



Accounting for Income Taxes | Quarterly Hot Topics

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U.S. Federal

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US Multistate

Arizona

New Law Updates State Conformity to Internal Revenue Code

New law ([S.B. 1264](#), signed by gov. 3/23/22) updates the definition of the federal Internal Revenue Code (IRC) for Arizona tax purposes to the IRC as in effect on January 1, 2022, including those provisions that became effective during 2021 with the specific adoption

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of all federal retroactive effective dates, but excluding any change to the IRC enacted after January 1, 2022.

For additional details, please refer to the March 25, 2022 edition of [State Tax Matters](#).

Arkansas

Administrative Ruling Addresses Economic Nexus and Alternative Apportionment

A redacted administrative ruling ([Opinion Nos. 22-154, 22-155, 22-156](#), Ark. Dep't of Fin. & Admin., Office of Hearings & Appeals, (3/22/22)) concluded that an out-of-state taxpayer subject to a Multistate Tax Commission audit had sufficient economic nexus with Arkansas for state corporate income tax purposes, and that it must source revenue from the sale of its digital products based on the end customers' locations rather than underlying costs of performance.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#).

California

Office of Tax Appeals Addresses Treasury Function Receipts and Vendor Allowances in Sales Factor

The California Office of Tax Appeals (OTA) issued an opinion ([OTA Case No. 18011340](#), Cal. Off. of Tax App. (3/17/22)) holding that a taxpayer's receipts from its internal treasury function activities are not includible in the sales factor for the taxable years at issue; and while some vendor allowances may have constituted sales and thus been includible in its sales factor, the company failed to sufficiently document the amount and types of allowances for each taxable year at issue.

For additional details, please refer to the May 6, 2022 edition of [State Tax Matters](#).

FTB Addresses Reliance on Revoked Chief Counsel Rulings and Possible Penalty Relief

California's Franchise Tax Board, in a new release ([News Release: FTB issues Legal Ruling on California's Market-Based Rules](#),

Cal. FTB (4/11/22)), issued some additional guidance regarding its Legal Ruling 2022-01 on market-based sourcing and how it retroactively revokes Chief Counsel Rulings 2015-03 and 2017-01, providing that if taxpayers relied on either of these two revoked chief counsel rulings when determining their tax filing positions, they potentially may qualify for some associated penalty relief.

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

FTB Addresses Sourcing Gross Receipts from Sales of Services to Business Entities

California's Franchise Tax Board issued [Legal Ruling 2022-01](#) addressing the relevant considerations and proper analysis for determining the assignment of gross receipts from the sales of services for purposes of calculating the California sales factor.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#) and the April 18, 2022 edition of [Multistate Tax Alerts](#).

OTA concludes gain from goodwill constitutes apportionable business income to nonresident S corporation shareholders

The California Office of Tax Appeals (OTA) issued an opinion ([OTA Case No. 18043049](#), In the Matter of the Appeal of: T. Faries and Estate of D. Faries Jr. (Dec'd)) concluding that: (1) the gain derived from an S corporation's sale of goodwill constituted apportionable business income to its nonresident shareholders under California Code of Regulations, title 18 ("Regulation") section 17951-4(f); (2) the S corporation's sale of goodwill constituted an "occasional sale," and accordingly, its gross receipts therefrom were properly excluded from the sales factor under Regulation section 25137(c)(1)(A); and (3) the taxpayer failed to demonstrate by clear and convincing evidence that exclusion of such gross receipts pursuant to Regulation 25137(c)(1)(A) caused the S corporation's apportionment percentage to unfairly reflect the extent of its business activities in California.



For additional details, please refer to the April 14, 2022 edition of [Multistate Tax Alerts](#).

FTB Notice 2022-01 provides guidance on tax basis capital accounts reporting requirements

California's Franchise Tax Board released [FTB Notice 2022-01](#) clarifying the reporting requirements for the "Analysis of partner's tax basis capital account" on Schedule K-1 for tax year 2021 and subsequent years. The guidance provides that taxpayers filing Form 565/568 may use federal tax basis for the 2021 tax year; however, for the 2022 tax year and beyond, tax basis must be calculated under California law.

For additional details, please refer to the March 17, 2022 edition of [Multistate Tax Alerts](#).

Connecticut

New Law Includes Tax Administration-Related Changes Involving Refunds and Assessments

Recently enacted Connecticut legislation ([H.B. 5473](#), signed by gov. 5/16/22) contains several tax administration-related changes, including limiting the payment of interest added to a tax refund whether issued by the Connecticut Department of Revenue Services (DRS) or in a court award upon tax appeal, for a tax period to \$5 million; and limiting the period to file refund claims for closed audit periods. The new law establishes conditions under which taxpayers must file amended Connecticut income tax returns and authorizes the DRS to impose more than one sales and use tax deficiency assessment (i.e., reassessments) for a tax period in some situations.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

District of Columbia

OTR Says Pandemic-Related Telecommuting Nexus Relief Ends July 16

The District of Columbia Office of Tax and Revenue (OTR) issued an updated notice ([Notice 2022-06](#), D.C. Off. of Tax. Rev. (6/6/22)) stating that it will not seek to impose corporation franchise tax or unincorporated business franchise tax nexus solely on the basis of employees or property used to allow employees to work from home during the pandemic emergency and through July 16, 2022.

