



In this issue:

Income/Franchise: Arizona: New Law Updates State Conformity to Internal Revenue Code..... 2

Income/Franchise: Idaho: New Law Includes Single Sales Factor Apportionment and
Market-Based Sourcing of Intangibles 2

Income/Franchise: Massachusetts DOR Posts Release on New Entity-Level Taxation for
Some Pass-through Entities..... 3

Income/Franchise: New Jersey Division of Taxation Addresses Tax Treatment of Convertible
Virtual Currency Transactions 4

Indirect/Sales/Use: Florida: Proposed Rules Reflect New Remote Seller and Marketplace
Laws and Rounding Algorithm..... 5

Indirect/Sales/Use: New York: Fine Art Purchased in Co-Ownership and Then Leased to
Co-Owner is an Exempt Resale..... 6

Property: Massachusetts Appellate Tax Board Says Taxpayer is a Manufacturing Corporation
for Property Tax Purposes 7

Multistate Tax Alerts 8

Income/Franchise:

Arizona: New Law Updates State Conformity to Internal Revenue Code

S.B. 1264, signed by gov. 3/23/22. Effective ninety-one days after adjournment of the 2022 Arizona Legislature and applicable for tax years beginning from and after December 31, 2021, new law generally updates the definition of the federal Internal Revenue Code (IRC) for Arizona tax purposes to the IRC as in effect on January 1, 2022, “including those provisions that became effective during 2021 with the specific adoption of all retroactive effective dates,” but excluding any change to the IRC enacted after January 1, 2022. For purposes of computing state corporate and personal income taxes for tax years beginning from and after December 31, 2020 through December 31, 2021, the legislation provides that the definition of the IRC for Arizona tax purposes generally is the IRC as in effect on March 11, 2021, including those provisions that became effective during 2020 with the specific adoption of all federal retroactive effective dates, *and* including provisions of the PPP Extension Act of 2021 (P.L. 117-6) and the Infrastructure Investment and Jobs Act (P.L. 117-58) that are retroactively effective during taxable years beginning from and after December 31, 2020 through December 31, 2021. Please contact us with any questions.

URL: <https://apps.azleg.gov/BillStatus/BillOverview/77158>

— Scott Schiefelbein (Portland)
Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Cindy James (Phoenix)
Senior Manager
Deloitte Tax LLP
cyjames@deloitte.com

Jimmy Westling (Phoenix)
Manager
Deloitte Tax LLP
jawestling@deloitte.com

Income/Franchise:

Idaho: New Law Includes Single Sales Factor Apportionment and Market-Based Sourcing of Intangibles

H.B. 563, signed by gov. 3/16/22. Applicable retroactively to tax years beginning on or after January 1, 2022, new law incorporates a single sales factor apportionment formula (previously, a three-factor apportionment formula with double-weighted sales) that includes a “throwback” rule on sales of tangible personal property where the Idaho corporate income taxpayer is not taxable in the state of the purchaser. The bill also adopts market-based sourcing for sales other than sales of tangible personal property for state corporate income tax purposes. Additionally, the legislation makes various other changes to Idaho Code § 63-3027, which provides rules for calculating the taxable income of multistate or unitary corporations, and revises some provisions pertaining to alternative apportionment.

[URL: https://legislature.idaho.gov/sessioninfo/2022/legislation/H0563/](https://legislature.idaho.gov/sessioninfo/2022/legislation/H0563/)

See recently issued Multistate Tax Alert for more details on the tax law changes included in this bill and please contact us with any questions.

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-idaho-adopts-single-sales-factor-and-market-sourcing-apportionment.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-idaho-adopts-single-sales-factor-and-market-sourcing-apportionment.pdf)

— Scott Schiefelbein (Portland)
Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Income/Franchise:

Massachusetts DOR Posts Release on New Entity-Level Taxation for Some Pass-through Entities

Technical Information Release (TIR) 22-6: Pass-through Entity Excise, Mass. Dept. of Rev. (3/18/22). The Massachusetts Department of Revenue (Department) released a technical information release (TIR 22-6) addressing state law [see H. 4009 (2021) and previously issued Multistate Tax Alert for more details on this new law] that provides an election for some “eligible pass-through entities (PTEs)” to pay a new entity-level excise tax (PTE Excise) on qualified income that is taxable in Massachusetts at a rate of 5%, applicable for taxable years beginning on or after January 1, 2021. The Department states that the purpose of this release is to explain the PTE Excise election, computation of the excise, filing and payment requirements, and computation of the PTE Excise credit that is available to qualified members of a PTE that makes the election. According to TIR 22-6, the excise generally is equal to 5% of:

[URL: https://www.mass.gov/technical-information-release/tir-22-6-pass-through-entity-excise](https://www.mass.gov/technical-information-release/tir-22-6-pass-through-entity-excise)

[URL: https://malegislature.gov/Bills/192/H4009](https://malegislature.gov/Bills/192/H4009)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-massachusetts-enacts-pass-through-entity-tax-election.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-massachusetts-enacts-pass-through-entity-tax-election.pdf)

- PTE income attributable to qualified members who are Massachusetts residents; plus
- PTE income attributable to nonresident qualified members multiplied by the PTE’s Massachusetts apportionment percentage for the taxable year.

