State Tax Matters
The power of knowing.
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In this issue:

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

H.B. 2379, signed by gov. 3/18/24. Effective ninety-one days after adjournment of the 2024 Arizona Legislature and applicable for tax years beginning from and after December 31, 2023, 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, 2024, "including those provisions that became effective during 2023 with the specific adoption of all retroactive effective dates," but excluding any change to the IRC enacted after January 1, 2024. For purposes of computing state corporate and personal income taxes for tax years beginning from and after December 31, 2022 through December 31, 2023, the legislation provides that the definition of the IRC for Arizona tax purposes generally is the IRC as in effect on January 1, 2023, including those provisions that became effective during 2022 with the specific adoption of all federal retroactive effective dates, *and* including those provisions that are retroactively effective during taxable years beginning from and after December 31, 2022 through December 31, 2023. Please contact us with any questions.
URL: https://apps.azleg.gov/BillStatus/BillOverview/80233

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Income/Franchise:
Idaho: New Law Adds Supporting Documentation Requirements for Claiming Deductions and Credits

H.B. 488, signed by gov. 3/12/24. Effective on and after July 1, 2024, new law revises documentation requirements for purposes of claiming certain Idaho corporate and personal income tax deductions and credits by providing that in addition to a taxpayer's statement or invoice from a credit card company or other financial institution reflecting a valid expenditure, the taxpayer must provide a "sworn statement that the expenditure was made for an identified deductible purpose" to establish its right to the claimed income tax deduction or credit. Please contact us with any questions.
URL: https://legislature.idaho.gov/sessioninfo/2024/legislation/H0488/

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Income/Franchise:
Louisiana DOR Adopts Rule Changes Reflecting Pass-Through Entity Tax Revisions

Amended Louisiana Administrative Code (LAC) section 61:I.1001, La. Dept. of Rev. (3/20/24). The Louisiana Department of Revenue adopted rule changes reflecting legislation enacted in 2023 [see H.B. 428 (2023) and previously issued Multistate Tax Alert for more details on this legislation] that revised aspects of Louisiana law permitting certain pass-through entities to elect to be taxed under the corporate rules at the entity level ("PTET Election") – specifically, provisions:
URL: https://www.doa.la.gov/media/iwjh5xvb/2403.pdf
URL: https://legis.la.gov/legis/BillInfo.aspx?s=23RS&b=HB428&sbi=y
URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-louisiana-enacts-changes-to-pass-through-entity-tax-election.pdf

1. Adding a prospective termination procedure for the PTET Election, and
2. Granting an income exclusion for trusts, estates, or partnerships that are a shareholders, members, or partners in an entity that made a PTET Election, which are effective for taxable periods beginning on or after January 1, 2023.

Please contact us with any questions.

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Income/Franchise:
Oregon DOR Posts Guidance for Foreign Corporations on Doing Business, Nexus, and P.L. 86-272

Foreign Corporations: Corporations with headquarters outside Oregon, Or. Dept. of Rev. (3/24). The Oregon Department of Revenue (Department) posted general nonbinding guidance for corporations "with headquarters outside Oregon," explaining that corporations that are "doing business" in Oregon or have income from an Oregon source may be required to file an Oregon corporate excise or income tax return. In doing so, the Department states that "doing business" generally means being engaged in any profit-seeking activity in Oregon, and that a taxpayer having one or more of the following in Oregon is doing business in Oregon:
URL: https://www.oregon.gov/dor/programs/businesses/Pages/foreign-corps.aspx

- A stock of goods;
- An office;
- A place of business (other than an office) where affairs of the corporation are regularly conducted;
- Employees or representatives providing services to customers as the primary business activity (such as accounting or personal services), or services incidental to the sale of tangible or intangible personal property (such as installation, inspection, maintenance, warranty, or repair of a product); or
- An economic presence through which the taxpayer regularly takes advantage of Oregon's economy to produce income.