For additional details, please refer to the June 10, 2022 edition of [State Tax Matters](#).

Florida

New Law Generally Updates State Conformity to IRC

New law ([H.B. 7071](#), signed by gov. 5/6/22) updates corporate income tax statutory references in Florida to conform to the IRC provisions as in effect on January 1, 2022.

For additional details, please refer to the May 13, 2022 edition of [State Tax Matters](#).

Georgia

New Law Generally Updates State Conformity to IRC

New law ([H.B. 1320](#), signed by gov. 5/2/22)

updates Georgia's corporate and individual income tax conformity to the IRC of 1986 provided for in federal law enacted on or before January 1, 2022.

For additional details, please refer to the May 13, 2022 edition of [State Tax Matters](#).

New Law Permits Some Affiliated Companies to File Consolidated Income Tax Return

New law ([H.B. 1058](#), signed by gov. 5/5/22) authorizes some Georgia affiliated corporations to elect filing their Georgia income tax returns on a consolidated basis and provides that such election generally is irrevocable and binding on both the Georgia Department of Revenue and electing Georgia affiliated group for a period of five years without modification.

For additional details, please refer to the May 6, 2022 edition of [State Tax Matters](#) and the May 5, 2022 edition of [Multistate Tax Alerts](#).

Hawaii

New Law Updates State Conformity to IRC

New law ([S.B. 3143](#), signed by gov. 4/21/22) updates statutory references to the federal IRC, providing that references to the IRC in Hawaii income tax laws generally refer to the federal law in effect, as amended as of December 31, 2021.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

Idaho

New Law Seeks to Protect Some Idaho Businesses from Taxation by Other Jurisdictions

Asserting that the Oregon Department of Revenue has invalidly construed the reach of its corporate activity tax, a new Idaho law ([H.B. 677](#), signed by gov. 3/29/22) provides that no out-of-state taxing authority may tax an Idaho business for conducting sales or other business taking place within Idaho between an Idaho business and a nonresident who is physically present within Idaho while engaging in the business transaction.

For additional details, please refer to the April 8, 2022 edition of [State Tax Matters](#) and the April 13, 2022 edition of [Multistate Tax Alerts](#).

New Law Extends Statute of Limitations for Income Tax Overpayment Credit Claims

New law ([H.B. 715](#), signed by gov. 3/29/22) extends the period for Idaho taxpayers to file an income tax credit claim for certain overpayments from the later of three years of the due date of the return, without regard to extensions, or three years from the date the return was filed to the later of ten years of the due date of the return, without regard to extensions, or ten years from the date the return was filed.

For additional details, please refer to the April 8, 2022 edition of [State Tax Matters](#).

New Law Addresses Application of 2021 Bonus Depreciation Changes and New PTE Tax

New law ([H.B. 714](#), signed by gov. 3/24/22) clarifies that certain bonus depreciation taken on a federal income tax return but not allowed on an Idaho income tax return does not create income to be added back under Idaho law, and provides that such policy applies to all taxpayers that have timely filed original returns consistent with this policy retroactive to January 1, 2016.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#).

New Law Includes Single Sales Factor Apportionment and Market-Based Sourcing of Intangibles

Applicable retroactively, new law ([H.B. 563](#), signed by gov. 3/16/22) incorporates a single sales factor apportionment formula in tandem with market-based sourcing for sales other than sales of tangible personal property for state corporate income tax purposes.

For additional details, please refer to the March 25, 2022 edition of [State Tax Matters](#) and the March 21, 2022 edition of [Multistate Tax Alerts](#).

Indiana:

Indiana DOR Summarizes 2022 Legislation Including Apportionment and Filing Status Changes

The Indiana Department of Revenue issued a summary list of tax-related legislation ([Legislative Synopsis 2022](#), Ind. Dept. of Rev. (4/22)) passed by the 2022 Indiana General Assembly, which includes discussion of S.B. 382 addressing apportionment, consolidated filing elections within context of certain reorganizations, some procedures for reporting federal partnership audit adjustments, and marketplace facilitators.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

New Law Addresses Consolidated Filing Elections within Context of Reorganizations

New law ([S.B. 382](#), signed by gov. 3/15/22) provides that in the case of a sale of a corporation, the filing status of the remaining members of the consolidated group generally “shall continue absent an election by those consolidated members to file separately or on a combined basis” for Indiana adjusted gross income tax purposes. The legislation also makes some other tax technical and clarifying changes.

For additional details, please refer to the March 18, 2022 edition of [State Tax Matters](#).

Kentucky

New Law Generally Updates State Conformity to IRC

New law ([H.B. 8](#), legislature overrode governor’s veto 4/13/22) updates Kentucky statutory corporate and personal income tax references to the IRC as in effect on December 31, 2021, exclusive of any amendments made subsequent to that date. The new law also mandates establishment of a 60-day tax amnesty program that will apply to most Kentucky taxes on liabilities. Qualifying participants potentially may receive a waiver of underlying penalties and 50% interest.

For additional details, please refer to the April 15, 2022 [Income/Franchise](#) and [Amnesty](#) editions of State Tax Matters and the April 18, 2022 edition of [Multistate Tax Alerts](#).