Qualified members are allowed a Massachusetts personal income tax credit for 90% of their share of the PTE Excise paid by the PTE. The PTE Excise credit is refundable if it is claimed against Massachusetts personal income tax and treated as an overpayment. Please contact us with any questions.

— Bob Carleo (Boston)
Managing Director
Deloitte Tax LLP
rcarleo@deloitte.com

Alexis Morrison-Howe (Boston)
Principal
Deloitte Tax LLP
alhowe@deloitte.com

Ian Gilbert (Boston)
Senior Manager
Deloitte Tax LLP
iagilbert@deloitte.com

Shawn David (Boston)
Senior Manager
Deloitte Tax LLP
shdavid@deloitte.com

Tyler Greaves (Boston)
Manager
Deloitte Tax LLP
tgreaves@deloitte.com

Olivia Schulte (Washington, DC)
Manager
Deloitte Tax LLP
oschulte@deloitte.com

Income/Franchise:

New Jersey Division of Taxation Addresses Tax Treatment of Convertible Virtual Currency Transactions

Technical Advisory Memorandum, TAM 2015-1(R), N.J. Div. of Tax. (3/21/22). The New Jersey Division of Taxation (Division) issued updated guidance on the state tax treatment of transactions involving convertible virtual currency (*i.e.*, cryptocurrencies) – reiterating that New Jersey generally conforms to the federal tax treatment of virtual currency as detailed in Internal Revenue Service (IRS) Notice-2014-21, as well as Rev. Rul. 2019-24 and IRS Chief Counsel Memorandum 202114020. The Division provides that because virtual currency is intangible property rather than tangible personal property, “the nexus safe harbor protections afforded by the Federal Interstate Income Act (Public Law 86-272) do not apply to a company that sells virtual currency to customers in New Jersey.” Accordingly, “an out of state company that sells virtual currency to customers in this State is considered to be doing business in this State for Corporation Business Tax purposes.” The Division also generally explains that convertible virtual currency “has an equivalent value in real currency or acts as a substitute for real and legally recognized currency;” can be used as a medium of exchange or as a form of digitally stored value; and may be used “to pay for goods or services, or hold it for investment purposes.”

URL: <http://www.state.nj.us/treasury/taxation/pdf/pubs/tams/tam-2015-1.pdf>

For state sales and use tax purposes, the Division explains that convertible virtual currency is treated as intangible property and, as such, the purchase of this currency for investment purposes is *not* subject to New Jersey sales tax. However, “when a person uses convertible virtual currency as payment for taxable goods or services, New Jersey Sales or Use Tax applies.” Accordingly, the Division states that any seller and/or retailer of taxable goods or services that accepts convertible virtual currency as payment must determine the fair market value of the currency in US dollars as of the date of payment and charge the purchaser applicable New Jersey sales tax on the underlying transaction. Moreover, in addition to complying with all other New Jersey

registration and recordkeeping requirements, the Division reiterates that sellers accepting virtual convertible currency as payment for taxable property or services must:

- Record in their books and records the value of the convertible virtual currency accepted at the time of each transaction, converted to US dollars;
- Record in their books and records the amount of sales tax collected at the time of each transaction, converted to US dollars; and
- Report such sales and remit any applicable New Jersey sales tax due in US dollars when filing their periodic sales tax returns.

Please contact us with any questions.

