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State Tax Matters

The power of knowing

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Multistate Tax Alert
California court issues Proposed Statement of Decision addressing agricultural business and alternative apportionment

On February 26, 2026, the Los Angeles County Superior Court filed a Proposed Statement of Decision (the "Proposed Decision") in *Smithfield Packaged Meats Corp. (f/k/a John Morrell & Co.) v. California Franchise Tax Board*, Case No. 21STCV39637. The Proposed Decision addresses the appropriate apportionment methodology for Smithfield Packaged Meat Corp.'s ("Smithfield") multistate business income subject to California corporation franchise tax for tax year ending 2014.

In the Proposed Decision, the court concluded that Smithfield qualifies as an "agricultural business" under California Revenue and Taxation Code ("CRTC") section 25128(b) and therefore must use an equally weighted three-factor apportionment formula based on property, payroll, and sales. Additionally, the court concluded that, even if Smithfield did not qualify as an agricultural business, the company would alternatively be entitled to relief under CRTC section 25137 because the application of California's single sales factor formula does not fairly represent the extent of Smithfield's business activity in California.

This Multistate Tax Alert summarizes the Proposed Decision, which remains subject to objection under California Rule of Court 3.1590, and is not yet a final judgment.

URL: *https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/california-court-issues-proposed-statement-of-decision-addressing-agricultural-business-and-alternative-apportionment.pdf*
[Issued March 3, 2026]

Income/Franchise
California – Trial Court Says Agribusiness Qualifies for Three-Factor Alternative Apportionment

Case No. 21STCV39637, Cal. Super. Ct., County of Los Angeles (2/26/26). In a case involving a hog production and harvesting business, a California superior court (Court) issued a proposed statement of decision in the taxpayer's favor that based on the submitted facts for the 2014 California corporate income tax year at issue, it: i) successfully petitioned under Cal. Rev. & Tax Code section 25137 for alternative apportionment and the use of a three-factor apportionment formula in showing that California's standard single-sales factor formula failed to fairly represent its in-state business activity; and ii) qualified as an agricultural business under Cal. Rev. & Tax Code section 25128(b) eligible to utilize a special industry three-factor formula to apportion its income. In doing so, the Court also held that the "product-based approach" under California Code of Regulation, tit. 18, § 25128-2 for defining agricultural businesses (*i.e.,* looking only at whether the final product sold by a taxpayer has undergone processing, and otherwise treating the receipts as non-agricultural) was inconsistent with the plain text and purpose of Cal. Rev. & Tax Code section 25128(b), and invalidly narrowed the scope of the statute as applied to the taxpayer because it ignored the fact that the majority of the taxpayer's business activities constitute agricultural activities. The Court accordingly directed the California Franchise Tax Board to grant the taxpayer's underlying refund claim consistent with "application of the three-factor apportionment formula."

See recently issued Multistate Tax Alert for more details on this proposed statement of decision, as well as some related considerations, and please contact us with any questions.

Jairaj Guleria (San Francisco)
Tax Partner
Deloitte Tax LLP
jguleria@deloitte.com

Valerie Dickerson (Washington D.C.)
Tax Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Ben Elliot (Sacramento)
Tax Principal
Deloitte Tax LLP
belliott@deloitte.com

Kathy Freeman (Sacramento)
Tax Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

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

David Han (Los Angeles)
Tax Senior Manager
Deloitte Tax LLP
davihan@deloitte.com

California – Out-of-State Seller with In-State Inventory Stored through Third-Party Fulfillment Program Owes $800 Minimum Tax

OTA Case No. 230212546, Cal. Off. of Tax App. (12/29/25). In an opinion involving an out-of-state seller of products through a third-party fulfillment company program whereby the seller essentially owned inventory stored at the third-party's in-state warehouses (fulfillment centers) and contracted with that third-party to ship its products from those fulfillment centers to its customers, the California Office of Tax Appeals (OTA) concluded that the seller was "doing business" in California under Cal. Rev. & Tax Code section 23101(a), and thus subject to California's annual $800 minimum tax for the 2019 tax year at issue. According to the OTA, under Cal. Rev. & Tax Code section 23101(a), the company's storage of inventory and sales in California during the 2019 tax year satisfied the criteria of "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit" for income tax purposes. Previously, the company had been notified by the California Department of Tax and Fee Administration (CDTFA) that it was subject to California sales tax based on its in-state physical presence from the same activities. Please contact us with any questions.