Louisiana

Sourcing Guidance Related to Interest Earned on Retail Installment Contracts

A Louisiana appellate court considered the proper sourcing methodology for a company in the business of acquiring and servicing retail installment contracts from dealers who sell vehicles to customers on credit ([Case No. 2021 CA 732](#), [Case No. 2021 CA 733](#), [Case No. 2021 CA 734](#), La. Ct. App., 1st Cir. (5/9/22)). The appellate court determined that interest earned from the contracts entered into in Louisiana must be sourced to Louisiana for sales factor purposes, while the value of the contracts must be sourced outside of Louisiana for property factor purposes.

For additional details, please refer to the May 13, 2022 edition of [State Tax Matters](#).

Maine

Revenue Services Summarizes Eligibility and Participation in Voluntary Disclosure Program

Maine Revenue Services (MRS) summarizes the purpose of Maine’s voluntary disclosure program ([Voluntary Disclosure Program](#), Me. Rev. Serv. (5/22)) as providing an opportunity for eligible businesses and individuals that recently became aware of unfiled or underreported Maine tax obligations to come forward and meet such obligations voluntarily, without having to pay penalties, and possibly benefit from a limited lookback period.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

Amended Rule Reflects New Bright-Line Nexus Standard Under Corporate Income Tax

MRS adopted amendments ([Amended Reg. section 18-125-808](#), Me. Rev. Serv. (eff. 5/10/22)) to an administrative rule that, among other revisions, reflect legislative

changes enacted in 2021 providing factor presence nexus thresholds that apply to tax years beginning on or after January 1, 2022.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

New Law Compels Study on Mandatory Worldwide Combined Reporting with Water’s-Edge Election

New law ([L.D. 428/H.P. 308](#), enacted without governor’s signature 4/26/22) mandates MRS to review Maine’s corporate income tax law and identify statutory and administrative changes that would be necessary to adopt a corporate income tax system that requires worldwide combined reporting for income tax purposes and that allows a corporation to elect to compute income on a water’s-edge combined report, with its findings due by February 1, 2023.

For additional details, please refer to the May 6, 2022 edition of [State Tax Matters](#).

Adopted Rules Reflect New Bright-Line Nexus Standard Under Corporate Income Tax

MRS adopted administrative rules ([Adopted Reg. section 18-125-801](#); [Adopted Reg. section 18-125-810](#), Me. Rev. Serv. (eff. 4/20/22)) that, among other revisions, reflect legislative changes providing for factor presence nexus thresholds that apply to tax years beginning on or after January 1, 2022.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

New Law Updates State Conformity to IRC

New law ([L.D. 1763/H.P. 1314](#), signed by gov. 4/14/22) conforms state corporate and personal income tax references to the “Internal Revenue Code” to the federal IRC as in effect as of December 31, 2021.

For additional details, please refer to the April 22, 2022 edition of [State Tax Matters](#).

Maine Revenue Services Updates Corporate Income Tax Guidance on NOL-Related Modifications

MRS updated its published guidance ([Modifications Related to Net Operating Losses – Examples for C Corporations](#), Me. Rev. Serv. (4/8/22)) on required corporate income tax modifications related to federal net operating losses (NOLs) explaining Maine's varying nonconformity with federal law based on the year(s) at issue, including necessary adjustments to federal taxable income through addition and subtraction modifications applicable for select time frames.

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

Adopted Rules Address State Treatment of Federal Partnership Audit Regime Changes

MRS adopted revisions to two administrative rules ([Notice: Amended Reg. sections 18-125-803 and 18-125-805](#); [Amended Reg. section 18-125-805](#); [Amended Reg. section 18-125-803](#), Me. Dept. of Rev. Serv. (4/6/22)) reflecting state law that attempts to harmonize with changes in the federal partnership audit and adjustment process, including adding language to address partnership audit requirements related to pass-through entity withholding and filing composite returns.

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

Maryland

Adopted Rules Address Single-Sales Factor Apportionment and PTE Tax

The Maryland Comptroller of the Treasury adopted rule changes reflecting legislation enacted in 2018 that began phasing in single-sales factor apportionment for Maryland corporate income tax purposes for most industries; and Maryland's optional election for eligible pass-through entities to pay tax on all members' shares of income.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

New Law Creates Nonrefundable Income Tax Credit for Up to 50% of Federal WOTC

New state law ([H.B. 2](#), signed by gov. 4/1/22) creates a nonrefundable credit against Maryland income tax for up to 50% of the federal Work Opportunity Tax Credit (WOTC) claimed by an employer with respect to a qualified individual who is employed in Maryland.

For additional details, please refer to the April 8, 2022 edition of [State Tax Matters](#).

Massachusetts

State High Court Says S Corp's Gain from Selling LLC Interest Not Taxable in this Case

The Massachusetts Supreme Judicial Court held ([Case No. SJC-13139](#), Mass. (5/16/22)) that while constitutional limitations on Massachusetts' authority to tax the S corporation may be satisfied through its 50% ownership interest in Massachusetts (MA) LLC, Massachusetts lacked the statutory authority in this case to tax the capital gain realized by the S corporation based on MA LLC's connection to Massachusetts as "there is no unitary business" between the S corporation and MA LLC.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

Michigan

Department of Treasury Updates Corporate Income Tax FAQs on Nexus and Apportionment

The Michigan Department of Treasury issued some answers ([Corporate Income Tax \(Full Legal FAQs\)](#), Mich. Dept. of Treas. (6/22)) to an updated lengthy list of FAQs addressing state corporate income tax nexus, apportionment, unitary business groups, base calculation, credit application, filing requirements, and insurance companies and financial institutions.

