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The power of knowing

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Income/Franchise

Alabama – DOR Explains Decoupling from IRC §174 R&D Deduction Changes Under TCJA and OBBBA Implications

Notice: Research and Experimental Expenditures, Ala. Dept. of Rev. (9/11/25). A recently posted Alabama Department of Revenue (Department) notice explains that effective retroactively for expenditures incurred on or after January 1, 2024, Alabama law [see *H.B. 163 (2025)* and *State Tax Matters, Issue 2025-20*, for details on the underlying Alabama statutory changes enacted earlier this year] decouples from certain Internal Revenue Code (IRC) section 174 provisions regarding the deduction of research and experimental (R&D) expenses as modified under the federal Tax Cuts and Jobs Act (TCJA) by providing an option to *either* currently deduct all R&D expenditures *or* treat the expenses in the same manner as IRC section 174 before the TCJA amendments took effect in tax year 2022. The notice explains that to claim a deduction on the Alabama return for the R&D expenditures made on or after January 1, 2024, the full amount of the R&D expenses can be taken as a deduction on the Alabama return, and the annual amount amortized and deducted on the federal income tax return must be added back to taxable income for Alabama purposes for each year until the remaining amount is fully amortized.

Regarding the R&D expense deduction changes as enacted under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21), the notice explains that the OBBBA amended IRC section 174 and added IRC section 174A which provides the option to fully expense domestic R&D expenditures for tax periods beginning after December 31, 2024. The notice also explains that the new IRC section 174A(f)(2) provides for "a write-off provision for previously capitalized and unamortized amounts from the 2022-2024 tax years," where taxpayers may deduct the remaining unamortized amounts in full or ratably over a two-year period on their 2025 federal income tax return. According to the notice, for tax years 2025 and 2026, if "option (ii)" under IRC section 174A(f)(2) is elected, "these expenses will need to be added back to Alabama income to the extent they were previously deducted on the 2024 Alabama return." Please contact us with any questions.

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Michigan – Department of Treasury Announces Certain PTET Election Relief in Light of OBBBA

Notice Regarding Flow-Through Entity Tax Election Relief in Light of Pub. L. 119-21, One Big Beautiful Bill Act (OB3), Mich. Dept. of Treas. (9/15/25). Responding to the enactment of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) and "the shifting legal landscape that may impact taxpayers' desire to elect into the Michigan Flow-Through Entity (FTE) tax, including changes to the federal state and local tax (SALT) deduction limits," the Michigan Department of Treasury (Department) issued a notice intended to "advise the public on limited relief that may be available for taxpayers that made elections into the FTE tax." Specifically, the notice states that because some taxpayers may have made related election payments prior to the enactment of the OBBBA, the Department is offering some relief by allowing taxpayers to request a refund of those payments. According to the notice, a taxpayer that requests and receives a refund of such payments will *not* be deemed to have made a valid election for that tax year and will therefore not be subject to the requirements of the Michigan FTE tax.

The notice provides that this relief is subject to the following conditions:

- only taxpayers electing into the first year of the three-year FTE election period are eligible;
- only taxpayers that have not yet filed their annual FTE return for the tax period are eligible, and taxpayers who have made an election payment and filed their annual FTE return for that period are *not* eligible; and
- requests for relief must be submitted before the end of the election window for the applicable tax year (e.g., September 30th after the tax year for calendar-year filers).

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New Jersey – Trade Association Challenges Validity of New CBT Rule Provisions on P.L. 86-272 and Internet Activity

Case No. 010021-2025, N.J. Tax Ct. (*complaint filed 9/12/25*). An industry trade association representing remote sellers has filed a suit seeking declaration that provisions within New Jersey's recently adopted state corporation business tax (CBT) rules incorporating certain parts of the Multistate Tax Commission's updated P.L. 86-272 guidelines, including those involving "internet activities" [see *State Tax Matters, Issue 2025-24*, for more details about the newly adopted CBT rules], are invalid in violation of the federal law (P.L. 86-272) "as applied to remote retailers and other affected businesses with no property or payroll in New Jersey and that do not engage, themselves or through others, in activities in New Jersey."

Note that the same trade association has filed similar challenges in California [see *State Tax Matters, Issue 2023-50*, for details] and New York [see *State Tax Matters, Issue 2025-17*, for details]. Please contact us with any questions.

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Rhode Island – DOR Addresses Decoupling from IRC §174 R&D Deduction Changes Under OBBBA

ADV 2025-18: Rhode Island Decouples from Recently Enacted Federal Legislation-H.R. 1 Domestic Research and Experimental Expenditures, R.I. Dept. of Rev. (9/12/25). The Rhode Island Department of Revenue (Department) issued guidance on the Rhode Island tax treatment of domestic research and experimental (R&D) expenditures in light of the federal One Big Beautiful Bill Act (now commonly referenced as "OBBBA" and more formally as P.L. 119-21), "from which Rhode Island decoupled in its Fiscal Year 2026 Budget" [see *H.B. 5076 (2025)* and *State Tax Matters, Issue 2025-27*, for additional details on this Rhode Island legislation]. In doing so, the Department notes that:

> "[f]or Tax Year 2025, all filers will be eligible to elect to amortize research and experimental expenditures at the federal level. Rhode Island decoupled from this tax treatment for this tax year. If a taxpayer does not amortize on the federal filing, the taxpayer will be required to amortize the expenditures on the Rhode Island return."

