State Tax Matters
Issue 2026-1
The power of knowing
January 9, 2026

State Tax Matters

The power of knowing

In this issue:

Income/Franchise

Delaware – Memo Addresses State Law that Decouples from OBBBA Provisions Related to R&D Expenses, §168(k), and §168(n)

Technical Information Memorandum 2025-2, Del. Div. of Rev. (12/23/25). A Delaware Division of Revenue technical information memorandum (TIM) addresses legislation enacted in 2025 [see *H.B. 255*, signed by gov. 11/19/25, and *State Tax Matters, Issue 2025-45*, for more details on this 2025 legislation] that decoupled from certain provisions under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21), including the OBBBA provisions pertaining to:

- the expensing of domestic research and experimental (R&D) expenditures in Internal Revenue Code (IRC) section 174A;
- bonus depreciation on the cost of equipment under IRC section 168(k); and
- the special depreciation allowance for qualified production property under IRC section 168(n).

Regarding R&D expenditures, the TIM provides that for entities taxed as corporations for tax years 2022 through 2024, Delaware has decoupled from the OBBBA's retroactive treatment of unused capitalized qualified R&D expenditures; and any unused capitalized expenditures from these tax years must be deducted as they would have been under the federal Tax Cut and Jobs Act (TCJA). For tax years 2025 and forward, the TIM explains that Delaware conforms with the federal provisions that permit expensing of qualified R&D expenditures in the tax year of the expenditure.

Regarding bonus depreciation, the TIM explains that for both individuals and entities taxed as corporations, Delaware has decoupled from the OBBBA's rules that permit 100% bonus depreciation for certain business property placed in service after January 19, 2025; and bonus depreciation for such business property will continue under the provisions of the TCJA so that, "generally, the tax year 2025 bonus depreciation is permitted at 40%; tax year 2026 bonus depreciation is permitted at 20%; and tax year 2027 and later bonus depreciation is 0%."

Regarding qualified production property, the TIM explains that Delaware has decoupled from the OBBBA's 100% special depreciation allowance for such property; and accordingly, "depreciation of this asset class will continue under pre-existing provisions of the Internal Revenue Code." Please contact us with any questions.

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

A26-0217 (D.C.B. 26-0458), *enacted without mayor's signature 12/20/25*. The "D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025" was 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).

This temporary legislation is subject to a 30-day congressional review period and then scheduled to expire 225 days after it takes effect. Note that similar enacted District of Columbia emergency legislation known as the "D.C. Income and Franchise Tax Conformity and Revision Emergency Amendment Act of 2025" took effect on December 3, 2025, and remains in effect through March 3, 2026 [see *A26-0214 (D.C.B. 26-0457)*, *enacted without mayor's signature 12/3/25* and *State Tax Matters, Issue 2025-46*, for more details on this emergency legislation]. Please contact us with any related questions.

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Illinois – Bulletin Summarizes Enactment of Finnigan Apportionment, Removal of Some Intercompany Expense Addback Exceptions, §163(j) Changes, and GILTI Taxation Changes

Informational Bulletin FY 2026-15, Ill. Dept. of Rev. (12/25). An Illinois Department of Revenue informational bulletin summarizes budget legislation enacted in 2025 [see *H.B. 2755 (Public Act 104-0006)*, *signed by gov. 6/16/25, and* *previously issued Multistate Tax Alert* *for more details on this budget legislation]* that includes many significant Illinois income tax law changes, including provisions that:

- shift from the "Joyce" to "Finnigan" method for Illinois combined reporting apportionment purposes when computing the sales factor numerator and applying the "throwback" and "throwout" rules;
- remove certain exceptions to the intercompany interest and intangible expense addback from Illinois' "80/20 addback" provisions;
- limit the dividends received deduction to 50% for global intangible low-taxed income (GILTI) under Internal Revenue Code (IRC) section 951A [note that subsequently enacted Illinois legislation addressing the federal One Big Beautiful Bill Act (OBBBA) (i.e., *S.B. 1911* (2025); see *previously issued Multistate Tax Alert* for more details on this Illinois legislation) applies the 50% deduction limitation to net controlled foreign corporation tested income (NCTI)];
- align with federal filing guidelines regarding allocations of certain interest expenses for taxpayers subject to the IRC section 163(j) deduction limit; and
- modify the sourcing rules for gains from the sale of certain pass-through entity interests.