For additional details, please refer to the June 10, 2022 edition of [State Tax Matters](#).

Supreme Court Says Financial Institution May Claim Credits Transferred in Merger



In a case ([Case No. 161661](#), Mich. (6/7/22)) involving a financial institution unitary business group's state franchise tax liability and the carryforward and transfer of certain tax credits in a merger context, the Michigan Supreme Court affirmed that the taxpayer may claim the credits despite a statutory single-assignment limitation and even though the credits were previously assigned.

For additional details, please refer to the June 10, 2022 edition of [State Tax Matters](#).

Minnesota

DOR Says Business Nexus Relief for Pandemic-Related Telecommuting Ends June 30

The Minnesota Department of Revenue announces ([Corporation Franchise Tax: COVID-19 and Telecommuters](#), Minn. Dept. of Rev. (6/22)) that it will not seek to establish nexus for business income tax or

sales and use tax purposes solely because an employee is temporarily telecommuting due to the COVID-19 pandemic.

For additional details, please refer to the June 10, 2022 edition of [State Tax Matters](#).

Nebraska

New Law Phases in Corporate Income Tax Rate Reductions Over 5 Years

Recently enacted legislation ([L.B. 873](#), signed by gov. 4/13/22) contains several tax-related measures, including phasing in some Nebraska corporate income tax rate reductions over the next five years from the current 7.5% top tax rate to an ultimate 5.84% top tax rate.

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

New Hampshire

New Law Seeks Worldwide Combined Reporting Study for BPT Purposes

New law ([H.B. 102](#), signed by gov. 4/11/22) establishes a special commission to study the replacement of New Hampshire's current water's-edge method by the worldwide combined reporting method for combined reporting and apportionment of income under the New Hampshire Business Profits Tax (BPT), requiring it to submit its preliminary findings by November 1, 2022, and final report by November 1, 2023.

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

New Jersey

Division of Taxation Explains Income Excluded from CBT Return Under Tax Treaty

The New Jersey Division of Taxation issued a notice ([Notice: Income Excluded Pursuant to a Tax Treaty and CBT Returns](#), N.J. Div. of Tax. (5/20/22)) referencing its recently published proposed administrative rules that reflect law changes to New Jersey's corporation business tax (CBT) from 2018 through 2020, commenting that among the proposed changes are "clarifications on the exclusion of income that was exempt from

federal taxation pursuant to a treaty with a foreign nation."

For additional details, please refer to the May 27, 2022 edition of [State Tax Matters](#).

Three Updated Bulletins Reflect Revised CBT Policy on Combined Groups and P.L. 86-272

The New Jersey Division of Taxation posted three updated state corporation business tax (CBT) bulletins ([TB-86\(R\) – Included and Excluded Business Entities in a Combined Group and the Minimum Tax of a Taxpayer That is a Member of a Combined Group](#); [TB-89\(R\) Combined Group Filing Methods](#); [TB-100\(R\) The Combined Group as a Taxpayer under the Corporation Business Tax Act](#), N.J. Div. of Tax. (rev. 4/20/22)) reflecting its recently announced policy change on the treatment of members of a combined group that are claiming P.L. 86-272 for certain purposes, generally providing that P.L. 86-272 protection for a member will be determined on an entity-by-entity basis.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

Division of Taxation Posts Revision to CBT Policy on Combined Groups and P.L. 86-272

The New Jersey Division of Taxation posted an update ([Revision to Division Policy on Combined Groups and P.L. 86-272](#), N.J. Div. of Tax. (4/12/22)) indicating that for state corporation business tax purposes, "after discussions with stakeholders and interested parties," it has decided to revise its policy on the treatment of members of a combined group that are "claiming P.L. 86-272," specifically stating "that P.L. 86-272 protection for a member will be determined on an entity-by-entity basis."

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

Division of Taxation Addresses Tax Treatment of Convertible Virtual Currency Transactions

The New Jersey Division of Taxation issued updated guidance ([Technical Advisory Memorandum, TAM 2015-1\(R\)](#), N.J. Div. of Tax. (3/21/22)) on the state tax treatment of transactions involving convertible virtual



currency reiterating that New Jersey generally conforms to the federal tax treatment of virtual currency. The division further provides that because virtual currency is intangible property rather than tangible personal property, the nexus safe harbor protections afforded by P.L. 86-272 do not apply to a company that sells virtual currency to customers in New Jersey for state corporation business tax purposes.

For additional details, please refer to the March 25, 2022 edition of [State Tax Matters](#).

New Mexico

Multinational Business Allowed to Use Alternative Apportionment Employing 30% Exclusion

In a protest involving a multinational company and several issues including whether an apportioned share of a combined group's foreign dividend income, Subpart F income, and other deemed foreign subsidiary income is subject to New Mexico corporate income tax, the New Mexico Administrative Hearing Office held that the company was entitled to use the 30% exclusion apportionment method to address obvious distortion related to certain income ([Decision & Order No. 21-21](#), N.M. Admin. Hrgs. Off. (8/24/21)).