— Norm Lobins (Cleveland)
Managing Director
Deloitte Tax LLP
nlobins@deloitte.com

Stephanie Csan (Parsippany)
Managing Director
Deloitte Tax LLP
scsan@deloitte.com

Kevin Friedhoff (Parsippany)
Senior Manager
Deloitte Tax LLP
kfriedhoff@deloitte.com

Indirect/Sales/Use:

Florida: Proposed Rules Reflect New Remote Seller and Marketplace Laws and Rounding Algorithm

Proposed Amended Rules 12A-1.0015, 12A-1.004, 12A-1.005, 12A-1.020, 12A-1.056, 12A-1.057, 12A-1.060, 12A-1.070, 12A-1.091, 12A-1.097, 12A-1.103, 12A-1.104, 12A-1.108, and Proposed New 12A-1.112, Fla. Dept. of Rev. (1/22) and *Proposed Amended Rules 12A-15.001, 12A-15.002, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014*, Fla. Dept. of Rev. (9/21); Notice of Public Meeting, Fla. Dept. of Rev. (3/18/22); Notice of Public Meeting, Fla. Dept. of Rev. (3/18/22). The Florida Department of Revenue announced that it will hold a public hearing on March 29, 2022 to discuss various proposed amended and new rules reflecting legislation enacted in 2021 which, among other changes, revised Florida's sales tax nexus standard by requiring some marketplace providers and out-of-state retailers to register for, collect and remit applicable Florida sales taxes, including applicable local discretionary sales surtaxes, effective July 1, 2021 [see previously issued Multistate Tax Alert for more details on these remote seller and marketplace provider provisions, as well as other notable tax law changes in the legislation, such as replacing Florida's sales tax bracket system with a new rounding algorithm]. Included in the rule proposals are changes addressing the replacement of the sales tax bracket system with a rounding algorithm; definition of the term dealer; registration of marketplace providers and remote sellers; taxation of marketplace sales and remote sales; collection and remittance of sales tax and

discretionary sales surtax by marketplace providers, marketplace sellers, and remote sellers; and payment of sales tax by a dealer on behalf of a purchaser. Please contact us with any questions.

[URL: https://floridarevenue.com/rules/Pages/12A-1_0921.aspx](https://floridarevenue.com/rules/Pages/12A-1_0921.aspx)

[URL: https://floridarevenue.com/rules/Pages/12A-15_0921.aspx](https://floridarevenue.com/rules/Pages/12A-15_0921.aspx)

[URL: https://floridarevenue.com/rules/pdf/12A-15_NOPM_032922.pdf](https://floridarevenue.com/rules/pdf/12A-15_NOPM_032922.pdf)

[URL: https://floridarevenue.com/rules/pdf/12A-1_NOPM_032922.pdf](https://floridarevenue.com/rules/pdf/12A-1_NOPM_032922.pdf)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-florida-requirement-to-collect-and-remit-sales-tax-for-remote-sellers-and-marketplace-providers.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-florida-requirement-to-collect-and-remit-sales-tax-for-remote-sellers-and-marketplace-providers.pdf)

— Chris Snider (Miami)
Managing Director
Deloitte Tax LLP
csnider@deloitte.com

Cathy Newport (Tampa)
Senior Manager
Deloitte Tax LLP
cnewport@deloitte.com

Ben Jablow (Tampa)
Manager
Deloitte Tax LLP
bjablow@deloitte.com

Indirect/Sales/Use:

New York: Fine Art Purchased in Co-Ownership and Then Leased to Co-Owner is an Exempt Resale

Decision DTA No. 828673, N.Y. Tax App. Trib. (2/28/22). The New York Tax Appeals Tribunal (Tribunal) reversed an administrative law judge (ALJ) ruling [see *Determination DTA No. 828673*, N.Y. Div. Tax App., ALJ Div. (2/18/21) for details on the ALJ ruling] to hold that a limited liability company's purchase of a one-half interest in a fine art painting that was subsequently leased to the painting's other co-owner (an unrelated entity) under a written one-year lease agreement, automatically renewable for additional one-year periods provided that neither party terminated prior to the end of the then current term, qualified for exemption from sales tax as a purchase for resale under N.Y. Tax Law § 1101 (b) (4). Unlike the ALJ ruling, which concluded that the company's factual case for resale exemption fell short when the transaction was "examined in its entirety," the Tribunal explained that even the ALJ had found the underlying lease "valid in all respects," and that such finding of a valid lease sufficiently establishes that the company intended to and did resell (*i.e.*, lease) its interest in the painting at the time of purchase. Furthermore, the Tribunal explained that no factual evidence in the record showed any use or intended use of the painting by the company other than its lease to the co-owner, and the ALJ was wrong to conclude that just because the company "might, at some point, divert a leased piece of art into its own collection" it had such an intent at the time it purchased the painting. Accordingly, the Tribunal held that the company met its burden under N.Y. Tax Law § 1132 (c) to show that it purchased its interest in the painting exclusively for the purpose of resale. Please contact us with any questions.

