



In this issue:

Income/Franchise: Hawaii Department of Taxation Adopts Temporary Rules Implementing  
Pass-Through Entity-Level Tax .....2

Income/Franchise: Montana DOR Reminds Corporate Taxpayers that List of “Tax Haven”  
Jurisdictions Has Been Eliminated .....2

Income/Franchise: New Hampshire: Proposed Rule Reflects Recent Decoupling from IRC §163(j)  
Business Interest Expense Deduction .....3

Income/Franchise: Pennsylvania: Taxpayer Asks US Supreme Court if Philadelphia Validly Denied  
Wage Tax Credit for Taxes Paid to Other State.....4

Unclaimed Property: Wisconsin: Adopted Rule Addresses Virtual Currency and its Liquidation  
When Filing Report.....5

Multistate Tax Alerts .....5

## Income/Franchise:

### Hawaii Department of Taxation Adopts Temporary Rules Implementing Pass-Through Entity-Level Tax

*New Temporary Administrative Rules 18-235-200-01 through 18-235-200-09*, Haw. Dept. of Tax. (eff. 2/16/24). The Hawaii Department of Taxation adopted new temporary administrative rules, some of which reflect state law allowing qualifying pass-through entities to make an annual election to pay an entity level state tax (PTET) applicable to taxable years beginning after December 31, 2022 [see S.B. 1437 (2023) and previously issued Multistate Tax Alert for more details on this PTET]. Among the topics addressed in the rules are making the election, underlying income tax credit eligibility and allowance, filing and calculating the new tax, and making estimated payments. The temporary rules took effect on February 16, 2024, and they are scheduled to expire on August 16, 2025. Please contact us with any questions.

**URL:** [https://files.hawaii.gov/tax/legal/har\\_temp/Pass\\_Through\\_Entity\\_temporary\\_STANDARD\\_eff\\_20240216.pdf](https://files.hawaii.gov/tax/legal/har_temp/Pass_Through_Entity_temporary_STANDARD_eff_20240216.pdf)

**URL:** [https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=SB&billnumber=1437&year=2023](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=1437&year=2023)

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

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## Income/Franchise:

### Montana DOR Reminds Corporate Taxpayers that List of “Tax Haven” Jurisdictions Has Been Eliminated

*Legislative Updates For Corporations – Tax News You Can Use*, Mont. Dept. of Rev. (2/14/24). The Montana Department of Revenue reminds taxpayers that pursuant to state corporate income tax legislation enacted last year [see S.B. 246 (2023) and *State Tax Matters*, Issue 2023-21, for more details on this new law] which removed “tax haven” corporations from the water’s-edge group of affiliated corporations effective for tax

periods beginning after December 31, 2022, C corporations in a unitary relationship with a taxpayer incorporated in a previously designated tax haven no longer need to have their income and apportionment factors included in the water's-edge combined filing group. Please contact us with any questions.

**URL:** <https://mtrevenue.gov/legislative-updates-for-corporations-tax-news-you-can-use/>

**URL:**  
[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P\\_SESS=20231&P\\_BLTP\\_BILL\\_TYP\\_CD=SB&P\\_BILL\\_NO=246&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=246&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)  
**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230526\\_2.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230526_2.html)

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## Income/Franchise:

### New Hampshire: Proposed Rule Reflects Recent Decoupling from IRC §163(j) Business Interest Expense Deduction

*Initial Proposal to Adopt Rev 303.06*, N.H. Dept. of Rev. Admin. (1/19/24). The New Hampshire Department of Revenue Administration released initial proposed text of an administrative rule reflecting state legislation enacted in 2023 [see S.B. 189 (2023) / Chapter 163 and *State Tax Matters*, Issue 2023-31, for more details on this legislation] that permits a New Hampshire business profits tax (BPT) taxpayer to fully deduct its business interest expense in the year it is incurred, thereby decoupling from the limitations on the deduction of business interest expense under Internal Revenue Code (IRC) section 163(j), for tax years beginning on or after January 1, 2024. Specifically, the proposed text provides the following:

**URL:** <https://www.revenue.nh.gov/laws/documents/rev202-and-various-ip-text.pdf>

**URL:** [https://www.gencourt.state.nh.us/bill\\_Status/billinfo.aspx?id=770&inflect=2](https://www.gencourt.state.nh.us/bill_Status/billinfo.aspx?id=770&inflect=2)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230804\\_6.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230804_6.html)

“A business organization with a fiscal tax period that begins before, and ends on or after, January 1, 2024 and has a carry forward of disallowed business interest under section 163(j) of the IRC at the end of such fiscal tax period, shall be allowed as a deduction of such disallowed business interest expense, under RSA 77-A:4, XX, in 3 equal parts over 3 consecutive years, beginning with the first taxable period commencing on or after the end of said fiscal period.”

Written comments on the proposal are due by March 15, 2024, and a related public hearing is scheduled for March 8, 2024. Please contact us with any questions.

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## Income/Franchise:

### Pennsylvania: Taxpayer Asks US Supreme Court if Philadelphia Validly Denied Wage Tax Credit for Taxes Paid to Other State

*Docket No. 23-\_\_\_\_*, *US* (petition for cert. filed 2/20/24). In a case involving a resident of the City of Philadelphia, Pennsylvania (City) who worked full-time in the City of Wilmington, Delaware and unsuccessfully claimed an additional credit against her City of Philadelphia wage taxes for a portion of income taxes that she paid to the State of Delaware, the resident has petitioned the US Supreme Court (Court) to consider how states credit taxpayers' out-of-state tax liabilities under the Commerce Clause. In the underlying case, the Pennsylvania Supreme Court recently affirmed denial of the resident's claim for an additional City wage tax credit for a portion of the Delaware state taxes incurred [see Case Nos. 20 EAP 2022 and 21 EAP 2022, Pa. (11/22/23) and *State Tax Matters*, Issue 2023-47, for details on the Pennsylvania Supreme Court's 2023 decision] – concluding that state and local taxes need not be aggregated in conducting a dormant Commerce Clause analysis, and that, ultimately, the City's wage tax scheme does *not* discriminate against interstate commerce. In the resident's filed petition, she asks the Court whether the Commerce Clause requires states to consider a taxpayer's burden in light of the state tax scheme as a whole when crediting a taxpayer's out-of-state tax liability "as the West Virginia and Colorado Supreme Courts have held and this Court has suggested," or whether it permits states to credit out-of-state state and local tax liabilities as "discrete tax burdens" as held by the Pennsylvania Supreme Court in this case. Please contact us with any questions.

**URL:** <https://www.pacourts.us/assets/opinions/Supreme/out/J-5B-2023mo%20-%20105746608246962463.pdf>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201_5.html)

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## Unclaimed Property:

### Wisconsin: Adopted Rule Addresses Virtual Currency and its Liquidation When Filing Report

*Adopted Reg. Section Tax 10.01*, Wis. Dept. of Rev. (eff. 3/1/24). The Wisconsin Department of Revenue (Department) adopted a rule intended to establish a period of time to convert virtual currency to US currency prior to reporting and delivering it to the Wisconsin Department of Revenue as unclaimed property under state law. The rule provides that a holder that is required to report and remit virtual currency to the Department as provided under state unclaimed property law “shall liquidate the virtual currency within 30 days prior to the November 1 due date of the report.” Please contact us with any questions.

**URL:** [https://docs.legis.wisconsin.gov/code/register/2024/817B/register/cr/cr\\_23\\_028\\_rule\\_text/cr\\_23\\_028\\_rule\\_text](https://docs.legis.wisconsin.gov/code/register/2024/817B/register/cr/cr_23_028_rule_text/cr_23_028_rule_text)

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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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