



In this issue:

Income/Franchise: Michigan Department of Treasury Clarifies that Cryptocurrency Can't Be Used to Pay Detroit Income Taxes 2

Income/Franchise: New York: Receipts from Certain Buy/Sell Arrangements Cannot be Included in Receipts Factor 2

Sales/Use/Indirect: California: December 9 Tax Workshop Solicits More Public Input on Technology Transfer Agreements 3

Sales/Use/Indirect: California: December 16 Meeting Will Address New Requirements for Localities to Disclose Information on Sales Tax Sharing Agreements Made with Retailers 4

Sales/Use/Indirect: Maryland: Company's Equipment Deemed Predominantly Used in Exempt Production Activity Rather than Non-Exempt Delivery..... 5

Sales/Use/Indirect: Texas District Court Stops Enforcement of Certain Provisions within Local Tax Siting Rule 6

Multistate Tax Alerts 6

Income/Franchise:

Michigan Department of Treasury Clarifies that Cryptocurrency Can't Be Used to Pay Detroit Income Taxes

Notice: No Changes to City Income Tax Payments as Detroit Explores Cryptocurrency for Property Taxes, Mich. Dept. of Treasury (11/20/24). Referencing the City of Detroit, Michigan (City) Office of the Treasury's recent news release announcing that by mid-2025, City residents will "have the option to pay taxes and other city fees using cryptocurrency through a secure platform" [see *News: Detroit to become largest city in US to accept cryptocurrency payments for taxes, other fees*, City of Detroit, Mich. Off. of the Treasury (11/7/24), and *State Tax Matters*, Issue 2024-46, for more details on this recent announcement], the Michigan Department of Treasury (Treasury) clarifies that at this time, there is no change to City of Detroit income tax payments "which is paid to the Michigan Department of Treasury and must be made in US currency." In doing so, Treasury notes that Michigan's "City Income Tax Act" allows Michigan cities to enter into agreements with Treasury to administer their respective city's income tax, and that in 2016, Treasury began processing the City of Detroit's income tax returns. The release also notes that, currently, "Treasury receives all returns and payments for City of Detroit individual income tax, employer withholding tax, corporate income tax, partnership tax, and fiduciary income taxes." Lastly, the release clarifies that pursuant to the City's recent announcement about cryptocurrency, the City "will begin accepting cryptocurrency for current year property tax payments" by mid-2025. Please contact us with any questions.

URL: <https://www.michigan.gov/treasury/reference/taxpayer-notice/no-changes-to-city-income-tax-payments-as-detroit-explores-cryptocurrency-for-property-taxes>

URL: <https://detroitmi.gov/news/detroit-become-largest-city-us-accept-cryptocurrency-payments-taxes-other-fees#:~:text=%E2%80%9CThe%20Treasurer's%20Office%20is%20committed,services%20and%20benefit%20city%20residents.>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241115_1.html

— Pat Fitzgerald (Detroit)
Managing Director
Deloitte Tax LLP
pfitzgerald@deloitte.com

Stephanie LaFave (Detroit)
Senior Manager
Deloitte Tax LLP
slafave@deloitte.com

Income/Franchise:

New York: Receipts from Certain Buy/Sell Arrangements Cannot be Included in Receipts Factor

Decision DTA Nos. 829399, 829400, 829401, and 829402, N.Y. Tax App. Trib. (11/18/24). Affirming an administrative law judge (ALJ) ruling [see *Determination DTA No. 829399*, N.Y. Div. of Tax App., ALJ Div. (5/4/23) and *State Tax Matters*, Issue 2023-20, for more details on the underlying ALJ ruling in this case], the New York Tax Appeals Tribunal (Tribunal) rejected an oil and gas company's attempt to include in its receipts factor for Article 9-A apportionment factor purposes gross amounts attributable to the sale side of certain

buy/sell transactions to acquire inventory for the prior years at issue. In doing so, the Tribunal agreed with the ALJ that the taxpayer's sale side of the buy/sale transactions were not sales of tangible personal property constituting business receipts and that the buy/sell transactions constituted exchanges of inventory. Under the facts, for financial reporting purposes, any gain or loss on these buy/sell arrangements was considered to be an adjustment to the company's costs of goods sold rather than gross receipts or sales. A dissenting opinion follows. Please contact us with any questions.