The bulletin explains that these various highlighted tax law changes potentially may affect an Illinois taxpayer's required estimated payment amounts or require it to start making estimated payments, noting that the first estimated payment after June 16 should include the additional amounts that would have been due with previous quarterly payments, as well as the full current quarterly payment. Please contact us with any questions.

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Illinois – Proposed Rule Changes Reflect New Finnigan Apportionment for Unitary Business Groups

Proposed Amended 86 Ill. Adm. Code 100.3200; 86 Ill. Adm. Code 100.3370; 86 Ill. Adm. Code 100.5200; 86 Ill. Adm. Code 100.5201; 86 Ill. Adm. Code 100.5210; 86 Ill. Adm. Code 100.5215; 86 Ill. Adm. Code 100.5250; 86 Ill. Adm. Code 100.5270; 86 Ill. Adm. Code 100.9720 and New 86 Ill. Adm. Code 100.3375, Ill. Dept. of Rev. (1/2/26). The Illinois Department of Revenue (Department) is proposing various amended corporate income tax rules, as well as a new corporate income tax rule, reflecting legislation enacted in 2025 [see *H.B. 2755 (Public Act 104-0006)*, *signed by gov. 6/16/25*, and *previously issued Multistate Tax Alert* for more details on this Illinois legislation] providing that the apportionment of sales within an Illinois unitary business group must be computed using the "Finnigan" method for tax years ending on or after December 31, 2025. In doing so, the Department explains that under this apportionment method, "a unitary business group will be considered taxable in a state if any member of the group is subject to tax in that state." Additionally, the Department explains that when computing the unitary business group's sales factor apportionment, "each taxpayer member of the group must include in its sales factor numerator a portion of the aggregate Illinois sales of nontaxpayer members based on a ratio." Comments on these proposed rule changes are due no later than 45 days after their January 2, 2026 publication. Please contact us with any questions.

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Illinois – "Unused" Federal Bonus Depreciation Subtraction Amounts Generally Cannot be Carried Forward

General Information Letter IT 25-0010-GIL, Ill. Dept. of Rev. (9/18/25). Responding to a taxpayer's inquiry on whether federal bonus depreciation subtraction amounts that are "unused" in a tax year for Illinois corporate income tax purposes may be carried forward to a future tax year, the Illinois Department of Revenue (Department) concludes that there is no specific provision under the Illinois Income Tax Act (IITA) that permits or allows a carryforward of an "unused" special depreciation deduction amount under IITA section 203(b)(2)(T). According to the Department, this deduction is merely a subtraction from the base income of the corporation in the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return, and if the corporation cannot fully utilize the subtraction against its income in a tax year, "the 'unused' subtraction amount is not available to be carried forward to a future tax year."

However, the Department notes that for taxable years ending on or after December 31, 1986, IITA section 207(a) and (b), provides that after applying all the modifications provided for in IITA section 203(b) and the allocation and apportionment provisions of Article 3 of the IITA, "if the corporation has a net Illinois loss, such net loss is allowed as a carryback or carryover deduction" in the same manner as under Internal Revenue Code section 172. Therefore, to the extent that a part or all of the deduction under IITA section 203(b)(2)(T) is reflected in the Illinois net loss for the tax year as an "unused depreciation" amount, the Department explains that "it would automatically be carried back or forward, but only to the extent that it might be reflected, if at all, in the Illinois net operating loss carryback/carryforward."

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Louisiana – Bulletin Reflects New Filing Methodology for S Corps for Tax Periods Beginning on or After January 1, 2026

