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State Tax Matters
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State Tax Matters

The power of knowing

In this issue:

Article
Digital Advertising Services Taxes: States Catch Up and Look Ahead

In this installment of Inside Deloitte, Lindsay McAfee Cukier, Robert Wood, Inna Volfson, and Michael Spencer of Deloitte Tax LLP examine the fast-moving and innovative approaches states are taking to tax digital advertising services.

URL: *https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2025/digital-advertising-services-taxes-states-catch-up-and-look-ahead.pdf*

Amnesty
Indiana – DOR Hints at 2026 Dates on Amnesty Program that Will Provide Potential Interest and Penalty Waiver

Tax Chapter for the 2025 filing year, Ind. Dept. of Rev. (10/25). Pursuant to legislation enacted earlier this year [see *H.B. 1001*, and *State Tax Matters, Issue 2025-18*, for more details on this legislation] requiring the Indiana Department of Revenue (Department) to establish a tax amnesty program for most taxes it administers (e.g., the state adjusted gross income tax, financial institutions tax, and gross retail and use tax) and which provides for a potential waiver of all related penalties and interest, the Department announced that such program "will take place in the second half of 2026." The Department comments that "the exact timeframe, along with other details, will be announced in the coming months." Please contact us with any questions.

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New Hampshire – Launched Tax Amnesty Program Provides Potential Penalty Waiver and Reduced Interest and Ends February 15

Technical Information Release TIR 2025-006, N.H. Dept. of Rev. Admin. (11/21/25); *Press Release: NH Department of Revenue Administration Launches One-Time Tax Amnesty Program*, N.H. Dept. of Rev. Admin. (12/1/25). Pursuant to legislation enacted earlier this year [see *H.B. 2*, and *State Tax Matters, Issue 2025-26*, for more details on this legislation], the New Hampshire Department of Revenue Administration (Department) issued guidance and announced that from December 1, 2025, through February 15, 2026, "taxpayers have a one-time opportunity to receive amnesty from all penalties and one-half interest on outstanding taxes by paying the tax due and one-half of the applicable per annum interest that has accrued since the tax was due." The Department notes that this tax amnesty program is available regardless of whether it has "assessed the tax due or the taxpayer has filed a return and even if the taxpayer has appealed or intends to appeal." The Department also explains that all taxes that it administers that are "due but unpaid on or before June 30, 2025, are eligible" – including, but not limited to, New Hampshire's business enterprise tax (BET), business profits tax (BPT), interest and dividends tax, communications services tax, and real estate transfer tax.

According to the Department, "taking advantage of the tax amnesty program is simple: file any required outstanding tax returns and pay all unpaid taxes and 50% of the applicable per annum interest during the tax amnesty period (December 1, 2025 – February 15, 2026)," and no special form or application is required. A related press release adds that "along with potentially saving taxpayers millions of dollars, this program provides the state with the chance to generate much-needed, one-time revenue…" Please contact us with any questions.

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Income/Franchise

Arizona – Executive Order Requires Form Changes to Address Potential Conformity and Nonconformity to Some OBBBA Provisions

Executive Order 2025-15, Office of Ariz. Governor (11/20/25); *News Release*, Office of Ariz. Governor (11/20/25). In signing an executive order directing the Arizona Department of Revenue (Department) to update Arizona individual income tax forms for the 2025 tax year to conform with some aspects of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21), an accompanying news release from the Office of Arizona Governor Katie Hobbs also notes that "any further tax conformity provisions affecting corporations and high earners will be negotiated in the FY27 budget, as is standard for legislation with fiscal impacts."

Governor Hobbs' underlying executive order involving Arizona's individual income tax was issued in anticipation of state legislation reflecting her "Middle Class Tax Cuts Package" to be considered in Arizona's next legislative session that convenes on January 12, 2026. The executive order requires state individual income tax forms for the 2025 tax year to include the higher standard deduction passed under the OBBBA, as well as directs the Department to include prospective instructions for Arizona taxpayers to "take advantage of tax deductions on tips, overtime, car loan interest, and additional deductions for seniors in anticipation of the legislature codifying them into law." Please contact us with any questions.