Jairaj Guleria (San Jose)
Tax Partner
Deloitte Tax LLP
jguleria@deloitte.com

Valerie Dickerson (Washington D.C.)
Tax Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Ben Elliot (Sacramento)
Tax Principal
Deloitte Tax LLP
belliott@deloitte.com

Kathy Freeman (Sacramento)
Tax Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

David Han (Los Angeles)
Tax Senior Manager
Deloitte Tax LLP
davihan@deloitte.com

Colorado – DOR Publishes Updated Information on How and When Some Partnerships Must Report Federal Tax Adjustments

Income Tax Topics: Partnership Audit Adjustments, Colo. Dept. of Rev. (rev. 2/26); *Income Tax Topics: Administrative Adjustment Requests*, Colo. Dept. of Rev. (rev. 3/26). Pursuant to legislation enacted in 2023 in response to changes in the federal partnership audit and adjustment process under the federal 2015 Bipartisan Budget Act [see *H.B. 1277 (2023)* and *State Tax Matters, Issue 2023-23*, for more details on this 2023 legislation], updated Colorado Department of Revenue (Department) publications address how and when some partnerships must report final federal tax adjustments to the Department. The publications include information on state partnership representatives; notification, filing, and payment deadlines; rules applicable to tiered partners and indirect partners; and various filing and payment requirements – noting that Colorado's requirements apply to every partnership that is audited by the Internal Revenue Service or files an Administrative Adjustment Request, regardless of whether "the partnership elects to pay any additional federal tax at the partnership level or 'push out' the adjustments to the partners." Please contact us with any questions.

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

Jeff Maxwell (Denver)
Tax Senior Manager
Deloitte Tax LLP
jemaxwell@deloitte.com

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

New Jersey – U.S. Supreme Court Denies Taxpayer Request to Review Whether CBT Royalty Expense "Addback" Exception is Constitutional

Docket No. 25-769, US (*cert. denied 3/2/26*). The U.S. Supreme Court denied the taxpayer's request to review whether New Jersey's scheme for taxing royalty payments violates the U.S. Constitution's Commerce and Due Process Clauses. The underlying case involved 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 where, in 2025, the New Jersey Superior Court, Appellate Division affirmed that the 2020 amended version of the CBT regulation at issue retroactively cured constitutional violations [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 2025 decision]. The taxpayer in the case had asked 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.

Norm Lobins (Cleveland)
Tax Managing Director
Deloitte Tax LLP
nlobins@deloitte.com

Drew VandenBrul (Philadelphia)
Tax Managing Director
Deloitte Tax LLP
dvandenbrul@deloitte.com

Kevin Friedhoff (Morristown)
Tax Senior Manager
Deloitte Tax LLP
kfriedhoff@deloitte.com

Steve Martin (Morristown)
Tax Senior Manager
Deloitte Tax LLP
stevenmartin@deloitte.com

Michigan – Notice Explains State Law that Decouples from Several Provisions Under the One Big Beautiful Bill Act

Notice: Decoupling Michigan's Income Taxes from Certain Internal Revenue Code (IRC) Provisions, Mich. Dept. of Treasury (2/25/26). A Michigan Department of Treasury (Department) notice explains how legislation enacted in 2025 [see *H.B. 4961 (2025 PA 24)* and *State Tax Matters, Issue 2025-39*, for more details on this 2025 legislation] updated Michigan's conformity to the Internal Revenue Code (IRC) and "decoupled" from several IRC provisions enacted by the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21). Specifically, the notice addresses how taxpayers must adjust income reported under Michigan corporate income, individual income, and elective flow-through entity taxes – "generally starting with tax year 2025" – related to the following provisions in the OBBBA:

- immediate deduction of research and experimental (R&D) expenses under IRC section 174A;
- special depreciation of certain production property under IRC section 168(n);
- bonus depreciation allowing for the deduction of 100% of the cost of equipment in the first year under IRC section 168(k);
- business interest deduction increase under IRC section 163(j); and
- increased limit on depreciable business assets deduction under IRC section 179.

