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**Administrative/Voluntary Disclosure:**

**Pennsylvania: Philadelphia DOR Issues VDA Program Reminder Allowing for Potential Six-Year Lookback**

*Press Release: Unmet tax obligations? Here’s how to become compliant*, City of Philadelphia, Pa. Dept. of Rev. (12/5/23). The City of Philadelphia, Pennsylvania (City) Department of Revenue (Department) reminds City taxpayers with unmet property and/or business tax filing or payment obligations that they may use the Department’s voluntary disclosure (VDA) program to attain compliance with the City’s tax rules. According to the Department, “whether you are a new business owner or an individual taxpayer, this program offers opportunities for you to maintain good tax standing.” The Department explains that its VDA program allows qualifying individuals and businesses to voluntarily declare and self-report their missed City tax liabilities – including the City’s Business Income & Receipts Tax, Net Profits Tax, School Income Tax, Wage Tax, Earnings Tax, and Use and Occupancy Tax – and, in exchange, the Department generally “will not audit or bill you for taxes disclosed for any years before the six-year disclosure period” and may “waive any penalties accrued within the disclosure period.” Please contact us with any questions.

**URL:** <https://www.phila.gov/2023-12-05-unmet-tax-obligations-heres-how-to-become-compliant/>

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## Income/Franchise:

### Indiana DOR Updates Guidance on Reporting Partnership Level Tax Audit Adjustments

*Information Bulletin #72A*, Ind. Dept. of Rev. (12/23). Indiana Department of Revenue (Department) guidance addressing Indiana's procedures and policies for reporting partnership level tax audit adjustments has been updated to reflect the enactment of Indiana's pass-through entity tax ("PTET") for tax years 2022 and later [see S.B. 2 (2023), and previously issued Multistate Tax Alert for more details on the enactment of Indiana's PTET], as well as revised procedures for issuing proposed adjustments. Furthermore, the updated guidance provides that Indiana partnership audit, protest, assessment, and other rules apply to S corporations when an S corporation has made an election to be subject to the PTET, as well as reflects an additional clarifying example and the latest maximum tax rates applicable to partnership assessments. Please contact us with any questions.

**URL:** <https://www.in.gov/dor/files/reference/ib72a.pdf>

**URL:** <https://iga.in.gov/legislative/2023/bills/senate/2>

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

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## Income/Franchise:

### Montana DOR Issues Publication on Newly Enacted Elective Pass-Through Entity Tax

*Publication No. 4*, Mont. Dept. of Rev. (11/23). The Montana Department of Revenue posted additional implementation guidance on Montana's new elective entity level tax for certain pass-through entities [see S.B. 554, signed by gov. 5/19/23, and previously issued Multistate Tax Alert for more details on this new tax]. Among other topics, the guidance addresses how to make the election, estimated payment requirements and other tax compliance-related matters. Please contact us with any questions.

**URL:** [https://mtrevenue.gov/wp-content/uploads/dlm\\_uploads/2023/11/Publication\\_4\\_2023.pdf](https://mtrevenue.gov/wp-content/uploads/dlm_uploads/2023/11/Publication_4_2023.pdf)

**URL:** [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P\\_SESS=20231&P\\_BLTP\\_BILL\\_TYP\\_CD=SB&P\\_BILL\\_NO=0554&P\\_BILL\\_DFT\\_NO=&P\\_CHPT\\_NO=&Z\\_ACTION=Find&P\\_ENTY\\_ID\\_SEQ2=&P\\_SBJT\\_SBJ\\_CD=&P\\_ENTY\\_ID\\_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=SB&P_BILL_NO=0554&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

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

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## Income/Franchise:

### New Jersey Division of Taxation Comments on Individual Income Tax Application of Hedge Fund Legislation

*Filing Topics: Hedge Fund Legislation*, N.J. Div. of Tax. (12/4/23). Commenting on state legislation signed into law on September 14, 1998 involving hedge funds, the New Jersey Division of Taxation (Division) explains that nonresident taxpayers will *not* be deemed to be carrying on a trade or business in New Jersey for New Jersey gross (individual) income tax purposes if:

**URL:** <https://www.nj.gov/treasury/taxation/hedge.shtml>

1. Their only activity is the buying and selling of intangible personal property,
2. Such intangible personal property is for the account of the trade or business only, and
3. The trade or business does not hold the intangible personal property for sale to customers. According to the Division, this legislative amendment “places New Jersey on equal footing with many of its neighboring states that already have similar provisions in their state income tax codes.”

