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**Administrative:**

**Kentucky: New Law Says Administrative Agencies are Not Entitled to Deference from Reviewing Courts**

S.B. 84, Kentucky House and Senate override Governor’s veto 3/27/25. Referencing the 2024 US Supreme Court decision that overruled caselaw involving deference to government agency regulations [see Docket No. 22-451, US (6/28/24), and *State Tax Matters*, Issue 2024-27, for additional details on this 2024 US Supreme Court case], recently enacted legislation in Kentucky provides that:

URL: <https://apps.legislature.ky.gov/record/25rs/sb84.html>

URL: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-451.html>

URL: [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240705\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240705_1.html)

- An administrative body shall not interpret a statute or administrative regulation with the expectation that the interpretation of the administrative body is entitled to deference from a reviewing court; and
- The interpretation of a statute or administrative regulation by an administrative body shall not be entitled to deference from a reviewing court.

The Kentucky legislation also provides that “a court reviewing an administrative body’s action, including without limitation a petition for judicial review of an administrative body’s rulemaking or adjudicatory actions, shall apply de novo review to the administrative body’s interpretation of statutes, administrative regulations, and other questions of law.” Please contact us with any questions.

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**Income/Franchise:**

**Colorado DOR Proposes New Rule on Partnerships Reporting Federal Tax Adjustments**

*Notice of Proposed Rulemaking – Income Tax Rule Regarding Partnerships*, Colo. Dept. of Rev. (3/27/25); *Proposed New Rule 39-22-601.5 – 1*, Colo. Dept. of Rev. (3/27/25). The Colorado Department of Revenue

(Department) proposed a new rule that would implement the partnership adjustment reporting requirements established by Colorado legislation enacted in 2023 [see H.B. 1277 (2023) and *State Tax Matters*, Issue 2023-23, for more details on this 2023 legislation], which addresses how and when some partnerships must report federal tax adjustments to the Department in response to changes in the federal partnership audit and adjustment process – many provisions of which are patterned after the Multistate Tax Commission’s model statute on the same. According to the Department, the proposed new rule:

[URL: https://tax.colorado.gov/news-article/notice-of-proposed-rulemaking-income-tax-rules-regarding-partnerships-certain-credits](https://tax.colorado.gov/news-article/notice-of-proposed-rulemaking-income-tax-rules-regarding-partnerships-certain-credits)

[URL: https://www.coloradosos.gov/CCR/eDocketDetails.do?trackingNum=2025-00130](https://www.coloradosos.gov/CCR/eDocketDetails.do?trackingNum=2025-00130)

[URL: https://leg.colorado.gov/bills/hb23-1277](https://leg.colorado.gov/bills/hb23-1277)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230609\\_3.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230609_3.html)

- Defines relevant terms;
- Establishes reasonable qualifications and procedures for designating a person other than the federal partnership representative to be the state partnership representative;
- Identifies the required format for filing the “Partnership Federal Adjustments Report;”
- Clarifies and details requirements for reporting partners’ shares of federal adjustments, including the partner notification requirements a partnership must satisfy and the amended returns that partners must file;
- Articulates rules applicable to tiered partners and indirect partners;
- Provides guidance regarding partnership elections to pay an amount in lieu of tax on its partners;
- Prescribes the treatment of estimated tax payments remitted by partners and partnerships for additional tax resulting from federal adjustments; and
- Explains the timing, deadlines, and applicability of requests for alternative reporting and payment methods.

The Department has a scheduled a virtual public rulemaking hearing on this proposal on May 8, 2025, and any written comments on the proposed new rule are due on the same date. Please contact us with any questions.

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## Income/Franchise:

### Kentucky: New Law Updates State Conformity to Internal Revenue Code

*H.B. 775*, enacted without governor's signature on 3/27/25. New law incorporates several tax-related provisions, including generally updating Kentucky statutory corporate and personal income tax references to the Internal Revenue Code (IRC) for tax years beginning on or after January 1, 2025, to the IRC as in effect on December 31, 2024 – exclusive of any amendments made subsequent to this date, other than amendments that extend provisions in effect on December 31, 2024 that would otherwise terminate. Please contact us with any questions.

