Deloitte.

State Tax Matters
Issue 2025-30
The power of knowing
August 8, 2025

State Tax Matters

The power of knowing

In this issue:

Multistate Tax Alert:
California FTB Issues Guidance on Deferred Intercompany Stock Accounts

On July 30, 2025, the California Franchise Tax Board issued Legal Ruling 2025-1 (“Ruling”), providing important guidance on the treatment of Deferred Intercompany Stock Accounts (“DISAs”) in the context of nonrecognition transactions under Internal Revenue Code section 355. This development is particularly relevant for taxpayers that are members of a California combined reporting group and engage in intercompany stock transfers.

This Multistate Tax Alert summarizes some of the guidance in the Ruling.

URL: https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/multistate-tax-alert-california-ftb-issues-guidance-on-deferred-intercompany-stock-accounts.pdf
[Issued August 5, 2025]

Administrative
California – Attorney General Opines on Office of Tax Appeals’ Authority and Agency Deference

Opinion No. 23-701, Office of the Cal. Attorney General (7/31/25). A recently issued California Attorney General opinion concludes that when adjudicating a taxpayer appeal, the California Office of Tax Appeals (OTA) has the authority to issue a written opinion in which it concludes that applying a particular tax regulation to that taxpayer’s circumstances would conflict with governing statutes, and to decline to apply the regulation to the taxpayer on that basis. According to the opinion, in making this determination, the OTA must afford appropriate deference to the agency that promulgated the regulation. However, the opinion explains that the OTA has no authority to remove a regulation from the California Code of Regulations, or to enforce its view of a regulation’s validity or applicability outside the context of adjudicating a particular taxpayer appeal.

This opinion was issued in response to the OTA’s 2023 request for the California Attorney General to issue a formal opinion addressing whether the OTA has the legal authority and jurisdiction to issue a written opinion declaring a provision in the California Code of Regulations, which was promulgated by a different state agency and approved by the California Office of Administrative Law, to be invalid and refuse to enforce the regulation on that basis [see *State Tax Matters, Issue 2023-32*, for more details on the OTA’s initial request]. Please contact us with any questions.

Jairaj Guleria (San Francisco)
Tax Partner
Deloitte Tax LLP
jguleria@deloitte.com

Valerie Dickerson (Washington D.C.)
Tax Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Ben Elliot (Sacramento)
Tax Principal
Deloitte Tax LLP
belliott@deloitte.com

Kathy Freeman (Sacramento)
Tax Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

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

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

David Han (Los Angeles)
Tax Senior Manager
Deloitte Tax LLP
davihan@deloitte.com

Snowden Rives (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
srives@deloitte.com

Income/Franchise
Colorado – Governor's Office Addresses State Impact of Federal One Big Beautiful Bill Act

Tax Policy Impacts from the Federal Reconciliation Bill, Colo. Office of the Gov., State Planning and Budgeting (7/30/25). The Office of State Planning and Budgeting within Colorado's Office of the Governor posted a presentation addressing Colorado budgetary implications of the recently enacted federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21). The presentation notes that "Colorado is linked to federal tax policy changes more than most states," and that "due to immediate changes, particularly targeting tax breaks that reduce state corporate income revenue," it estimates that Colorado FY26 revenue losses resulting from the OBBBA are "likely to exceed" $1 billion. Please contact us with any questions.

Jeff Maxwell (Denver)
Tax Senior Manager
Deloitte Tax LLP
jemaxwell@deloitte.com

Kristin Medeiros (Denver)
Tax Senior Manager
Deloitte Tax LLP
krimedeiros@deloitte.com

Louise Gregory (Denver)
Tax Senior Manager
Deloitte Tax LLP
logregory@deloitte.com

Indiana – Financial Institution Tax Ruling Says Removal of Entities from Combined Return is Appropriate

Letter of Findings, No. 18-20241499, Ind. Dept. of Rev. (5/9/25). An Indiana Department of Revenue (Department) financial institution tax (FIT) letter of findings involving an out-of-state bank holding company receiving dividends from its subsidiaries held that the Department's removal of some entities from the company's Indiana combined filing group, as well as the resulting FIT assessment, was appropriate because merely "receiving dividends as a holding company does not constitute transacting business in Indiana" under state law. Moreover, the Department held that the taxpayer failed to provide sufficient documentation to show other intercompany transactions between the bank holding company and various affiliates. According to the ruling, "while the taxpayer is part of the unitary group, because it does not transact business in the state of Indiana, it is not a unitary business." Under the taxpayer's submitted facts, the bank holding company "is not a traditional bank, but rather it provides financial services to institutions, corporations, and individual investors," and earns much of its income from fee revenue from custody services, net interest income, and clearing services. Please contact us with any questions.