[URL: https://www.dta.ny.gov/pdf/decisions/828673.dec.pdf](https://www.dta.ny.gov/pdf/decisions/828673.dec.pdf)

[URL: https://www.dta.ny.gov/pdf/determinations/828673.det.pdf](https://www.dta.ny.gov/pdf/determinations/828673.det.pdf)

— Philip Lee (Jericho)
Managing Director
Deloitte Tax LLP
philee@deloitte.com

Stephanie Csan (Parsippany)
Managing Director
Deloitte Tax LLP
scsan@deloitte.com

Justin Gulotta (New York)
Senior Manager
Deloitte Tax LLP
jgulotta@deloitte.com

Brianne Moriarty (New York)
Manager
Deloitte Tax LLP
bmoriarty@deloitte.com

Property:

Massachusetts Appellate Tax Board Says Taxpayer is a Manufacturing Corporation for Property Tax Purposes

Docket Nos. F334706 through F334713, F334772 through F334778, F339718, F339719, F341308, F341309, & F342198 through F342203, Mass. App. Tax Bd. (3/10/22). The Massachusetts Appellate Tax Board (ATB) held that a company providing its customers with software-based solutions for accelerating, managing, and improving the delivery of web and media content over the internet was entitled to classification as a “manufacturing corporation” as a matter of law for all tax years at issue and thus qualified for an applicable property tax exemption under state statutes. The ATB based its conclusion in this property tax case on its state corporate excise tax decision from December 2021 involving the same taxpayer for some overlapping tax years [see Docket Nos. C332360, C334907, C336909, Mass. App. Tax Bd. (12/10/21) and *State Tax Matters*, Issue 2022-2, for more details on this earlier ruling], which held that the taxpayer qualified as a “manufacturing corporation” under G.L. c. 63, § 38, and thus was eligible to use single sales factor apportionment to compute its Massachusetts corporate excise tax liability. Regarding the remaining newer tax years at issue in the current property tax case, the ATB reasoned that no genuine issue of material fact existed, and that the taxpayer had maintained its classification as a “manufacturing corporation” eligible for the property tax exemption because there had been no “material change in its activities” relative to the prior overlapping tax years. Please contact us with any questions.

[URL: https://www.mass.gov/doc/akamai-technologies-inc-v-board-of-assessors-of-the-city-of-cambridge-march-10-2022/download](https://www.mass.gov/doc/akamai-technologies-inc-v-board-of-assessors-of-the-city-of-cambridge-march-10-2022/download)

[URL: https://www.mass.gov/doc/akamai-technologies-v-commissioner-of-revenue-and-the-board-of-assessors-of-the-city-of-cambridge-intervenor-december-10-2021/download](https://www.mass.gov/doc/akamai-technologies-v-commissioner-of-revenue-and-the-board-of-assessors-of-the-city-of-cambridge-intervenor-december-10-2021/download)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220114_3.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220114_3.html)

— Bob Carleo (Boston)
Managing Director
Deloitte Tax LLP
rcarleo@deloitte.com

David Hurrell (Cleveland)
Managing Director
Deloitte Tax LLP
dhurrell@deloitte.com

Ian Gilbert (Boston)
Senior Manager
Deloitte Tax LLP
iagilbert@deloitte.com

Debbie Loesel (Boston)
Senior Manager
Deloitte Tax LLP
dloesel@deloitte.com

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 provides guidance on tax basis capital accounts reporting requirements

On March 8, 2022, California's Franchise Tax Board (FTB) released FTB Notice 2022-01 to clarify the reporting requirements for the "Analysis of partner's tax basis capital account" on Schedule K-1 for tax year 2021 and subsequent years. As per the guidance provided, taxpayers filing form 565/568 may use federal tax basis for the 2021 tax year; however, for the 2022 tax year and beyond, tax basis must be calculated under California law.

URL: <https://www.ftb.ca.gov/tax-pros/law/ftb-notices/2022-01.pdf>

This Multistate Tax Alert summarizes some of the relevant provisions of FTB Notice 2022-01.

[Issued March 17, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-california-provides-guidance-on-tax-basis-capital-accounts-reporting-requirements.pdf>

Idaho adopts single sales factor and market sourcing apportionment

On March 16, 2022, Idaho Governor Brad Little signed into law House Bill 563 (H.B. 563), which enacts a single sales factor apportionment formula with market-based sourcing for sales other than sales of tangible personal property. The legislation also makes various other changes to Idaho Code § 63-3027, which provides the rules for calculating the taxable income of multistate corporations. The law takes effect for tax years beginning on or after January 1, 2022.

URL: <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2022/legislation/H0563.pdf>

This Multistate Tax Alert summarizes some of the relevant provisions of H.B. 563.

[Issued March 21, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-idaho-adopts-single-sales-factor-and-market-sourcing-apportionment.pdf>

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.