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## **Income/Franchise: Colorado: New Law Imposes Market-Based Sourcing Provisions for Certain Receipts from Services and Intangibles**

*H.B. 1185*, signed by gov. 6/4/18. Effective August 8, 2018, and applicable for tax years beginning after 2018, new law generally imposes market-based sourcing provisions – as opposed to Colorado’s current proportional costs of performance and “commercial domicile test” provisions – for sourcing receipts derived from sales of services and intangibles (*i.e.*, sales of other than tangible personal property) in calculating a taxpayer’s sales factor for state corporate income tax purposes. The new law also includes a number of revisions related to apportionment and allocation, and provides definitions for “apportionable income” and “receipts” in an apparent attempt to conform state income tax law to some provisions of the Multistate Tax Commission’s related model act and regulations.

**URL:** [https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a\\_1185\\_enr.pdf](https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1185_enr.pdf)

See forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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## **Income/Franchise: Connecticut: New Law Makes Various Changes in Response to Federal 2017 Tax Act, Creates a Pass-Through Entity Tax**

*S.B. 11*, signed by gov. 5/31/18. In apparent response to some of the changes enacted under the federal 2017 Tax Act (*i.e.*, P.L. 115-97), new law in Connecticut includes provisions that:

**URL:** [https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which\\_year=2018&bill\\_num=11](https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2018&bill_num=11)

- Decouple from Internal Revenue Code (IRC) Sec. 179 to allow state corporate and individual taxpayers 20% of the deduction, and the remaining 80% taken over the next four years;
- Generally maintain IRC Sec. 168(k) decoupling for corporate taxpayers, but modify the state individual income tax treatment of IRC 168 (k) bonus depreciation deductions;
- Generally disallow 5% of dividends received under Connecticut’s version of the dividends received deduction (DRD) as related expenses (*i.e.*, resulting in a 95% state DRD);
- Modify the state corporate income tax treatment of IRC Sec. 163(j);
- Impose a new pass-through entity level tax on the net income of most pass-through businesses, levied at the top individual income tax rate and offset by a credit at the individual or corporate income tax level; and
- Generally authorize municipalities in Connecticut to issue residential property tax credits to eligible taxpayers who make contributions to approved community supporting organizations.

Many of these changes for individuals and corporations generally are applicable to taxable years commencing on or after January 1, 2017; however, the new pass-through entity level tax is applicable to taxable years commencing on or after January 1, 2018.

See forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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## Income/Franchise:

### **Iowa: New Law Updates and Revises State Conformity to IRC; Includes Various Other Changes Such as Reduced Tax Rates and Responses to Federal 2017 Tax Act**

*S.F. 2417*, signed by gov. 5/30/18. Effective January 1, 2019 and applicable for tax years beginning during the 2019 calendar year, new law generally updates statutory references to the Internal Revenue Code (IRC) as in effect on March 24, 2018, for state corporate and individual income tax purposes. For tax years beginning on or after January 1, 2020, the new law eliminates Iowa's fixed date conformity to the IRC and instead adopts rolling conformity to the IRC. Note, however, that Iowa law will continue to decouple with the bonus depreciation provisions allowed for federal tax purposes. Some other significant law changes contained in this bill include:

**URL:** <https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=sf2417>

- State corporate income tax rate reductions effective for tax years beginning on or after January 1, 2021;
- Adjustments to Iowa's current decoupling of IRC Sec. 179 for state corporate and individual income tax purposes, including a partial decoupling of IRC Sec. 179 received from multiple pass-through entities, effective for tax years beginning on or after January 1, 2018 and through December 31, 2019;
- Full conformity with IRC Sec. 179 for state corporate and individual income tax purposes for tax years beginning on or after January 1, 2020;
- Elimination of the federal income tax deduction for state corporate income tax purposes for tax years beginning on or after January 1, 2022;
- Elimination of Iowa's corporate alternative minimum tax (AMT) for tax years beginning on or after January 1, 2021; and
- A "phase-in" of partial federal conformity with the IRC Sec. 199A Qualified Business Income (QBI) deduction for pass-through entities for tax years beginning on or after January 1, 2019 – with the potential for full conformity with the QBI deduction pending Iowa meeting certain budgetary thresholds, which would be applicable for tax years beginning on or after January 1, 2023.

Note that the Iowa Department of Revenue has since launched a website that will feature information and resources, including administrative guidance, related to these various Iowa tax law changes as they become available.

