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Income/Franchise:

Michigan: Newsletter Discusses R&D Credit, Case on Sourcing Wholesale Electricity Sales, Alternative Apportionment, and PTET

Treasury Update Newsletter, Mich. Dept. of Treasury, Tax Policy Division (3/25). A newsletter published by the Tax Policy Division of the Michigan Department of Treasury reminds Michigan taxpayers about:
[URL: https://www.michigan.gov/treasury/-/media/Project/Websites/treasury/Newsletters/Treasury-Update-Newsletter_March2025.pdf](https://www.michigan.gov/treasury/-/media/Project/Websites/treasury/Newsletters/Treasury-Update-Newsletter_March2025.pdf)

- 1. New state law providing a refundable research and development (R&D) income tax credit under Michigan’s corporate income tax (CIT) and a credit against withholding by flow-through entity employers not subject to the CIT or Michigan business tax (MBT), available starting with R&D expenses incurred during the 2025 calendar year [see H.B. 5100, signed by gov. 1/13/25; H.B. 5101, signed by gov. 1/13/25; and previously issued Multistate Tax Alert for more details on the new R&D credit];
[URL: https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-5100](https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-5100)
[URL: https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-5101](https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-5101)
[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-michigan-establishes-an-randd-tax-credit-for-certain-authorized-businesses.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-michigan-establishes-an-randd-tax-credit-for-certain-authorized-businesses.pdf)
- 2. A recent Michigan Tax Tribunal ruling which held that a taxpayer’s wholesale electricity sales must be sourced entirely to Michigan rather than ultimate destination [see *State Tax Matters*, Issue 2025-7, for additional details on this case];
[URL: https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250221_2.html](https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250221_2.html)
- 3. A new revenue administrative bulletin (RAB 2024-24) on the procedures and standards governing the alternative apportionment relief provisions in Parts 1 and 2 of Michigan’s Income Tax Act and in the Michigan Business Tax Act in response to a 2023 Michigan Supreme Court decision addressing the use of standard versus alternative apportionment [see *State Tax Matters*, Issue 2024-50, for additional

details on RAB 2024-24]; and

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241220_3.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241220_3.html)

4. New state law changes related to Michigan's flow-through entity tax [see *State Tax Matters*, Issue 2025-6, for additional details on these law changes].

[URL: https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250214_2.html](https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250214_2.html)

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Income/Franchise:

Oregon Tax Court Magistrate Says In-State Activities Create Substantial Nexus and Special Industry Apportionment Applies

Case No. TC-MD 170037R, Or. Tax Ct. (3/25/25). In an unpublished order of the Magistrate Division of the Oregon Tax Court, a magistrate held that an interstate broadcaster's in-state business activities created a substantial nexus with Oregon under both state and federal law – including satisfying both Due Process and Commerce Clauses – and that the taxpayer failed to meet its burden of proof that Oregon's statutory interstate broadcaster formula unfairly apportions income relative to its in-state business activities. Specifically, the magistrate explained that based on the collective facts at hand, the taxpayer derived substantial economic benefit from its engagement with Oregon's market, and its continuous and intentional delivery of programming content to Oregon viewers established a substantial virtual presence that generated significant advertising revenue attributable to Oregon viewership – thus satisfying federal constitutional standards under the Due Process Clause and Commerce Clause. Please contact us with any questions.

[URL: https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll6/id/9880/rec/1](https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll6/id/9880/rec/1)

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Income/Franchise:

Oregon Tax Court Magistrate Says Captive Insurer Payments are Deductible Despite IRS Settlement Agreement

Case No. TC-MD 240601N, Or. Tax Ct. (3/19/25). In an unpublished order of the Magistrate Division of the Oregon Tax Court, the presiding magistrate held that a taxpayer's payments made to a captive insurer affiliate were deductible insurance expenses for Oregon corporate excise tax purposes despite having been disallowed by the Internal Revenue Service (IRS) for federal income tax purposes pursuant to a settlement agreement. In doing so, the presiding magistrate explained that although Oregon incorporates the federal definition of taxable income, the Oregon Department of Revenue is not necessarily bound by IRS adjustments because it may draw its own factual conclusions. Applying the specific facts in this case to the four criteria of determining the existence of "insurance" for federal tax purposes (*i.e.*, risk shifting, risk distribution, insurable risk, and commonly accepted notions of insurance), the magistrate concluded that there was "no bar under applicable law" in granting the taxpayer's requested relief for Oregon corporate excise tax purposes. Please contact us with any questions.