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California – FTB Addresses New Law that Updates State Conformity to IRC, Extends PTET, and Mandates Single Sales Factor for Some Banks

Tax News, Cal. FTB (12/25). The California Franchise Tax Board's (FTB) recently posted newsletter addresses new state law that updates California's general conformity date to the Internal Revenue Code (IRC) from January 1, 2015, to January 1, 2025, for taxable years beginning on or after January 1, 2025, for state personal income tax and corporate tax purposes [see *S.B. 711*, *signed by gov. 10/1/25;* and *previously issued Multistate Tax Alert*, for more details on this legislation]. Specifically, the newsletter explains that, as a result, most federal law changes pertaining to e-filing of income tax returns—including changes that lowered the e-filing threshold for corporations, partnerships and exempt organization returns—now apply to California.

Additionally, the newsletter addresses other state legislation enacted earlier that extended California's elective pass-through entity (PTE) tax for taxable years beginning on or after January 1, 2026, and before January 1, 2031 [see *S.B. 132*, *signed by gov. 6/27/25;* and *previously issued Multistate Tax Alert*, for more details on this legislation], and explains how this bill amended Cal. Rev. & Tax Code section 17052.10 to allow the PTE elective tax credit in situations where the qualified entity makes a valid PTE elective tax election and is a fiscal year filer but has a different taxable year beginning than its qualified taxpayer.

The newsletter also explains how new state law requires some banks and financial institutions to employ a single sales factor apportionment formula when apportioning business income to California for taxable years beginning on or after January 1, 2025 [see *S.B. 132*, *signed by gov. 6/27/25;* and *previously issued Multistate Tax Alert*, for more details on this legislation]. Specifically, the FTB explains that recently enacted legislation modified the definition of "qualified business activities" (QBA) to remove savings and loan activities and banking or financial business activities; therefore, "apportioning trades or businesses that derive more than 50% of gross business receipts from savings and loan activities or banking or financial business activities are now required to use the single-sales factor apportionment formula for taxable years beginning on or after January 1, 2025." Additional FTB analysis on S.B. 132 may be found *here*. Please contact us with any questions.

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District of Columbia – Emergency Legislation Decouples from Certain OBBBA Provisions Pertaining to R&D Expenses, §163(j), and §168(n)

A26-0214 (D.C.B. 26-0457), *enacted without mayor's signature 12/3/25*. The "D.C. Income and Franchise Tax Conformity and Revision Emergency Amendment Act of 2025" was recently enacted without District of Columbia Mayor Muriel Bowser's signature and includes provisions that decouple from certain aspects of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21), including some of the OBBBA provisions pertaining to:

- the expensing of domestic research and experimental (R&D) expenditures in Internal Revenue Code (IRC) section 174A;
- IRC section 163(j)(8) on the definition of adjusted taxable income for the business interest limitation; and
- the special depreciation allowance for qualified production property under IRC section 168(n).

The DC emergency legislation took effect on December 3, 2025, and remains in effect through March 3, 2026. Note that pending temporary legislation known as the "D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025" (*D.C.B. 26-0458*), if enacted into law, would temporarily extend these decoupling measures even further. Please contact us with any related questions.

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Illinois – General Information Letter Addresses How Investment Partnerships May Elect and Calculate PTET

General Information Letter IT 25-0011-GIL, Ill. Dept. of Rev. (10/2/25). An Illinois Department of Revenue general information letter addressing state law that allows certain partnerships and S corporations to elect to pay an entity level state tax on income (PTE tax) [see *previously issued Multistate Tax Alert* for more details on the PTE tax] explains that an investment partnership – as defined under state law applicable for taxable years ending on or after December 31, 2023 [see *previously issued Multistate Tax Alert* for details on the related underlying state legislation] – may elect to pay the PTE tax on income earned or received in Illinois. The letter details underlying PTE tax forms and worksheets that an electing investment partnership must file and complete, including instruction on certain computations and Illinois income allocation calculations. Please contact us with any questions.

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Iowa – Proposed Rules Reflect New Law Allowing Banks to Elect Including Investment Subs on Franchise Tax Return

Proposed Amend Rules 701—304.16(422), 701—501.16(422), 701—602.20(422) and Proposed New Rule 701—602.33(422), Iowa Dept. of Rev. (11/26/25). The Iowa Department of Revenue (Department) is proposing to amend and create new rules reflecting legislation enacted in 2024 [see *S.F. 2442 (2024)* and *State Tax Matters, Issue 2024-18*, for more details on this 2024 legislation] that allows financial institutions subject to the Iowa franchise tax that have investment subsidiaries to elect to file combined Iowa franchise tax returns with those investment subsidiaries applicable for tax years beginning on or after January 1, 2025 [see *State Tax Matters, Issue 2025-41*, for details on the earlier regulatory analysis for this rulemaking]. In doing so, the Department explains that financial institutions that make this election "are not required to add back expenses to carry the investment subsidiaries on their Iowa return," and that this proposed rulemaking makes conforming amendments to rules implementing the franchise tax credit. The proposed rule changes include definitions and additional guidance for taxpayers choosing to elect to file combined Iowa franchise tax returns with their investment subsidiaries. Written comments on this proposal are due by December 16, 2025, and a related public hearing may be held on the same date, if requested. Please contact us with any questions.