[URL: https://www.dta.ny.gov/pdf/decisions/829939.dec.final.pdf](https://www.dta.ny.gov/pdf/decisions/829939.dec.final.pdf)

[URL: https://www.dta.ny.gov/pdf/determinations/829399.det.pdf](https://www.dta.ny.gov/pdf/determinations/829399.det.pdf)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230519_6.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230519_6.html)

— Jack Trachtenberg (New York)
Principal
Deloitte Tax LLP
jtrachtenberg@deloitte.com

Don Roveto (New York)
Partner
Deloitte Tax LLP
droveto@deloitte.com

Josh Ridiker (New York)
Managing Director
Deloitte Tax LLP
jridiker@deloitte.com

Mary Jo Brady (Jericho)
Senior Manager
Deloitte Tax LLP
mabrady@deloitte.com

Sales/Use/Indirect:

California: December 9 Tax Workshop Solicits More Public Input on Technology Transfer Agreements

Announcement Letter, Cal. Dept. of Tax & Fee Admin. (11/22/24). Following its two earlier workshops and multiple requests seeking public input on the same [see *State Tax Matters*, Issue 2024-25, *State Tax Matters*, Issue 2024-6 and *State Tax Matters*, Issue 2024-4, for details on earlier developments on this topic], the California Department of Tax and Fee Administration (CDTFA) announced that it will host a third workshop, which may be attended live or virtually, on December 9, 2024 to discuss and receive additional input on California sales and use tax issues related to technology transfer agreements (TTAs). According to the CDTFA, in addition to any other TTA-related topics raised by participants, the topics for discussion at this upcoming workshop will continue to include:

[URL: https://www.cdtfa.ca.gov/taxes-and-fees/TTAWorkshopIII112224.pdf](https://www.cdtfa.ca.gov/taxes-and-fees/TTAWorkshopIII112224.pdf)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240621_3.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240621_3.html)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240209_7.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240209_7.html)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240126_8.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240126_8.html)

1. A “safe harbor” provision that is rebuttable by the CDTFA;
2. For transactions where the intangible rights are not specifically bargained for as part of that transaction, a rebuttable presumption that the entire charge in the transaction represents the retail value of the tangible personal property (TPP) transferred; and

3. A rebuttable presumption for embedded software.

Additional written suggestions or comments on TTA-related issues may be submitted to the CDTFA by January 20, 2025. Please contact us with any questions.

— Galina Philipovitch (San Jose)
Managing Director
Deloitte Tax LLP
gphilipovitch@deloitte.com

Hal Kessler (San Francisco)
Managing Director
Deloitte Tax LLP
hkessler@deloitte.com

Evita Graciela Lopez (Costa Mesa)
Managing Director
Deloitte Tax LLP
evlopez@deloitte.com

Brian Wiggins (Sacramento)
Specialist Executive
Deloitte Tax LLP
bwiggins@deloitte.com

Karri Rozario (Sacramento)
Senior Manager
Deloitte Tax LLP
krozario@deloitte.com

Sales/Use/Indirect:

California: December 16 Meeting Will Address New Requirements for Localities to Disclose Information on Sales Tax Sharing Agreements Made with Retailers

Discussion Paper, Cal. Dept. of Tax & Fee Admin. (11/26/24). The California Department of Tax and Fee Administration (CDTFA) posted a discussion paper on whether it should propose adopting an emergency regulation to address “the local tax revenue sharing agreement reporting and publication requirements and clarify the imposition of the penalty” provided under recently enacted legislation [see A.B. 2854, signed by gov. 9/28/24, and *State Tax Matters*, Issue 2024-40, for more details on this new law] that requires California cities and counties to annually provide specified information to the CDTFA relating to certain sales tax rebate agreements made with retailers. To this end, the CDTFA announced that it will hold a virtual meeting on December 16, 2024 for interested participants to discuss the issue and present any additional suggestions or comments. Additional written suggestions or comments on the issue – including any proposed regulatory language – may be submitted to the CDTFA by December 23, 2024. Please contact us with any questions.