URL:
<https://cdm17027.contentdm.oclc.org/digital/search/collection/p17027coll3%21p17027coll5%21p17027coll6/searchterm/TC-MD%20240601N/field/all/mode/all/conn/all/order/date/ad/desc>

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Income/Franchise:

Utah: New Law Revises Financial Institution Sourcing Provisions and Requires Annual Study of Federal Tax Law Changes

H.B. 219, signed by gov. 3/25/25. Effective for taxable years beginning on or after January 1, 2026, recently signed legislation provides that a financial institution's defined "sales from investment activities and assets and trading activities and assets" generally are *not* sourced to Utah for state corporation franchise (income) tax purposes. In accordance with these new provisions, the legislation requires the Utah State Tax Commission to promulgate administrative rules establishing the sales to be included in the sales factor fraction of a financial institution where the numerator may *not* include sales from investment activities and assets and trading activities and assets; and the denominator must include sales from investment activities and assets and trading activities and assets. The bill also includes some relevant definitions.

URL: <https://le.utah.gov/~2025/bills/static/SB0219.html>

H.B. 216, signed by gov. 3/25/25. Recently signed legislation requires the Utah State Tax Commission, Office of the Legislative Fiscal Analyst, and Governor's Office of Planning and Budget to annually determine by

consensus whether federal tax law changes may likely result in a material increase in state income tax revenue, and if so, authorizes the Utah Revenue and Taxation Interim Committee to recommend legislative action for the next general session to “negate the material increase” in state income tax revenue. This bill takes effect on July 1, 2025. Please contact us with any questions.

URL: <https://le.utah.gov/~2025/bills/static/HB0216.html>

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Gross Receipts:

Virginia: New Law Requires Study to Potentially Broaden BPOL Deduction for Receipts Attributable to Out-of-State Business

H.B. 1743, signed by gov. 3/21/25. Recently signed legislation directs the Virginia Department of Taxation to convene a work group to review the policies, methods, existing laws, and potential impacts of the local license tax deduction in Virginia against the business, professional and occupational license (BPOL) tax – which is a gross receipts tax imposed at the local level in Virginia – for receipts attributable to out-of-state business and to submit a report of the findings and recommendations, if any, of the work group to the Virginia Joint Subcommittee on Tax Policy and to the Chairs of the Virginia House Committee on Finance, the Virginia House Committee on Appropriations, and the Virginia Senate Committee on Finance and Appropriations by October 1, 2025. Current Virginia BPOL tax law provides a deduction from a taxpayer’s gross receipts or gross purchases for any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income; however, such deduction is *not* currently available where the taxpayer is only liable for a gross receipts tax or modified gross receipts tax in the other state or foreign country. Please contact us with any related questions.

URL: <https://lis.virginia.gov/bill-details/20251/HB1743>

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Gross Receipts:

Washington: Updated Guidance on 2024 Decision that Denied Investment Income Deduction Addresses Endowments

Tax Topic: Investments, Wash. Dept. of Rev. (rev. 3/20/25). Referencing a 2024 Washington Supreme Court holding that investment income earned by sixteen investment funds did not qualify for a former deduction from the measure of Washington business and occupation (B&O) taxes [see Case No. 102223-9, Wash. (10/24/24), and previously issued Multistate Tax Alert for more details on this decision], updated Washington Department of Revenue guidance [see *State Tax Matters*, Issue 2025-3, for details on the original version of this guidance] explains that investment income from a bona fide endowment fund is fully deductible under a separate statute (*i.e.*, Rev. Code of Wash. section 82.04.4282), and that both beneficiaries and holders of endowment funds may deduct investment income if they can show that the endowment fund is the source of the deducted income. Please contact us with any questions.