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Minnesota – Updated PTET Guidance Explains How Owners May Claim PTET Credit on Their 2026 Tax Return

Pass-Through Entity (PTE) Tax, Minn. Dept. of Rev. (11/21/25). The Minnesota Department of Revenue updated guidance on Minnesota's annual election for some qualifying pass-through entities to pay Minnesota income tax at the entity level (PTET) available for tax years beginning after December 31, 2020 and before January 1, 2026 [see *previously issued Multistate Tax Alert (July 6, 2021)* and *previously issued Multistate Tax Alert (May 30, 2023)* for more details on Minnesota's PTET], clarifying that if a qualifying entity filing a fiscal year return has a taxable year that begins before January 1, 2026, the qualifying owner may claim the PTET credit in the relevant tax year, which "may include their 2026 income tax return."

The guidance continues to include definitions of qualifying entities and qualifying owners, direction on how to make the election, clarification on the calculation of income for the PTET for Minnesota residents, assistance on estimated tax payment requirements, and discussion on how partners or shareholders may claim the refundable PTET credit. Please contact us with any questions.

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New Jersey – Updated R&D Credit Bulletin on IRC §174 Conformity Addresses OBBBA Implications

Tax Bulletin No. TB-114: The New Jersey Research and Development Tax Credit, N.J. Div. of Tax. (rev. 11/25/25). A recently updated New Jersey Division of Taxation (Division) bulletin addressing research performed in New Jersey and related issues for both New Jersey corporation business tax (CBT) and gross (individual) income tax purposes as it relates to the CBT's research and development (R&D) tax credit and the gross income tax deduction for qualified research expenditures and payments has been updated to include information on the effect of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) on the timing of the R&D deduction for CBT purposes. Specifically, the bulletin explains that the OBBBA allows for a different timing application for the deduction of research expenditures, and that for New Jersey CBT purposes, if there is a timing difference in deducting New Jersey research expenditures, taxpayers must account for this difference on their CBT return by deducting their New Jersey research expenditures in accordance with the provisions of N.J.S.A. 54:10A-4(k)(11). Moreover, the bulletin provides that if taxpayers amend their federal returns pursuant to IRS Rev. Proc. 2025-28, they must also amend their New Jersey CBT returns.

The bulletin also explains that New Jersey generally follows the federal rules (including the rules set forth in the OBBBA) for any non-New Jersey research expenditures and research payments because N.J.S.A. 54:10A-4(k)(11) does *not* apply to non-New Jersey research expenditures and research payments. Therefore, taxpayers with these expenditures and payments "must use the amounts reported as federal taxable income at line 28 of the 1120 (line 29 of Form 1120-F or line 22 of Form 1120S) when filing their New Jersey return." Please contact us with any questions.

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New Jersey – Division of Taxation Addresses CBT Implications of OBBBA Changes to Charitable Contribution Deductions

One Big Beautiful Bill Act (OBBBA) - Changes to Charitable Contribution Deductions, N.J. Div. of Tax. (12/1/25); *One Big Beautiful Bill Act (OBBBA) and the New Jersey Gross Income Tax*, N.J. Div. of Tax. (12/1/25). The New Jersey Division of Taxation (Division) issued a statement explaining that because the federal changes to charitable contribution deductions under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) affect the total deductions that are "above" the entire net income before net operating losses and special deductions, New Jersey conforms to these federal changes for the charitable contribution deduction to the extent they are consistent with the New Jersey Corporation Business Tax (CBT) Act. In doing so, the Division notes that for purposes of the New Jersey CBT Act, "the starting point for taxable income is entire net income before net operating losses and special deductions, with specific statutory adjustments for additions and deductions."

A separately issued statement involving New Jersey's gross (individual) income tax explains that federal deductions under the OBBBA regarding overtime, tips, and senior citizens do *not* affect a taxpayer's New Jersey individual income tax return. Please contact us with any questions.