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

New York

ALJ Holds for Broker-Dealer on Sourcing Certain Receipts from Marketing Fees

An administrative law judge with the New York Division of Tax Appeals held that for Article 9-A business corporation franchise tax purposes, an online broker-dealer must source certain amounts denominated as a marketing fee within and without New York based on the location of the banks that were required to pay the fee rather than based upon the location of its brokerage clients ([Determination DTA No. 829523](#), N.Y. Div. of Tax App., ALJ Division (4/28/22)).

For additional details, please refer to the May 13, 2022 edition of [State Tax Matters](#).



Draft Proposed Article 9-A Rules Include Provisions Modeled on MTC P.L. 86-272 Statement

The New York State Department of Taxation and Finance released updates to previously posted draft proposed amendments to New York Article 9-A State Business Corporation Franchise Tax Regulations, Parts 1 through 3, and 5 through 10—including new internet-related provisions largely modeled after the Multistate Tax Commission model statement addressing P.L. 86-272. [Draft Proposed Amended New York State Article 9-A Business Corporation Franchise Tax Regulations, Part 1, Part 2, and Part 3](#), N.Y. Dept. of Tax. & Fin. (4/22); [Draft Proposed Amended New York State Article 9-A Business Corporation Franchise Tax Regulations, Part 5 \(Tax Credits\), Part 6 \(Reports\), Part 7 \(Payment of Tax, Declaration and Payment of Estimated Tax, and Collection\), Part 8 \(Assessment, Revision, Refund and Review\), Part 9 \(MTA Surcharge\), and New Part 10](#), N.Y. Dept. of Tax. & Fin. (4/22).

For additional details, please refer to the May 6, 2022 edition of [State Tax Matters](#).

Taxpayer Must Include Royalty Payments Received from Foreign Affiliates in Tax Base

An administrative law judge with the New York Division of Tax Appeals held that certain royalty payments received by a taxpayer from its foreign affiliates could not be excluded under a former statutory royalty exclusion in effect for the prior tax years at issue in computing its Article 9-A corporation franchise tax combined return entire net income. [Determination DTA No.](#)

[828091](#), N.Y. Div. of Tax App., ALJ Division (4/7/22).

For additional details, please refer to the April 22, 2022 edition of [State Tax Matters](#).

Appellate Division Limits Application of Broker-Dealer Sourcing Rules to Certain Receipts

The New York Appellate Division affirmed that the sole member of two single member limited liability companies, only one of which is a registered broker-dealer, could not use New York's broker-dealer customer-based sourcing rules in computing its business allocation percentage to source receipts from the other limited liability company that is not itself a registered broker-dealer ([Case No. 531667](#), N.Y. App. Div. (3/10/22)).

For additional details, please refer to the March 18, 2022 edition of [State Tax Matters](#) and the April 6, 2022 edition of [Multistate Tax Alerts](#).

Investment Management Company Owes GCT on Gains Derived from Sale of LLC Interest

The New York Supreme Court Appellate Division, First Department, unanimously confirmed that an investment management company having no activities in New York City owed City general corporation tax (GCT) on capital gains from the sale of its minority interest in a limited liability company that was taxed as a partnership and conducting business in the City ([Case No. 2021-2517 \(Index No. TAT \(E\) 16-9 \(GC\)\)](#), N.Y. App. Div., 1st Dept. (4/12/22)).

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

North Carolina

DOR Summarizes Law Changes Including Corporate Income Tax Phase-Out, Franchise Tax Revisions

An updated North Carolina Department of Revenue bulletin ([Corporate Income, Franchise & Insurance Tax Bulletin](#), N.C. Dept. of Rev. (rev. 3/22)) interprets some state tax law changes from 2021, reflecting new law that updates North Carolina's general income tax conformity provisions to the IRC, addresses IRC § 163(j), phases out North Carolina's corporate income tax, and simplifies the calculation of North Carolina's corporate franchise tax.

For additional details, please refer to the April 8, 2022 edition of [State Tax Matters](#).

Oklahoma

New Law Provides Option for Immediate and Full Expensing of Qualified Property

New law ([H.B. 3418](#), signed by gov. 5/26/22) allows 100% bonus depreciation or full expensing for Oklahoma corporate income tax purposes on eligible qualified property or qualified improvement property under IRC § 168 for electing Oklahoma taxpayers with eligible property.

For additional details, please refer to the June 3, 2022 edition of [State Tax Matters](#).

New Law Lowers Corporate Income Tax Rate from 6% to 4%

Recently enacted legislation ([S.B. 1802](#), signed by gov. 5/5/22) provides that the tax rate imposed on the Oklahoma taxable income of every corporation doing business within Oklahoma or deriving income from sources within Oklahoma is decreased from 6% to 4%.

For additional details, please refer to the May 13, 2022 edition of [State Tax Matters](#).

Supreme Court Says Refund Claims Permitted 3 Years from Payment with Proper Extension

The Oklahoma Supreme Court reversed the Oklahoma Tax Commission holding that a corporation's Oklahoma corporate income tax refund claim was valid as filed within three years from the date such taxes were paid while simultaneously filing a proper extension for purposes of its Oklahoma corporate income return. ([Case No. 116358](#), Okla. (4/5/22)).