URL: <https://dor.wa.gov/forms-publications/publications-subject/tax-topics/investments>

URL: <https://www.courts.wa.gov/opinions/pdf/1022239.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-washington-state-supreme-court-determines-investment-income.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250124_7.html

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Credits/Incentives:

South Carolina Appellate Court Says \$5 Million Credit Cap Applies Annually and is Not a Lifetime Limit

Case No. 2020-001542, S.C. Ct. App. (3/26/25). Reversing a South Carolina Administrative Law Court (ALC) ruling which held that South Carolina's investment tax credit under the 2014 version of S.C. Code section 12-14-60(G) is limited to a \$5 million total for *all tax years*, the South Carolina Court of Appeals (Court) held that while it is "deferential to an agency's interpretation of its law and policies, the interpretation of the five-million-dollar statutory cap as a lifetime limit contradicts our reading of the statute's plain language." In doing so, the Court explained that the ALC erred in finding that the statute at issue was ambiguous and instead concluded that the statute clearly provides for a \$5 million *annual* limitation. Accordingly, the utility company

in the case was deemed entitled to nearly \$20 million of the state investment tax credits it earned for tax years 2011 through 2014, as it did not exceed the annual five-million-dollar limit for any of the relevant years. Please contact us with any questions.

URL: <https://www.sccourts.org/media/opinions/HTMLFiles/COA/6107.pdf>

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Sales/Use/Indirect:

Colorado: New Law Sets Confidentiality Standards for Localities Using Third-Party Auditors

S.B. 46, signed by gov. 3/20/25. Effective July 1, 2025, new state law provides for uniform confidentiality standards of taxpayer information used or obtained for a sales and use tax investigation performed by a third-party auditor on behalf of a Colorado local taxing jurisdiction – generally prohibiting such auditors from divulging any taxpayer information related to a sales and use tax audit except under certain specified circumstances. The legislation defines a “third-party auditor” as a private individual or entity that is *not* an official, employee, hearing officer, or attorney, or otherwise a public agent of a Colorado local taxing jurisdiction that conducts a sales or use tax investigation of a taxpayer on behalf of a Colorado local taxing jurisdiction – providing that such third-party auditors potentially may include an official, employee, or agent of the Colorado Department of Revenue or Multistate Tax Commission. Please contact us with any questions.

URL: <https://leg.colorado.gov/bills/sb25-046>

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Sales/Use/Indirect:

Illinois Appellate Court Explains Chicago Lease Taxation on Finance Company's Vehicle Lease Assignments

Case No. 1-24-0025, Ill. App. Ct. (3/20/25). In a case involving an automotive financing company that took assignments of motor vehicle leases from independent automobile dealers operating both inside and outside of the City of Chicago, Illinois (City) and purchased the vehicles being leased, an Illinois Appellate Court (Court) affirmed that the company must remit City lease taxes on certain customer vehicle down payments received from the dealers (including the value of any trade-in vehicles) known as capitalized cost reduction (CCR) payments. However, the Court held in the taxpayer's favor that, under City law, it did *not* have to remit prorated City lease taxes on the CCR payments for vehicles that were leased from a dealer located outside of the City and registered by the lessee to a location outside of the City but which were subsequently "moved into" the City during the lease term. Please contact us with any questions.

