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## Income/Franchise:

### Kansas DOR Addresses Newly Enacted Modified Adjustments Related to IRC section 163(j)

*Notice 24-16*, Kan. Dept. of Rev. (8/7/24). A new notice released by the Kansas Department of Revenue addresses recently enacted legislation [see S.B. 410, signed by gov. 4/24/24, and *State Tax Matters*, Issue 2024-18, for more details about this legislation] that clarifies some Kansas adjustments for disallowed business interest expense under Internal Revenue Code (IRC) section 163(j) [see previously issued Multistate Tax Alert for details on Kansas’ conformity to certain provisions under the federal 2017 Tax Cuts and Jobs Act], including:

**URL:** <https://www.ksrevenue.gov/taxnotices/notice24-16.pdf>

**URL:** [https://www.kslegislature.org/li/b2023\\_24/measures/sb410/](https://www.kslegislature.org/li/b2023_24/measures/sb410/)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240503\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240503_5.html)

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-kansas-legislature-overrides-governor-veto-to-enact-significant-indirect-and-income-tax-law-changes.pdf>

- Specifying that the addition modification is applicable to interest expenses paid or accrued in previous tax years and carried forward and allowed as a deduction in the current tax year under IRC section 163;
- Specifying that a subtraction modification is allowed for interest expense actually paid or accrued in the current tax year which was disallowed pursuant to the IRC section 163(j) limitation; and
- For tax year 2021, specifying that a subtraction modification is allowed for an amount equal to the sum of any interest expenses paid or accrued in tax years 2018, 2019 and 2020 less the sum of amounts allowed as a deduction pursuant to IRC section 163 in tax years 2018, 2019 and 2020.

According to the notice, when filing an amended 2021 tax return, “please include with the amended return a copy of the federal Form 8990 for each of tax years 2018, 2019, 2020, and 2021,” as well as “a worksheet that shows how you computed the amount of interest expense being claimed for each of tax years 2018, 2019, 2020, and 2021, and reference the corresponding line numbers on federal Form 8890.” Please contact us with any questions.

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## Income/Franchise:

### New Jersey Division of Taxation Seeks Quotes for Transfer Pricing Specialists to Assist with Corporation Business Tax Audits

*Memo to Prospective Bidders re: Accounting, & Technical Consulting Services Related to Transfer Pricing; Request for Quotes*, N.J. Div. of Tax. (7/23/24). The New Jersey Division of Taxation (Division) posted a memo to “prospective bidders,” seeking quotes from “qualified service providers with expertise in the field of transfer pricing to provide accounting and technical consulting services to assist the Division of Taxation on Corporation Business Tax Audits.” The memo explains that the Division needs tax consultants with expertise in “providing assistance to state taxing authorities on transfer pricing audit adjustments,” and “determining accurate and defensible transfer pricing adjustments on Corporation Business Tax audits.” According to the memo, such consultants will “support the Audit Branch of the Division and work directly with employees of the Division on a case by case basis.” Please contact us with any questions.

**URL:** <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/solicitationtransferpricing-2024.pdf>

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## Income/Franchise:

### Oklahoma: Rule Amendments Reflect Elimination of Franchise Tax Beginning with TY 2024

*Amended Reg. section 710:40-1-6*, Okla. Tax Comm. (Okla. Register, Vol. 41, No. 22, 8/1/24). The Oklahoma Tax Commission adopted administrative rule amendments reflecting legislation enacted in 2023 [see H.B. 1039 (2023), and *State Tax Matters*, Issue 2023-23, for more details on this new law] that eliminates Oklahoma’s

franchise tax and the corresponding reporting requirements applicable for tax year 2024 and subsequent tax years. The rule changes were effective on August 11, 2024. Please contact us with any questions.

