State Tax Matters
Issue 2026-7
The power of knowing
February 20, 2026

State Tax Matters

The power of knowing

In this issue:

Income/Franchise
Multistate Tax Commission – Work Group Circulates Discussion Draft Provisions on Sourcing of Partnership Income by Tiered & Corporate Partners 2

District of Columbia – Signed Congressional Resolution Says it Nullifies Temporary Legislation that Decouples from Certain OBBBA Provisions ... 3

Idaho – New Law Updates State Conformity to IRC But Decouples from Some OBBBA Provisions 4

Michigan – Appellate Court Affirms that Wholesale Electricity Sales Must Be Sourced Entirely In-State Rather than Ultimate Destination 4

Rhode Island – Proposed Rules Address Law Changes that Decouple from OBBBA Provisions with Comments Due March 18 5

South Dakota – New Law Updates State Conformity to IRC and Repeals Bad Debt Adjustments for Bank Tax Purposes 6

Texas – Amended Rule Reflects New Administrative Policy on IRC Conformity and References NCTI and FDDEI 6

Wisconsin – State High Court Denies Review of Case Holding that P.L. 86-272 Only Protects Sales of TPP, Not Services or Intangibles 7

Credits/Incentives
Texas – Comptroller Addresses R&D Credit and Exemption for Report Periods Prior to January 1, 2026 7

Sales/Use/Indirect
Alabama – City of Tuscaloosa Announces it Voluntarily Dropped Lawsuit Challenging State SSUT Provisions 8

Texas – Appellate Court Grants Refunds and Says Container Exemption Ineligibility Does Not Bar Eligibility for Manufacturing Exemption 9

Property
Texas – Crude Oil Inventories Once Again are Deemed Exempt under U.S. Constitution's Import-Export Clause 9

Income/Franchise

Multistate Tax Commission – Work Group Circulates Discussion Draft Provisions on Sourcing of Partnership Income by Tiered & Corporate Partners

Sourcing of Partnership Income by Tiered & Corporate Partners – Discussion Draft, Multistate Tax Commission, Uniformity Committee (1/29/26); *MTC State Taxation of Partnerships – Status Report*, Multistate Tax Commission, Uniformity Committee (1/29/26). Draft proposed model sourcing rules prepared by staff of the Multistate Tax Commission (MTC) as part of the MTC Uniformity Committee's project on the state taxation of partnerships have been posted for discussion, addressing how states should source partnership income where there are tiered and corporate partners. Informally coined as a potential "mini-Subchapter K for state purposes," MTC staff notes that "just like Subchapter K," the discussion draft:

- is fairly short;
- is fairly general;
- addresses partnership-specific issues and references the substantive tax rules; and
- contains anti-abuse rules.

As part of the input sought with respect to this discussion draft, MTC staff is weighing to what extent there needs to be more detail (*i.e.*, examples, rules for specific situations, etc.) in these provisions versus overall consensus on the general approach. Please contact us with any questions.

Roburt Waldow (Minneapolis)
Tax Principal
Deloitte Tax LLP
rwaldow@deloitte.com

Joe Garrett (Birmingham)
Tax Managing Director
Deloitte Tax LLP
jogarrett@deloitte.com

Olivia Chatani (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
ochatani@deloitte.com

District of Columbia – Signed Congressional Resolution Says it Nullifies Temporary Legislation that Decouples from Certain OBBBA Provisions

H.J.Res.142, *signed by President 2/18/26*. A Congressional joint resolution signed by the President "nullifies legislation" enacted on December 20, 2025 by the District of Columbia (D.C.) Council and known as the "D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025" [see *A26-0217 (D.C.B. 26-0458)*, *enacted without mayor's signature* 12/20/25 and *State Tax Matters, Issue 2026-1*, for more details on this temporary legislation that was subject to a 30-day congressional review period and scheduled to expire 225 days after taking effect]. Similar to D.C. emergency legislation known as the "D.C. Income and Franchise Tax Conformity and Revision Emergency Amendment Act of 2025" that 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], the temporary legislation 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).

Please contact us with any related questions.