Revenue Information Bulletin No. 25-032, La. Dept. of Rev. (12/17/25). The Louisiana Department of Revenue (Department) issued a bulletin reflecting legislation enacted in 2025 [see *H.B. 567 (2025)/Act 382*, and *previously issued Multistate Tax Alert*, for more details on this 2025 legislation] which, among other updates, modifies the filing methodology for S corporations to treat them as pass-through entities under state law, similar to how they are treated under federal law, applicable to income tax periods beginning on or after January 1, 2026. According to the Department, the bulletin's purpose is "to inform taxpayers of the new provisions enacted by Act 382 as it relates to the filing requirements for S corporations, as well as the procedure for submission of composite or estimated payments of tax by an S corporation on behalf of its nonresident shareholders." The bulletin explains that because Louisiana now recognizes S corporations as flowthrough entities consistent with federal income tax treatment as of January 1, 2026, "all income, losses, deductions, and credits automatically pass through to shareholders," and no separate election is needed. Regarding qualified subchapter S subsidiaries (QSubs), the bulletin also states that for taxable periods beginning on or after January 1, 2026, a QSub is automatically treated as a disregarded entity and no election is required. Please contact us with any questions.

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Michigan – Newsletter Addresses Enacted Legislation that Decouples from Certain OBBBA Provisions

Treasury Update Newsletter, Mich. Dept. of Treasury, Tax Policy Division (12/25). A newsletter published by the Tax Policy Division of the Michigan Department of Treasury (Department) reminds Michigan taxpayers about legislation enacted in 2025 [see *H.B. 4961*, *signed by gov. 10/7/25*; and *previously issued Multistate Tax Alert* for more details on this legislation] that decouples from several provisions in the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) for Michigan corporate and individual income tax purposes – including provisions involving Internal Revenue Code (IRC) sections 174A, 168(n), 168(k), 163(j), and 179. The newsletter explains the various decoupling adjustments that must be made for Michigan corporate, flow-through entity, and individual income tax purposes for tax years beginning after December 31, 2024, related to IRC sections 174A, 168(n), 168(k), 163(j), and 179. In addition, the Department says that it is "reviewing and updating the forms and instructions that will be affected." Furthermore, the Department states that it is in the process of developing "additional guidance and other relevant information for taxpayers and preparers." Please contact us with any questions.

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New Jersey – Taxpayer Asks U.S. Supreme Court Whether CBT Royalty Expense "Addback" Exception is Constitutional

Docket No. 25-769, US *(petition for cert. filed 12/24/25)*. In a case involving New Jersey's corporation business tax (CBT) intercompany royalty expense "addback" adjustment and corresponding regulation for tax periods before the implementation of mandatory combined CBT filing in New Jersey [see *Case No. A-000595-23-T04*, N.J. Sup. Ct., App. Div. (4/29/25) and *State Tax Matters, Issue 2025-17*, for details on the New Jersey Superior Court, Appellate Division's 2025 decision in this case affirming that the 2020 amended version of the CBT regulation at issue retroactively cured constitutional violations], the taxpayer is asking the U.S. Supreme Court whether New Jersey's scheme for taxing royalty payments violates the U.S. Constitution's Commerce and Due Process Clauses. Specifically, the taxpayer is asking the U.S. Supreme Court whether New Jersey's scheme for taxing royalty payments that i) "conditions the deductibility of related-party royalty payments on the extent of the royalty recipient's in-state activity" burdens and discriminates against interstate commerce in violation of the Commerce Clause; and ii) "limits the deductibility of the royalty expense to the extent the royalty recipient pays tax in the state on the royalty income, indirectly taxes out-of-state activity with no connection to New Jersey" in violation of the Commerce or Due Process Clauses. Please contact us with any questions.

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New York – Appellate Court Affirms Telecom's Combined Group is Not a Qualified Emerging Tech Company

Case No. CV-24-0971, N.Y. App. Div. (12/24/25). In a case involving a telecommunications company and its affiliates filing Article 9-A New York combined returns for the 2012, 2013, and 2014 tax years at issue and reporting corporation franchise tax due on the entire net income base, the New York Supreme Court, Appellate Division, Third Department (Court) affirmed [see *Decision DTA No. 829691*, N.Y. Div. of Tax App. (1/25/24) and *State Tax Matters, Issue 2024-6*, for details on the 2024 New York State Tax Appeals Tribunal ruling in this case] that the combined group failed to show it was a "qualified emerging technology company" (QETC) under New York's Public Authorities Law (PAL) that would have been eligible to utilize the reduced tax rate available for QETCs. In doing so, the Court concluded that based on its interpretation of the applicable statutory provisions, every member of a combined group must independently meet the definition of a QETC in order for the combined group to receive the reduced taxation rate. Specifically, a claimant must show that each member of its combined group is located in New York and primarily involved in the production or servicing of emerging technologies to meet the definition of a QETC – which was *not* the case here. Among its arguments to the contrary, the company claimed that a combined group's activities may be aggregated to meet the QETC qualifications. Please contact us with any questions.