The Department notes that Michigan taxpayers must report decoupling adjustments on "miscellaneous lines" for 2025 forms and maintain adequate records to support decoupling adjustments reported on any Michigan return. The notice also explains that a member of a flow-through entity must report its share of the flow-through entity's decoupling adjustments on the member's Michigan income tax return; consequently, "a flow-through entity must report to each of its members specific information about that member's share of any decoupling adjustments." 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

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

Sherfón Pfirrman (Dallas)
Tax Manager
Deloitte Tax LLP
shpfirrman@deloitte.com

South Carolina – ALJ Remands Case Involving Alternative Apportionment and Combined Reporting

Case No. 25-ALJ-17-0256-CC, S.C. Admin. Law Ct. (2/27/26). In a case involving the South Carolina Department of Revenue's (Department) authority to mandate an alternative apportionment method (*e.g.,* forced combination) related to its audit of a taxpayer's South Carolina corporate income and license fees for certain prior years at issue, the chief administrative law judge with the South Carolina Administrative Law Court (Court) remanded the case back to the Department to consider 2024 legislative amendments mandating additional standards and procedures for the Department to "effectuate an equitable allocation and apportionment" of a corporate taxpayer's South Carolina income [see *S.B. 298 (2024)* and *previously issued Multistate Tax Alert* for more details on these 2024 legislative amendments]. In doing so, the Court gave the Department three months to issue a new final determination and address the taxpayer's concerns – specifically, the taxpayer's opposition of the Department's alternative apportionment method of sub-combination. The Court also rejected the taxpayer's petition to completely void the underlying tax assessment, reasoning that a complete void would lead to an impractical result given that the parties disagreed on the amount of the company's tax liability for the audit years at issue. Please contact us with any questions.

Art Tilley (Charlotte)
Tax Managing Director
Deloitte Tax LLP
atilley@deloitte.com

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

Meredith Morgan (Charlotte)
Tax Senior Manager
Deloitte Tax LLP
mmorgan@deloitte.com

West Virginia – New Law Generally Updates State Conformity to Internal Revenue Code, Including OBBBA Conformity

S.B. 393; *S.B. 400*, *signed by gov.* 3/2/26. Effective from passage, new law generally adopts all amendments made to federal law after December 31, 2024, but prior to January 1, 2026, for West Virginia corporation net income and personal income tax purposes "to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective." However, "no amendment to the laws of the United States made on or after January 1, 2026, shall be given any effect." The law provides that these amendments are retroactive to the extent allowable under federal income tax law, and it also states that "with respect to taxable years that began prior to January 1, 2026, the law in effect for each of those years shall be fully preserved as to that year" except as otherwise provided. The legislation does *not* contain language that specifically "decouples" from any provisions enacted by the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21). Please contact us with any questions.