[URL: https://rules.ok.gov/registers](https://rules.ok.gov/registers)

[URL: http://www.oklegislature.gov/BillInfo.aspx?Bill=HB1039&session=231X](http://www.oklegislature.gov/BillInfo.aspx?Bill=HB1039&session=231X)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230609\\_8.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230609_8.html)

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## Income/Franchise:

### Oklahoma: Rule Amendments Incorporate New Law Involving Election to Expense Qualified Improvement Property

*Amended Reg. sections 710:50-15-69.1, 710:50-17-51, 710:50-19-5 and 710:50-21-1 and New Reg. section 710:50-21-5*, Okla. Tax Comm. (Okla. Register, Vol. 41, No. 22, 8/1/24). The Oklahoma Tax Commission adopted administrative rule amendments reflecting legislation enacted in 2023 [see S.B. 602 (2023), and *State Tax Matters*, Issue 2023-22, for more details on this new law] providing that when an Oklahoma taxpayer elects to immediately and fully expense a qualified business expense on eligible “qualified property” or “qualified improvement property” (QIP) under state law [see H.B. 3418 (2022), and *State Tax Matters*, Issue 2022-22, for more details on this Oklahoma election], any depreciation claimed for state tax purposes may not duplicate the same amount reported on the taxpayer’s federal income tax return. These rule changes took effect on August 11, 2024. Please contact us with any questions.

[URL: https://rules.ok.gov/registers](https://rules.ok.gov/registers)

[URL: http://www.oklegislature.gov/BillInfo.aspx?Bill=SB602&session=2300](http://www.oklegislature.gov/BillInfo.aspx?Bill=SB602&session=2300)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230602\\_4.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230602_4.html)

[URL: http://www.oklegislature.gov/BillInfo.aspx?Bill=hb3418&Session=2200](http://www.oklegislature.gov/BillInfo.aspx?Bill=hb3418&Session=2200)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220603\\_2.html](https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220603_2.html)

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## Income/Franchise:

### Pennsylvania DOR Summarizes Law Changes Involving NOLs, Intercompany Intangible Expense Addback, and Bank Shares Tax

*Pennsylvania State Tax Legislative Summary – August 2024*, Pa. Dept. of Rev. (8/24). The Pennsylvania Department of Revenue (Department) issued a summary of recently signed legislation, including new law that increases Pennsylvania’s “40% of taxable income” percentage cap for net loss carryover deductions under the state corporate net income tax for taxable years beginning after December 31, 2024 (effectively phasing in an 80% cap for taxable years beginning after 2028), as well as adds an election under Pennsylvania’s intercompany intangible expense “addback” statute [see S.B. 654, signed by gov. 7/11/24, and *State Tax Matters*, Issue 2024-29, for more details on this recently enacted legislation]. Regarding the addback statute changes, the Department explains that i) the new provision is “intended to prevent the same income from being taxed twice,” and ii) it will publish additional guidelines for taxpayers who have already filed their 2023 return. Another summarized law change in the document involves Pennsylvania’s bank shares tax, and it explains that for returns due March 2025 and after, institutions may “deduct all goodwill generated in a merger or acquisition after June 30, 2001, when that goodwill is stated in their Reports of Condition filed with the FDIC.” Please contact us with any questions.

**URL:**  
[https://www.revenue.pa.gov/TaxLawPoliciesBulletinsNotices/TaxSummaries/Documents/2024\\_tax\\_summary\\_aug.pdf](https://www.revenue.pa.gov/TaxLawPoliciesBulletinsNotices/TaxSummaries/Documents/2024_tax_summary_aug.pdf)  
**URL:** [https://www.legis.state.pa.us/cfdocs/billinfo/bill\\_history.cfm?year=2023&ind=0&body=S&type=B&bn=654](https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2023&ind=0&body=S&type=B&bn=654)  
**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240719\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240719_5.html)

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## Income/Franchise:

### Texas: Federal Law Preempts Taxing Air Carrier’s Gross Receipts from Baggage Fees, Passenger Ticket Sales, and Freight Transportation

*Case No. D-1-GN-16-000621*, Tex. Dist. Ct., Travis County, Tex. (8/7/24). In a case involving an air carrier that constituted a transportation company for purposes of Texas Admin. Code section 3.591(e)(32) as in effect for the report year at issue, the Travis County Texas District Court held the federal Anti-Head Tax Act (AHTA) – which prohibits states from imposing any tax on gross receipts from air commerce or air transportation –

preempts Texas’s franchise tax as applied to the air carrier’s baggage fees, passenger ticket sales, and air freight transportation because such imposition would constitute an impermissible tax on “gross receipts” from “air commerce or air transportation.” Accordingly, the air carrier was permitted to exclude passenger, freight, and baggage revenues from its total revenue when calculating its Texas franchise tax liability for report year 2015. Please contact us with any questions.