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Pennsylvania – NOL Cap Invalidation Applies Prospectively Only Regardless of Taxpayer's Procedural Posture

Case No. 892 F.R. 2018, Pa. Commw. Ct. (12/22/25). In a uniformity case challenge involving the statutory limitations for "net loss carryover" (NLC) deductions contained under Pennsylvania law for the 2013 tax year at issue following the Pennsylvania Supreme Court's 2017 decision deeming the NLC deduction invalid and subsequent 2024 holding that its 2017 decision be given prospective effect only [see *Case No. 8 MAP 2023*, Pa. (11/20/24) and *State Tax Matters, Issue 2024-47*, for additional details on the Pennsylvania Supreme Court cases], the Pennsylvania Commonwealth Court (Court) denied another taxpayer's petition for reassessment of its underlying 2013 Pennsylvania corporate net income tax (CNIT) liability – holding that the 2024 Pennsylvania Supreme Court case prevented such reassessment. Among its arguments to the contrary, the taxpayer unsuccessfully claimed that the 2024 Pennsylvania Supreme Court case did not control in this situation, because unlike the taxpayer in that case, it was not requesting a refund of taxes already "paid, budgeted and spent" by Pennsylvania but merely contesting a reassessment of tax that had not yet been paid. In holding against the taxpayer, the Court explained that the 2024 Pennsylvania Supreme Court case "definitively decided" the issue of the retroactivity of its 2017 NLC decision and that "precedent controls regardless of the procedural posture of a taxpayer's appeal" – that is, whether the corporation is seeking a refund or challenging an assessment. Because the Pennsylvania Department of Revenue had issued the underlying assessment in the case at hand prior to the 2017 Pennsylvania Supreme Court decision, the Court concluded that the NLC deduction provisions were valid in the tax year at issue and the assessment was appropriate.

Rejecting the taxpayer's claim that only prospective application of the 2017 Pennsylvania Supreme Court decision in its case violated certain deference and equity principles, the Court explained that the Pennsylvania Supreme Court in its 2024 decision had fully recognized that "while there may be inequities associated with prospective-only application" of its 2017 NLC decision, "such inequities seem inevitable given that the General Assembly consistently has opted to use a capped NLC deduction since 1994." Please contact us with any questions.

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Tennessee – Updated Franchise and Excise Tax Manual Addresses Implications of Various OBBBA Provisions

Franchise and Excise Tax Manual, Tenn. Dept. of Rev. (updated 12/25); *Tax Manual Updates*, Tenn. Dept. of Rev. (12/25). The Tennessee Department of Revenue (Department) updated its Tennessee franchise and excise tax manual to, among other changes, set forth its analysis of various provisions under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) that "stand to impact the determination of net earnings subject to excise tax." In it, the Department addresses whether Tennessee's franchise and excise tax conforms to, decouples from, or requires adjustments pertaining to the following OBBBA provisions:

- bonus depreciation allowing for the deduction of 100% of the cost of equipment in the first year under Internal Revenue Code (IRC) section 168(k);
- special depreciation of certain production property under IRC section 168(n);
- immediate deduction of research and experimental (R&D) expenses under IRC section 174A;
- business interest deduction increase under IRC section 163(j);
- increased limit on depreciable business assets deduction under IRC section 179; and
- various modifications to the deduction for foreign-derived deduction eligible income (FDDEI) (previously known as foreign-derived intangible income (FDII)) and net controlled foreign corporation tested income (NCTI) (previously known as global intangible low-taxed income (GILTI)).

Other revisions to the manual include an updated discussion regarding mixed affiliated groups to explain the potential Tennessee consolidated net worth implications for these groups "in light of the transition to single sales factor apportionment and to clarify the sales factor sourcing provisions to be used by mixed affiliated group members." Another revision updates a discussion regarding apportionment factors to "explain that, although the standard apportionment formula is now the single sales factor, the property and payroll factors are still applicable for certain franchise and excise tax purposes." Please contact us with any questions.