Ashley Higgins (McLean)
Tax Partner
Deloitte Tax LLP
ashiggins@deloitte.com

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

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

Gross Receipts
Washington – DOR Addresses Terminated Penny Production and Resulting B&O Taxation of Rounding Gains

Interim guidance statement regarding the elimination of the penny, Wash. Dept. of Rev. (2/26/26). Referencing the federal government's decision to end production of the penny, the Washington Department of Revenue (Department) posted interim guidance addressing the resulting state business and occupation (B&O) and sales tax implications for general sellers and retailers that choose to round the amount collected on cash transactions. For B&O tax purposes, the guidance explains that when any rounding results in a gain to the seller, the gain generally is considered taxable gross income of the business under the "Service & Other Activities" tax classification; however, because the Department is "aware of legislation that may affect the B&O taxability of gains or losses from rounding" and "the unique circumstances concerning the elimination of the penny," the guidance states that it will *not* take action to enforce B&O tax liability on gains from rounding "on a prospective basis following the publication of final guidance." The Department also notes that any resulting rounding losses are simply a cost of doing business and may *not* be deducted from the seller's gross income for B&O tax purposes. Illustrative examples are provided.

Regarding Washington sales tax, the guidance explains that for retailers choosing to round the amount collected on cash transactions due to the shortage of pennies, such rounding does not alter the sales tax calculation itself – that is, "sales tax remains due on the sales price prior to the retailer applying rounding due to the lack of pennies." The guidance notes that these retailers may choose their own rounding procedures and may round up or down to the nearest nickel, round all transactions up to the nearest nickel, or round all transactions down to the nearest nickel. Lastly, the Department states that, overall, it will "continue to review these issues for purposes of developing final guidance," and this interim guidance statement will remain in effect until it issues final guidance, cancels this interim statement, or new legislation is enacted. Please contact us with any questions.

Robert Wood (Seattle)
Tax Principal
Deloitte Tax LLP
robwood@deloitte.com

Angela Deamico (Seattle)
Tax Senior Manager
Deloitte Tax LLP
adeamico@deloitte.com

Washington – Receipts from Remote Title Service Transactions Deemed Sourced to Location of Purchasers' In-State Real Property

Case No. 59809-4-II, Wash. Ct. App. (3/3/26). In a state business and occupation (B&O) tax receipts sourcing case involving a national title insurance/escrow service company that provides its services remotely through out-of-state affiliated agencies in connection with the sale or refinancing of real property, a Washington Court of Appeals (Court) reversed and remanded a trial court's ruling with instructions to enter summary judgment in the Washington Department of Revenue's favor for the January 1, 2009, through December 31, 2012 audit periods at issue. In doing so, the Court held that the receipts at issue must be sourced to Washington under Rev. Code Wash. section 82.32.730(1)(b) as remote transactions because purchasers "receive" or "make first use of" the services in Washington at the underlying real property's in-state location, rather than outside Washington at a remote agent's closing office pursuant to Rev. Code Wash. section 82.32.730(1)(a). The Court explained that Rev. Code Wash. section 82.32.730(1)(a) does not apply in this case as it was undisputed that all the services at issue were provided remotely – that is, all services provided by the company's affiliated agencies occurred outside Washington at various remote closing offices, and there was no showing that a purchaser ever went to the out-of-state offices to meet with the company's affiliated agencies in person. Among its unsuccessful claims to the contrary, the company argued that the sourcing provisions under Rev. Code Wash. section 82.32.730(1)(a) do not require a customer's physical presence at the seller's business location and that, based on this statutory provision, the purchasers in this case effectively received the services at the respective out-of-state closing offices. Please contact us with any questions.

Robert Wood (Seattle)
Tax Principal
Deloitte Tax LLP
robwood@deloitte.com

Angela Deamico (Seattle)
Tax Senior Manager
Deloitte Tax LLP
adeamico@deloitte.com

Sales/Use/Indirect

Arizona – State High Court Vacates Appellate Court to Hold that Linen Rental Company Qualifies for Use Tax Manufacturing Exemption