Please contact us with any questions.

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## Gross Receipts:

### Ohio: CAT Rule Changes Reflect New Law on CAT Exclusion and Annual Minimum Tax

*Amended Reg. section 5703-29-08 and New and Rescinded Regs. sections 5703-29-21*, Ohio Dept. of Tax. (eff. 12/21/23). The Ohio Department of Taxation adopted rule changes reflecting newly enacted operating budget legislation that, among other tax law changes, removes Ohio's commercial activity tax (CAT) minimum tax and increases the taxable gross receipts exclusion from the current first \$1 million to the first \$3 million beginning in 2024 and to the first \$6 million beginning in 2025 [see H.B. 33 (2023) and previously issued Multistate Tax Alert for more details on this legislation]. Please contact us with any questions.

**URL:** <https://www.registerofohio.state.oh.us/rules/search/details/337691>

**URL:** <https://www.registerofohio.state.oh.us/rules/search/details/337717>

**URL:** <https://www.legislature.ohio.gov/legislation/135/hb33>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-ohio-passes-fy2024-fy2025-operating-budget-enacting-various-tax-changes.pdf>

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## Gross Receipts:

### Washington DOR Proposes Changes to Rule Addressing Sourcing of Services for B&O Tax Purposes

*Proposed Amended Rule section WAC 458-20-19402*, Wash. Dept. of Rev. (12/6/23). Based on "interim guidance" and certain stakeholder feedback regarding its rule addressing the sourcing of services for Washington business and occupation (B&O) tax purposes (*i.e.*, WAC 458-20-19402), the Washington Department of Revenue has proposed changes clarifying the apportionment analysis on how to attribute receipts from services relating to the customer's business activities. The proposed revisions also include more illustrative examples. Written comments on this proposal are due by January 10, 2024, and a related virtual public hearing is scheduled for January 9, 2024. Please contact us with any questions.

**URL:** <https://dor.wa.gov/sites/default/files/2023-12/20-19402cr2frmdraftDec23.pdf>

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## Gross Receipts:

### Washington Board of Tax Appeals Addresses B&O Tax Sourcing Methodology for IT Service Company

*Docket No. 19-156*, Wash. Bd. of Tax App. (10/27/23). The Washington Board of Tax Appeals (Board) recently examined the appropriate Washington business and occupation (B&O) tax sourcing methodology for an in-state company providing information technology (IT) services that primarily involve “translating client websites into foreign languages, creating and updating customer-facing websites, providing support for product launches in foreign markets, merchandising support, and website management,” and held that for periods prior to June 12, 2014 (*i.e.*, for periods prior to certain B&O tax law sourcing changes), the IT company failed to show:

**URL:** <https://apps.bta.wa.gov/Decision%20PDF/Formal%20Dockets/19-156.pdf>

1. The Department’s sourcing methodology was erroneous, and
2. The company’s primary customer received the benefit of its localization services in a specific other state (or foreign country), or primarily in a specific other state (or foreign country).

Among its arguments, the IT company unsuccessfully claimed that all the localization services for its primary customer must be sourced zero percent to Washington as the underlying benefits were received in the market for which the content was localized (which, in this case, was often in foreign countries). In ruling against the IT company, the Board also explained the company failed to show it had nexus in any state or country other than Washington or California, and thus the “throwout” rule applied in many instances. For the B&O tax periods at issue on and after June 12, 2014, the Board held that Washington’s proportional attribution rules apply and that the company has 30 days to provide evidence supporting its claims that the benefits of its IT services were received in multiple states and/or outside Washington. Please contact us with any questions.

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## Gross Receipts:

### Washington DOR Explains Taxation Involving Online Fundraising through Crowdfunding

*Publication – Tax Topics: Crowdfunding*, Wash. Dept. of Rev. (12/6/23). The Washington Department of Revenue (Department) issued a publication explaining the Washington sales/use and business and occupation (B&O) tax consequences of online fundraising for projects through “crowdfunding” that generally involves a host (*i.e.*, the online platform), the project creator (which can be an individual or business), and backers (which can be individuals or businesses that offer funding to the project creator). In exchange for helping fund a crowdfunding project, backers may receive rewards from the project creators. The Department explains that a project creator generally needs to report the amounts received in the reporting period when the project is fully funded; however, if the project is not fully funded and the host allows the project creator to keep all the amounts received, the receipts become taxable at the time the funds are received by the project creator.

