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Income/Franchise:

Colorado: Adopted Rule Reflects Temporary Corporate and Individual Income Tax Rate Changes

Amended Rule 39-22-627, Colo. Dept. of Rev. (eff. 3/17/22). The Colorado Department of Revenue adopted administrative rule amendments that reflect temporary changes in Colorado's corporate and individual income tax rates. Specifically, the revisions reduce these income tax rates to 4.5% for tax years commencing on or after January 1, 2019, but prior to January 1, 2020; and for tax years commencing on or after January 1, 2021, but prior to January 1, 2022. Please contact us with any questions.

URL: <https://www.coloradosos.gov/CCR/eDocketDetails.do?trackingNum=2021-00686>

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Income/Franchise:

Louisiana DOR Addresses New Partnership Filing Requirements for 2021 Tax Year

Revenue Information Bulletin No. 22-007, La. Dept. of Rev. (2/15/22). The Louisiana Department of Revenue (Department) issued an information bulletin addressing state law changes [see S.B. 160 (2021) and *State Tax Matters*, Issue 2021-25 for more details on these law changes] on how and when some partnerships must report federal tax adjustments to the Department in response to changes in the federal partnership audit and adjustment process under the federal 2015 Bipartisan Budget Act, allowing impacted partnerships the option to handle a resulting state tax liability change at the partnership level rather than require each partner to file an amended state return. In this information bulletin, the Department also explains revisions to the state's filing structure for partnerships, including merging Louisiana's partnership informational return and composite return into one filing in some instances beginning with the 2021 tax year. Please contact us with any questions.

URL: <https://revenue.louisiana.gov/LawsPolicies/RIB%2022-007%20Partnership%20Filing%20Requirements%20-%202021%20Tax%20Year.pdf>

URL: <https://legis.la.gov/legis/BillInfo.aspx?s=21RS&b=SB160&sbi=y>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210625_7.html

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Income/Franchise:

Maine: Proposed Rule Addresses State Treatment of Federal Partnership Audit Regime Changes

Notice: Proposed Amended Reg. sections 18-125-803 and 18-125-805; Proposed Amended Reg. section 18-125-805; Proposed Amended Reg. section 18-125-803, Me. Dept. of Rev. Serv. (2/16/22). Maine Department of Revenue Services is proposing revisions to administrative rules reflecting state law that attempts to harmonize with changes in the federal partnership audit and adjustment process under the federal 2015 Bipartisan Budget Act. The proposed amendments conform to recent legislative changes and make other technical changes, including adding language to address partnership audit requirements related to pass-through entity withholding and filing composite returns. Comments on the proposal are due by March 25, 2022. Please contact us with any questions.

URL: <https://www.maine.gov/sos/cec/rules/notices/2022/021622.html>

URL: https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/803%20with%20Markup_REV%20-%20Feb%202022.pdf

URL: https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/805%20with%20Markup_REV%20-%20Feb%202022.pdf

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Income/Franchise:

Ohio: New Law Generally Updates State Conformity to Internal Revenue Code

H.B. 51, signed by gov. 2/17/21. Effective immediately, new law generally incorporates into Ohio's corporate and individual income tax laws those Internal Revenue Code (IRC) changes made since March 31, 2021 – including provisions within the federal Infrastructure Investment and Jobs Act (*i.e.*, P.L. 117-58) – and permits a

taxpayer whose taxable year ends after such date, but before the effective date of these incorporated changes (*i.e.*, before February 17, 2022), 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 [see *Ohio Conformity Updates*, Ohio Dept. of Tax. (updated as of 2/18/22) for more details on Ohio’s coupling and decoupling provisions]. Please contact us with any questions.

URL: <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA134-HB-51>

URL: <https://www.tax.ohio.gov/other/Update.aspx>

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Income/Franchise:

Pennsylvania DOR Explains “Split Factor” Apportionment Methodology under Corporate Net Income Tax

Corporation Tax Bulletin 2022-01, Penn. Dept. of Rev. (2/17/22). The Pennsylvania Department of Revenue (Department) issued a bulletin providing guidance on the proper apportionment of income by a Pennsylvania corporate net income tax (CNIT) taxpayer involved in both an activity subject to one or more of Pennsylvania’s special industry apportionment formulas under 72 P.S. section 7401(3)2.(b)-(e), as well as separate activities subject to Pennsylvania’s standard single sales factor apportionment under 72 P.S. section 7401(3)2.(a)(15)-(17). Citing a case from 1997, the Department explains that it has consistently applied the “split factor methodology” adopted by that court to similarly situated taxpayers engaged in multiple activities and that application of such approach involves the following steps:

URL: https://www.revenue.pa.gov/TaxLawPoliciesBulletinsNotices/TaxBulletins/CT/Documents/ct_bulletin_2022_01.pdf

1. Calculate the income or loss to be apportioned (currently reported as line 6 of Section B of the Form RCT-101); in accordance with the unitary business concept, this is one amount encompassing all of the activities engaged in by the taxpayer;
2. Determine the entity’s total gross receipts from all activities;
3. Determine the gross receipts from special apportionment activities;
4. Subtract the amount from Step 3 from the amount in Step 2 to determine the gross receipts from standard apportionment activities;