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Texas – Comptroller Announces Policy Change on Conformity to Internal Revenue Code

202512012M, Tex. Comptroller of Public Accounts (12/19/25). Following an earlier December 2025 news release aligning Texas franchise tax rules for depreciation with bonus depreciation authorized by the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) [see *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) and *State Tax Matters, Issue 2025-46*, for more details on this news release], the Texas Comptroller of Public Accounts (Comptroller) issued a memo announcing a policy change regarding conformity of all components of the Texas franchise tax to the Internal Revenue Code (IRC). The memo explains that while the Comptroller "has historically required a taxable entity to use the IRC in effect for the federal tax year beginning January 1, 2007, to compute amounts taken from the applicable federal tax return," the Comptroller has determined after further reexamination that "not all amounts taken from the applicable federal tax return used to compute the franchise tax are tied to the 2007 IRC." Specifically, the memo provides that beginning with the report year 2026 franchise tax return, "a taxable entity will determine amounts taken from the federal tax return under the federal tax law in effect for that federal tax year, unless the [Texas] statute or rule references the IRC." Where the [Texas] statute or rule references the IRC, the memo clarifies that a taxable entity must "compute such amounts under the 2007 IRC."

In implementing this new policy, the memo provides that: (i) a taxable entity may also include on the report year 2026 franchise tax return a one-time net deprecation adjustment in cost of goods sold (COGS) for qualifying assets under Texas Tax Code section 171.1012(c)(6); (ii) the net depreciation adjustment is "based on the difference in depreciation claimed for federal income tax and the depreciation claimed for franchise tax COGS for a given asset;" and (iii) any unused depreciation adjustment may be carried forward to consecutive reports until exhausted. The memo also explains additional implications of the policy change, including the impact on total revenue as reported for Texas franchise tax purposes. Specifically, the memo notes that for categories of income or expense that reference the IRC, such items must be determined under the 2007 IRC and provides the following illustrative example:

> Texas Tax Code section 171.1011(c)(1)(B)(ii) subtracts from total revenue foreign royalties and foreign dividends, including amounts determined under IRC section 78 or sections 951-964. Any foreign royalties and foreign dividends are determined under current federal tax law; however, by contrast, amounts under IRC section 78 and sections 951-964 "are determined under the 2007 IRC" and do *not* include the current IRC section 951A global intangible low-taxed income (GILTI) as GILTI was added to the IRC after January 1, 2007.

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Texas – Amendments to Franchise Tax Rule Address Economic Nexus for Certain Entities

Amended Title 34 Tex. Admin. Code section 3.586, Tex. Comptroller of Public Accounts (eff. 1/7/26). The Texas Comptroller of Public Accounts adopted changes to Title 34 of the Tex. Admin. Code (TAC) section 3.586 concerning nexus for Texas franchise tax purposes by including an additional subsection to determine whether economic nexus exists for certain non-Texas taxable entities (*i.e.*, entities not organized or chartered in Texas). Specifically, the revised rule mandates that entities apportioning margin using a method other than gross receipts (e.g., the apportionment methods as described in TAC sections 3.591(c)(1) and 3.591(c)(2) for regulated investment company (RIC) services and employee retirement plan services, respectively) nevertheless must use gross receipts as sourced to Texas under TAC sections 3.591(e) and (f) to determine whether economic nexus exists for Texas franchise tax purposes. Please contact us with any questions.

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West Virginia – Governor Says Administration is Proposing to Conform with Some OBBBA "Tax Relief Measures"

News: Governor Patrick Morrisey Proposes Tax Relief Package for Upcoming Legislative Session to Build on the Strength of Trump's One Big Beautiful Bill, W.Va. Off. of the Gov. (1/5/26). West Virginia Governor Patrick Morrisey announced a state "tax relief package" proposal for the upcoming West Virginia legislative session – explaining that his administration seeks to conform with some "tax relief measures" under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) to "support families and encourage business investment." Among these OBBBA provisions, Governor Morrisey states that his administration is proposing to conform with the "restoration of full bonus depreciation for qualified property, expanded immediate expensing of domestic research and experimental expenditures, and a more generous treatment of business interest deductions." Please contact us with any questions.