Joe Carr (McLean)
Tax Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Jennifer Alban-Bond (McLean)
Tax Principal
Deloitte Tax LLP
jalbanbond@deloitte.com

Adam Camacho (McLean)
Tax Senior Manager
Deloitte Tax LLP
adcamacho@deloitte.com

Snowden Rives (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
srives@deloitte.com

Idaho – New Law Updates State Conformity to IRC But Decouples from Some OBBBA Provisions

H.B. 559 signed by gov. 2/10/26; Press Release: Update on filing 2025 Idaho income taxes now that conformity is law, Idaho State Tax Comm. (2/17/26). Effective immediately and applicable retroactively to tax years beginning on and after January 1, 2025, new law generally updates select corporate and personal income tax statutory references in Idaho to conform to federal Internal Revenue Code (IRC) provisions as in effect on January 1, 2026 (previously, January 1, 2025). However, the legislation decouples Idaho's income tax from some aspects of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21), including certain OBBBA provisions pertaining to:

- the election to expense prior-year unamortized domestic research and experimental (R&D) expenditures in IRC section 174A; and
- the special depreciation allowance for qualified production property under IRC section 168(n).

Specifically, for R&D expenditures incurred in taxable years beginning on or after January 1, 2022, and before January 1, 2025, the enacted Idaho legislation essentially applies the federal tax provisions pertaining to R&D expenditures in IRC section 174A as in effect immediately *before* enactment of the OBBBA. Under the new law, Idaho continues to decouple from federal bonus depreciation, and the legislation specifies that it also decouples from IRC section 168(n) under the OBBBA. A subsequently issued Idaho State Tax Commission press release explains that it is "developing a plan for taxpayers to claim the new conformity deductions" under this legislation and trying to expedite the process for updating its forms, instructions, and systems to incorporate the law changes.

See forthcoming Multistate Tax Alert for more details on this legislation, and please contact us with any questions in the meantime.

Scott Schiefelbein (Portland)
Tax Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Sara Clear (Minneapolis)
Tax Senior Manager
Deloitte Tax LLP
sclear@deloitte.com

Snowden Rives (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
srives@deloitte.com

Michigan – Appellate Court Affirms that Wholesale Electricity Sales Must Be Sourced Entirely In-State Rather than Ultimate Destination

Case No. 374696, Mich. Ct. App. (2/17/26). In an unpublished opinion involving an energy company's request for a Michigan corporate income tax (CIT) refund for the prior tax years at issue (*i.e.*, for the 2013 through 2016 tax years) on a portion of electricity it generated and sold in the wholesale market, the Michigan Court of Appeals (Court) affirmed denial of the refund claim [see *Docket No. 19-003783*, Mich. Tax Trib. (2/13/25) and *State Tax Matters, Issue 2025-7*, for more details on the 2025 Michigan Tax Tribunal ruling in this case] and agreed that the company failed to show that in-state sourcing of the sales was incorrect or that the Michigan Department of Treasury's statutory interpretation of sourcing the electricity sales to Michigan ran afoul of the Due Process or Commerce Clauses. Under the facts, the company's electric generating plants were all located in Michigan, and once generated, entered the transmission "grid" (*i.e.*, in this case, to the independent operating system (ISO)) where delivery was accepted at in-state substations (*i.e.*, at interconnection points which were all located in Michigan). The company unsuccessfully claimed that some of its wholesale electricity sales must be sourced outside Michigan based on federally required data that showed the electricity's ultimate destination.

The Court ultimately concluded that Michigan's apportionment methodology in this case satisfied both the internal and external consistency tests, as the contractual points of delivery for the company's wholesale electricity sales were in Michigan, and the company offered "no evidence of double taxation" that it had been or will be taxed by other states for those wholesale electricity sales. Furthermore, the Court reasoned that the Michigan apportionment formula reflected a "reasonable sense" of how the income was generated and delivered in Michigan – and noted submitted evidence showing "the substantial majority of electricity generated in Michigan is consumed in Michigan." Citing a 2023 Michigan Supreme Court apportionment case, the Court also explained that the company failed to satisfy its "heavy burden of showing by clear and cogent evidence that the apportionment formula attributed income out of all appropriate proportion to the business activity in Michigan or that it led to a grossly distorted result." Please contact us with any questions.

Pat Fitzgerald (Detroit)
Tax Managing Director
Deloitte Tax LLP
pfitzgerald@deloitte.com

Cristina McWethy (Detroit)
Tax Senior Manager
Deloitte Tax LLP
cmcwethy@deloitte.com

Rhode Island – Proposed Rules Address Law Changes that Decouple from OBBBA Provisions with Comments Due March 18

