



In this issue:

Administrative: Maine: Newsletter Addresses New Limitations on Requests for
Reconsideration to Board of Tax Appeals 2

Income/Franchise: New Jersey: Updated IRC § 163(j) Bulletin Reflects New Law that
Sunsets Related Member Expense Disallowance Provisions 2

Income/Franchise: New Jersey: Updated Bulletin Reflects New Law that Defines
Combined Group and Moves to Finnigan Method..... 3

Income/Franchise: New York City: New Law Extends Expiring General Corporation
Tax and Personal Income Tax Rates 4

Income/Franchise: Oregon: City of Salem Says Newly Enacted Payroll Tax Will Go
Before Voters on November Ballot 4

Sales/Use/Indirect: Missouri DOR Proposes Changes to Rules Addressing Manufacturing
and Resale Exemptions..... 5

Sales/Use/Indirect: Ohio: Resale Exemption Does Not Apply to Property Substantially
Enhanced After Original Purchase..... 6

Property: Oregon Tax Court Holds in Taxpayer’s Favor that Statute Taxing Intangible
Property is Unconstitutional..... 6

Property: Vermont: New Law Orders Reappraisals for Municipalities Every Six Years 7

Multistate Tax Alerts 7

Administrative:

Maine: Newsletter Addresses New Limitations on Requests for Reconsideration to Board of Tax Appeals

Maine Tax Alert, Vol. 33, No. 10, Me. Rev. Serv. (8/23). A newsletter issued by Maine Revenue Services (MRS) explains that pursuant to recently enacted legislation (P.L. 2023, c. 412), effective October 25, 2023, the filing of a statement of appeal with the Maine Board of Tax Appeals is limited to controversies of tax or refund requests that are more than \$1,000, but now also less than \$500,000. According to the newsletter, the new \$500,000 limit applies to the amount of tax or refund request in controversy at the time a petition for reconsideration is submitted to MRS on or after October 25, 2023; appeals of \$500,000 or more “may still be made directly to the Maine Superior Court.” Please contact us with any questions.

URL: https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/ta_aug2023_vol33_iss10.pdf

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|--|---|
| — Bob Carleo (Boston)
Managing Director
Deloitte Tax LLP
rcarleo@deloitte.com | Alexis Morrison-Howe (Boston)
Principal
Deloitte Tax LLP
alhowe@deloitte.com |
| Jack Lutz (Hartford)
Managing Director
Deloitte Tax LLP
jacklutz@deloitte.com | Ian Gilbert (Boston)
Senior Manager
Deloitte Tax LLP
iagilbert@deloitte.com |

Income/Franchise:

New Jersey: Updated IRC § 163(j) Bulletin Reflects New Law that Sunsets Related Member Expense Disallowance Provisions

Tax Bulletin No. TB-87(R): Guidance for Corporation Business Tax Filers on the IRC § 163(j) Limitation, N.J. Div. of Tax. (rev. 8/22/23). The New Jersey Division of Taxation (Division) posted an updated tax bulletin reflecting recently enacted legislation that sunsets New Jersey’s related member interest and intangible expense disallowance provisions under the state corporation business tax (CBT) for privilege periods ending on and after July 31, 2023 [see A.B. 5323 (2023) and previously issued Multistate Tax Alert for more details on these recent law changes]. According to the Division, the law changes repealed the related party addbacks but were

otherwise “in-line” with how the Division had been treating Internal Revenue Code section 163(j), and they do not change the way it is reported on New Jersey returns. Please contact us with any questions.

[URL: https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb87.pdf](https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb87.pdf)

[URL: https://www.njleg.state.nj.us/bill-search/2022/A5323](https://www.njleg.state.nj.us/bill-search/2022/A5323)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf)

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

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

Income/Franchise:

New Jersey: Updated Bulletin Reflects New Law that Defines Combined Group and Moves to Finnigan Method