URL: [https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/d75a4e71-1abf-4f45-9a59-5670440581f9/Ally%20Financial,%20Inc.%20v.%20Chicago%20Department%20of%20Administrative%20Hearings,%202025%20IL%20App%20\(1st\)%20240025.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/d75a4e71-1abf-4f45-9a59-5670440581f9/Ally%20Financial,%20Inc.%20v.%20Chicago%20Department%20of%20Administrative%20Hearings,%202025%20IL%20App%20(1st)%20240025.pdf)

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Sales/Use/Indirect:

Maine Revenue Services Proposes Rule Reflecting Shift to Lease Stream Taxation of TPP Rentals

Proposed New Rule 326, "Leases and Rentals of Tangible Personal Property," Me. Rev. Serv. (3/25); *Maine Tax Alert: MRS Rulemaking Activity Proposed Rule*, Me. Rev. Serv. (3/25); *Notice of State Agency Rulemaking*, Me. Sec. of State (3/19/25). Maine Revenue Services has proposed a new rule reflecting legislation enacted in 2024 that, beginning January 1, 2025, imposes Maine sales tax on tangible personal property (including products transferred electronically) leased or rented in Maine based on each periodic lease or rental payment paid by the lessee rather than wholly upfront [see LD 2214 / HP 1420, signed by gov. 4/22/24, and *State Tax Matters*, Issue 2024-17, for more details on this 2024 legislation]. The proposed new rule includes relevant definitions, explanations, and examples of taxable and nontaxable transactions related to this shift in taxation method, as well as addresses "other potential sales and use tax issues related to such transactions, including software licenses; sourcing of leases and rentals; and the calculation of sale price for leases and rentals." Written comments on the proposed new rule are due by April 21, 2025. Please contact us with any questions.

URL: https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/326%20Leases%20and%20Rentals%20of%20Tangible%20Personal%20Property_0.pdf

URL: https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/ta_mar2025_vol35_iss5.pdf

URL: <https://www.maine.gov/sos/cec/rules/notices/2025%20Notices/03.19.2025%20-%20Online.pdf>

URL: <https://legislature.maine.gov/billtracker/#Paper/HP1420?legislature=131>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240426_8.html

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Sales/Use/Indirect:

South Carolina DOR Explains Tax Implications of Retailers Withdrawing Items from Inventory for Use

Revenue Ruling No. 25-3, S.C. Dept. of Rev. (3/20/25). Recently adopted South Carolina Department of Revenue guidance explains the South Carolina sales tax implications of a retail business withdrawing items from its inventory for the business' own use, as well as South Carolina's specific provisions on withdrawals for use for certain industries. The guidance states that if a retailer withdraws tangible personal property previously purchased at wholesale from the retailer's inventory for its own use or consumption, South Carolina law generally defines this withdrawal as a retail sale subject to the sales tax. For example, "if an appliance store removes a new refrigerator from inventory and places the refrigerator in the employee break room for use by the store's employees, South Carolina law defines this withdrawal of the refrigerator by the store as a retail sale," and in this example, the appliance store must report and remit sales tax on the withdrawal of the refrigerator. Using various illustrative examples, the guidance generally concludes that unless an enumerated exclusion applies, all withdrawals for use are "retail sales" and must be included in the "gross proceeds of sales" when determining a business' South Carolina sales tax base. Please contact us with any questions.

URL: <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/RR25-3-Withdrawal%20for%20Use.pdf>

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Sales/Use/Indirect:

Texas Comptroller of Public Accounts Adopts Changes to Data Processing Services Rule

Amended Title 34 Tex. Admin. Code section 3.330, Tex. Comptroller of Public Accounts (3/13/25). The Texas Comptroller of Public Accounts (Comptroller) adopted changes to Title 34 Tex. Admin. Code section 3.330,

concerning data processing services that, among other revisions, add definitions; list examples of services that are included in and excluded from taxable data processing services; describe data processing that is not taxable; explain the incidence of the tax; update provisions related to the collection of local sales and use taxes on data processing services; and implement law changes from 2021 regarding payment processing. The adopted version includes some changes to the text as proposed on September 13, 2024 [see *State Tax Matters*, Issue 2024-47, for details on the text as proposed]. The adopted amended rule takes effect on April 2, 2025. Please contact us with any questions.