Proposed Regulation 280-RICR-20-25-17 - Modifications to Net Income Due to Decoupling from P.L. 119-21, H.R.1 (2025), R.I. Dept. of Rev. (2/16/26); *Proposed Regulation 280-RICR-20-55-17 - Modifications to Rhode Island Income of a Resident Individual Due to Decoupling from P.L. 119-21, H.R.1 (2025)*, R.I. Dept. of Rev. (2/16/26). The Rhode Island Department of Revenue (Department) is proposing two new permanent regulations providing guidance on the Rhode Island income tax (both business corporation and personal income taxes, respectively) implications for tax years 2025 and prior due to the federal One Big Beautiful Bill Act (now commonly referenced as "OBBBA" and more formally as P.L. 119-21), and Rhode Island's subsequently enacted decoupling legislation [see *H.B. 5076 (2025)* and *State Tax Matters, Issue 2025-27*, for additional details on this enacted Rhode Island budget legislation, as well as *ADV 2025-20: Rhode Island Decouples from Recently Enacted Federal Legislation-H.R. 1, R.I.* Dept. of Rev. (10/2/25) and *State Tax Matters, Issue 2025-39*, for subsequently issued administrative guidance]. In doing so, the Department explains that because Rhode Island has decoupled from the OBBBA provisions, "any income, deduction, or allowance that would be subject to federal income tax for taxable years beginning on or before January 1, 2025, but for the enactment of H.R.1, must be included in net income for Rhode Island Business Corporation Tax purposes to preserve the Rhode Island tax base." Similarly, "any income, deduction, or allowance that would be subject to federal income tax for taxable years beginning on or before January 1, 2025, but for the enactment of H.R.1, must be added to federal adjusted gross income for Rhode Island Personal Income Tax purposes to preserve the Rhode Island tax base." The proposed regulations essentially address the underlying required Rhode Island income tax modifications for taxable years beginning on or before January 1, 2025. A public hearing on these proposals is scheduled for February 26, 2026, and written comments are due by March 18, 2026.

Note that two similar Rhode Island emergency regulations went into effect on December 15, 2025, are effective for 120 days, and may be renewed for an additional 60 days [see *State Tax Matters, Issue 2025-48*, for more details on the emergency regulations]. Please contact us with any questions.

Mike Degulis (Boston)
Tax Principal
Deloitte Tax LLP
mdegulis@deloitte.com

Alexis Morrison-Howe (Boston)
Tax Principal
Deloitte Tax LLP
alhowe@deloitte.com

Zsuzsanna Goodman (Boston)
Tax Managing Director
Deloitte Tax LLP
zgoodman@deloitte.com

Shawn David (Boston)
Tax Principal
Deloitte Tax LLP
shdavid@deloitte.com

South Dakota – New Law Updates State Conformity to IRC and Repeals Bad Debt Adjustments for Bank Tax Purposes

S.B. 19, *signed by gov. 2/13/26*; *S.B. 18*, *signed by gov. 2/13/26*. Effective July 1, 2026, new law generally updates statutory references to the Internal Revenue Code as it existed from January 1, 2025, to January 1, 2026, for state financial institution/bank franchise tax purposes. Another recently signed bill repeals certain income modifications for the state financial institution/bank franchise tax pertaining to bad debts. Please contact us with any questions.

Ray Goertz (Minneapolis)
Tax Managing Director
Deloitte Tax LLP
rgoertz@deloitte.com

Dave Dunnigan (Minneapolis)
Tax Senior Manager
Deloitte Tax LLP
ddunnigan@deloitte.com

Texas – Amended Rule Reflects New Administrative Policy on IRC Conformity and References NCTI and FDDEI

Amended Title 34 Tex. Admin. Code section 3.587, Tex. Comptroller of Public Accounts (2/20/26). Following a December 2025 memorandum announcing a new administrative interpretation as to how the Texas Comptroller of Public Accounts (Comptroller) views Texas conformity to the federal Internal Revenue Code (IRC) starting with the 2026 Texas franchise tax report year [see *Memorandum 202512012M* and *previously issued Multistate Tax Alert* for more details on the new administrative policy], recently adopted administrative rule changes similarly instruct Texas taxpayers to use current federal tax rules (rather than the IRC in effect for the federal tax year beginning January 1, 2007) to compute certain income and deductions included in the Texas franchise tax return beginning with the 2026 report year. The preamble of the adopted rule reiterates the new administrative interpretation applies to all components of the Texas franchise tax, and explains that the Comptroller intends to update rules that reference the IRC in Chapter 171 of the Texas Tax Code by adding a definition of the "Internal Revenue Code" and identifying when the 2007 IRC applies.

For purposes of computing taxable margin under the Texas franchise tax, the adopted rule changes also clarify the subtraction for foreign royalties and foreign dividends – including "amounts determined under Internal Revenue Code, §78 (dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) or §§ 951 - 964 (Controlled Foreign Corporations)" – does *not* include foreign-derived intangible income (FDII) or global intangible low-taxed income (GILTI), as defined by the federal Tax Cuts and Jobs Act of 2017, or foreign-derived deduction eligible income (FDDEI) or net controlled foreign corporation tested income (NCTI), as defined by the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21).

