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## Income/Franchise:

### Missouri DOR Rescinds Special Industry and Optional SSF Apportionment Rules Due to Law Changes

*Recission of 12 CSR 10-2.200: Trucking Companies; Recission of 12 CSR 10-2.205: Railroads; Recission of 12 CSR 10-2.210: Airlines*, Mo. Dept. of Rev. (1/16/24); *Recission of 12 CSR 10-2.052: Optional Single Sales Factor*, Mo. Dept. of Rev. (1/16/24). The Missouri Department of Revenue (Department) has rescinded three of its special industry apportionment rules – specifically, its rules involving trucking companies, railroads, and airlines – because these rules “might lead to a lack of clarity for taxpayers” that are part of these industries “but who can no longer use the corporate income tax apportionment provisions found in those rules” due to Missouri’s adoption of a mandatory single-sales factor formula for state corporation income tax purposes for tax years beginning on or after January 1, 2020 [see previously issued Multistate Tax Alert for more details on the underlying state tax law changes enacted in 2018]. Similarly, the Department has rescinded its “optional single sales factor” rule “due to its limited potential applicability” (*i.e.*, it “could only be applied by corporations that never filed an income tax return for income tax periods ending on or before December 31, 2019”) to avoid potential taxpayer confusion. Please contact us with any questions.

**URL:** <https://www.sos.mo.gov/CMSImages/AdRules/moreg/2024/v49n2Jan16/v49n2.pdf>

**URL:** <https://www.sos.mo.gov/CMSImages/AdRules/moreg/2024/v49n2Jan16/v49n2.pdf>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-enacted-missouri-legislation-includes-future-reduction-to-corporate-income-tax-rate-and-apportionment-changes.pdf>

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## Income/Franchise:

### Washington: US Supreme Court Denies Individuals’ Request to Rule on Validity of Capital Gains Tax

*Docket No. 23-171*, US (cert. denied 1/16/24). Following the Washington Supreme Court’s 2023 decision upholding Washington State’s tax on long-term capital gains earned by some individuals from the sale or exchange of certain capital assets at the rate of 7% beginning January 1, 2022 [see E.S.S.B. 5096 (2021) and previously issued Multistate Tax Alert (May 13, 2021) for more details on this state tax, as well as previously issued Multistate Tax Alert (March 27, 2023) for more details on the Washington Supreme Court’s 2023 decision], the US Supreme Court (Court) denied the request made by a group of individuals asking the Court to review whether the US Constitution “permits a state to tax out-of-state transactions involving only out-of-state property.” Asserting that “Seattle is not a hotbed of securities trading, so an excise tax on high-dollar-value transactions would not raise much revenue if it were limited to transactions and property in the state,” the challengers had claimed that Washington’s new excise tax “reaches far beyond Washington’s borders to tax

transactions that occur in other states involving property located out of state.” Please contact us with any questions.

**URL:** <https://www.supremecourt.gov/docket/docketfiles/html/public/23-171.html>

**URL:** <https://app.leg.wa.gov/billsummary?BillNumber=5096&Year=2021&Initiative=false>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/washington-law-imposes-new-excise-tax-on-capital-gains.pdf>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-multistate-tax-alert-washington-supreme-court-upholds-capital-gains-tax.pdf>

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## Income/Franchise:

### Wisconsin DOR Issues Updated Guidance Reflecting Increase in Refundable Portion of R&D Credit

*Refundable Portion of Research Credit*, Wis. Dept. of Rev. (12/5/23). The Wisconsin Department of Revenue (Department) issued updated administrative guidance reflecting legislation enacted in 2023 [see S.B. 70 / Act 19 (2023), and *State Tax Matters*, Issue 2023-27, for more details on this legislation] that increased the refundable portion of Wisconsin’s research and development (R&D) credit from 15% to 25% for taxable years beginning after December 31, 2023. Among the topics covered, the Department addresses what portion of the credit is refundable; who may and may not claim the refundable portion of the credit; which research credits are eligible for the refundable portion of the credit; and how to compute the refundable portion of the credit, including the schedule to use. Please contact us with any questions.

**URL:** <https://www.revenue.wi.gov/Pages/FAQS/research-credit-cq.aspx#hist1>

**URL:** <https://docs.legis.wisconsin.gov/2023/proposals/sb70>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230707\\_7.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230707_7.html)

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## Sales/Use/Indirect:

### Colorado District Court Grants DOR's Motion to Dismiss in Dispute Between Taxpayer and Locality

*Case No. 2022CV30710*, Colo. Dist. Ct. (1/10/24). A Colorado district court granted the Colorado Department of Revenue's (Department) motion to dismiss in a dispute between a taxpayer and a Colorado local taxing authority involving local taxes due, where the taxpayer claimed that the Department was a necessary party to the action and failed to streamline Colorado sales and use tax compliance and implement a statewide tax remittance procedure, resulting in an undue burden on and discrimination against interstate commerce. In dismissing the Department from the action between the taxpayer and the locality, the court explained that the Department does *not* have the statutory authority to introduce and implement a statewide system for looking up rates and remitting taxes and cannot require home rule cities such as the Colorado locality at issue (*i.e.*, Lakewood) to participate in such a statewide system. Please contact us with any questions.

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## Property:

### Montana DOR Addresses Changes to Business Equipment Reporting Requirement for TY 2024

*Changes To The Business Equipment Reporting Requirement For Tax Year 2024 – Tax News You Can Use*, Mont. Dept. of Rev. (1/10/24). The Montana Department of Revenue (Department) issued guidance addressing legislation enacted in 2023 (*i.e.*, H.B. 212 (2023)), which increased Montana's business equipment tax exemption from \$300,000 to \$1 million for tax year 2024, so that businesses whose statewide market value of equipment is \$1 million or less generally are exempt from the business equipment tax for tax year 2024. According to the Department, such businesses do not have a reporting requirement in 2024 unless:  
[URL: https://mtrevenue.gov/changes-to-the-business-equipment-reporting-requirement-for-tax-year-2024-tax-news-you-can-use/](https://mtrevenue.gov/changes-to-the-business-equipment-reporting-requirement-for-tax-year-2024-tax-news-you-can-use/)

- They have acquired new personal property that would increase their equipment's aggregate market value above the exemption amount; or
- The Department requests a personal property reporting form be completed.

The Department also explains that individuals and businesses owning business equipment (as of January 1, 2024) with an aggregate market value of more than \$1 million statewide must report the equipment owned by March 1, 2024, to avoid a 20% penalty. Please contact us with any questions.

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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>

### **New York adopts final corporate income tax regulations**

On December 27, 2023, a Notice of Adoption of final regulations was published in the New York State Register. These regulations are intended to provide guidance on the state's sweeping corporate tax reform legislation enacted in 2014, with related amendments enacted in 2015 and 2016 ("New York Corporate Tax Reform"). The publication of the Notice of Adoption concluded an eight-year long process of drafting, public comment, and agency response.

In Part 1, this Multistate Tax Alert addresses the effective date of the final regulations, the New York Department of Tax Finance's position on their retroactive application, and the regulations' applicability in New York City. In Part 2, this Multistate Tax Alert gives a brief overview of three select regulatory provisions that, based on comments generated during the regulatory drafting process, are of interest to taxpayers.

[Issued January 11, 2024]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-york-adopts-final-corporate-income-tax-regulations.pdf>

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