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## Administrative:

### New York City: Taxpayer Asks Federal Court to Hear UBT Dispute by Claiming Absence of ALJs at Tax Appeals Tribunal

*Case No. 1:25-cv-04651*, S.D.N.Y. (complaint filed 6/3/25). An investment management company has filed suit in federal court requesting that the federal court intervene in its New York City Unincorporated Business Tax (UBT) dispute with the New York City (City) Department of Finance. The taxpayer argued that the federal court must exercise jurisdiction to resolve the underlying substantive tax issues given the City Tax Appeals Tribunal's (Tribunal) failure to "provide a functioning adjudicative forum to hear and decide" its petition and motion for summary determination, which thus deprives it of its right to procedural due process under the US Constitution. In its filed complaint, the taxpayer states that the Tribunal's administrative law judge (ALJ) Division "currently has no ALJs to hear or decide cases; instead, it merely has a Chief ALJ responsible for some ministerial matters, such as granting extensions and assigning matters to other ALJs if or when they are ever appointed." As a result, according to the taxpayer, which had paid all tax, interest and penalties asserted as due in order to stop the running of interest in this matter, it has "no remedy to retrieve the money it paid to the City and must forego use of those funds." Please contact us with any questions.

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## Income/Franchise:

### Missouri Court of Appeals Affirms REIT's Rental Income is Subject to City Earnings Tax and Dividends Paid are Not Deductible

*Case No. WD87288*, Mo. Ct. App. W.D. (6/3/25). In a case involving an entity owning over a thousand investment assets, including four medical office buildings in Kansas City, Missouri (City), and which qualified

and elected to be taxed as a real estate investment trust (REIT) for federal tax purposes, a Missouri Court of Appeals (Court) affirmed a circuit court's ruling that:

[URL: https://www.courts.mo.gov/fv/c/Opinion.PDF?courtCode=WA&di=491203](https://www.courts.mo.gov/fv/c/Opinion.PDF?courtCode=WA&di=491203)

1. The REIT's receipt of rental income from the four medical office buildings qualifies as "business activity" subject to the City's earnings tax under City tax law (specifically, City Regulation 1.382(e)(4)); and
2. The REIT's federally required dividend paid deductions are not deductible expenses in calculating its City earnings tax liability pursuant to City Ordinance § 68-381.

In doing so, the Court rejected the taxpayer's claim that its rental income from real estate is not "earned income" from an "activity" in Kansas City, concluding instead that the facts showed the taxpayer operates in the City as a real estate business with income generated by the real estate that it owns as investments, regardless of its federal tax "REIT" status. The Court also rejected the taxpayer's claim that its federally required dividends paid deductions are necessary expenses of its operation as a REIT and thus properly deductible in calculating its City earnings and profits tax – holding instead that such expenses are *not* an expense necessary to operate its real estate business and generate the taxable income which is converted to dividends and paid out to investors. In reaching this conclusion, the Court explained that the taxpayer does *not* generate its gross profits at the four medical buildings in the City "from being a REIT, but from the rental income of its real estate business," and its 90% dividend payment requirement is merely to maintain its federal income tax REIT status. Please contact us with any questions.

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## Income/Franchise:

### Wisconsin: Appellate Court Agrees that Parent Failed to Show Intercompany Royalties Had Business Purpose and Economic Substance

*Appeal No. 2024AP957*, Wis. Ct. App. (6/4/25). In a recently posted unpublished Wisconsin corporate franchise tax opinion involving a parent company and its created wholly-owned intellectual property (IP) subsidiary that licensed transferred IP back to the parent in exchange for royalties, a Wisconsin Court of Appeals (Court) affirmed [see *State Tax Matters*, Issue 2023-9, for details on the Wisconsin Tax Appeals Commission's 2023 ruling in this case] that the parent failed to show it had a valid nontax business purpose for entering into the licensing transactions and that the transactions had economic substance. In doing so, the Court rejected the parent company's claim that the Wisconsin Tax Appeals Commission (Commission) misapplied the "sham transaction" doctrine in disallowing the deductions as it failed to show the Commission erred in its application of the sham transaction doctrine. Specifically, the Court explained that the "Hormel test" governed the transactions at issue in this case, requiring the parent to prove that the transactions had "practical economic

effects other than the creation of income tax losses, such as a business purpose and economic substance” – which the parent failed to do, and thus the licensing transactions must be disregarded for state corporate franchise tax purposes. Please contact us with any questions.