**URL:** <https://apps.legislature.ky.gov/record/25rs/hb775.html>

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## Income/Franchise:

### Massachusetts DOR Proposes Amendments to Corporate Nexus Rule Addressing P.L. 86-272 and Internet Activity

*Proposed Amended Rule 830 CMR 63.39.1: Corporate Nexus*, Mass. Dept. of Rev. (3/28/25); *Notice of Public Hearing*, Mass. Dept. of Rev. (3/28/25). The Massachusetts Department of Revenue (Department) is proposing changes to its rule on the circumstances pursuant to which certain business corporations may be subject to Massachusetts' corporate excise tax under Mass. Gen. Laws chapter 63 – specifically by amending 830 CMR 63.39.1(4)(e) to “clarify that certain in-state activities conducted by a vendor through an Internet website accessible by persons in the state may not be protected activities within the meaning of Public Law 86-272.” As an illustrative example, the proposed rule states:

**URL:** [https://www.mass.gov/regulations/830-CMR-63391-corporate-nexus-proposed-regulation-amendment?utm\\_medium=email&utm\\_source=govdelivery](https://www.mass.gov/regulations/830-CMR-63391-corporate-nexus-proposed-regulation-amendment?utm_medium=email&utm_source=govdelivery)

**URL:** [https://www.mass.gov/info-details/notice-of-public-hearing-april-29-2025-63391?utm\\_medium=email&utm\\_source=govdelivery](https://www.mass.gov/info-details/notice-of-public-hearing-april-29-2025-63391?utm_medium=email&utm_source=govdelivery)

“in-state activities that are conducted by a vendor through an Internet website accessible by persons in the state may include activity that is not entirely ancillary to the solicitation of orders of tangible personal property, such as the placement of Internet cookies onto the computers or other electronic devices of in-state customers that gather customer search information used to adjust production schedules and inventory amounts, develop new products, or identify new items to offer for sale.”

In proposing these rule amendments, the Department notes that under Mass. Gen. Laws. chapter 63, § 39 and 830 CMR 63.39.1, corporate remote vendors that lack physical contacts with Massachusetts and that are not

protected under P.L. 86-272 are presumed to be subject to the net income measure of the corporation excise when the volume of their Massachusetts sales for the taxable year exceeds \$500,000. The Department has scheduled a virtual public hearing on April 29, 2025, to address these proposed rule changes, and any written testimony on the proposal is due on the same date. Please contact us with any questions.

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## Income/Franchise:

### Michigan Department of Treasury Posts Guidance on New Refundable R&D Credit

*Notice Regarding New Research and Development Credit*, Mich. Dept. of Treasury (4/2/25). A recently posted Michigan Department of Treasury notice addresses new state law that provides 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]. The guidance describes the new credit and the process for claiming it, which differs depending on whether the claimant is a CIT taxpayer or a flow-through entity. According to the notice, "in both cases, the credit is available starting with research and development expenses incurred during the 2025 calendar year, and the first statutory filing deadline is April 1, 2026." Please contact us with any questions.

**URL:** <https://www.michigan.gov/treasury/reference/taxpayer-notices/notice-regarding-new-research-and-development-credit>

**URL:** <https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-5100>

**URL:** <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>

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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 220337N*, Or. Tax Ct. (3/31/25). In an unpublished order of the Magistrate Division of the Oregon Tax Court, the presiding magistrate held that several affiliates of a media and entertainment company constituted “broadcasters” subject to Oregon’s statutory special industry apportionment formula for interstate broadcasters and that their in-state business activities created a substantial nexus satisfying federal constitutional standards under both the Due Process and Commerce Clauses even though they lacked an in-state physical presence and did not make direct sales to or otherwise contract with Oregon customers. In doing so, the magistrate explained that based on the collective facts at hand, the broadcasters generated significant income – including from Oregon viewers – through the activity of distributing cable programming in Oregon pursuant to third-party affiliation agreements, and their contacts with Oregon’s market were continuous and systematic, creating a sufficient nexus with Oregon. Because it was “yet to be determined” in this case whether certain other affiliates of the company constituted broadcasters, the presiding magistrate also concluded that it was premature to consider whether Oregon’s statutory interstate broadcaster formula unfairly apportioned income relative to the broadcasters’ in-state business activities.

**URL:** <https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll6/id/9883/rec/1>

Note that in another recent unpublished order of the Magistrate Division of the Oregon Tax Court involving a different taxpayer, the magistrate similarly held that an interstate broadcaster’s in-state business activities created a substantial nexus with Oregon due to its continuous and intentional “substantial virtual presence” [see *State Tax Matters*, Issue 2025-12, for more details on this other recent ruling]. Please contact us with any questions.