The Department also explains that if a company has tangible or intangible property or other assets being used in Oregon, any resulting income it receives is "Oregon-source income" and it may, with some exceptions, be required to file an Oregon corporate income tax return (Form OR-20-INC). Referencing the Multistate Tax Commission's "Model Regulations, Statutes and Guidelines" publication and "Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272," the Department also addresses the application, as well as limitations, of P.L. 86-272. The Department notes that an out-of-state company has nexus and is considered to be doing business in Oregon if activities (*i.e.*, those not specifically protected by P.L. 86-272) performed in Oregon on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain an in-state market. Please contact us with any questions.

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Income/Franchise:
Utah: New Law Lowers Corporate and Personal Income Tax Rates from 4.65% to 4.55%

S.B. 69, signed by gov. 3/14/24. Effective on May 1, 2024, and applicable retroactively for taxable years beginning on or after January 1, 2024, new law lowers Utah corporate and individual income tax rates from 4.65% to 4.55%. These newly enacted Utah income tax rate reductions follow income tax rate reductions that were enacted in 2023 [see H.B. 54 (2023), and *State Tax Matters*, Issue 2023-12, for details on the 2023 legislation]. Please contact us with any questions.
URL: https://le.utah.gov/~2024/bills/static/SB0069.html
URL: https://le.utah.gov/~2023/bills/static/hB0054.html
URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230324_3.html

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Sales/Use/Indirect:
Indiana: New Law Removes 200-Transaction Threshold from *Wayfair* Economic Nexus Statute

S.B. 228, signed by gov. 3/13/24. Effective immediately and applicable retroactively to January 1, 2024, new law revises Indiana's economic nexus provisions for retail merchants that do not have an in-state physical presence by removing the in-state "200 or more separate transactions" threshold so that out-of-state retail merchants must remit Indiana gross retail tax, and follow all applicable procedures and requirements of state law as if the retail merchant had an in-state physical presence, only if the merchant's sales of tangible personal property that is delivered into Indiana; products transferred electronically into Indiana; and/or services delivered in Indiana exceed $100,000 for the calendar year in which the retail transactions are made or for the calendar year preceding the calendar year in which the retail transactions are made. Please contact us with any questions.
URL: https://iga.in.gov/legislative/2024/bills/senate/228/actions

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Sales/Use/Indirect:
Louisiana Board of Tax Appeals Says Pay-Per-View and Video-On-Demand TV Services are Not Taxable

Case No. L01329, La. Bd. of Tax App. (3/14/24). In a case involving a satellite dish and broadband television service provider that also offered subscribing customers the option to purchase certain video-on-demand (VOD) and pay-per-view (PPV) programming, the Louisiana Board of Tax Appeals (Board) held that the VOD and PPV transactions at issue did *not* constitute taxable sales or rentals of tangible personal property for Louisiana sales tax purposes because the provider successfully showed that it is merely selling temporary authorization to view such programs, which has intrinsic value under the facts. In doing so, the Board explained that what the customers are truly paying for is the permission to watch a movie, live event, or other program – noting that a customer's access to the VOD and PPV programming is dependent on its continued subscription and/or connection to the provider's infrastructure, and the underlying digital programming cannot be copied or distributed. Please contact us with any questions.
URL: http://labta.louisiana.gov/pdfs/DirecTV.pdf

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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

South Carolina Limits Department of Revenue Use of Combined Reporting as Alternative Apportionment Method

On March 11, 2024, South Carolina Senate Bill 298 (S.B. 298) was signed into law. S.B. 298 is effective immediately and applicable to all open tax periods, except assessments currently under judicial review. This legislation revises South Carolina law to define the process for when the South Carolina Department of Revenue may require a taxpayer to file a combined return as an alternative method to allocate and apportion income.
URL: https://www.scstatehouse.gov/sess125_2023-2024/bills/298.htm

This Multistate Tax Alert summarizes the relevant provisions in S.B. 298.
[Issued March 18, 2024]
URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-south-carolina-limits-department-of-revenue-use-of-combined-reporting-as-alternative-apportionment-method.pdf

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