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

Oregon

Tax Court Addresses Sales Factor Costs of Performance Calculation under Prior Law

In an order ([Case No. TC-MD 200019G](#), Or. Tax Ct. (3/28/22)) released by the Magistrate Division of the Oregon Tax Court, the presiding magistrate held that payment processing services performed by out-of-state third parties under contract with an Oregon taxpayer were not performed "on behalf of" the taxpayer for purposes of determining its direct costs of performing income-producing activity to compute its Oregon sales factor under prior law in effect for tax years 2010 and 2011.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#).

New Law Updates State Conformity to IRC for Specific Provisions

While Oregon generally conforms to the federal IRC on a rolling basis, new Oregon tax law ([S.B. 1525](#), signed by gov. 3/24/22) contains several references to the IRC as amended and in effect on a specific date. The new law updates several of these references to the IRC as in effect on December 31, 2021, applicable to tax years beginning on or after January 1, 2022.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#).

South Carolina

New Law Updates State Conformity to IRC

New law ([H.B. 5057](#), signed by gov. 5/16/22) generally updates South Carolina corporate and personal income tax statutory references to the IRC, referring to the federal law in effect as amended through December 31, 2021, and includes the effective date provisions contained in it.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

DOR to End COVID-19 Pandemic-Related Telecommuting Relief

The South Carolina Department of Revenue issued a revenue ruling ([SC Revenue Ruling #22-3](#), S.C. Dept. of Rev. (4/21/22)) announcing that it will not use changes solely in an employee's temporary work location due to remote work requirements arising from, or during, the COVID-19 relief period as a basis for establishing nexus or altering apportionment of income.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

Tennessee

DOR Explains Decoupling from TCJA Changes to IRC §174 Deduction for Research Expenditures

The Tennessee Department of Revenue issued a notice ([Notice No. 22-03](#), Tenn. Dept. of Rev. (5/22)) reflecting new state law providing that IRC §174 involving a federal income tax deduction for certain research and experimental expenditures must be applied for Tennessee franchise and excise tax purposes as it was in effect immediately before enactment of the federal 2017 Tax Cuts and Jobs Act.

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

New Law Decouples from TCJA Changes to IRC §174 Deduction for Research Expenditures

New law ([S.B. 2397](#), signed by gov. 3/24/22) provides that IRC § 174 involving a federal income tax deduction for certain research and experimental expenditures must be applied for Tennessee franchise and excise tax purposes as it was in effect immediately before enactment of the 2017 Tax Cuts and Jobs Act.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#).

Texas

Comptroller Addresses Treatment of IRC §336(e) and 368(a)(1)(C) Elections

The Texas Comptroller of Public Accounts issued a Texas franchise tax ruling ([Accession No. 202204015L](#), Texas Comptroller of Public Accounts (4/4/22)) related to an unused temporary credit for business loss carryforward that originated with a member of the taxpayer's combined group, denying the credit in part based on a finding that the Texas franchise tax does not recognize elections under IRC §336(e) and 368(a)(1)(C).

For additional details, please refer to the May 20, 2022 edition of [State Tax Matters](#).

Comptroller of Public Accounts Issues Guidance on Revised Policy for Printing Activities

The Texas Comptroller of Public Accounts issued guidance ([Accession No. 202204004L](#), Texas Comptroller of Public Accounts (4/21/22)) on how certain printers must treat ancillary services for purposes of the cost of goods sold deduction and apportionment under the Texas franchise tax, reflecting a policy change from previously issued guidance.

For additional details, please refer to the April 29, 2022 edition of [State Tax Matters](#).

Comptroller of Public Accounts Adopts Changes to Franchise Tax Rule on Computing Compensation

The Texas Comptroller of Public Accounts adopted regulatory amendments ([Amended Tex. Admin. Code tit. 34 section 3.589](#), Tex. Comptroller of Public Accounts (4/15/22)) on how to compute compensation for Texas franchise tax purposes to implement statutory changes to definitions, incorporate policy decisions, and improve readability, including new language concerning wages and cash compensation paid to employees in a foreign country.

For additional details, please refer to the April 22, 2022 edition of [State Tax Matters](#).

Taxpayer Must Exclude Gross Receipts from Hedging Transactions from Apportionment Factor

The Texas Comptroller of Public Accounts held that a company failed to demonstrate, by a preponderance of the evidence, that the gross proceeds from certain hedging transactions were received from securities treated as "inventory" for federal income tax purposes and thus was only permitted to include the net proceeds, rather than gross proceeds, from such hedging transactions in calculating its Texas franchise tax apportionment factor ([Accession No. 202202020H](#), Texas Comptroller of Public Accounts (2/25/22)).

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

Supreme Court Rules for Taxpayer in Case on Sourcing Satellite Radio Subscription Receipts

The Texas Supreme Court held that the taxpayer properly computed its apportionment factor for Texas franchise tax purposes by sourcing receipts to Texas based on where taxpayer's programs were produced and not the location where the customer received the benefit of taxpayer's service ([Case No. 20-0462](#), Tex. (3/25/22)).

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#) and the April 1, 2022 edition of [Multistate Tax Alerts](#).