Tom Engle (St. Louis)
Tax Manager
Deloitte Tax LLP
tengle@deloitte.com

Joe Garrett (Birmingham)
Tax Managing Director
Deloitte Tax LLP
jogarrett@deloitte.com

Oregon – Tax Court Says Receipts from Hedging Transactions Must be Excluded from Sales Factor

Case No. TC 5461, Or. Tax Ct. (7/21/25). In an unpublished order of the Oregon Tax Court's Regular Division (Court), the presiding judge concluded that for the prior Oregon corporate excise tax years at issue (***i.e.,*** 2011 through 2013), an oil and gas company must exclude receipts from certain hedging transactions (e.g., the sale and exchange of futures, options, and swap contracts) from its sales factor in determining Oregon's apportionable share of its income. In doing so, the Court explained that the hedging receipts at issue constituted sales of intangible property rather than tangible personal property and thus must be excluded from its sales factor unless the hedging receipts were derived from the company's primary business activity. The Court concluded that because the hedging receipts were separately identified under applicable federal income tax accounting provisions, they were ***not*** "derived from" the company's primary business activity of selling tangible commodities so as to be includable in the sales factor – "notwithstanding the strong business and practical connections between the two types of receipts."

Note that Oregon legislation enacted in 2017, and applicable to tax years beginning on or after January 1, 2018, specifically excludes certain receipts from the sales factor computation for Oregon corporate excise tax purposes, including receipts from hedging transactions. Please contact us with any questions.

Scott Schiefelbein (Portland)
Tax Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Sara Clear (Minneapolis)
Tax Senior Manager
Deloitte Tax LLP
sclear@deloitte.com

Sherfón Pfirrman (Dallas)
Tax Manager
Deloitte Tax LLP
shpfirrman@deloitte.com

Texas – Comptroller Memo Addresses Treatment of Sales-Type Leases in Determining Franchise Tax Rate and COGS Deduction

Letter No. 202507015M, Tex. Comptroller of Public Accounts (7/31/25). Referencing a 2021 Texas Court of Appeals case holding that a company engaged in selling business equipment through "sales-type leases" (i) qualified for the reduced retail/wholesale Texas franchise tax rate, and (ii) may include costs related to such leases in its cost of goods sold (COGS) deduction [see *Case No. 14-19-00358-CV*, Tex. Ct. App. (8/31/21) and *State Tax Matters, Issue 2021-35*, for more details on the 2021 ruling], a recent Texas Comptroller of Public Accounts memorandum provides guidance on the treatment of sales-type leases to determine the applicable Texas franchise tax rate and expenses eligible for the COGS deduction. Specifically, the memo explains the terms "sale," "selling," and "sold" include arrangements that qualify as sales-type leases under Financial Accounting Standard (FAS) 13. The memo also explains that whether a lease agreement constitutes a sales-type lease is a factual question, "requiring the auditor to compare the lease terms to the requirements in FAS 13." In this respect, the memo concludes that "sales-type leases are considered a sale when determining eligibility for the reduced rate" under Tex. Tax Code section 171.002(b), and tangible personal property transferred under sales-type leases are considered goods sold for purposes of computing the COGS deduction. This outlined treatment "applies to all open periods within the statute of limitation." Please contact us with any questions.

Robert Topp (Houston)
Tax Managing Director
Deloitte Tax LLP
rtopp@deloitte.com

Grace Taylor (Houston)
Tax Senior Manager
Deloitte Tax LLP
grtaylor@deloitte.com

Sales/Use/Indirect
Wisconsin – Bulletin Addresses Whether Tariffs are Part of Taxable Sales and Purchase Prices

Wisconsin Tax Bulletin 230, Wis. Dept. of Rev. (7/25). The Wisconsin Department of Revenue (Department) released a bulletin explaining that tariffs imposed on an importer and passed from the importer to a consumer generally are considered part of the importer's sales price of its product. Accordingly, if the sale of such product is subject to Wisconsin sales or use tax, the entire sales price of the product, including any separate charge for the tariff, is subject to Wisconsin sales or use tax. In this situation, the bulletin notes that listing the tariff separately on the importer's sales invoice or billing the consumer separately for the tariff does ***not*** change the Wisconsin tax treatment. The bulletin also explains that if the importer does not collect Wisconsin sales or use tax on its sales price in such cases, the consumer is liable for Wisconsin use tax on the purchase price, which includes any charge for the tariff the importer collected from the consumer.

Furthermore, the bulletin explains that if a consumer purchases and imports a product and is liable for paying the tariff to the customs authority, the tariff paid by the importer (***i.e.,*** the consumer) directly or indirectly to the customs authority generally is ***not*** subject to Wisconsin sales or use tax. Rather, according to the Department, the consumer is liable only for the applicable Wisconsin use tax on its purchase price of the product, which does not include the tariff the consumer paid directly or indirectly to the customs authority. Please contact us with any questions.

Jeremy Blodgett (Milwaukee)
Tax Senior Manager
Deloitte Tax LLP
jblodgett@deloitte.com