**URL:** <https://tax.iowa.gov/iowa-tax-reform>

This legislation includes numerous state sales and use tax changes; see "Sales/Use/Indirect" section below for more details. Also, see forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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## Income/Franchise:

### Kentucky DOR Explains New Law that Includes Mandatory Unitary Combined Reporting Regime, Tax Rate Revisions, Single-Sales Factor Apportionment, and Market-Based Sourcing

*Press Release*, Ky. Dept. of Rev. (5/31/18). The Kentucky Department of Revenue (Department) has announced the launch of a new website, [TaxAnswers.ky.gov](https://taxanswers.ky.gov), to “help educate and inform Kentuckians about tax changes made during the 2018 session of the General Assembly” – including its i) new mandatory unitary combined reporting regime for state corporate income tax purposes; ii) new flat 5% income tax rate for corporations and individuals; iii) adoption of a single-sales factor apportionment formula and market-based sourcing rules for certain receipts when apportioning a corporation’s business income to Kentucky; iv) updated state conformity to the Internal Revenue Code, including some provisions of the federal 2017 Tax Act (*i.e.*, P.L. 115-97); and v) recently adopted remote seller “economic nexus” and expanded tax base provisions for state sales and use tax purposes [see previously issued Multistate Tax Alert for more details on these law changes]. The Department explains that this new site features related guidance information, answers to many frequently asked questions, links to other applicable technical guidance, and that “additional content will continue to be added.” Please contact us with any questions.

**URL:** <https://revenue.ky.gov/News/Pages/TaxAnswers.ky.gov-to-Provide-Information-on-HB-487.aspx>

**URL:** <https://taxanswers.ky.gov/Pages/index.aspx>

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/enacted-ky-leg-provides-for-mandatory-combined-reporting-for-unitary-businesses-and-additional-sales-tax-changes.html?id=us:2em:3na:stm:awa:tax:060818&sfid=7011000002Dh0k>

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## Income/Franchise:

### Maryland Tax Court Holds that Lower Interest Rate Scheme on *Wynne*-Related Refunds is Unconstitutional

*Case No. 16-IN-00-0216*, Md. Tax Ct. (5/23/18). The Maryland Tax Court (Court) recently held that Maryland’s statutory limitation of interest on refunds resulting from the US Supreme Court’s 2015 decision in *Comptroller of the Treasury of Maryland v. Wynne* [see previously issued Multistate Tax Alert for more details on the 2015 *Wynne* case] that provides for interest at a lower rate than other Maryland income tax refunds violates the US Constitution. In doing so, the Court held that the same logic and rationale used by the US Supreme Court in the 2015 *Wynne* case – which focused on the constitutionality of the credit for taxes paid to other states as applied under Maryland’s individual income tax regime and held that the partial-credit scheme permitting the credit against the “State” component of the Maryland tax but not against the “County” component violated the dormant Commerce Clause – is generally applicable to the lower interest rate scheme on *Wynne*-related refunds in this case. Please contact us with any questions.

**URL:** <http://taxcourt.maryland.gov/PDF/Decisions/Wynne-v.-Comptroller-MTC-2018.pdf>

**URL:** <http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-supreme-court-rules-maryland-individual-income-tax-scheme-unconstitutional.html?id=us:2em:3na:stm:awa:tax:060818&sfid=7011000002Dh0k>

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## Income/Franchise:

### Michigan: Department of Treasury Comments on Federal 2017 Tax Act, Including IRC Sec. 965 Transition Tax, GILTI, and State Conformity

*Treasury Update*, Mich. Dept. of Treas. (5/18). The Michigan Department of Treasury (Department) recently commented on the federal 2017 Tax Act (*i.e.*, P.L. 115-97) and some of the underlying related state tax aspects, including state conformity to the Internal Revenue Code (IRC), IRC Sec. 965 deemed repatriated income; global intangible low-taxed income (GILTI); and the foreign derived intangible income (FDII) deduction – generally stating that it will monitor developments related to federal income tax implementation in these areas and that it is currently working to identify the resulting state tax issues. The Department explains that any federal tax amendments impacting the determination of either federal adjusted gross income (AGI) or federal taxable income (FTI) for individual and corporate taxpayers, respectively, will be automatically incorporated into the computation of income on a Michigan taxpayer's return.

**URL:** [https://www.michigan.gov/documents/treasury/Tax\\_Policy\\_Newsletter\\_-\\_May\\_2018\\_624347\\_7.pdf](https://www.michigan.gov/documents/treasury/Tax_Policy_Newsletter_-_May_2018_624347_7.pdf)

Regarding Michigan's corporate income tax (CIT), the Department also stated that "Section 623(2)(d) of the CIT provides that to the extent included in federal taxable income, dividends from foreign persons and foreign operating entities be deducted in calculating CIT tax base, including amounts determined under Subpart F (IRC 951 to 964, and by extension, 965)." Further, "GILTI is treated in the same manner as Subpart F income. Consequently, section 623(2)(d) of the CIT would also result in this GILTI being deducted from the tax base to the extent included in federal taxable income."