Utah

State Tax Commission Says Lack of Unitary Relationship Prevents Taxing Gain on Entity Sale

In a case involving an out-of-state corporation that served as a "blocker" between unrelated investors and an in-state company in which they all invested, the Utah State Tax Commission held that while the gain associated with its flow-through interest in the in-state company constituted business income, Utah could not constitutionally tax it due to lack of a unitary relationship ([Decision No. 16-1358](#), Utah State Tax Comm. (1/27/22)).

For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

New Law Redefines Business Income, Adopts Mobile Workforce Provisions and PTE Tax

New legislation enacted providing the following: ([H.B. 268](#), signed by gov. 3/23/22) modifies the definition of business income, including permitting a taxpayer to elect to treat all income from the sale of intangible property as business income; ([S.B. 39](#), signed by gov. 3/23/22) adopts a general bright-line 20-day threshold for employers to determine nonresident state income tax withholding requirements; and ([H.B. 444](#), signed by gov. 3/23/22) provides an election for a new pass-through entity-level tax.

For additional details, please refer to the April 1, 2022 edition of [State Tax Matters](#) and the April 1, 2022 edition of [Multistate Tax Alerts](#).

Vermont

New Law Addresses State Reporting and Impact of Federal Partnership Audit Regime Changes

New law ([H.B. 738](#), signed by gov. 6/7/22) creates a Vermont reporting requirement for partnerships under federal audit and includes related procedures, processes, and deadlines for reporting certain partnership adjustments that result from federal tax changes to the Vermont Department of Taxes, as well as for paying any associated taxes due.

For additional details, please refer to the June 10, 2022 edition of [State Tax Matters](#).

New Law Adopts Single-Sales Factor, Repeals “80/20” Provisions, Moves to Finnigan

New law ([S.B. 53](#), signed by gov. 5/31/22) makes several important changes to Vermont corporate income tax laws, including adopting a single-sales factor apportionment formula; repealing Vermont’s sales factor throwback rule; effectively repealing Vermont’s “80/20” company provisions; moving from a “Joyce” to a “Finnigan” approach; and revising Vermont’s corporate minimum tax structure.

For additional details, please refer to the June 3, 2022 edition of [State Tax Matters](#).

Virginia

New Law Expands Filing Method Options, Addresses IRC §163(j), and Creates PTE Tax Election

Recently enacted bills in Virginia include revisions ([S.B. 53](#), signed by gov. 5/31/22; and [S.B. 386/H.B. 224](#), signed by gov. 4/11/22) on how a group of corporations may elect to change their state filing method status in certain situations; changes ([H.B. 1006](#), signed by gov. 4/11/22) to how Virginia decouples from IRC § 163(j); and the option ([H.B. 1121/S.B. 692](#), signed by gov. 4/11/22) for qualifying pass-through entities to pay an entity-level state income tax. For additional details, please refer to the April 15, 2022 edition of [State Tax Matters](#).

West Virginia

Adopts single-sales factor and market-based sourcing for flow-through entities

New law ([H.B. 4410](#), signed by gov. 3/30/22) adopts a single-sales factor apportionment formula with market-based sourcing for flow-through entities, effective for the 2022 tax year.

For additional details, please refer to the April 19, 2022 edition of [Multistate Tax Alerts](#).

Wisconsin

Tax Appeals Commission Says P.L. 87-272 Only Affords Protection on Sales of TPP, Not Services

The Wisconsin Tax Appeals Commission held that an out-of-state corporation that sold travel services to Wisconsin residents through at least 100 in-state independent consultants was subject to Wisconsin corporate franchise tax for the tax years at issue, concluding among other reasons that such in-state activity was not protected by P.L. 86-272 despite the taxpayer’s assertion otherwise ([Case No. 19-I-258](#), Wis. Tax App. Comm. (5/23/22)).

For additional details, please refer to the June 17, 2022 edition of [State Tax Matters](#).

International

This compilation is intended to be an overview of major international tax developments during the quarter that may have ASC 740 implications. For more summaries of other current international income tax news and developments for the current quarter please refer to the additional publications listed at the end of this section.

Multiple jurisdictions

OECD

Hungary’s opposition to global minimum tax has implications for Biden administration

Frustrating efforts by the European Union to implement Pillar Two of last year’s global tax agreement through the OECD, which would impose a 15% minimum worldwide tax on large multinational companies, Hungary exercised its veto during a June 17 vote at a meeting of EU finance ministers in Luxembourg. The move was something of a last-minute surprise, with Hungary’s opposition emerging after Poland, which vetoed the last attempt to reach EU unanimity over the minimum tax, indicated earlier in the week that it would support the proposal.

For additional details, please refer to Deloitte [tax@hand article](#) dated June 18, 2022.

Germany

Upper house of parliament approves fourth COVID-19 tax relief bill

On June 10, 2022, Germany’s upper house of parliament approved the “Fourth bill on tax relief measures relating to the COVID-19 crisis,” which includes several tax measures to aid taxpayers during the ongoing pandemic. The bill is based on a draft that was published by the Ministry of Finance (MOF) on February 3, 2022, and approved by the lower house of parliament on May 19, 2022. Compared to the initial draft that was published by the MOF, the final bill includes some additional (taxpayer-friendly) measures, including an even further extension of the tax return filing deadlines.

For additional details, please refer to Deloitte [tax@hand article](#) dated June 10, 2022.