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Gross Receipts
Ohio – State High Court Says No CAT Refunds on Receipts from Goods Ultimately Destined for Out-of-State Shipment

Case No. 2023-1296, Ohio (12/24/25). In a case involving a global contract manufacturer of personal care products that contract manufactures bar soap at its out-of-state plant, the Ohio Supreme Court (Court) reversed a 2023 Ohio Board of Tax Appeals (Board) ruling and held that the company is not entitled to a refund of Ohio commercial activity tax (CAT) it paid on the gross receipts it earned when it sold the property to a purchaser who initially had the company transport the goods to an in-state distribution center owned by a third-party as such receipts must be sourced to Ohio under state law – even though the purchaser later resold the goods and shipped them out-of-state to fulfill the resale. To hold otherwise, according to the Court, "would collapse two separate sales" into one continuous transaction – "a conflation the statute does not permit."

In 2023, the Board concluded that the company successfully had shown that delivery for such products to its largest customer ultimately occurred outside Ohio as part of a continuous delivery process and thus its receipts from these transactions may be sourced outside Ohio for CAT purposes [see *Case No. 2019-1233*, Ohio BTA (9/13/23) and *State Tax Matters, Issue 2023-38*, for more details on this 2023 ruling]. In reversing the Board's ruling, the Court here explained that it was the Ohio marketplace that made the company's sale to its purchaser possible "for Ohio is where the distribution center is located." The Court also commented that "Ohio's roads facilitated the delivery of the bar soap into and across Ohio for placement in that distribution center," and that by "furnishing these advantages, Ohio may justly ask for something in return." Additionally, the Court rejected the company's challenges under the U.S. Constitution's Due Process, Commerce, and Equal Protection Clauses. A dissenting opinion follows. Please contact us with any questions.

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Tennessee – Crypto ATM Operator Not Subject to Business Tax on Receipts From, or Transaction Fees Related to, Sales of Virtual Currency

Letter Ruling No. 25-10, Tenn. Dept. of Rev. (12/16/25). A Tennessee Department of Revenue (Department) letter ruling involving an operator of cryptocurrency automated teller machines ("ATMs") concludes that its receipts from the sale of cryptocurrencies are *not* subject to Tennessee's business tax, because the selling and buying of such "intangible personal property" is not subject to such taxation under state law. In its analysis, the Department explains that for federal tax purposes, the Internal Revenue Service considers virtual currency to be property rather than currency; however, "virtual currencies or digital assets are property that cannot be seen, weighed, measured, felt, touched, or otherwise perceived by the senses." In this respect, according to the Department, virtual currency is property and also a digital representation of value – "akin to stocks, bonds, notes, insurance or other obligations or securities which are a mere representation or evidence of value" – which is considered intangible property that is specifically excluded from Tennessee business tax. The letter ruling also concludes that the operator's receipts from the underlying transaction fees are *not* subject to Tennessee's business tax, because such receipts from "currency exchange services" are specifically excepted from the Tennessee business tax under state law.

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Washington – Appellate Court Affirms B&O Tax Sourcing Methodology for IT Service Company

Case No. 87280-0-I, Wash. Ct. App. (12/22/25). In a case involving the appropriate Washington business and occupation (B&O) tax sourcing methodology for periods prior to June 12, 2014 (*i.e.*, for periods prior to certain significant B&O tax law sourcing changes) of an in-state company providing various information technology (IT) services, a Washington Court of Appeals (Court) agreed with the Washington Board of Tax Appeals (Board) that Washington's B&O tax proportional attribution rules applied for the periods at issue. As such, based on the provided facts, the Court affirmed [see *Docket No. 19-156*, Wash. Bd. of Tax App. (10/27/23) and *State Tax Matters, Issue 2023-49*, for more details on the Board's 2023 ruling in this case] that the benefits of the company's IT services were received entirely in Washington rather than outside Washington and thus must be sourced to Washington. In ruling against the IT company, the Court also affirmed that the company failed to show it had nexus in any state or country other than Washington or California, and thus the B&O tax "throwout" rule applied in some instances for purposes of computing its receipts factor denominator. Please contact us with any questions.