Technical Bulletin TB-100(R): The Combined Group as a Taxpayer under the Corporation Business Tax Act, N.J. Div. of Tax. (rev. 8/22/23). The New Jersey Division of Taxation (Division) posted an updated technical bulletin addressing how recently enacted legislation makes it clear that a combined group is a “taxpayer” for New Jersey corporation business tax (CBT) purposes, as well as moves from a “Joyce” to “Finnigan” approach to combined reporting for privilege periods ending on and after July 31, 2023 [see A.B. 5323 (2023) and previously issued Multistate Tax Alert for more details on these recent New Jersey tax law changes]. The bulletin provides that for privilege periods ending on and after July 31, 2023, regardless of the filing method, “a combined group is a taxpayer and taxed as one taxpayer pursuant to N.J.S.A. 54:10A-4(h); N.J.S.A. 54:10A-4(z); and for purposes of N.J.S.A. 54:10A-4.7.e, New Jersey follows the Finnigan method for sourcing receipts.” The Division also states that it is in the process of drafting regulations addressing the topics covered by this bulletin. Please contact us with any questions.

[URL: https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb100.pdf](https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb100.pdf)

[URL: https://www.njleg.state.nj.us/bill-search/2022/A5323](https://www.njleg.state.nj.us/bill-search/2022/A5323)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf)

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

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

Income/Franchise:

New York City: New Law Extends Expiring General Corporation Tax and Personal Income Tax Rates

S.7386, signed by gov. 8/23/23. Effective immediately, new law extends for another three years (*i.e.*, from 2023 to 2026) certain tax rates that had been set to expire, including tax rates under New York City's general corporation tax (GCT) and personal income tax. The legislation also extends for another three years New York City's authority to impose sales and use tax on certain credit rating, credit reporting, credit adjustment, and collection services through to November 30, 2026 (previously, through to November 30, 2023). Please contact us with any questions.

URL: https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=S07386&term=2023&Summary=Y&Actions=Y

— Jack Trachtenberg (New York)
Principal
Deloitte Tax LLP
jtrachtenberg@deloitte.com

Don Roveto (New York)
Partner
Deloitte Tax LLP
droveto@deloitte.com

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

Mary Jo Brady (Jericho)
Senior Manager
Deloitte Tax LLP
mabrady@deloitte.com

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

Josh Ridiker (New York)
Senior Manager
Deloitte Tax LLP
jridiker@deloitte.com

Income/Franchise:

Oregon: City of Salem Says Newly Enacted Payroll Tax Will Go Before Voters on November Ballot

News: Marion County Sets Tax Referendum for November 7 Ballot, City of Salem, Or. (8/14/23). The City of Salem, Oregon (City) issued a news release regarding its recently enacted 0.814% payroll tax on non-minimum wages earned within the City [see Ordinance Bill No. 12-23, approved by City of Salem Council & Mayor 7/10/23, and *State Tax Matters*, Issue 2023-29, for more details on this new tax], announcing that, according to a letter it received from the Elections and Recording manager for the Marion County Clerk, petitioners have collected enough valid signatures to put the City's new payroll tax on the November 7, 2023 ballot. If approved by voters in November, the City's new payroll tax generally would require businesses with an address in the

City to collect the funds on behalf of their employees working in the City beginning no sooner than July 1, 2024. Please contact us with any questions.

[URL: https://www.cityofsalem.net/Home/Components/News/News/857/15](https://www.cityofsalem.net/Home/Components/News/News/857/15)

[URL: https://salem.legistar.com/LegislationDetail.aspx?ID=6277261&GUID=BFBE2787-480F-4595-B4FB-6B1C632D35AE](https://salem.legistar.com/LegislationDetail.aspx?ID=6277261&GUID=BFBE2787-480F-4595-B4FB-6B1C632D35AE)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230721_5.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230721_5.html)

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

Sara Clear (Minneapolis)
Manager
Deloitte Tax LLP
sclear@deloitte.com

Sales/Use/Indirect:

Missouri DOR Proposes Changes to Rules Addressing Manufacturing and Resale Exemptions

Proposed Amendments to Reg. section 10-111.010 and Reg. section 10-107.100, Mo. Dept. of Rev. (9/1/23).

