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Income/Franchise:

Idaho: New Law Lowers Corporate and Personal Income Tax Rates from 5.8% to 5.695%

H.B. 521, signed by gov. 3/29/24. Effective immediately and applicable retroactively to January 1, 2024, new law lowers Idaho’s corporate income tax rate from 5.8% to 5.695%, and similarly lowers Idaho’s flat individual income tax rate from 5.8% to 5.695%. These newly enacted Idaho income tax rate reductions follow income tax rate reductions that were enacted in 2023 [see H.B. 172 (2023) and *State Tax Matters*, Issue 2023-13, for more details on the 2023 legislation]. Please contact us with any questions.

[URL: https://legislature.idaho.gov/sessioninfo/2024/legislation/H0521/](https://legislature.idaho.gov/sessioninfo/2024/legislation/H0521/)

[URL: https://legislature.idaho.gov/sessioninfo/2023/legislation/H0172/](https://legislature.idaho.gov/sessioninfo/2023/legislation/H0172/)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230331_1.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230331_1.html)

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Income/Franchise:

New Hampshire: Proposed Rules Reflect IRC §163(j) Decoupling and Market-Sourcing Apportionment for Financial Institutions

Final Proposal to Adopt Rev 303.06 and 304.10, N.H. Dept. of Rev. Admin. (3/27/24). The New Hampshire Department of Revenue Administration (Department) released final 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/proposed-rules.htm](https://www.revenue.nh.gov/laws/proposed-rules.htm)

[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.”

The Department also released final proposed text revising its rule on computing special industry apportionment of financial institutions to reflect the market-based sourcing apportionment methodology adopted by 2019 state legislation. According to the Department, it is expected that these final rule proposals collectively will be considered by New Hampshire’s Joint Legislative Committee on Administrative Rules (JLCAR) during their April 19, 2024 meeting. Please contact us with any questions.

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Income/Franchise:

Ohio: Release Addresses NOL Deductions Available under Municipal Net Profit Tax for TYs 2023 and Onward

Information Release – Municipal Net Profit Tax: MNP 2024-02 Update on Net Operating Loss Deductions, Ohio Dept. of Tax. (4/24). The Ohio Department of Taxation (Department) issued an information release explaining changes to the net operating loss (NOL) deductions available under Ohio’s municipal net profit tax for taxable years 2023 and thereafter, applicable to those taxpayers that have made a valid election to opt-in with the Ohio Tax Commissioner to have the State administer the municipal net profit tax under Ohio Revised Code section 718.80 (*i.e.*, applicable to those taxpayers that elected into Ohio’s centralized filing regime). According to the guidance, beginning with taxable year 2023, the NOL carryforward deductions available to taxpayers are no longer subject to the 50% limitation that applied during the five-year phase-in period from taxable years 2018 through 2022. Note that this Department guidance also may have some relevance to those taxpayers that have not elected Ohio centralized filing and instead file the tax with each individual Ohio city/locality. Please contact us with any questions.

URL: https://tax.ohio.gov/business/ohio-business-taxes/municipal-tax/municipal-net-profit-info-releases/mnp2024-02_update_net_operating_loss_deductions_april2024

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Income/Franchise:

Oregon: New Law Enacts Conforming Amendments Reflecting Extension of Elective PTE Tax Through to 2026

S.B. 1526, signed by gov. 3/27/24. Recently signed tax legislation includes various technical amendments that conform with state law enacted in 2023 that extended the ability for qualifying pass-through entities (PTEs) – that is, entities taxed as S corporations and partnerships whose members are either individuals subject to Oregon’s personal income tax or other PTEs wholly owned by individuals who are subject to Oregon’s personal income tax – to elect to be subject to Oregon’s pass-through entity level tax (PTE-E) through to January 1, 2026, rather than just through January 1, 2024 [see H.B. 2083 (2023), and previously issued Multistate Tax Alert for more details on the 2023 legislation]. Please contact us with any questions.

URL: <https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/sB1526>

URL: <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2083>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-oregon-extends-pass-through-entity-tax-and-enacts-cat-updates.pdf>

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Income/Franchise:

City of Portland Revenue Division Posts Voluntary Disclosure Information on Portland Metro Area’s Business Income Taxes

Tax Administration Policy – Voluntary Compliance, City of Portland, Or. (3/14/24). Tax Administration Policy for the City of Portland, Oregon (City) issued updated voluntary compliance guidance on the City of Portland Business License Tax, Multnomah County Business Income Tax, and Metro SHS Business Income Tax –

explaining that a “limitation on the number of prior year tax payments with a new, unsolicited return is appropriate” to assist businesses with compliance and to encourage future compliance. The guidance states that a taxpayer seeking voluntary compliance for open years may do so using one of two options, and that to qualify for the penalty waiver in either option, the tax returns with payment of tax, interest (which may include quarterly underpayment interest), and applicable penalty must be filed and paid before the City Revenue Division notifies the taxpayer of a potential filing requirement. According to the guidance, eligible taxpayers may either:

URL: <https://www.portland.gov/revenue/policy-voluntary-compliance>

1. Report and pay all taxes due, plus interest for all years of unreported business activity, and “upon receipt of returns with payment of taxes and interest, penalties will be waived upon written request,”
or
2. Report and pay all taxes, interest, and penalties for the current year plus three prior years only, and “the penalty will be limited to 25% of the taxes and/or fees due each year.”