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Sales/Use/Indirect

Florida – DOR Addresses Terminated Penny Production and Resulting Rounding Implications

Tax Information Publication (TIP) No. 25A01-18, Fla. Dept. of Rev. (12/19/25). Referencing the federal government's decision to end production of the penny, the Florida Department of Revenue (Department) posted a tax information publication on the resulting Florida sales tax implications for dealers that choose to round the amount collected on cash transactions – generally concluding that Florida sales tax remains due on the actual sales price prior to the dealer applying rounding for lack of pennies. In doing so, the Department explains that dealers must continue to calculate Florida sales tax and any applicable discretionary sales surtax (*i.e.*, local sales tax) pursuant to current law, regardless of the customer's method of payment. The Department also provides that "if the total amount due cannot be collected or change cannot be provided on a cash transaction due to the penny shortage, the dealer may choose how to round the total amount due from the customer to the next lowest, next highest, or nearest nickel, so long as notice is provided to the customer." Specifically, the Department states that such dealers must "clearly and conspicuously disclose their rounding method for cash transactions through prominent signage within the business," and that Florida sales tax collected must be remitted as required by law.

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Illinois – City of Chicago Enacts New Social Media Amusement Tax and Increases Tax Rate on Personal Property Lease Transaction Tax

News Release: Tax Rate Changes as of January 2026, City of Chicago, Ill. Dept. of Fin. (12/29/25). The City of Chicago, Illinois (City) Department of Finance (Department) announced that in accordance with the City Council's passage of the "2026 Revenue Ordinance" on December 20, 2025, several tax-related law changes took effect on January 1, 2026, including a new "social media amusement tax" that is imposed on social media businesses collecting consumer data on more than 100,000 City consumers in a calendar year, based on the number of City consumers from whom a social media platform business collects consumer data within a calendar month. This new tax is imposed at the rate $0.50 per the number of City consumers per calendar month in excess of 100,000 and is "payable monthly by the social media business by the 15th day of the following month, with tax returns filed annually." According to the Department's news release, the first social media amusement tax return will cover the period January 1, 2026, through June 30, 2026, with the due date for filing being August 17, 2026. Regarding the City's personal property lease transaction tax – which potentially may be imposed on certain cloud computing – the Department explains that the tax rate is increased to 15% (previously, 11%) of the lease or rental price for all leases. Please contact us with any questions.

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Illinois – SOT Bulletin Explains Repealed 200-Transaction Nexus Threshold and Destination-Based Situsing Changes

Informational Bulletin FY 2026-13: Service Occupation Tax Changes, Ill. Dept. of Rev. (12/25). The Illinois Department of Revenue (Department) issued an Illinois service occupation tax (SOT) bulletin on the statutory repeal of Illinois' 200 transaction-based "Wayfair" economic nexus annual threshold for purposes of requiring remote sellers and marketplace facilitators to collect and remit Illinois retailers' occupation tax and use tax, effective as of January 1, 2026 [see *H.B. 2755 (Public Act 104-0006)*, signed by gov. 6/16/25, and *previously issued Multistate Tax Alert* for more details on the underlying Illinois legislation]. In the bulletin, the Department explains that the 200-transaction threshold will no longer apply to either out-of-state servicepersons who maintain a place of business in Illinois and make sales to Illinois purchasers, or to marketplace facilitators that transfer tangible personal property to Illinois purchasers as part of a sale of service. The Department also explains that servicepersons maintaining a place of business in Illinois are subject to destination-based sourcing on sales of service that would otherwise be sourced outside of Illinois. Furthermore, the Department explains that beginning January 1, 2026, for destination-based sales, if a taxpayer fails to provide sufficient information to determine the proper location, the Department "will assess tax on the gross receipts of such sales to undetermined tax locations at the rate of 15%," and "unprocessable penalties" will not apply to such sales. Please contact us with any questions.

