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**Amnesty/Administrative:
Massachusetts: Amnesty Program Offering Potential 100% Penalty Waiver Begins November 1**

Massachusetts Tax Amnesty 2024 Program, Mass. Dept. of Rev. (9/10/24). The Massachusetts Department of Revenue (Department) announced that pursuant to recently enacted legislation authorizing it to establish a tax amnesty program where qualifying participants potentially may receive a 100% waiver of underlying penalties

[see H.B. 4800, signed by gov. 7/29/24, and *State Tax Matters*, Issue 2024-31, for more details on this legislation], it will administer this program from November 1, 2024, through December 30, 2024. According to the Department, during this period, “Massachusetts will waive most penalties for eligible taxpayers who file outstanding returns and pay tax and interest owed for tax periods with returns due by December 31, 2024.” The Department explains that eligible taxpayers – including personal income or corporate excise taxpayers, trusts, or estates – may submit an “Amnesty Request” if they have a Massachusetts tax liability (including a corporate excise, personal income, estate, or sales/use tax liability) related to:

[URL: https://www.mass.gov/info-details/massachusetts-tax-amnesty-2024-program](https://www.mass.gov/info-details/massachusetts-tax-amnesty-2024-program)

[URL: https://malegislature.gov/Bills/193/H4800](https://malegislature.gov/Bills/193/H4800)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240802_2.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240802_2.html)

- Massachusetts unfiled returns, underreported tax, and/or other unpaid assessments;
- A current Massachusetts audit that will result in an assessment of penalties; or
- Massachusetts pending resolution, Appellate Tax Board, and collection cases.

Moreover, according to the Department, “non-filers may be eligible for a three-year limited look-back period.” If applicable, an Amnesty Request may be submitted “for all filing periods with a return due on or before December 31, 2024.” Under this amnesty program, eligible taxpayers generally will not be required to establish reasonable cause for the failure to file or properly report the underlying Massachusetts tax liability. The program also permits eligible taxpayers currently under audit by the Department to seek amnesty as to the amounts at issue in such audit. Importantly, the amnesty program expressly permits eligible taxpayers that have filed returns which underreport the Massachusetts taxes due to file amended returns and pay the resulting tax in exchange for penalty abatement – a provision that apparently is designed to encourage the voluntary disclosure of known outstanding taxes due.

The guidance addresses how to prepare for the upcoming Massachusetts tax amnesty program and the underlying Amnesty Request process, and notes that the Department will continue to post more information about the program as it becomes available. Please contact us with any questions.

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Income/Franchise: California FTB Proposes Market-Based Sourcing Rule Changes with Comments Due by October 31

Proposed Amended California Code of Regulations, Title 18, section 25136-2, Cal. FTB (9/13/24); Notice of Proposed Rulemaking, Cal. FTB (9/13/24); Initial Statement of Reasons, Cal. FTB (9/13/24). After holding six Interested Parties Meetings (IPMs) during 2017 through 2021 regarding proposed amendments to California Code of Regulations, Title 18, section 25136-2, in which it sought public input on draft changes to this market-based sourcing regulation for sales other than sales of tangible personal property [see previously issued Multistate Tax Alert for details about the sixth IPM and notable draft proposed changes], the California Franchise Tax Board (FTB) has “after considering all comments, objections, and recommendations regarding the proposed action,” formally proposed to adopt changes to the regulation. The proposed amendments to the regulation include:

URL: <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2%20draft%20text.pdf>

URL: <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2%20Notice-Proposed-Rulemaking.pdf>

URL: <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2-ISOR.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-california-franchise-tax-board-to-hold-sixth-interested-parties-meeting-on-market-based-sourcing-regulatio.pdf>

- Important definitions used throughout the regulation, including a definition for “asset management services;”
- Clarification of existing rules on the assignment for sales of services and new provisions for specific service industries;
- Clarifying amendments and examples for sales of intangible property;
- New rules for sales that are a blend of services and intangible property; and
- Clarifying rules for sales of marketable securities.

The proposed regulation amendments, if approved, generally would apply to taxable years beginning on or after January 1, 2024. Written comments on these proposed changes must be received by October 31, 2024. Moreover, while a public hearing on the proposed rule changes has not been scheduled, the FTB states that it will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period. Please contact us with any questions.

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Income/Franchise:

New York City: Department of Finance Revises Plans on Rules Implementing Business Corporation Tax

The New York City Department of Finance Business Corporation Tax Regulations (Project Update), N.Y.C. Dept. of Fin. (rev. 9/12/24). As the New York City (City) Department of Finance (Department) continues to develop regulations implementing the City Business Corporation Tax (BCT) – which are expected to largely conform with New York State (State) Department of Taxation and Finance regulations implementing its Article 9-A business corporation franchise tax – it recently announced that it will *not* move forward with its initially considered methodology that used the City Unincorporated Business Tax (UBT) sourcing rules to allocate partnership income earned by corporations. According to the Department, “although the City maintains that it does have considerable discretion in establishing the allocation of partnership receipts with respect to the BCT, uniformity across the State and City corporate tax regimes will streamline the process of tax administration and reduce the cost of doing business in the City of New York.”

URL: <https://www.nyc.gov/assets/finance/downloads/pdf/24pdf/bct-regulations-update.pdf>

Originally, the Department had considered departing from the allocation approach used by the State for income that flows from a partnership to a corporate partner – providing that any items of income or gain from a partnership would be allocated under the statutory and regulatory rules of the UBT and would not be included in the receipts factor of a corporate partner. Under this previously contemplated approach, the corporation’s other income would have been allocated under the business allocation percentage (BAP), and the sum of the separately allocated partnership income and the business income allocated using the BAP would have been the corporate partner’s taxable income for BCT purposes. See *State Tax Matters*, Issue 2024-18, for more details on the City’s initially considered methodology.

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240503_10.html

The Department’s release also states that in light of recent comments and feedback:

- Related to overcoming presumptions within certain of the State’s allocation provisions and for determining the existence of a unitary business, it intends to propose a regulatory framework under which it will continue making determinations based on the individual facts and circumstances of the taxpayer, rather than apply the “clear and convincing” evidentiary standard adopted by the State;
- It plans to adopt the State’s regulations regarding the special allocation of income from passive investment customers but is considering departing from the State’s fallback allocation approach (where investor location is not known) and imposing an 8% flat allocation;
- It will not alter the threshold number of business customers purchasing substantially similar products or services (at least 250) needed to meet the requirements of the “billing address presumption;” and
- It intends to issue further guidance on integrating the reporting of excess inclusion income (required to be reported for federal income tax purposes by Internal Revenue Code section 860E) into the BCT framework.

While the Department intends to provide additional updates on its progress towards formal initiation of the City Administrative Procedures Act (“CAPA”), it has not committed to a precise timeline for rulemaking. The release states that once adopted, the regulations would be applied retroactively to tax years beginning on or after January 1, 2015 and supersede any previously issued policy guidance. 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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