5. Calculate the percentage of gross receipts applicable to each activity by separately dividing the amounts from Step 3 and Step 4 by the amount determined in Step 2;
6. Multiply each of the percentages from Step 5 by the income or loss to be apportioned from Step 1;
7. Apply the standard apportionment formula to the amount of income or loss determined in Step 6 to be subject to standard apportionment;
8. Apply the applicable special apportionment formula to the amount of income or loss determined in Step 6 to be subject to special apportionment;
9. Add the results of Steps 7 and 8 together;
10. Add any nonbusiness income or loss allocated to Pennsylvania to the amount determined in Step 9;
11. If the taxpayer has positive income in Step 10, deduct available Pennsylvania net losses (subject to applicable limitations); and
12. Apply the CNIT rate to the amount determined in Step 11.

Please contact us with any questions.

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Income/Franchise:

Texas Comptroller Proposes Changes to Franchise Tax Rule on Computing Compensation

Proposed Amended Tex. Admin. Code tit. 34 section 3.589, Tex. Comptroller of Public Accounts (2/18/22). The Texas Comptroller of Public Accounts has proposed regulatory amendments on how to compute “compensation” for Texas franchise (margin) tax purposes to “implement statutory changes to definitions, incorporate policy decisions, and improve readability.” Among the changes in the proposal is new language concerning wages and cash compensation paid to employees in a foreign country, pursuant to Accession No. 201510539L (June 14, 2016). Comments on the proposed changes must be received no later than 30 days from the date of their February 18, 2022 publication in the Texas Register (*i.e.*, by March 21, 2022). Please contact us with any questions.

URL: <https://www.sos.state.tx.us/texreg/pdf/backview/0218/0218is.pdf>

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Income/Franchise:

Virginia: New Law Generally Updates State Conformity to Internal Revenue Code

H.B. 971, signed by gov. 2/23/22. Effective immediately, new law generally updates state corporate and individual income tax statutory references to federal income tax law as it existed on December 31, 2021 (previously, December 31, 2020). Under the new law, Virginia continues to decouple from some provisions of federal tax law such as i) bonus depreciation allowed for certain assets under federal income taxation; ii) the five-year carryback of certain net operating losses (NOLs) generated in taxable years 2008 and 2009; iii) certain tax exclusions related to cancellation of debt income; and iv) certain provisions of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (*i.e.*, P.L. 116-136). A subsequently issued administrative bulletin [Tax Bulletin 22-1] explains the adjustments that may be necessary on taxable year 2021 income tax returns to address conformity and the Virginia tax law changes affecting businesses. Please contact us with any questions or comments.

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb971&submit=GO>

URL: <https://www.tax.virginia.gov/sites/default/files/inline-files/tb-22-1-irc-conformity-advanced.pdf>

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Income/Franchise:

West Virginia: New Law Generally Updates State Conformity to Internal Revenue Code

S.B. 451; S.B. 450, signed by gov. 2/21/22. Effective from passage, new law adopts all amendments made to federal law after December 31, 2020, but prior to January 1, 2022, for West Virginia corporation net income and personal income tax purposes “to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective.” However, “no amendment to the laws of the United States made on or after January 1, 2022, shall be given any effect.” The law also states that “with respect to taxable years that began prior to January 1, 2022, the law in effect for each of those years shall be fully preserved as to that year” except as otherwise provided. Please contact us with any questions.

URL: https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=451&year=2022&sessiontype=RS

URL: https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=450&year=2022&sessiontype=RS

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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: <https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive.html?id=us:2em:3na:stm:awa:tax>

California Restores NOLs and Removes the Business Tax Credit Limit for 2022

On February 9, 2022, the California governor signed Senate Bill 113 (S.B. 113), which restores the net operating loss (NOL) deduction and eliminates the \$5 million annual cap on business incentive tax credits, effective for tax years beginning on or after January 1, 2022.

URL: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB113

When initially enacted in 2020, the NOL suspension and credit limit applied to tax years 2020, 2021, and 2022. However, S.B. 113 removes the credit limit and restores the NOL deduction for the 2022 tax year [See our previously issued Multistate Tax Alert for more details on California's initial enactment of the NOL suspension and credit limitation].

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/california-enacts-three-year-nol-suspension-and-business-tax-credit-limit.html?id=us:2em:3na:stm:awa:tax:022522&sfid=7015Y000003WdLgQAK>

This Multistate Tax Alert summarizes some of the relevant provisions of S.B. 113.

[Issued February 16, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/california-restores-nols-and-removes-the-business-tax-credit-limit-for-2022.pdf>

Virginia proposes pass-through entity tax election

The Virginia Senate and House of Delegates have approved Senate Bill 692 (S.B. 692) and House Bill 1121 (H.B. 1121), respectively. The bills are currently under consideration by the opposite chamber. Under the proposed legislation, qualifying pass-through entities may make an annual election to pay an entity-level state income tax for taxable years beginning on and after January 1, 2022, but before January 1, 2026.

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB692>

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB1121>

This Multistate Tax Alert summarizes some of the provisions of the proposed Virginia pass-through entity tax election.

[Issued February 22, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-virginia-proposes-pass-through-entity-tax-election.pdf>

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