The guidance includes an illustrative example, and notes that the City Revenue Division’s voluntary compliance policy “only limits the calculation of penalties and the number of years required to be filed,” and that “nothing in this policy should be construed to limit or expand any other element in the tax calculation, including the owner’s compensation add back and deduction or net operating loss deductions.” Please contact us with any questions.

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Sales/Use/Indirect:

Arizona: Appellate Court Says Online Retailer Has Nexus During Pre-Wayfair Periods at Issue

Case No. 1 CA-TX 23-0002, Ariz. Ct. App. (4/2/24). In a case involving an out-of-state online retailer during the pre-Wayfair Arizona transaction privilege tax (TPT) periods at issue (*i.e.*, for the audit period from April 1, 2013 through April 30, 2019) who regularly worked with in-state suppliers to fulfill in-state orders it accepted online, an Arizona Court of Appeals (Court) reversed a 2023 Arizona Tax Court decision [see *Case No. TX 2020-000778*, Ariz. Tax Ct. (4/11/23), and *State Tax Matters*, Issue 2023-17, for more details on the Arizona Tax Court’s decision] to hold that the retailer’s in-state activities through these contracted distributors established a substantial nexus in Arizona pursuant to existing state caselaw at the time. In doing so, the Court explained that the online retailer’s in-state distributors had:

URL: <https://www.azcourts.gov/Portals/0/OpinionFiles/Div1/2024/1%20CA-TX%2023-0002%20RockAuto.pdf>

URL: <https://superiorcourt.maricopa.gov/media/7954/tx2020-000778.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230428_7.html

1. Maintained inventory in Arizona;
2. Shipped items for many of its Arizona customer orders from within Arizona and were obligated to use the retailer's branded tape and include its promotional magnet with each order; and
3. Accepted/processed returns from many of its Arizona customers in Arizona.

The Court reasoned that these activities of the in-state distributors, coupled with the retailer's own employees making four business trips to Arizona, supported its conclusion that the online retailer had a physical presence in Arizona for the prior tax periods at issue. Please contact us with any questions.

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Sales/Use/Indirect:

Arkansas Supreme Court Says Use Taxable Event Triggered Upon Temporary Withdrawal from Inventory

Case No. CV-23-450, Ark. (3/28/24). In a case involving two in-state auto dealerships that had assigned vehicles with dealer license tags from their inventory to various employees and owner family members, the Arkansas Supreme Court (Court) held that such assignments triggered taxable withdrawals from stock for use tax purposes under Arkansas statute (*i.e.*, under Ark. Code Ann. section 26-52-322) even though these vehicles technically remained available for sale and were ultimately sold to consumers. In doing so, the Court explained that the relevant Arkansas statute does not require a permanent withdrawal from stock or consumption of the property at issue, and "the rules of statutory construction do not permit us to read into it words that are not there." According to the Court, the plain language of the Arkansas statute contemplates that the use of the tangible personal property of an established business for use by any person constitutes a taxable withdrawal from stock and that, in this case, the underlying individuals enjoyed the benefits of the vehicles as any person would enjoy a vehicle they owned – that is, "without restriction, they relied on the vehicles as their primary means of transportation and transported their families and pets, ran personal errands, drove to and from work, and went on vacations in the vehicles." In this respect, the Court concluded that it was clear under these circumstances that the vehicles were used, and therefore, withdrawn from stock based on the plain language of the statute. Please contact us with any questions.

URL: <https://opinions.arcourts.gov/ark/supremecourt/en/522638/1/document.do>

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Sales/Use/Indirect:

Indiana: Posted Bulletins Reflect Removal of 200-Transaction Threshold from *Wayfair* Economic Nexus Statute

Sales Tax Information Bulletin #96, Ind. Dept. of Rev. (rev. 3/24); *Sales Tax Information Bulletin #52*, Ind. Dept. of Rev. (rev. 3/24); *Sales Tax Information Bulletin #57*, Ind. Dept. of Rev. (rev. 3/24). The Indiana Department of Revenue posted several updated sales and use tax administrative bulletins reflecting recently enacted legislation [see S.B. 228 (2024), and *State Tax Matters*, Issue 2024-12, for more details on this legislation], which revised Indiana’s economic nexus provisions for out-of-state retail merchants by removing the in-state “200 or more separate transactions” threshold so that Indiana gross retail tax remittance is required only if their sales of tangible personal property, products transferred electronically, and/or services delivered into Indiana exceed \$100,000 in the current or immediately preceding calendar year. Among the updated sales and use tax administrative bulletins is one addressing Indiana’s sourcing rules, another addressing wholesalers, and another addressing drop shipments. Please contact us with any questions.

URL: <https://www.in.gov/dor/files/sib96.pdf>

URL: <https://www.in.gov/dor/files/sib52.pdf>

URL: <https://www.in.gov/dor/files/sib57.pdf>

URL: <https://iga.in.gov/legislative/2024/bills/senate/228/actions>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240322_6.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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