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250328\\_2.html](https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250328_2.html)

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## Income/Franchise:

### Texas: New R&D Credit Memos Indicate Depreciable Property Expenses Cannot Qualify as Supplies QREs and Federal Intra-Group Transaction Regs Do Not Apply to Texas R&D Credit

*Letter No. 202503003M*, Tex. Comptroller of Public Accounts (3/24/25); *Letter No. 202503004M*, Tex. Comptroller of Public Accounts (3/24/25). A recently published Texas Comptroller of Public Accounts



(Comptroller) memo states that for purposes of Texas franchise tax research and development (R&D) credit calculations, if an expense for depreciable property is allowed under Internal Revenue Code (IRC) section 174, that expense *cannot be* a supply qualified research expense (QRE) under IRC section 41. The Comptroller explains that the definition of supplies in IRC section 41(b)(2)(C) explicitly excludes depreciable property from the definition of supplies, regardless of its deductibility under IRC section 174. Another recent Comptroller memo explains the federal intra-group transaction regulations do *not* apply to Texas' sales tax R&D exemption or franchise tax R&D credit because a federal "group under common control" is not treated as a single taxpayer for Texas tax purposes. Specifically, the memo notes that the Texas Tax Code's definitions and rules for combined groups differ significantly from federal regulations, rendering the federal intra-group transaction rules inapplicable. Please contact us with any questions.

URL: <https://star.comptroller.texas.gov/view/202503003M?q1=202503003M>

URL: <https://star.comptroller.texas.gov/view/202503004M?q1=202503004M>

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## Income/Franchise:

### Utah: New Law Lowers Corporate and Personal Income Tax Rates from 4.55% to 4.50%

*H.B. 106*, signed by gov. 3/26/25. Effective on May 7, 2025, and applicable retroactively for taxable years beginning on or after January 1, 2025, new law lowers Utah corporate and individual income tax rates from 4.55% to 4.50%. These newly enacted Utah income tax rate reductions follow previous Utah income tax rate reductions that were enacted in 2024 [see S.B. 69 (2024), and *State Tax Matters*, Issue 2024-12, for details on the 2024 legislation] and 2023 [see H.B. 54 (2023), and *State Tax Matters*, Issue 2023-12, for details on the 2023 legislation]. Please contact us with any questions.

URL: <https://le.utah.gov/~2025/bills/static/HB0106.html>

URL: <https://le.utah.gov/~2024/bills/static/SB0069.html>

URL: [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240322\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240322_5.html)

URL: <https://le.utah.gov/~2023/bills/static/hB0054.html>

URL: [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230324\\_3.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230324_3.html)

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## Property:

### Texas Appellate Court Withdraws Earlier Ruling on Wind Farm Valuation Due to Subsequent Case Settlement

*Case No. 04-22-00524-CV: Supplemental Memorandum Opinion*, Tex. App., 4th Dist. (4/2/25). After both parties filed a joint motion to dismiss because they “resolved their dispute” through settlement, the Texas Fourth Court of Appeals (Court) withdrew its 2024 decision in a case of “first impression concerning the ad valorem tax valuation of an operational utility-scale wind farm consisting of several wind turbine generators” in which the Court had held that the valuation erroneously included nontaxable intangible personal property [see *Case No. 04-22-00524-CV*, Tex. App., 4th Dist. (12/31/24), and *State Tax Matters*, Issue 2025-1, for details on this 2024 ruling]. Please contact us with any questions.

**URL:** <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=3ce0f10f-0921-4a30-9550-f90dcc7aa61c&coa=coa04&DT=Opinion&MediaID=7dbd80f1-5201-4823-8ce4-bc572970c63b>

**URL:** <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=f47987cd-8c3b-408e-80f4-8179613bce32&coa=coa04&DT=Opinion&MediaID=eeeea327e-3b2c-4213-887c-7035cd644de5>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250110\\_23.html](https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250110_23.html)

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## Unclaimed Property:

### North Dakota: New Law Addresses Required Liquidation of Abandoned Virtual Currency

*H.B. 1149*, signed by gov. 4/1/25. Recently signed legislation enacts some changes to North Dakota unclaimed property law, including explicitly subjecting virtual currency to its provisions and establishing circumstances under which virtual currency is presumed abandoned. Under the new law, virtual currency generally is deemed abandoned three years after the apparent owner’s last indication of interest in the property, and a holder of unclaimed virtual currency must liquidate the virtual currency and remit the proceeds to the administrator within 30 days before filing the required report. Under these provisions, “the owner may not have recourse against the holder or the administrator to recover any gain in value occurring after the liquidation of the virtual currency.” Please contact us with any questions.

**URL:** <https://ndlegis.gov/assembly/69-2025/regular/bill-overview/bo1149.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>

*No new alerts were issued this period. Be sure to refer to the archives to ensure that you are up to date on the most recent releases.*

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