[URL: https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=965316](https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=965316)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230303\\_6.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230303_6.html)

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## Sales/Use/Indirect:

### California: Special Notice Addresses Repeal of Bad Debt Deduction for Lenders and Retailer Affiliates

*L-983: Reporting Tax Recoveries on Bad Debt Losses for Lenders and Retailer Affiliates Beginning January 1, 2025*, Cal. Dept. of Tax & Fee Admin. (5/25). The California Department of Tax and Fee Administration (CDTFA) issued a notice addressing legislation enacted in 2024 [see S.B. 167 (2024), and *State Tax Matters*, Issue 2024-28, for more details on this 2024 legislation], which made the following changes regarding bad debt deductions under California’s sales and use tax:

[URL: https://www.cdtfa.ca.gov/formspubs/L983.pdf](https://www.cdtfa.ca.gov/formspubs/L983.pdf)

[URL: https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=202320240SB167](https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202320240SB167)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240712\\_7.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240712_7.html)

1. Lenders may no longer take a bad debt deduction or file a refund claim for accounts found worthless on and after January 1, 2025; and
2. Affiliated entities (as defined under Internal Revenue Code section 1504) of a retailer may no longer take a bad debt deduction or file a refund claim for accounts found worthless on and after January 1, 2025.

The notice explains that for accounts found worthless and written off prior to January 1, 2025, lenders may still claim bad debt deductions and file refund claims – noting that most lenders will have claimed these bad debt deductions on their fourth quarter 2024 return. According to the notice, lenders may continue to file bad debt refund claims for up to three years from the date the account was found worthless, provided it was written off for income tax purposes prior to January 1, 2025. Moreover, the notice provides that if a lender later collects or recovers previously claimed bad debts (recoveries), wholly or partially, it must report to the CDTFA amounts recovered that were previously deducted; lenders can do this by “reporting the amounts on their return in the reporting period in which the loss was recovered or by estimating their future recoveries.” Please contact us with any questions.

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## Sales/Use/Indirect:

### South Carolina: Information Letter Addresses Revised Durable Medical Equipment Exemption that Cures Previous Constitutional Defect

*Information Letter No. 25-10*, S.C. Dept. of Rev. (eff. 5/12/25). The South Carolina Department of Revenue posted an information letter reflecting recently enacted legislation [see H.B. 3800, signed by gov. 5/12/25, and *State Tax Matters*, Issue 2025-19, for more details on this legislation], which amended South Carolina's statutory sales and use tax exemption on durable medical equipment (DME) and related supplies in response to the South Carolina Supreme Court's 2024 decision that declared this exemption entirely void [see Case No. 2023-000317, S.C. (6/26/24), and *State Tax Matters*, Issue 2024-26, for more details on this 2024 decision]. The information letter explains that the original unconstitutional requirement that the seller's principal place of business be located in South Carolina has now been removed. Accordingly, the letter gives notice that the DME exemption has been amended "so that now all sellers of DME, both out-of-state and in-state, may seek the exemption as of May 12, 2025, so long as the seller meets all other requirements of the exemption." The information letter also clarifies that the recent statutory amendments are *not* retroactive, so the exemption cannot be claimed for sales between June 26, 2024, and May 12, 2025. Please contact us with any questions.

**URL:** <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/IL25-10-DME%20Exemption.pdf>

**URL:** <https://www.scstatehouse.gov/billsearch.php?billnumbers=3800>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250516\\_7.html](https://dhub.deloitte.com/Newsletters/Tax/2025/STM/250516_7.html)

**URL:** <https://www.sccourts.org/opinions/HTMLFiles/SC/28211.pdf>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240628\\_15.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240628_15.html)

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## Unclaimed Property:

### Colorado: New Law Addresses Abandoned Virtual Currency and Shortens Statute of Limitations Period

*H.B. 1224*, signed by gov. 6/4/25. Recently signed legislation enacts some changes to Colorado's unclaimed property law provisions, including:

URL: <https://leg.colorado.gov/bills/hb25-1224>

1. Clarifying that the term virtual currency incorporates cryptocurrency; and
2. Providing that a holder of unclaimed virtual currency must liquidate the virtual currency and remit the proceeds to the administrator within 30 days of filing the required report.

Under this new law, virtual currency generally is deemed abandoned three years after the apparent owner's last indication of interest in the property, and "the owner shall have no recourse against either the holder or the administrator for any gain in value of the virtual currency after liquidation."

Additionally, the legislation shortens both:

1. The statute of limitations period for which the administrator shall commence an action, proceeding, or examination, and
2. The record retention period for a holder, from ten years to six years.

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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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