**URL:** <https://dor.wa.gov/forms-publications/publications-subject/tax-topics/crowdfunding>

According to the guidance, project creators must collect Washington sales tax on the amounts received if they provide retail services (such as meals), digital products or tangible personal property (books, videos, copies of games, etc.) as rewards; however, no sales tax collection is required on items exempt from sales tax (such as prepackaged food items). For such purposes, the Department explains that the minimum funding amount at each level is the taxable value of the item; amounts received beyond the minimum funding amount generally are considered nontaxable donations. Additionally, the Department explains that amounts received for providing tangible personal property, digital products, and retail services in Washington are subject to B&O tax under the retailing classification; and amounts received for providing non-retail services are subject to B&O tax under the service and other activities classification. The guidance includes some example scenarios illustrating the B&O tax consequences of certain crowdfunding activity, and addresses apportionment for multistate businesses. Please contact us with any questions.

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## Sales/Use/Indirect:

### North Carolina: Letter Ruling Addresses Taxability of Electronically Transmitting Reformatted Messages

*Sales and Use Tax Private Letter Ruling SUPLR 2023-0001*, N.C. Dept. of Rev. (3/24/23). The North Carolina Department of Revenue (Department) issued a redacted private letter ruling to a taxpayer utilizing a computer processing application to reformat customer inputs to its short message peer-to-peer protocol and then



transmitting the messages to telecommunication carriers for delivery to designated recipients, concluding that such services meet North Carolina's definition of taxable telecommunications services rather than information services. The Department reasoned that such services do not meet the definition of an information service because the customer's primary purpose for using the taxpayer's services is to transmit the reformatted messages to designated recipients rather than obtain processed data or information. Accordingly, gross receipts derived from the taxpayer's telecom services, including its fixed fee or per message fee charges, are subject to the combined general rate of sales and use tax when sourced to North Carolina. Please contact us with any questions.

**URL:** <https://www.ncdor.gov/suplr-2023-0001pdf/open>

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## **Property:**

### **Connecticut Supreme Court Upholds Validity of Taxing Out-of-State Registered Vehicles Based on In-State Storage**

*Case No. SC20748*, Conn. (12/13/23). The Connecticut Supreme Court (Court) affirmed that Connecticut's motor vehicle property tax authorized by Conn. Gen. Stat. section 12-71 (f) is a valid, nondiscriminatory tax that does *not* violate the dormant Commerce Clause under a *Complete Auto* analysis, reasoning that there is a distinction between discriminatory tax schemes that violate the Commerce Clause and double taxation that results only from the interaction of two different but nondiscriminatory tax schemes. According to the Court, to the extent the taxpayer at issue pays multiple taxes on its vehicles as a result of its decision to register its vehicles in Massachusetts and to garage them in Connecticut, the ensuing "double taxation" is the result of the combined effect of Connecticut's and Massachusetts' different and non-discriminatory tax schemes – the former of which taxes vehicles on the basis of their physical location and the amount of time that they are in Connecticut, and the later that taxes vehicles on the basis of their registration in Massachusetts. Please contact us with any questions.

**URL:** <https://jud.ct.gov/external/supapp/Cases/AROCr/CR348/348CR4.pdf>

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## Property:

### Wisconsin DOR Explains New Law Eliminating Taxes Levied on Personal Property

*2023 Wisconsin Act 12 – Personal Property Exemption*, Wis. Dept. of Rev. (12/5/23). The Wisconsin Department of Revenue issued guidance on the application and implementation of recently enacted legislation providing that, beginning with Wisconsin property tax assessments as of January 1, 2024, no taxes shall be levied on personal property, including business machinery and equipment, tools, and furniture [see A.B. 245 (2023), and *State Tax Matters*, Issue 2023-25, for more details on this new law]. Among other topics, the guidance explains when personal property is exempt, how to determine whether certain property may qualify for exemption, and the assessment of real property previously assessed as personal property. Please contact us with any questions.

**URL:** <https://www.revenue.wi.gov/Documents/2023-Act12-PersonalPropertyExemption.pdf>

**URL:** <https://docs.legis.wisconsin.gov/2023/proposals/reg/asm/bill/ab245>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230623\\_11.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230623_11.html)

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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>

*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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