[URL: https://texas-sos.appianportalsgov.com/rules-and-meetings?interface=VIEW_TEXAS_REGISTER_SUMMARY&recordId=449179](https://texas-sos.appianportalsgov.com/rules-and-meetings?interface=VIEW_TEXAS_REGISTER_SUMMARY&recordId=449179)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241122_10.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241122_10.html)

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Sales/Use/Indirect:

Utah: New Law Removes 200-Transaction Threshold from *Wayfair* Economic Nexus Statute and Clarifies Amnesty Period for Errors

S.B. 47, signed by gov. 3/25/25. Effective as of July 1, 2025, recently signed legislation revises Utah’s economic nexus provisions for out-of-state remote sellers by repealing the requirement that a seller must pay or collect and remit Utah sales and use tax if the seller sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in Utah in more than 200 separate transactions. Under current Utah law, out-of-state remote sellers meeting one or both of the following criteria in the immediately preceding or current calendar year generally must license their business in Utah and remit applicable Utah sales and use tax:

[URL: https://le.utah.gov/~2025/bills/static/SB0047.html](https://le.utah.gov/~2025/bills/static/SB0047.html)

- Gross revenue from sales into Utah exceeds \$100,000; or
- 200 or more separate transactions for delivery into Utah.

The bill also includes some related technical and conforming changes.

S.B. 40, signed by gov. 3/25/25. Recently signed legislation clarifies the amnesty period during which a seller or certified service provider is not liable for failure to collect taxes due to an error by the Utah State Tax Commission in certain situations. Specifically, the legislation provides that the time period for which a seller or certified service provider (CSP) is not liable for failure to collect Utah taxes in certain situations “ends on the first day of the calendar quarter after 90 days from the day” on which the Utah State Tax Commission first notifies the seller or CSP of the error. This bill takes effect May 7, 2025. Please contact us with any questions.

[URL: https://le.utah.gov/~2025/bills/static/SB0040.html](https://le.utah.gov/~2025/bills/static/SB0040.html)

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Multistate Tax Alerts

Throughout the week, we highlight selected developments involving state tax legislative, judicial, and administrative matters. The alerts provide a brief summary of specific multistate developments relevant to taxpayers, tax professionals, and other interested persons. Read the recent alerts below or visit the archive.

Archive: <https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive.html?id=us:2em:3na:stm:awa:tax>

San Francisco releases draft market sourcing rules for gross receipts tax

Proposition M, passed by the City of San Francisco (“City”) voters on November 5, 2024, requires the Tax Collector to promulgate regulations interpreting how businesses must allocate their receipts to the City for San Francisco Gross Receipts Tax purposes. On February 28, 2025, the City Tax Collector released proposed sourcing regulations applicable to gross receipts from services, intangible property, and financial instruments. The Tax Collector has scheduled a public hearing to discuss the draft rules and is accepting comments on or before April 8, 2025.

This Multistate Tax Alert provides a brief overview of the Tax Collector’s proposed regulations and highlights some taxpayer considerations.

[Issued March 19, 2025]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-san-francisco-releases-draft-market-sourcing-rules-for-gross-receipts-tax.pdf>

San Francisco GRT draft market sourcing rules impact on asset managers

As discussed in our Multistate Tax Alert dated March 19, 2025, and as provided for under Proposition M, the Tax Collector for the City of San Francisco (the “City”) released proposed market sourcing regulations on February 28, 2025, addressing how businesses must allocate their receipts to the City for purposes of the City’s Gross Receipts Tax. Before Proposition M, professional and financial service businesses allocated their gross receipts to the City based on payroll only. Effective January 1, 2025, all professional and financial service businesses, including asset management businesses, must use a two-factor apportionment formula with a 25% payroll factor and 75% market factor based on “where the benefit of the service is received.”

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-san-francisco-releases-draft-market-sourcing-rules-for-gross-receipts-tax.pdf>

This Multistate Tax Alert discusses the proposed market sourcing rules specific to asset management services and mutual fund service providers.

[Issued March 21, 2025]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/multistate-tax-alert-san-francisco-grt-draft-market-sourcing-rules-impact-on-asset-managers.pdf>

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