Note that S.B. 748, enacted earlier this year [see *State Tax Matters*, Issue 2018-10, for more details on this legislation], also updated the corporate and individual income tax statutory references in Michigan to conform to the federal IRC provisions "in effect on January 1, 2018, or at option of the taxpayer, in effect for the tax year." Please contact us with any questions.

**URL:** [http://newsletters.usdbriefs.com/2018/Tax/STM/180309\\_6.html](http://newsletters.usdbriefs.com/2018/Tax/STM/180309_6.html)

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## Income/Franchise:

### Missouri: New Law Provides Lower Tax Rates, Mandates Single-Sales Factor Apportionment, Includes Market-Based Sourcing and Other Tax Changes

*S.B. 884*, signed by gov. 6/1/18. Applicable for tax years beginning on or after January 1, 2020, new law lowers Missouri's corporate income tax rate from 6.25% to 4%. Also applicable for tax years beginning on or after January 1, 2020, the new law replaces most existing apportionment methods (special industry apportionment methods applicable to transportation, railroad, interstate bridge, and telephone/telegraph companies were retained) with a new single factor method based on receipts. As a result, use of the three-factor property, payroll and sales apportionment method alternative available under Missouri's adoption of the Multistate Tax Compact will no longer be available. Under the new apportionment method, there are no "throwback" or "throwout" provisions, and the sourcing of certain receipts from services and intangibles utilize market-based sourcing provisions. Additionally, for all tax years beginning on or after January 1, 2020, the legislation modifies Missouri law relating to the allocation and apportionment of corporate income by defining and employing the term "apportionable income." New provisions related to alternative apportionment requests are also included in the new law. The legislation also provides that all transactions between affiliated members of an affiliated group must be eliminated on the Missouri consolidated income tax return.

**URL:** [http://www.senate.mo.gov/18info/BTS\\_Web/Actions.aspx?SessionType=R&BillID=71207714](http://www.senate.mo.gov/18info/BTS_Web/Actions.aspx?SessionType=R&BillID=71207714)

See forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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## **Income/Franchise: Montana DOR Issues New Regulations on the Apportionment and Allocation of Income Reported by Pass-Through Entities**

*MAR Notice 42-2-991: New Rule I (ARM 42.9.112) and New Rule II (ARM 42.9.303); Amended ARM 42.9.107 and 42.15.120, Mont. Dept. of Rev. (4/27/18).* The Montana Department of Revenue (Department) has issued new and amended administrative rules pertaining to the apportionment and allocation of income reported by pass-through entities and guaranteed payments to individual partners – some of which reflect legislation enacted in 2017 [H.B. 511; see previously issued Multistate Tax Alert for more details on this law] that implements market-based sourcing of certain sales of other than tangible personal property for state corporate income tax apportionment purposes, as well as for purposes of determining Montana source income for some pass-through businesses, applicable to tax years beginning after December 31, 2017. The administrative rule amendments include language clarifying that partnerships that are unitary with the business operations of a corporate partner are considered a part of the corporate group with respect to application of Montana’s “Finnigan” rule, so that a group of corporations engaged in a unitary business must include Montana property, payroll, and receipts from all members of the unitary group if a unitary partnership, whose interest is directly or indirectly held by a member of the corporate group, has nexus with Montana. Please contact us with any questions.

**URL:** [http://www.mtrules.org/gateway/Cycle\\_Home.asp?CID=2679](http://www.mtrules.org/gateway/Cycle_Home.asp?CID=2679)

**URL:** <http://leg.mt.gov/bills/2017/billpdf/HB0511.pdf>

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/montana-adopts-market-based-sourcing-for-receipts-from-sales-of-non-tp.html?id=us:2em:3na:stm:awa:tax:060818&sfid=70110000002Dh0k>

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## **Sales/Use/Indirect: Illinois: New Law Imposes Remote Seller Tax Collection & Remittance Responsibilities via Economic Nexus Provisions**

*H.B. 3342, signed by gov. 6/4/18.* Effective October 1, 2018, new law provides that the definition of a “retailer” required to collect and remit applicable Illinois sales and use taxes generally includes any seller that: i) has cumulative gross receipts from sales of tangible personal property to purchasers in Illinois totaling at least \$100,000 per year; or ii) enters into 200 or more separate transactions per year for the sale of tangible personal property to purchasers in Illinois. Please contact us with any questions.

