



Multistate Tax

State Tax Matters

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Administrative:

New Jersey: State High Court Affirms Abatement of 5% Amnesty Penalty & Late Payment Penalties on Imputed Interest Audit Assessment

United Parcel Serv. Gen. Servs. Co. v. Dir., Div. of Taxation, N.J. (12/4/14). In a New Jersey corporation business tax case involving a package-delivery company's five subsidiaries and the New Jersey Division of Taxation's imputed interest on certain related-member cash management system transactions, the New Jersey Supreme Court has affirmed that certain late-payment penalties and amnesty penalties did *not* apply as the taxpayers at issue had reasonable cause for their failure to pay the additional taxes due on such transactions – i.e., there was an “honest misunderstanding of fact or law” that was reasonable in light of the experience, knowledge and education of the taxpayers, as well as the lack of established precedence on the issue.

URL: [http://op.bna.com/der.nsf/id/ksas-9rgscf/\\$File/UPS%20Case.pdf](http://op.bna.com/der.nsf/id/ksas-9rgscf/$File/UPS%20Case.pdf)

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Sales/Use/Indirect:

New Jersey: Division of Taxation Adopts New Rules on the Sales of Software and Software Related-Services

N.J. Admin. Code 18 §§ 18:24-25.1A ; 25.6; 25.7; 25.8, N.J. Div. of Tax. (eff. 12/1/14). The New Jersey Division of Taxation has released new regulations that address the potential imposition of state sales and use taxes on sales of software and software related services. Among other items, the new regulations address modified definitions of custom software and installation services, as well as provide definitions for customer support services, modifying software, servicing of software and certain software maintenance contracts.

Stay tuned for a forthcoming Multistate Tax Alert on these new rules.

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Sales/Use/Indirect:

New York: Department of Taxation and Finance Issues Guidance on Taxation of Transactions Involving Virtual Currency

TSB-M-14(5)C, (7)I, (17)S, Tax Department Policy on Transactions Using Convertible Virtual Currency, N.Y. Dept. of Tax. & Fin. (12/5/14). The New York State Department of Taxation and Finance has issued a memorandum explaining its policy regarding transactions involving convertible virtual currency for state sales tax, corporation tax, and personal income tax purposes. Regarding sales tax, the memorandum explains that the use of convertible virtual currency by a customer to pay for goods or services delivered in New York State is treated as a barter transaction and that convertible virtual currency is considered “intangible property.” Accordingly, because the purchase or use of intangible property is not subject to state sales tax, any convertible virtual currency received by a party to a barter transaction is not subject to state sales tax. However, if the party that gives convertible virtual currency in trade receives in exchange goods or services that are subject to state sales tax, that party owes state sales tax based on the market value of the convertible virtual currency at the time of the transaction, converted to US dollars. If the party that trades property or services in exchange for receiving convertible virtual currency gives the other party a sales slip, invoice, or receipt, the first party must separately state the state sales tax due in US dollars on the sales slip, invoice, or receipt. Example scenarios are provided to illustrate this state sales tax treatment.

[URL: http://www.tax.ny.gov/pdf/memos/multitax/m14_5c_7i_17s.pdf](http://www.tax.ny.gov/pdf/memos/multitax/m14_5c_7i_17s.pdf)

For state corporation tax and personal income tax purposes, the memorandum explains that state law conforms to the federal treatment of convertible virtual currency as detailed in IRS Notice-2014-21, which provides that convertible virtual currency is treated as property for US federal tax purposes. Accordingly, general tax principles that apply to property transactions apply to transactions using convertible virtual currency for state corporation tax and personal income tax purposes.

Multistate Tax Alerts

What's new in the States? Our Multistate Tax Alerts highlight selected state tax developments relevant to taxpayers, tax professionals, and other interested persons. Read our more recent alerts below or visit the archive for ones you may have missed.

[Archive: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive0.html?id=us:em:na:stm:eng:tax)

District of Columbia FY 2015 Budget Support Act of 2014

On November 12, 2014, the District of Columbia ("District") Fiscal Year 2015 Budget Support Act of 2014 (Permanent Act) ("Budget Support Act") was transmitted to the US Congress. In the District, permanent legislation only becomes law after it is approved by Congress, which is deemed to occur if Congress does not enact a joint resolution to repeal the legislation within the 30-calendar-day period defined in D.C. Code Ann. § 1-206.02(c)(1). As of the date of this Multistate Tax Alert, the projected law date (enactment date) of the Budget Support Act is December 27, 2014. If enacted as final law, this legislation would make the following permanent changes to District law:

- A phased-in reduction of the Unincorporated and Incorporated Business Franchise Tax rates;
- The use of single sales factor apportionment for all business income;
- A revision to the sourcing rules for sales apportionment purposes;
- The exemption of certain investment fund income from the Unincorporated Business Franchise Tax;
- The addition of a new personal income tax bracket and a reduction of personal income tax rates for certain taxpayers;
- The expansion of the sales tax base to include a variety of services.

This Multistate Tax Alert summarizes these provisions of the Budget Support Act, which have various effective dates as specified in the discussion that follows.

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[URL: http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-district-of-columbia-fy-2015-budget-support-act-of-2014.html?id=us:em:na:stm:eng:tax:121214](http://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-district-of-columbia-fy-2015-budget-support-act-of-2014.html?id=us:em:na:stm:eng:tax:121214)

[URL: http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-district-of-columbia-fy-2015-budget-support-act-of-2014-120814.pdf?id=us:em:na:stm:eng:tax:121214](http://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mts-alert-district-of-columbia-fy-2015-budget-support-act-of-2014-120814.pdf?id=us:em:na:stm:eng:tax:121214)

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