Other notable rule changes in this adoption include:

- explaining that a taxable entity disregarded for federal income tax purposes must compute its total revenue as if the entity filed a separate return as a corporation for federal income tax purposes, *or* the entity may choose to combine its revenue, cost of goods sold, compensation, and gross revenue with its parent under Texas law;
- providing additional guidance on how a single entity and a combined group must compute an adjustment to cost of goods sold or the compensation deduction for any actual costs of uncompensated care that are excluded from total revenue under Texas law;
- adding language to define "professional employer organization" pursuant to Texas statutory law and replacing the term "staff leasing service company" with "professional employer organization" for purposes of the rule; and
- providing additional guidance related to exclusions from total revenue, including flow-through funds that are mandated by law, along with adding "remediation" to the list of real property activities for which subcontracting payments are allowed as flow-through funds.

Please contact us with any questions.

Robert Topp (Houston)
Tax Managing Director
Deloitte Tax LLP
rtopp@deloitte.com

Alexis Morrison-Howe (Boston)
Tax Principal
Deloitte Tax LLP
alhowe@deloitte.com

Grace Taylor (Houston)
Tax Senior Manager
Deloitte Tax LLP
grtaylor@deloitte.com

Snowden Rives (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
srives@deloitte.com

Wisconsin – State High Court Denies Review of Case Holding that P.L. 86-272 Only Protects Sales of TPP, Not Services or Intangibles

Case No. 2023AP1251, Wis. (*review denied 2/12/26*). With dissent by one justice, the Wisconsin Supreme Court denied a corporate taxpayer's request to review a 2025 Wisconsin Court of Appeals decision holding that the corporation was subject to Wisconsin corporate franchise tax, because among other reasons, its in-state service activity was not protected by P.L. 86-272 as it only extends protections to the solicitation of sales of tangible personal property [see *Appeal No. 2023AP1251*, Wis. Ct. App. (6/3/25), and *State Tax Matters, Issue 2025-22*, for details on this 2025 decision]. The underlying case involved an out-of-state corporation selling travel services to Wisconsin residents through in-state independent consultants, and the Wisconsin Court of Appeals stated that P.L. 86-272 "applies only to tangible personal property, and anything other than tangible personal property, e.g., intangible property and services, are not protected" by it. Please contact us with any questions.

Scott Bender (Milwaukee)
Tax Principal
Deloitte Tax LLP
sbender@deloitte.com

Michael Gordon (Milwaukee)
Tax Managing Director
Deloitte Tax LLP
michagordon@deloitte.com

Credits/Incentives

Texas – Comptroller Addresses R&D Credit and Exemption for Report Periods Prior to January 1, 2026

Accession No. 202602005W, Tex. Comptroller of Public Accounts (2/13/26); *Sales Tax Exemption Or Franchise Tax Credit For Qualified Research*, Tex. Comptroller of Public Accounts (2/4/26). The Texas Comptroller of Public Accounts (Comptroller) posted updated guidance reflecting legislation enacted in 2025 [see *S.B. 2206 (2025)* and *previously issued Multistate Tax Alert* for more details on this 2025 legislation], which significantly changed Texas' research and development (R&D) tax credit and exemption by repealing the prior option of claiming either a i) Texas R&D franchise tax credit, or ii) sales and use tax exemption related to the purchase, lease, rental, storage, or use of depreciable tangible personal property in R&D activities, and replacing it with an entirely new Texas R&D franchise tax credit effective as of January 1, 2026. In the guidance, the Comptroller clarifies that the R&D-related sales tax exemption is no longer available for report periods after December 31, 2025. In addition, taxpayers cannot claim both the R&D-related sales tax exemption and older R&D franchise tax credit for the same period for report periods prior to January 1, 2026, and notes that the election to claim either is not permanent and may be changed. The guidance also describes the process for claiming the R&D-related sales tax exemption, including forms to provide the retailers, as well as clarifies the annual information report filing needed to register for the exemption.

Please contact us with any questions.