**URL:** <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=3342&GAID=14&DocTypeID=HB&LegId=105096&SessionID=91&GA=100>

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## **Sales/Use/Indirect:**

### **Iowa: New Law Imposes Economic Nexus on Certain Remote Sellers, Marketplace Facilitators, and Referrers, and Taxes Specified Digital Products**

*S.F. 2417*, signed by gov. 5/30/18. New law includes state sales and use tax collection and remittance responsibilities for certain remote sellers and marketplace facilitators that make or facilitate sales in Iowa where, for the immediately preceding taxable year, the seller or defined marketplace facilitator earns/facilitates either \$100,000 or more from the underlying Iowa sales, or engages in/facilitates 200 or more underlying Iowa sales transactions. This legislation also imposes similar state sales and use tax collection and remittance responsibilities for certain “referrers” that receive some form of consideration for referring potential sales to sellers when the underlying Iowa sales total at least \$100,000, or result in 200 or more successful Iowa sales transactions, in the immediately preceding taxable year, or else in the *alternative* these referrers must adhere to certain notice and information reporting requirements. Among numerous other state sales and use tax-related provisions contained in this bill, the sale of specified digital products (*e.g.*, video streaming services) and the sale of codes that later provide access to specified digital products are included within Iowa’s sales tax base.

**URL:** <https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=sf2417>

Note that the Iowa Department of Revenue has since launched a website that will feature information and resources, including administrative guidance, related to these various Iowa tax law changes as they become available.

**URL:** <https://tax.iowa.gov/iowa-tax-reform>

This legislation includes numerous state corporate and individual income tax changes; see “Income/Franchise” section above for more details. Also, see forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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## **Sales/Use/Indirect:**

### **Missouri: New Law Provides that Legislative Intent of Manufacturing Exemptions Includes Certain Telecom Services**

*S.B. 768*, signed by gov. 6/1/18. New law provides that, for purposes of Missouri’s sales and use tax exemptions for certain manufacturing and the use or consumption of energy for manufacturing, the term “product” may include telecommunications services and the term “manufacturing” may include the production, or production and transmission, of telecommunications services. In doing so, this legislation provides that such definitions constitute the original legislative intent of the Missouri manufacturing exemption statutes, and thus they effectively abrogate previous Missouri case law [see previously issued Multistate Tax Alert for more details on a related Missouri Supreme Court case from 2016] to the extent that it is inconsistent with such definitions.

**URL:** [http://www.senate.mo.gov/18info/BTS\\_Web/Actions.aspx?SessionType=R&BillID=69486704](http://www.senate.mo.gov/18info/BTS_Web/Actions.aspx?SessionType=R&BillID=69486704)

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/missouri-supreme-court-decision-re-sales-tax-manufacturing-exemption.html?id=us:2em:3na:stm:awa:tax:060818&sfid=7011000002Dh0k>

See forthcoming Multistate Tax Alert for more details on this new law, as well as related taxpayer considerations, and please contact us with any questions in the meantime.

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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&sfid=XXX>

### California FTB Issues Proposed Language for New Regulation Section 23663-6

On May 15, 2018, the California Franchise Tax Board (FTB) issued proposed language for new California Code of Regulations (CCR) Section 23663-6, which provides guidance for certain taxpayers who may wish to assign credits to affiliated members of the taxpayer's combined reporting group. The FTB will hold its Second Interested Parties Meeting on June 12, 2018 to discuss the proposed language. This Multistate Tax Alert briefly discusses the proposal, explaining that any written comments on it must be provided to the FTB by July 10, 2018.

[Issued May 31, 2018]

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-proposed-language-for-new-regulation-section-23663-6.html?id=us:2em:3na:stm:awa:tax:060818&sfid=7011000002Dh0k>

### Recent Idaho Law Amendments Provide Income Tax Rate Reductions and Amend IRC Conformity

In response to the federal tax reform provisions of the 2017 Tax Act, Idaho has enacted legislation over the last several months that reduces income tax rates, amends Idaho's conformity to the Internal Revenue Code (IRC) relative to the deemed repatriation provisions of IRC Section 965 and global intangible low-taxed income (GILTI), and amends certain add-back provisions effectively disconnecting Idaho from specific federal provisions. This Multistate Tax Alert summarizes the more significant Idaho tax law changes contained in the various bills.

[Issued May 29, 2018]

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/recent-idaho-law-amendments-provide-income-tax-rate-reductions-and-amend-irc-conformity.html?id=us:2em:3na:stm:awa:tax:060818&sfid=7011000002Dh0k>

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