The Missouri Department of Revenue (Department) proposed changes to some of its sales and use tax regulations, including amendments to Missouri's manufacturing machinery and equipment (M&E) and resale exemptions. Under its proposal on Missouri's manufacturing M&E exemption, the Department states that the terms "producing," "compounding," and "processing" are synonymous with "manufacturing." Moreover, the proposal defines a "product" as an "output with market value," and provides that the output must have a new identity, use, and market value produced by the taxpayer's efforts which is intended at the time of the production activity to be sold ultimately for final use or consumption – noting that a "product" may be tangible personal property or a service. The proposal also explains that the taxpayer is *not* required to actually market the good or service but must prove the existence of a market. Two additional example scenarios are included in the proposal – one involving customized steel pipes and the other medical services. The Department is also proposing to delete some provisions in the current regulation addressing specific situations where the exemption may apply.

[URL: https://www.sos.mo.gov/CMSImages/AdRules/moreg/2023/v48n17Sept1/v48n17.pdf](https://www.sos.mo.gov/CMSImages/AdRules/moreg/2023/v48n17Sept1/v48n17.pdf)

Under its proposal on Missouri's resale exemption, the Department provides that "good faith" means "honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry," and "burden of proof" refers to the burden of "persuading the finder of fact that the existence of a fact is more probable than the nonexistence." Moreover, the current requirement for sellers to update resale exemption certificates every five years would be deleted. Comments on these proposed changes to Missouri's manufacturing M&E and resale exemptions must be received within 30 days after their September 1 publication in the Missouri Register. Please contact us with any questions.

— Collin Koenig (Kansas City)
Senior Manager
Deloitte Tax LLP
cokoenig@deloitte.com

Sales/Use/Indirect:

Ohio: Resale Exemption Does Not Apply to Property Substantially Enhanced After Original Purchase

Case No. 2020-1125, Ohio BTA (8/24/23). In another case involving a business that purchased automobiles and substantially enhanced them before reselling them [see *State Tax Matters*, Issue 2023-30, for details on an earlier ruling in a companion case], the Ohio Board of Tax Appeals (BTA) held that the business owed Ohio use tax on the purchases and that Ohio's resale exemption did not apply because, under the facts, the automobiles were fundamentally and substantially altered before resale. In doing so, the BTA explained that the cars had significant work done to them, and they were sold in a different form from which they were purchased. The BTA also held that Ohio's resale exemption did not apply pursuant to prior rulings, because the taxpayer did not have a motor vehicle dealer's license. Please contact us with any questions.

URL: <https://ohio-bta.modria.com/download?BID=1212070>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230728_9.html

— John Hirz (Cleveland)
Senior Manager
Deloitte Tax LLP
jhirz@deloitte.com

Property:

Oregon Tax Court Holds in Taxpayer's Favor that Statute Taxing Intangible Property is Unconstitutional

TC Case No. 5409, Or. Tax Ct. (8/23/23). In an unpublished order of the Regular Division of the Oregon Tax Court (Court), the Court held that Oregon Rev. Stat. section 308.515(1) involving the taxation of intangible property held by centrally assessed businesses violated the US Constitution's Equal Protection Clause and Oregon Constitution's Uniformity Clause as it pertained to a particular air transportation company, because it taxed intangible property used in certain industries while exempting other materially identical transportation companies. Specifically, the Court explained that it found no genuine differences between the air transportation company's taxable use of intangible property in its transportation business and the exempt use of intangible property in road transportation businesses or in other businesses that rely on a network of property. Please contact us with any questions.

URL: <https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll6/id/9545/rec/1>

— Steve Crane (Atlanta)
Managing Director
Deloitte Tax LLP
scrane@deloitte.com

Ted Kuch (New York)
Principal
Deloitte Tax LLP
tekuch@deloitte.com

Property:

Vermont: New Law Orders Reappraisals for Municipalities Every Six Years

H.B. 480, signed by gov. 6/14/23. Applicable retroactively to April 1, 2022, new law removes Vermont's common level of appraisal (CLA) as a trigger for the Vermont Division of Property Valuation and Review (PVR) to order reappraisals, requiring Vermont municipalities to reappraise every six years unless another period of time is approved by PVR starting on January 1, 2025. The legislation also tasks the Vermont Department of Taxes to prepare an implementation proposal with a number of considerations generally regarding property valuation and reappraisals. Please contact us with any questions.

URL: <https://legislature.vermont.gov/bill/status/2024/H.480>

— Ted Kuch (New York)
Principal
Deloitte Tax LLP
tekuch@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>

No new alerts were issued this period. Be sure to refer to the archives to ensure that you are up to date on the most recent releases.

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