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Illinois – Updated General Information Letter Addresses Taxability of GenAI Services Provided via Website or App

General Information Letter ST 25-0057-GIL, Ill. Dept. of Rev. (11/10/25). Responding to an inquiry submitted by a company that offers advanced artificial intelligence (AI) services to its customers (*i.e.*, to individuals, developers, businesses, and researchers), including a generative AI "chatbot" that is powered by a series of large language models, an updated Illinois Department of Revenue (Department) general information letter [see *General Information Letter ST 25-0050-GIL*, Ill. Dept. of Rev. (9/16/25) and *State Tax Matters, Issue 2025-37*, for details on the earlier letter that is now superseded by this new letter] continues to explain that a service provider would *not* owe Illinois retailers' occupation tax or use tax for providing its services so long as the transactions do not involve the transfer of any tangible personal property to the customers. However, the Department notes that Illinois' service occupation tax (SOT) is imposed upon all persons engaged in the business of making sales of service on all tangible personal property transferred incident to a sale of service, including computer software, but that Illinois generally does *not* tax subscriptions of software as a service (SaaS). That is, "computer software provided through a cloud-based delivery system – a system in which the computer software is never downloaded onto a client's computer and is only accessed remotely – is not subject to tax."

Furthermore, the letter continues to explain that if a service provider supplies an "API," applet, desktop agent, or a remote access agent to enable a SaaS subscriber to access the provider's network and services, the subscriber is receiving computer software. Additionally, although there may not be a separate charge to the subscriber for this computer software, the letter continues to explain that it is nonetheless subject to the SOT, unless the transfer qualifies as a nontaxable license of computer software. Conversely, if an Illinois customer downloads computer software, "separate from" their SaaS subscription (note: the earlier version of this letter had stated "separate and unrelated from" their SaaS subscription), for free from an out-of-state retailer's website or server that is also located out-of-state, the retailer – even though it is providing tangible personal property to the customer – has exercised no power or control over the property in Illinois. In this instance, according to the letter, "the retailer would not have made any taxable use of the property in Illinois," and the customer would not incur Illinois use tax liability as the customer did not acquire the software from a retail transaction.

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Wisconsin – Fleet Management Services Constitute Taxable Inspection Services Rather than Exempt Data Processing

Case No. 22-S-179, Wis. Tax App. Comm. (12/11/25). In a ruling involving a service provider that gathers, analyzes, and translates data, and generates reports to its online fleet management system platform made available to its customers, the Wisconsin Tax Appeals Commission (Commission) held that such fleet management services constitute taxable inspection services under state law. Under the provided facts, the company downloads diagnostic information from a vehicle's on-board diagnostic system via its device; analyzes and translates that data by translating codes and calculating distance information; and then sends messages to its customers in a format easily understood by the customer. According to the Commission, the company's report allows its customers to make decisions regarding vehicle maintenance or repair and to monitor their fleet and driver behavior. In this respect, the Commission reasoned that the information regarding the mechanical status of vehicles in the company's reports "reflects the same service performed when an inspection is performed." Among its arguments to the contrary, the company unsuccessfully claimed that its services constituted exempt data processing services rather than taxable inspection services under Wisconsin law. Note that the Commission declined to evaluate the taxable "telecommunication services" and "bundled transaction" assertions made by the Wisconsin Department of Revenue in this case. Please contact us with any questions.

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Miscellaneous/Transfer
Hawaii – Department of Taxation Announces Temporary Stop on Taxing Cruise Fares

Announcement No. 2026-01, Haw. Dept. of Tax. (1/2/26). The Hawaii Department of Taxation (Department) announced that pursuant to a recent U.S. Court of Appeals decision [see *Case Nos. 25-8057, 25-8058,* 9th Cir. (12/31/25)] involving pending litigation that challenges the validity of portions of legislation enacted in 2025 assessing Hawaii's transient accommodations tax (TAT) on certain gross receipts derived from cruise fares beginning as of January 1, 2026 [see *Act 96/S.B. 1396 (2025)* ("Act 96")], the Department will refrain from enforcing these provisions of Act 96 as it relates and applies to cruise ships "until further notice." Furthermore, the Department states that, effective January 1, 2026, "and until further notice," it will suspend enforcement of its temporary administrative rules on the inclusion of cruise fares under Hawaii's TAT [see *State Tax Matters, Issue 2025-46*, for additional details on these temporary administrative rules]. The Department clarifies that all other provisions in Act 96, including the increase in the TAT rate from 10.25% to 11%, "shall be effective as of January 1, 2026." Note that underlying pending litigation challenges the validity of portions of Act 96, claiming among other arguments, that its 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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