MOF publishes final decree on income tax treatment of virtual currencies

The German Ministry of Finance (MOF) on May 11, 2022, published its highly anticipated final decree on the income tax treatment of virtual currency transactions. After the publication of a draft decree on June 17, 2021, the MOF held a public hearing to gather comments on the draft decree, which resulted in the final decree containing various changes from the draft decree. The final decree is binding on the tax authorities, and any measures taken by the tax authorities based on this decree must be contested in a tax court procedure.

For additional details, please refer to Deloitte [tax@hand article](#) dated May 13, 2022.

India

Interest on income tax refund is taxable under article 11 of India-US treaty

The Delhi Bench of India's Income-tax Appellate Tribunal (ITAT) has ruled that interest paid to a US resident company on a refund of Indian income tax is not effectively connected with the US company's permanent establishment (PE) in India. Consequently, the amount is taxable as interest at 15% under article 11 (interest) of the India-US tax treaty and not as business income at the 40% corporate income tax rate applicable in the relevant assessment year to foreign companies and branches of foreign companies. The ruling was issued on January 28, 2022, and published on April 8, 2022.

For additional details, please refer to Deloitte [tax@hand article](#) dated April 30, 2022.

Finance Act, 2022 enacted

India's Finance Bill, 2022 (FB 2022) initially was presented to parliament by the finance minister on February 1, 2022. After

considering representations from various stakeholders, an amended version of the bill was placed before the Lok Sabha (India's lower house of parliament) on March 24, 2022, and passed by the Lok Sabha on March 25, 2022. FB 2022, as amended, subsequently was approved by the Rajya Sabha (the upper house) and enacted as Finance Act, 2022 after receiving presidential assent on March 30, 2022.

For additional details, please refer to Deloitte [tax@hand article](#) dated April 11, 2022.

Accounting developments

EITF Issue 21-A Update: Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method

EITF Issue 21-A addresses potentially expanding the allowance of the proportional amortization method to be used for other investment tax credits outside of low-income housing tax credit (LIHTC) investments that meet the criteria in ASC 323-740-25-1. The EITF Issue also addresses potentially changing the criteria in ASC 313-740-25-1 that an investment tax credit must meet in order to apply the proportional amortization method instead of the equity method.

The EITF held meetings on March 24, 2022, and June 16, 2022, and concluded that the scope of the proportional amortization method would be expanded to include all investments in tax credit programs that meet the criteria in ASC 323-740-25-1 and would clarify criterion (aa) and criterion (aaa) in ASC 323-740-25-1.

The FASB staff will draft a proposed Accounting Standards Update that it intends to present for Board ratification in mid-July 2022.

For additional details, please refer to the June 2022 edition of [EITF Snapshot](#).

FASB Project Update: Targeted Improvements to Income Tax Disclosures

At the FASB meeting on March 23, 2022, the Board updated the objective of this project (formerly referred to as the Disclosure Framework: Disclosure Review—Income Taxes project) from the objective to improve the effectiveness of disclosures in notes to financial statements to the objective to improve the transparency and decision usefulness of income tax disclosures. In conjunction with this change in the objective, the project scope has been realigned to focus on disclosures related to incomes taxes paid and the rate reconciliation table.

During the FASB meeting on May 11, 2022, the Board directed the staff to further explore approaches to disaggregate income taxes paid by jurisdictions and to require disclosure of individual reconciling items in the rate reconciliation on the basis of a quantitative threshold and specific categories of reconciling items. No decisions have been made at this time.

For additional details, please refer to the [Targeted Improvements to Income Tax Disclosures](#) on the FASB homepage.

Up-C structure services

For Up-C structures, the Up-C Services group offers live trainings and virtual webcasts from Deloitte specialists covering recent US federal income tax and ASC 740 developments relevant to these businesses organized as Up-Cs. Please visit us at Up-C Structure Services or contact Jill Wilde at jiwilde@deloitte.com (+1 904 665 1433) to be added to our virtual webcast distribution list.

For upcoming live meetings and trainings, please visit [Tax Accounting for UP-Cs & Partnership Structures](#), on August 16–17, 2022, at Grand Hyatt Nashville, 1000 Broadway, Nashville, TN 37203.

Other

For upcoming webcasts that give you valuable insights on important developments affecting your business and feature practical knowledge from Deloitte specialists and CPE credits, please visit [Dbriefs Webcasts](#).

For other information regarding newly issued accounting standards, exposure drafts, and other key developments, refer to our [Quarterly Accounting Roundup](#).

Learn more

Additional resources you may find helpful

- [Accounting for Income Taxes—Quarterly Hot Topics Archive](#)
- [TaxFirst Webcast Series](#)
- [Deloitte Tax Accounting & Provision Services Homepage](#)
- [Deloitte Tax Accounting & Provisions Dbriefs Webcast Series](#)
- [Deloitte Heads Up Newsletter Archive](#)
- [Global Tax Developments Quarterly—Accounting for Income Taxes](#)
- tax@hand

As always, we are interested in your comments on our publications. Please take a moment to tell us what you think by sending us an [email](#).

Talk to us

If you have any questions or comments about the ASC 740 implications described above or other content of Accounting for Income Taxes Quarterly Hot Topics, contact the Deloitte Washington National Tax Accounting for Income Taxes Group at: USNationalWNTActIncomeTaxesGrp@deloitte.com

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