Irene Manos (Stamford)
Tax Principal
Deloitte Tax LLP
imanos@deloitte.com

Guy York (Cincinnati)
Tax Managing Director
Deloitte Tax LLP
gyork@deloitte.com

David Douglas (Chicago)
Tax Senior Manager
Deloitte Tax LLP
davdouglas@deloitte.com

Sales/Use/Indirect

Alabama – City of Tuscaloosa Announces it Voluntarily Dropped Lawsuit Challenging State SSUT Provisions

City News: City of Tuscaloosa Voluntarily Dismisses SSUT Lawsuit, City of Tuscaloosa, Ala. (2/11/26). Referencing its filed suit from 2025 challenging the validity of Alabama's "Simplified Seller's Use Tax" (SSUT) statutory provisions that were originally enacted "during the reign of *Quill*," and which claimed that the "merchant's choice" aspect of the SSUT is unconstitutional as a matter of state constitutional law in light of the *Wayfair* decision and results in lost revenue for Alabama communities [see *Case No. 03-CV-2025-901301.00*, Ala. Cir. Ct. *(complaint filed 8/12/25)* and *State Tax Matters, Issue 2025-32*, for more details on the lawsuit as originally filed], the City of Tuscaloosa, Alabama (City) recently announced that it has voluntarily dismissed this lawsuit in a "good faith effort to work side by side with the Alabama legislature." However, the City also states that by dismissing its legal challenge "without prejudice," it preserves the ability to "reassert its legal rights should those discussions fail to produce a comprehensive resolution that ensures tax dollars generated in the city stay in the city." According to City Mayor Walt Maddox, the dismissal "reflects our commitment to protect the State's general fund and modernize our sales tax code to destination sourcing." Please contact us with any questions.

Doug Nagode (Atlanta)
Tax Managing Director
Deloitte Tax LLP
dnagode@deloitte.com

Joe Garrett (Birmingham)
Tax Managing Director
Deloitte Tax LLP
jogarrett@deloitte.com

Liudmila Wilhelm (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
lwilhelm@deloitte.com

Inna Volfson (Boston)
Tax Managing Director
Deloitte Tax LLP
ivolfson@deloitte.com

Texas – Appellate Court Grants Refunds and Says Container Exemption Ineligibility Does Not Bar Eligibility for Manufacturing Exemption

Case No. 15-24-00111-CV, Tex. App., 15th Dist. (2/12/26). Rejecting the Texas Comptroller of Public Accounts' (Comptroller) claims otherwise, the Texas Fifteenth Court of Appeals (Court) affirmed on an issue of "first impression" that certain returnable and reusable containers used by a chemical manufacturing company to transport chemicals to its oil and gas industry customers qualified for a Texas statutory manufacturing exemption under Texas Tax Code section 151.318, even though it did *not* qualify for a separate Texas statutory container exemption under Texas Tax Code section 151.322, as the two statutory exemptions "are not irreconcilable and both can be given effect." In doing so, the Court explained that the two statutory exemptions can be reconciled, and that an exemption under the container exemption applies when conditions of that statutory section are met, but if those conditions are not met, the manufacturing exemption may still apply.

Furthermore, the Court affirmed that certain services performed on the manufacturing-exempt containers (*i.e.*, some cleaning, delivery, and pickup services) qualified for exemption under Texas Tax Code section 151.3111 and disagreed with the Comptroller's contention that the containers at issue lost their tax-exempt status the moment they were emptied before being reinserted into the manufacturing process. Holding against the Comptroller, the Court reasoned that nothing in the manufacturing exemption indicates that property used in manufacturing loses and regains its tax-exempt status depending on whether it is being used or consumed in manufacturing at a particular moment. Accordingly, the Court affirmed the trial court's grant of summary judgment for the company, as well as the underlying sales tax refunds. Please contact us with any questions.

Robin Robinson (Houston)
Tax Specialist Executive
Deloitte Tax LLP
rorobinson@deloitte.com

Chris Blackwell (Austin)
Tax Senior Manager
Deloitte Tax LLP
cblackwell@deloitte.com

Property
Texas – Crude Oil Inventories Once Again are Deemed Exempt under U.S. Constitution's Import-Export Clause

Case No. 13-24-00413-CV, Tex. App., 13th Dist. (2/12/26). In a case challenging the ad valorem taxation of crude oil inventories held in a locality's coastal tank farms, the Texas Thirteenth Court of Appeals (Court) affirmed the district court's ruling that the oil at issue entered the stream of export and was thus immune from taxation under the U.S. Constitution's Import-Export Clause. The holding in this case is in line with the Court's two decisions from earlier this year involving similar circumstances but different taxpayers [see *Case No. 13-24-00590-CV*, Tex. App., 13th Dist. (1/8/26) and *State Tax Matters, Issue 2026-2*, for details on one of the two earlier cases]. Please contact us with any questions.

Griff Thomas (Houston)
Tax Managing Director
Deloitte Tax LLP
griffthomas@deloitte.com

Donna Empson-Rudolph (Houston)
Tax Senior Manager
Deloitte Tax LLP
dempsonrudolph@deloitte.com