The guidance also indicates that the Department will issue further guidance on other provisions pertaining to the OBBBA "later this month," and that this particular guidance on the amortization of domestic R&D expenditures was expedited due to the potential retroactive implications on tax years 2022, 2023, and 2024 for some taxpayers. The guidance explains that in addition to the OBBBA allowing all businesses to accelerate expensing of these domestic R&D expenditures starting with tax year 2025, the federal law also permits certain small businesses to retroactively accelerate expensing of domestic R&D expenditures for tax years 2022, 2023, and 2024. Please contact us with any questions.

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Sales/Use/Indirect

California – Repair Parts Added to Device In-State are Subject to Use Tax Despite Device's Subsequent Out-of-State Shipment

Case No. CGC23607195, Cal. Super. Ct. (9/11/25). In a case involving California's statutory out-of-state shipment exemption that was deemed "ambiguous in its application to repair parts consumed pursuant to repair contracts," a California superior court (Court) held summary judgment for the California Department of Tax and Fee Administration (CDTFA) on a "pure legal question of statutory construction" – finding that the CDTFA's reading better harmonizes with the entire statutory scheme and is more consistent with caselaw and legislative history than the taxpayer's in this case. Specifically, the Court held that when the taxpayer repaired medical equipment devices shipped from out-of-state customers to its in-state location pursuant to terms under their lump-sum contracts, the repair parts the taxpayer incorporated into the device at its in-state location were subject to California use tax despite the device ultimately being shipped back to the out-of-state customers and used solely outside of California. In doing so, the Court explained that the medical equipment devices into which the repair parts were incorporated were present in California not merely for storage or transit – but were being repaired in California pursuant to lump-sum contracts covering the repairs. Please contact us with any questions.

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Washington – Taxpayer Challenges Validity of New Law Imposing Tax on Certain Advertising Services

Case No. 25-2-03584-34, Wash. Super. Ct. (*complaint filed 9/9/25*). A taxpayer has filed suit in a Washington superior court challenging the validity of provisions within Washington's recently enacted legislation [see *ESSB 5814 (2025)* and *previously issued Multistate Tax Alert* for more details on this new legislation] that expand Washington's sales and use tax base by imposing tax on certain defined advertising services – including all digital and nondigital services related to the creation, preparation, production, or dissemination of advertisements but expressly excluding certain advertising formats (e.g., newspaper, printing and publishing, radio and television, billboard, and in-store display or point-of-sale). Specifically, the taxpayer is claiming that the categories of excluded advertising services in the Washington statutory provisions are "drawn in such a way that the burden of the tax falls on Internet-based advertising, rather than non-Internet based advertising" in violation of the federal Internet Tax Freedom Act (ITFA). According to the taxpayer, Washington's tax on advertising services violates the ITFA because it is imposed on advertising services conducted over the internet but is *not* generally imposed on similar advertising services conducted "off-line" and is thus discriminatory. Additionally, the taxpayer is claiming that another provision imposing Washington use tax on an advertising service that also qualifies as a "digital automated service" (DAS) is discriminatory under the ITFA, because it imposes tax on advertising services conducted over the internet but generally *not* on similar advertising services that are not conducted over the internet. Please contact us with any questions.

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Washington – DOR Explains Implications of New Law Taxing Additional Services on Contracts Entered into Prior to October 1, 2025

Interim guidance statement regarding contracts existing prior to October 1, 2025, and changes made by ESSB 5814, Wash. Dept. of Rev. (8/29/25). The Washington Department of Revenue (Department) posted guidance on the implementation of recently enacted legislation [see *ESSB 5814 (2025)*, and *previously issued Multistate Tax Alert* for more details on this new law] that takes effect on October 1, 2025, expands Washington's sales and use tax base to include additional services, and provides that certain sales between affiliates are excluded from the definition of a retail sale – addressing how the new state law applies to the Washington tax collection and reporting requirements for taxpayers with certain existing contracts that were entered into prior to October 1, 2025. The guidance provides several illustrative examples on the law's application to taxpayers with existing contracts that were entered into prior to October 1, 2025, where an "existing" contract must meet the following requirements:

- The contract was signed and executed prior to October 1, 2025,
- The underlying services are to be provided on or will continue after October 1, 2025, and
- The underlying services of that contract would be considered a "retail sale" under Washington law effective October 1, 2025.

The Department also posted new interim guidance on some of the additional services subject to, and excluded from, Washington sales and use tax as of October 1, 2025, including the following:

- *Interim guidance statement regarding changes made by ESSB 5814 to DAS exclusions and the definition of a "retail sale"*;
- *Interim guidance statement regarding changes made by ESSB 5814 for custom website development services*;
- *Interim guidance statement regarding changes made by ESSB 5814 for live presentations*;
- *Interim guidance statement regarding changes made by ESSB 5814 for Information Technology Services*; and
- *Interim guidance statement regarding changes made by ESSB 5814 for investigation, security, security monitoring, and armored car services*.

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