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## Income/Franchise:

### District of Columbia: Emergency Legislation Switches to Finnigan Apportionment and Repeals Qualified Hi-Tech Benefit

*Act 25-0506 (D.C.B. 875)*, enacted without mayor's signature 7/15/24. The "Fiscal Year 2025 Budget Support Emergency Act of 2024" was recently enacted without District of Columbia (DC) Mayor Muriel Bowser's signature and includes provisions that "transition from the Joyce method of apportionment to the Finnigan method of apportionment" for tax years beginning after December 31, 2025 – specifically, adding that "a combined group of entities will be treated as one taxpayer for purposes of sourcing unitary receipts, as required by this chapter, and the apportionment factor attributes in the numerator, as required by this chapter, will be derived from all the members of the combined group, regardless of whether a member has nexus with the District of Columbia." This emergency legislation also repeals a benefit afforded under DC's "Qualified High Technology Company" (QHTC) provisions – specifically, it repeals the 3% tax on capital gain from the sale or exchange of a QHTC investment. The DC emergency legislation took effect on July 15, 2024, and remains in effect through October 13, 2024. Note that permanent DC legislation with similar provisions known as the "Fiscal Year 2025 Budget Support Act of 2024" [see B25-0784 for details on this legislation] remains pending. Please contact us with any related questions.

**URL:** <https://lims.dccouncil.gov/Legislation/B25-0875>

**URL:** <https://lims.dccouncil.gov/Legislation/B25-0784>

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## Gross Receipts:

### Ohio: Proposed Changes to Transportation Service Provider Nexus Rule Reflect Increased CAT Exclusions

*Proposed Amended section 5703-29-15*, Ohio Dept. of Tax. (7/23/24). The Ohio Department of Taxation (Department) issued proposed changes to its rule addressing whether the provider of transportation services has established nexus with Ohio under the Ohio commercial activity tax's (CAT) "bright-line presence standard" and describing how much such taxpayers should situs gross receipts from their activities to Ohio – essentially, proposing to update the CAT taxable gross receipts threshold to reflect budget legislation enacted in 2023 that removes the CAT minimum tax and increases the taxable gross receipts exclusion 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]. The proposed rule changes also reflect that the CAT taxable gross receipts threshold applies to both combined taxpayers and consolidated elected taxpayers, as well as remove some regulatory restrictions. Please contact us with any questions.

**URL:** <https://www.registerofohio.state.oh.us/rules/search/details/344614>

[URL: https://www.legislature.ohio.gov/legislation/135/hb33](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](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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## Sales/Use/Indirect:

### Streamlined Sales Tax Governing Board Approves SSUTA Changes on Sourcing Digital Goods Transactions

*Motion by Minnesota to amend sections 305, 306, 308, 309 and 310 of the SSUTA to address sourcing transactions when complete street address information is not needed to transfer or deliver products to customers*, Streamlined Sales Tax Governing Board (approved 7/18/24). At a recent virtual meeting, the Streamlined Sales Tax Governing Board approved final amendments to Streamlined Sales and Use Tax Agreement (SSUTA) provisions addressing the sourcing of transactions involving digital goods when complete street address information is not needed to transfer or deliver the underlying products to customers. Among the changes, these SSUTA amendments provide that:

[URL: https://www.streamlinedsalestax.org/docs/default-source/amendments/2024-amendments/sl23022a07---am24002a02-sourcing-without-complete-address-version-2---omaha-gb.pdf](https://www.streamlinedsalestax.org/docs/default-source/amendments/2024-amendments/sl23022a07---am24002a02-sourcing-without-complete-address-version-2---omaha-gb.pdf)

1. A SSUTA member state that has local jurisdictions that levy a sales or use tax, may assign the highest, lowest, or blended rate in the five-digit zip code area, if the area includes more than one tax rate in any level of taxing jurisdiction; and
2. A SSUTA member state that has local jurisdictions that levy a sales or use tax, must assign the lowest combined tax rate imposed in a nine-digit zip code area if the area includes more than one tax rate in any level of taxing jurisdiction.

Under the SSUTA, each member state that has local jurisdictions that levy a sales or use tax must provide and maintain a database that assigns the proper tax rates and jurisdictions to each five-digit and nine-digit zip code within the member state. Other recent amendments to the SSUTA provide some underlying “seller liability” and “seller liability relief” provisions for member states and/or sellers when purchasers fail to provide requested address information and/or sellers fail to adequately exercise due diligence in requesting such address information at the time of sale. Please contact us with any questions.

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## Property:

### Arizona High Court Says Income from Power Purchase Agreement May be Relevant in Plant's Valuation Under Income Approach

*Case No. CV-23-0016-PR, Ariz. (7/22/24).* In a case involving the property tax valuation of an electric generation facility with an associated "Power Purchase Agreement" (PPA) between the power plant's owner and a group of electricity buyers, the Arizona Supreme Court (Court) held that applicable state law basing assessments on a property's "current usage" (*i.e.*, under Ariz. Rev. Stat. section 42-11054(C)(1)) does not require consideration of the PPA, as the PPA did not impact the manner in which the electric generation facility could be used. However, the income from the PPA "is not automatically and entirely irrelevant" to the property's valuation under the income approach. According to the Court, such income potentially may be considered in the valuation "if it is relevant to the calculation of income derivable from the property itself by continued use as a power plant." Moreover, other factors, such as the severability of a PPA and the prevalence of similar agreements, may be considered, and taxpayers also have the ability to make a showing of any independent value of the PPA. In this respect, the Court reversed and vacated lower court rulings in the case and ordered on remand for the Arizona Tax Court to give both the owner and the Arizona Department of Revenue an opportunity to offer a new power plant valuation under the income approach consistent with this opinion. Please contact us with any questions.

**URL:** <https://www.azcourts.gov/Portals/0/OpinionFiles/Supreme/2024/CV230016PR.pdf>

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## Miscellaneous/Transfer:

### Nevada: Draft Rule Proposal Requires Transfer Tax Exemption Claimants to File Affidavit Attesting to Non-Tax Avoidance Motive

*LCB File No. R135-24*, Nev. Tax Comm. (7/15/24). Pursuant to existing Nevada law providing an exemption from Nevada real property transfer taxes on transfers between business entities that constitute a mere change in identity or form or place of organization *unless* the transfer is made to a business entity formed for the purpose of avoiding taxes on the transfer, the Nevada Tax Commission posted a draft rule proposal requiring a business entity claiming the exemption to submit to the county recorder:

**URL:** <https://www.leg.state.nv.us/Register/2024Register/R135-24P.pdf>

1. An affidavit containing an attestation by the affiant that the business entity to which the real property is being transferred was not formed for the purpose of avoiding the taxes on transfers of real property; and
2. Certain documentation sufficient to establish that the real property is not being transferred to a business entity formed for the purpose of avoiding those taxes – including, without limitation, a plan of reorganization, proof of continuity of interest, proof of continuity of business enterprise, or proof of legitimate business purpose for the reorganization.

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>

*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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