URL: <https://www.cdtfa.ca.gov/taxes-and-fees/TRSADP121624web.pdf>

URL: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2854

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241004_7.html

— Galina Philipovitch (San Jose)
Managing Director
Deloitte Tax LLP
gphilipovitch@deloitte.com

Brian Wiggins (Sacramento)
Specialist Executive
Deloitte Tax LLP
bwiggins@deloitte.com

Evita Graciela Lopez (Costa Mesa)
Managing Director
Deloitte Tax LLP
evlopez@deloitte.com

Karri Rozario (Sacramento)
Senior Manager
Deloitte Tax LLP
krozario@deloitte.com

Sales/Use/Indirect:

Maryland: Company's Equipment Deemed Predominantly Used in Exempt Production Activity Rather than Non-Exempt Delivery

Case No. C-02-CV-22-000534 (No. 81), Md. Ct. App. (11/22/24). In a case involving, among other issues, whether an electric utility company was eligible for Maryland sales and use tax refunds on certain equipment, the Maryland Appellate Court (Court) agreed with the Maryland Tax Court that, based on the provided facts, the company predominantly used certain conductor, substation, and transformer equipment for Maryland sales and use tax-exempt "production activity" rather than non-exempt delivery of electricity and therefore qualified for underlying refunds on such equipment. In doing so, the Court held there was substantial evidence in the record to support the Maryland Tax Court's conclusion that some of the company's conductor equipment, substation equipment, and transformer equipment was "integral and essential" to a production activity and served that purpose more than 50% of the time. Among its arguments to the contrary, the Maryland Comptroller unsuccessfully claimed that based on the provided facts, certain equipment "at best" was equally used for delivery and processing and thus negated the possibility that processing was the predominant use. Please contact us with any questions.

URL: <https://www.mdcourts.gov/data/opinions/cosa/2024/0081s23.pdf>

— Joe Carr (McLean)
Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Mihir Kapadia (McLean)
Senior Manager
Deloitte Tax LLP
mikapadia@deloitte.com

Sales/Use/Indirect:

Texas District Court Stops Enforcement of Certain Provisions within Local Tax Siting Rule

Case No. D-1-GN-21-003198, Tex. Dist. Ct., Travis County, Tex. (12/3/24); *Case No. D-1-GN-21-003203*, Tex. Dist. Ct., Travis County, Tex. (12/3/24). In cases involving a Texas administrative rule on local sales tax siting and the location where an order is deemed received (*i.e.*, Title 34 Tex. Admin. Code section 3.334 (“Rule 3.334”)) [see *State Tax Matters*, Issue 2024-27, for more details on Rule 3.334], the Travis County Texas District Court (Court) held that certain sections of the rule contravene existing Texas statutes, and the Texas Comptroller of Public Accounts (Comptroller) did not substantially comply with some aspects of Texas’ Administrative Procedure Act in adopting them. Specifically, the Court ordered that the Comptroller is permanently enjoined from enforcing Rule 3.334, subsections (a)(9), (a)(18), (b)(5), and (c), effective July 4, 2024, “and those subsections are hereby remanded” to the Comptroller “for further consideration not inconsistent with Chapters 151, 321, and 323 of the Texas Tax Code.” Please contact us with any questions.

URL:
<https://odysseyweb.traviscountytexas.gov/app/RegisterOfActions/#/C8A4EA15A11EFC35F1D00EC639C769584C8C28B7AC8232FDCCCA311D6F3F5D79C58A2008259FBB27BF306CB529725F2DBB124989216E589B1F69A90221846218ADE8A2E7B88C46AB78E58359C68553BE/anon/portalembd>

URL:
<https://odysseyweb.traviscountytexas.gov/app/RegisterOfActions/#/B6A5FF6474EB1313C2712057029AA0B9E9005D1F952309009E126A373A42FF8DE93593D409FA5AD3719730AF0EBD4B0735AC793895ADB318C01954E4371CAFC7CBF8E9E551A4F376F615F4F790639BE4/anon/portalembd>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240705_8.html

— Robin Robinson (Houston)
Specialist Executive
Deloitte Tax LLP
rorobinson@deloitte.com

Chris Blackwell (Austin)
Senior Manager
Deloitte Tax LLP
cblackwell@deloitte.com

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.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.