not covered under the prior three reports. Some of those provisions include, among others, individual tax rate reform, deductions for qualified business income from pass-through entities, various other deductions and exclusions, and various international tax provisions related to Subpart F of the Internal Revenue Code (IRC). Note that California conforms only to certain provisions of the IRC; where California does conform to the IRC, the State's current IRC conformity date is January 1, 2015, for both individual and corporate tax purposes. Please contact us with any questions or comments.

URL: <https://www.ftb.ca.gov/law/legis/Federal-Tax-Changes/2017.pdf>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-three-of-four-anticipated-reports-on-californias-conformity-to-2017-federal-income-tax-changes.html?id=us:2em:3na:stm:awa:tax:042718>

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Income/Franchise:

Louisiana: Amended Regulation Reflects Changes to Intercompany "Addback" Provisions Enacted in 2016

Amended LAC 61:1.1115, La. Dept. of Rev. (4/20/18). The Louisiana Department of Revenue has amended an administrative rule 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 amended rule incorporates related definitions and illustrative examples, as well as application of the underlying exceptions to these intercompany expense addback requirements. Please contact us with any questions.

URL: <http://www.doa.la.gov/osr/REG/1804/1804.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:042718>

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Income/Franchise:

Maryland: New Law Phases in Single-Sales Factor Apportionment for Corporate Income Tax Purposes

H.B. 1794; S.B. 1090, signed by gov. 4/24/18. Effective July 1, 2018, and applicable for tax years beginning after December 31, 2017, new law begins to phase in single-sales factor apportionment for Maryland corporate income tax purposes for most industries. The new law provides for triple weighting of the sales factor for the 2018 tax year (as opposed to the prior three-factor double-weighted sales apportionment formula); four times weighting of the sales factor for the 2019 tax year; five times weighting of the sales factor for the 2020 tax year; six times weighting of the sales factor for the 2021 tax year; and then single-sales factor apportionment thereafter for tax years beginning after

December 31, 2021. Under this new law, a qualifying “worldwide headquartered company” may elect to apportion its income for Maryland corporate income tax purposes using a double-weighted sales factor. Please contact us with any questions.

URL: <http://mgaleg.maryland.gov/webmga/firmMain.aspx?pid=billpage&stab=03&id=hb1794&tab=subject3&ys=2018RS>

URL: <http://mgaleg.maryland.gov/webmga/firmMain.aspx?id=sb1090&stab=01&pid=billpage&tab=subject3&ys=2018RS>

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Income/Franchise:

Nebraska: New Law Provides Adjusted Basis Computation for Certain IRC Sec. 179 Depreciable Property

L.B. 1089, signed by gov. 4/17/18. Effective immediately, new law provides that for purchases of depreciable personal property occurring on or after January 1, 2018, and before January 1, 2020, if there is an election to expense the depreciable property under Internal Revenue Code Sec. 179 and similar personal property is traded in as part of the payment for the newly acquired property, then the Nebraska adjusted basis is “the remaining net book value of the property traded in, plus the additional amount that was paid by the taxpayer for the newly acquired property.” Please contact us with any questions.

URL: https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=34134

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Income/Franchise:

New Hampshire: Department of Revenue Administration Issues Report on How 2017 Federal Tax Reforms May Affect State Income Taxation; New Law Revises Effective Dates of Tax Rate Changes Enacted in 2017

Internal Revenue Code Update, N.H. Dept. of Rev. (3/30/18). The New Hampshire Department of Revenue Administration (Department) has created a “Federal Tax Reform” landing page on its website with a full report and supplemental information on how the federal 2017 Tax Reform Act may directly impact the New Hampshire Business Profits Tax (BPT), including a summary chart of issues which the Department presented to the New Hampshire Senate and House Ways & Means committees in a joint economic briefing on April 13, 2018. Among other issues, the Department’s report addresses foreign dividends and Subpart F income, deemed repatriation of foreign earnings, the foreign base erosion tax, and global intangible low-taxed income (GILTI), as well as the new federal business interest deduction limitations, Internal Revenue Code Sec. 179 deduction, and bonus depreciation.