**URL:**  
<https://odysseyweb.traviscountytexas.gov/app/RegisterOfActions/#/A7DB6C8752D089E843D13B338D801252C4879E4C39F433F9AA16791FCAF289C608FE00966C95BBA0D34BF31DF78B86D489F39D7DD5050D9BAB6C8978AEEEF898D33D0212935574CC63FF00A3704D71D2/anon/portalembd>

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## Gross Receipts:

### California: San Francisco Tax Collector to Host Virtual Meeting on Proposals Involving VDAs, Advance Written Determinations, and Sourcing

The San Francisco Office of Treasurer & Tax Collector (TTX) announced that it is hosting a virtual meeting on August 28, 2024, to review three business tax-related topics that will “provide greater clarity to San Francisco taxpayers” – namely proposals involving a voluntary disclosure agreement program and an advance written determination program for “taxpayers who seek advice on specific facts and circumstances related to apportionment and business classification questions,” as well as the creation of sourcing regulations. Regarding the sourcing regulations, the TTX states that it will collect feedback on its created set of sourcing questions before it develops specific proposals for review. According to the TTX, the August 28 meeting will be “the first of several meetings” on these topics. Additionally, the TTX says it “welcomes written comments on these topics, and others items you would like us to consider, now through September 30, 2024.” Please contact us with any questions.

**URL:** [https://emma-assets.s3.amazonaws.com/oeofb/93adfff87c2b3125d5f0757bccdb6d14/VDA\\_Program\\_Proposal\\_7.22.24.pdf](https://emma-assets.s3.amazonaws.com/oeofb/93adfff87c2b3125d5f0757bccdb6d14/VDA_Program_Proposal_7.22.24.pdf)

**URL:** [https://emma-assets.s3.amazonaws.com/oeofb/f1f3c11571e8cadf46f6b83f5c6bdf4b/AWD\\_Program\\_Proposal\\_7.22.24.pdf](https://emma-assets.s3.amazonaws.com/oeofb/f1f3c11571e8cadf46f6b83f5c6bdf4b/AWD_Program_Proposal_7.22.24.pdf)

**URL:** [https://emma-assets.s3.amazonaws.com/oeofb/94d9f19d25bee0a29980ebaa92457ea1/Sourcing\\_Questions\\_7.22.24.pdf](https://emma-assets.s3.amazonaws.com/oeofb/94d9f19d25bee0a29980ebaa92457ea1/Sourcing_Questions_7.22.24.pdf)

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## **Sales/Use/Indirect:**

### **Illinois: New Law Requires Direct Pay Permit Holders to Annually Verify Correct Sourcing or Else Penalties May Apply**

*S.B. 3282*, signed by gov. 8/9/24. New law requires each holder of an Illinois “Direct Pay Permit” to annually review its purchase activity to verify that the purchases made in the preceding twelve-month period were sourced correctly and the correct tax rate was applied. The legislation also sets forth a penalty that potentially may apply for failure to comply with the bill’s new annual reporting requirements. Specifically, the legislation provides that “by March 31, 2025, and by March 31 of each year thereafter,” each holder of a Direct Pay Permit must review its purchase activity to verify that the purchases made during the twelve-month period ending on December 31 of the immediately preceding calendar year were sourced correctly and that the correct tax rate was applied. Under the new law, if the Direct Pay Permit holder discovers an error in sourcing or the tax rate during this review process, then, by April 20 of the calendar year in which the review occurs, the Direct Pay Permit holder must file an amended return to correct the error. If, for any twelve-month review period, a Direct Pay Permit holder fails to properly verify its purchase activity and correct sourcing and tax rate errors, then a \$6,000 penalty potentially may apply. Please contact us with any questions.