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Tennessee – DOR Guidance Addresses OBBBA and Says State Remains Coupled with TCJA Bonus Depreciation

Important Notice #25-36, Tenn. Dept. of Rev. (12/25). Referencing the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) and its provisions that set the bonus depreciation applicable percentage at 100% for qualified property acquired after January 19, 2025, a Tennessee Department of Revenue notice explains that pursuant to current state law, Tennessee remains coupled with the bonus depreciation provisions as amended by the federal Tax Cuts and Jobs Act of 2017 (TCJA). Accordingly, Tennessee excise taxpayers must "continue to apply the bonus depreciation applicable percentages set forth in the TCJA bonus depreciation schedule for excise tax purposes." As a result, the notice explains that any taxpayers taking federal bonus depreciation deductions pursuant to the OBBBA must correspondingly make appropriate adjustments on "Schedule J" of their Tennessee excise tax returns, and it provides some illustrative examples for doing so.

Regarding the OBBBA provisions permitting bonus depreciation to be taken for federal income tax purposes on the newly designated category of property – that is, "qualified production property" – the notice states that because this federal provision does not exist in the TCJA's depreciation provisions, it is *not* applicable for Tennessee excise tax purposes. Accordingly, the notice concludes that taxpayers cannot take any bonus depreciation deductions with respect to qualified production property for Tennessee excise tax purposes; and such taxpayers must depreciate the property for excise tax purposes in accordance with the federal "MACRS" depreciation provisions applicable to nonresidential real property. These taxpayers must make "appropriate bonus depreciation addback and deduction adjustments" on "Schedule J" of their Tennessee excise tax returns. Please contact us with any questions.

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Tennessee – DOR Addresses Excise Tax Treatment of Federal Employee Retention Credit Under CARES Act

Important Notice #25-37, Tenn. Dept. of Rev. (12/25). In a notice addressing the employee retention credit (ERC) – a federal payroll tax credit that was established pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – the Tennessee Department of Revenue explains that the Tennessee excise tax starting point takes into account this reduced federal deduction, and thus, the ERC is included in the excise tax base in this manner. The notice also explains that Tennessee excise tax law contains a provision that allows a deduction for any expense, other than income taxes, not deducted in determining federal taxable income for which a credit against the federal income tax is allowable. However, according to the notice, the ERC, "by design, is allowed against certain federal payroll (employment) taxes, rather than the federal income tax." In this respect, the notice concludes that the federally-disallowed expenses associated with the ERC *cannot* be deducted under this provision and are not otherwise deductible for Tennessee excise tax purposes. Please contact us with any questions.

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Texas – Comptroller Aligns Franchise Tax Rules for Depreciation with OBBBA Provisions

News Release: Acting Texas Comptroller Kelly Hancock Updates Franchise Tax Depreciation Rules to Align with Federal Provisions, Tex. Comptroller of Public Accounts (12/1/25). In a news release, the Texas Comptroller of Public Accounts announced "an update to the agency's interpretation of Texas franchise tax depreciation rules, allowing Texas businesses to take advantage of bonus depreciation authorized by the federal One Big Beautiful Bill Act" (commonly referenced as "OBBBA" and more formally as P.L. 119-21). According to the release, this decision follows a "statutory review confirming that Texas franchise tax law provides the flexibility to apply the current internal revenue code (IRC) for depreciation calculations — rather than the outdated 2007 IRC, which required businesses to spread asset deductions over multiple years." Effective with the 2026 Texas franchise tax report, the news release states that Texas will align its franchise tax depreciation rules with the bonus depreciation provisions under the OBBBA whereby "businesses may elect to deduct the full cost of qualifying fixed assets — such as machinery, equipment and furnishings — acquired after Jan. 19, 2025." The news release comments that this policy change not only delivers "upfront tax relief," but also "eliminates the burden of maintaining two different sets of books for federal and state taxes, slashing red tape for business operations in Texas." Please contact us with any questions.

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Sales/Use/Indirect

Iowa – DOR Addresses Terminated Penny Production and Resulting Sales Tax Rounding Implications

Guidance: Sales Tax Rounding, Iowa Dept. of Rev. (11/21/25). Referencing the U.S. Mint's recent *November 12, 2025 event*, which marked the "official end of the penny's 232-year production run as a circulating coin," the Iowa Department of Revenue (Department) posted guidance on the resulting Iowa sales tax rounding implications for retailers that choose to round the amount collected on cash transactions to the nickel. According to the Department, a retailer that chooses to round the amount collected to the nickel must calculate Iowa sales tax on the taxable sales price – noting that "rounding after calculation of the tax does not affect the amount of sales tax collected, reported, and remitted to the Department." In this respect, the Department explains that when filing Iowa sales and use tax returns, retailers must report the amount of gross sales and sales tax before any rounding. The Department notes that this guidance applies only to Iowa sales tax, and that "rounding may present issues other than Iowa sales tax that retailers may choose to consider before changing their business practices." Please contact us with any questions.