URL: <https://www.revenue.nh.gov/publications/presentations/documents/2018draircreport.pdf>

URL: <https://www.revenue.nh.gov/publications/presentations/documents/taxreformchart.pdf>

H.B. 1292, signed by gov. 4/20/18. Effective June 19, 2018, new law revises the effective dates of New Hampshire business profits tax (BPT) and business enterprise tax (BET) rate reductions that were enacted in 2017 [H.B. 517; see *State Tax Matters*, Issue 2017-28, for more details on this legislation] – essentially making these various rate reductions go into effect on January 1 (rather than July 1) of each respective year. Note that, under New Hampshire’s 2017 legislation, for taxable periods ending on or after December 31, 2019, the BPT and BET rates are reduced to 7.7% and 0.6%, respectively; and for taxable periods ending on or after December 31, 2021, the BPT and BET rates are reduced to 7.5% and 0.5%, respectively. For taxable periods ending on or after December 31, 2018, these BPT and BET rates are currently 7.9% and 0.675%, respectively.

URL: http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2018&id=1126&txtFormat=pdf&v=current

URL: http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=744&txtFormat=html&sy=2017

URL: http://newsletters.usdbriefs.com/2017/Tax/STM/170714_4.html

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Income/Franchise:

New York City: Memo Explains Deemed Repatriation Income under General Corporation Tax, Banking Corporation Tax, and Unincorporated Business Tax

Finance Memorandum 18-4, N.Y.C. Dept. of Fin. (4/20/18). The New York City (City) Department of Finance (Department) has issued a notice regarding certain provisions of P.L. 115-97 (*i.e.*, the federal 2017 Tax Reform Act), specifically the tax considerations and potential late payment penalty relief for some City taxpayers affected by the new Internal Revenue Code (IRC) Sec. 965 mandatory deemed repatriation income provisions, and subject to the General Corporation Tax (GCT), Banking Corporation Tax (BTX) or Unincorporated Business Tax (UBT). The notice explains that taxpayers subject to the GCT, BTX or UBT must report their IRC Sec. 965(a) inclusion amounts and IRC Sec. 965(c) deduction amounts on "IRC 965 Transition Tax Statements" and their applicable federal tax forms, and that neither the GCT, BTX nor UBT provides specific modifications for these income and deduction amounts. Instead, the notice states that such income must be classified as business income, investment income, or income from subsidiary capital, to the extent applicable, and deductions must be attributed to that income, including the IRC Sec. 965(c) amount, for GCT, BTX and UBT purposes. Additionally, the net income (*i.e.*, net IRC Sec. 965 income) must be allocated or, in the case of income from subsidiary capital, excluded, in accordance with its classification and existing law. Note that despite the seemingly broad language in this notice, based on conclusions reached in certain New York State administrative rulings involving analogous issues, the IRC Sec. 965 inclusion may constitute business income in limited circumstances.

URL: <http://www1.nyc.gov/assets/finance/downloads/pdf/fm/2018/fm-18-4.pdf>

The notice also explains that taxpayers under the GCT, BTX and UBT must pay the additional City tax liability (if any) generated by the net IRC Sec. 965 income in the same tax year that they report the IRC Sec. 965(a) inclusion for federal income tax purposes. Please contact us with any questions.

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Income/Franchise:

Pennsylvania DOR Discusses Application of IRC Sec. 965 Repatriation Transition Tax to State Corporate Net Income Tax

Information Notice – Corporation Taxes and Personal Income Tax 2018-1, Penn. Dept. of Rev. (4/20/18). In light of P.L. 115-97 (*i.e.*, the federal 2017 Tax Reform Act), the Pennsylvania Department of Revenue (Department) has issued an information notice discussing application of the new repatriation transition tax (RTT) under Internal Revenue Code Sec. 965 to Pennsylvania's corporate net income tax (CNIT) and personal income tax. More specifically, the notice addresses the state tax treatment with respect to the underlying RTT income and deduction, as well as related application of Pennsylvania's dividends received deduction (DRD) and apportionment provisions. The Department generally concludes that, for CNIT purposes, both the income and deduction components of the federal transition tax computation will be included in Pennsylvania taxable income, with a full or partial DRD potentially allowed on the net inclusion, and that nothing will be reflected in the underlying apportionment factor. For Pennsylvania personal income tax purposes, the Department generally concludes that taxable income would not reflect the federal transition tax amounts but notes that Pennsylvania residents generally would be required to report taxable dividend income upon a future distribution of cash from accumulated foreign earnings.