**URL:**  
<https://www.ilga.gov/legislation/billstatus.asp?DocNum=3282&GAID=17&GA=103&DocTypeID=SB&LegID=152856&SessionID=112>

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## **Sales/Use/Indirect:**

### **Illinois: New Law Addresses Retailers with In-State Physical Presence and Sourcing**

*S.B. 3362*, signed by gov. 8/9/24. Beginning as of January 1, 2025, new Illinois Retailers’ Occupation Tax (ROT) law provides that a retailer maintaining an in-state place of business that makes retail sales of tangible personal property to Illinois customers from a location or locations out-of-state is considered engaged in the occupation of selling at retail in Illinois for ROT Act purposes. Such retailers are liable for all applicable state



and locally imposed retailers' occupation taxes administered by the Illinois Department of Revenue on retail sales made by those retailers to Illinois customers from locations outside of Illinois. Additionally, the legislation provides that for sales which would otherwise be sourced out-of-state, a retailer maintaining an in-state place of business that makes retail sales of tangible personal property to Illinois customers from a location or locations outside of Illinois is considered engaged in the business of selling at the Illinois location to which the tangible personal property is shipped or delivered or at which possession is taken by the purchaser. Please contact us with any questions.

**URL:**  
<https://www.ilga.gov/legislation/billstatus.asp?DocNum=3362&GAID=17&GA=103&DocTypeID=SB&LegID=152856&SessionID=112>

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## **Unclaimed Property: Illinois: New Law Addresses Reporting of Abandoned Virtual Currency When it Cannot be Liquidated**

*S.B. 3343*, signed by gov. 8/9/24. Modifying unclaimed property legislation enacted in 2023 mandating that any reported abandoned property in the form of defined “virtual currency” be liquidated by the holder within 30 days prior to filing their report, new law provides that if such a holder cannot liquidate virtual currency and cannot otherwise cause virtual currency to be liquidated, the holder must “promptly notify the administrator in writing and explain the reasons why the virtual currency cannot be liquidated.” Under the new law, the administrator “in his or her absolute and sole discretion” then may direct the holder to either:

**URL:**  
<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3343&GAID=17&DocTypeID=SB&LegID=152811&SessionID=112>

- Transfer the virtual currency that cannot be liquidated to a custodian selected by the administrator, or
- Continue to hold the virtual currency until the administrator or the holder determines that the virtual currency can be liquidated or there is an indication of apparent owner interest under state law.

Note that the Illinois State Treasurer also has proposed administrative rule changes addressing the reporting of abandoned virtual currency [see *State Tax Matters*, Issue 2024-29, for more details on these proposed rule changes]. Please contact us with any questions.

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240719\\_16.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240719_16.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>

### **IRS releases additional guidance for SAF, pilot USDA program, and SAF GREET model**

The IRS released Notice 2024-37 (the “Notice”) on April 30, 2024, providing additional guidance regarding the sustainable aviation fuel (“SAF”) credits under Internal Revenue Code sections 40B and 6426(k). The guidance provides an additional safe harbor for calculating the lifecycle greenhouse gas (“GHG”) emissions reduction percentage for SAF under a modified version of the Argonne National Laboratory’s Greenhouse gases, Regulated Emissions, and Energy use in Transportation (“GREET”) model, the 40BSAF-GREET 2024 model, that was released on April 30, 2024. Furthermore, the Notice provides an additional safe harbor under the US Department of Agriculture’s (“USDA”) Climate Smart Agriculture (“CSA”) pilot program that can be used in conjunction with the 40BSAF-GREET 2024 model for an additional reduction in the calculation of the GHG emissions reduction percentage.

**URL:** <https://www.irs.gov/pub/irs-drop/n-24-37.pdf>

The Notice also provides Model Certificates for: (1) Climate Smart Agriculture Crops; (2) SAF Synthetic Blending Component Using the 40BSAF-GREET 2024 Model; and (3) SAF Synthetic Blending Component Using the 40BSAF-GREET 2024 Model and USDA CSA Pilot Program for Corn and Soybean.

This Multistate Tax Alert summarizes some of the provisions in the Notice.

[Issued August 7, 2024]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/irs-releases%20additional-guidance-for-saf-pilot-usda-program-and-saf-greet-model.pdf>

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