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South Dakota – DOR Says 2024 Caselaw Requires Use Tax be Paid Upon In-State Storage of Materials Purchased Out-of-State

Fall 2025 Newsletter, S.D. Dept. of Rev. (11/24/25). A recently posted South Dakota Department of Revenue (Department) newsletter references a 2024 South Dakota Supreme Court decision [see *Case No. 30280*, S.D. (2/7/24) and *State Tax Matters, Issue 2024-7*, for more details on the South Dakota Supreme Court ruling], which according to the Department, "clarified that under South Dakota law, use tax applies to previously untaxed materials not only when used in a project, but also when the materials are stored in the state." As a result, the Department states that all contractors and businesses that purchase materials out-of-state and bring them into South Dakota must now pay state use tax as soon as the materials are stored in South Dakota. The Department notes that prior to this 2024 decision, state law had "allowed a contractor to delay paying use tax until materials were used in a South Dakota project," and that "simply storing materials in a yard or warehouse did not trigger tax liability in that case." Please contact us with any questions.

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Wyoming – State High Court Says Oil & Gas Company is Not in Transportation Business and thus Ineligible for Exemption

Case No. S-25-0006, Wyo. (12/2/25). The Wyoming Supreme Court (Court) reversed the Wyoming State Board of Equalization (Board) to hold that an in-state oil and gas company was *not* entitled to a sales tax refund on electricity it had purchased between March 2020 and March 2023, and used to operate its in-state oil fields because in moving fluids between the wellhead and the lease automatic custody transfer (LACT), it was *not* engaged in the transportation business as required by the statutory exemption at issue. According to the Court, the activity at issue is "best described as part of the crude oil production process," and the Board had erroneously interpreted "engaged in the transportation business" without considering the meaning of "transportation" as situated in the text of the exemption statute – noting that such omission "contravenes a long-standing principle of statutory interpretation." The Board had reasoned that the company qualified for the exemption, because in continuously using its pipeline to move oil owned by others and charging the oil owners for such service, it was in the transportation business. However, the Court held that the Board had committed an error of law by analyzing the broader question of whether the company was "engaged in a trade or business," rather than "engaged in the transportation business," and thus the Court was not obligated to defer to the "agency's ultimate factual finding" in this case. Please contact us with any questions.

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Property
Oregon – Taxpayer Asks U.S. Supreme Court Whether State Statute Taxing Intangible Property is Valid

Docket No. 25-611, US (*petition for cert. filed 11/21/25*). In a case addressing Oregon Rev. Stat. section 308.515(1) involving the taxation of intangible property held by centrally assessed businesses and challenging its validity, the taxpayer is asking the U.S. Supreme Court whether the Equal Protection Clause of the Fourteenth Amendment prohibits a state from "singling out a few businesses for taxation of their intangible property, because it is administratively convenient, when identical intangible property of all other taxpayers is exempt from taxation." Earlier this year, the Oregon Supreme Court held that this Oregon statutory provision permitting such taxation is constitutional [see *Case No. S070564*, Or. (9/18/25), and *State Tax Matters, Issue 2025-37*, for more details on the Oregon Supreme Court's 2025 decision in this case]. Please contact us with any questions.

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Miscellaneous/Transfer

Hawaii – Department of Taxation Adopts Temporary Rules on Inclusion of Cruise Fares under Transient Accommodations Tax

Temporary Administrative Rules 18-237-210-01 and 18-237-210-02, Haw. Dept. of Tax. (eff. 11/28/25). The Hawaii Department of Taxation adopted temporary administrative rules reflecting legislation enacted earlier this year (*Act 96/S.B. 1396 (2025)*) that assesses Hawaii's transient accommodations tax on certain gross receipts derived from cruise fares beginning as of January 1, 2026. Under the temporary rules, the gross income or gross rental proceeds from cruise fares are apportioned to Hawaii "in an amount equal to the total amount of gross income or gross rental proceeds from cruise fares, prorated by the percentage of days the cruise ship is docked at any port in the State in comparison to the total number of days of the voyage."

Note that underlying pending litigation challenges Act 96's validity, claiming among other arguments, that such fees imposed on cruise-ship operators for the privilege of docking their ships in Hawaii ports violates the U.S. Constitution's Tonnage Clause. Please contact us with any questions.

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