URL: <http://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/Documents/Informational%20Notice%20-%20Corporation%20Taxes%20and%20Personal%20Income%20Tax%202018-1%20--%20Tax%20Cuts%20and%20Jobs%20Act%20of%202017.docx.pdf>

The notice also states that the Department intends to issue additional guidance for corporate taxpayers by way of a worksheet to guide taxpayers on the adjustments required to modify their federal taxable income before net loss deduction and special deduction to include RTT income, the RTT deduction, and the Pennsylvania DRD. The Department additionally explains that those taxpayers that have already filed their 2017 tax returns before the Department issued this information notice "should amend their income tax returns to report their Net RTT Income," and that "no interest or penalties will be imposed to the extent amended tax returns are filed prior to November 15, 2018, and the amendment reflects only the changes necessary to report Net RTT Income in the manner described in this Notice." The notice explains that such an amended tax return will result in an extension of the statute of limitations for the Department's authority to adjust the taxpayer's liability relating to "Net RTT Income" to three years from the date of filing the amended tax return. Please contact us with any questions.

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Income/Franchise:

Rhode Island Division of Taxation Provides Guidance on Treatment of IRC Sec. 965 Income for Individuals and Pass-through Entities

Advisory for Tax Professionals 2018-19, R.I. Div. of Tax. (4/17/18). The Rhode Island Department of Revenue's Division of Taxation has issued an advisory on the state income tax treatment of Internal Revenue Code (IRC) Sec. 965 income for individuals and pass-through entities, including how to report deferred foreign income for Rhode Island tax purposes, in light of the federal 2017 Tax Reform Act. Regarding the applicable state tax treatment for C corporations, the advisory notes that related guidance may be forthcoming. For partnerships and limited liability companies, the advisory explains that the IRC Sec. 965 income included on Line 11 of the federal Schedule K generally must be included for Rhode Island purposes on Form RI-1065, Line 1, and that such income also flows through to partners/members on Schedule K-1. For S corporations, the advisory explains that IRC Sec. 965 income included in federal taxable income generally must be included for Rhode Island tax purposes on Form RI-1120S, Schedule A, Line 1. With respect to individuals, the advisory states that to the extent such IRC Sec. 965 income is included in federal

adjusted gross income, it must be included for Rhode Island purposes on Form RI-1040, Line 1. For Rhode Island apportionment purposes, the advisory generally explains that such IRC Sec. 965 income must only be included in the denominator of the taxpayer's sales factor (and excluded from its sales factor numerator) under state law. Please contact us with any questions or comments.

[URL: http://www.tax.ri.gov/Advisory/ADV_2018_19.pdf](http://www.tax.ri.gov/Advisory/ADV_2018_19.pdf)

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

Enacted Oregon legislation creates new add-backs of federal tax reform deductions, repeals Oregon tax haven law, and creates new tax credits

Governor Kate Brown recently signed two significant pieces of Oregon legislation responding to federal tax reform. Senate Bill 1529, signed on April 10, 2018, includes the following notable amendments to Oregon tax law:

- Effective for taxable years beginning on or after January 1, 2017, Oregon taxpayers must add back amounts deducted under Internal Revenue Code (IRC) Section 965(c);
- Effective for taxable years beginning on or after January 1, 2017, Oregon's tax haven law is repealed; and
- Effective for taxable years beginning on or after January 1, 2017 and before January 1, 2018, a new corporate income tax credit is created equal to the lesser of Oregon tax attributable to IRC Section 965, or the amount of Oregon tax attributable to and imposed on the taxpayer pursuant to Oregon's tax haven law for tax years beginning on or after January 1, 2014 and before January 1, 2017.

Senate Bill 1528, signed on April 13, 2018, includes the following amendments to Oregon tax law:

- Effective for tax years beginning on or after January 1, 2018 and before January 1, 2024, a new credit for both personal and corporate income taxes is created for certified contributions to the Oregon Opportunity Grant Fund; and
- Effective for tax years beginning on or after January 1, 2018, Oregon taxpayers must add back to taxable income amounts deducted under IRC Section 199A.

Both of these bills become effective on June 10, 2018. This Multistate Tax Alert highlights key provisions of these two bills and provides some taxpayer considerations.

[Issued April 23, 2018]

[URL: https://www2.deloitte.com/us/en/pages/tax/articles/oregon-legislation-creates-new-add-backs-of-federal-tax-reform-deductions.html?id=us:2em:3na:stm:awa:tax:042718](https://www2.deloitte.com/us/en/pages/tax/articles/oregon-legislation-creates-new-add-backs-of-federal-tax-reform-deductions.html?id=us:2em:3na:stm:awa:tax:042718)

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