Case No. CV-24-0288-PR, Ariz. (3/3/26). The Arizona Supreme Court (Court) vacated a 2024 Arizona Court of Appeals decision [see *Case No. 1 CA-TX 23-0003*, Ariz. Ct. App. (11/7/24) and *State Tax Matters, Issue 2024-46*, for more details on the lower court's decision in this case] to hold for a company that cleans and sanitizes hundreds of thousands of pounds of textiles (linens) on a weekly basis and rents them to customers in the healthcare industry by concluding that its sanitization equipment qualified for Arizona's use tax manufacturing exemption. The Court reasoned that "processing operations" under this statutory use tax exemption applies to machinery and equipment that an entity uses to change the marketability of a product, and because the industrial healthcare textile laundry facility at issue changes the marketability of the textiles it markets, it qualified for the exemption. Under the facts, the company's equipment performs mechanical and chemical sanitization on linens that it owns, rents, delivers, and then re-collects to be cleaned and sanitized again. In ruling for the company, the Court considered whether the downstream transactions of a taxpayer's business – that is, whether it sells or rents a product – are relevant to the taxpayer's eligibility for this exemption and concluded that such downstream transactions are irrelevant to the "processing operation" inquiry, "which only examines distinct operations within the entire business." Please contact us with any questions.

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

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

Metisse Lutz (Denver)
Tax Senior Manager
Deloitte Tax LLP
mlutz@deloitte.com

Missouri – Amended Rule Reflects Caselaw Disqualifying Temporary Storage Exemption Due to In-State Testing and Certification

Amended 12 CSR 10-113.300, Temporary Storage, Mo. Dept. of Rev. (3/2/26). The Missouri Department of Revenue amended its rule on Missouri's temporary storage exemption to include reference to a 2012 Missouri Supreme Court decision, which held that a taxpayer did not qualify for this sales and use tax exemption because its in-state testing and certification process on the purchased parts at issue "went beyond mere temporary storage and constituted a taxable use." The amended rule has been adopted as originally proposed in November 2025; no changes were made to the text of the proposed amendments [see *State Tax Matters, Issue 2025-44*, for details on the revised text]. The amended rule takes effect 30 days after its March 2, 2026 publication in the Missouri Register. Please contact us with any questions.

Kathy Saxton (Atlanta)
Tax Managing Director
Deloitte Tax LLP
katsaxton@deloitte.com

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

Washington – DOR Announces Temporary Program Offering Potential Penalty Waiver on Newly Taxable Services

ESSB 5814 Penalty Relief Program, Wash. Dept. of Rev. (3/4/26). Referencing specific legislation enacted in 2025 that took effect on October 1, 2025 [see *ESSB 5814 (2025)*, and ***previously issued Multistate Tax Alert*** for more details on this new law], and which expands Washington's sales and use tax base to include additional services – such as defined advertising services (including all digital and nondigital services related to the creation, preparation, production, or dissemination of advertisements), information technology training services, technical support, and various other services including but not limited to network operations and support assistance, help desk services, in-person software and hardware training, and custom website development services – the Washington Department of Revenue (Department) announced that it is "offering a temporary program to waive certain penalties for businesses that voluntarily report and pay retail sales and use taxes for these services." In doing so, the Department explains that it recognizes these recent legislative changes were "challenging for many businesses to understand and follow before the law took effect." The Department states that this temporary program potentially waives certain penalties (*i.e.,* not including evasion, negligence, and tax avoidance penalties) for:

- uncollected Washington retail sales tax and unpaid Washington use tax caused by ESSB 5814 changes; and
- reporting periods from October 1, 2025, through December 31, 2026.

Additionally, to qualify, taxpayers must owe Washington retail sales tax or use tax because of the changes enacted under ESSB 5814 and submit an application for penalty relief by September 30, 2027. For preexisting contracts with temporary sales tax relief, the Department explains that any provided penalty relief "starts when the contract no longer qualifies for temporary relief or on April 1, 2026, whichever comes first," and that such relief would end on December 31, 2026. Please contact us with any questions.

Robert Wood (Seattle)
Tax Principal
Deloitte Tax LLP
robwood@deloitte.com

Angela Deamico (Seattle)
Tax Senior Manager
Deloitte Tax LLP
adeamico@deloitte.com

Carlo Alba (Seattle)
Tax Senior Manager
Deloitte Tax LLP
caralba@deloitte.com