



State Tax Matters

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Article

Sec. 174: The OBBBA and growing state tax disconformity

A new article authored by Alexis Morrison-Howe of Deloitte Tax LLP and published in the American Institute of CPAs' "The Tax Adviser" examines varying ways states currently treat Internal Revenue Code (IRC) sections 174 and 174A, including elections under IRC section 59(e), and how that may change and grow more complex as states continue to legislatively respond to the federal tax law changes under H.R. 1, P.L. 119-21, the law known as the One Big Beautiful Bill Act (OBBBA).

URL: <https://www.thetaxadviser.com/issues/2026/mar/sec-174-the-obbba-and-growing-state-tax-disconformity/>

Alert

Utah enacts new Targeted Advertising Tax

On March 25, 2026, Utah enacted into law a new tax called the "Targeted Advertising Tax" under [Senate Bill 287](#) (S.B. 287). Beginning January 1, 2027, the Targeted Advertising Tax imposes an annual gross receipts tax on certain advertising entities delivering targeted advertising into Utah.

This Indirect Tax Alert summarizes some of the relevant provisions included in S.B. 287.

URL: <https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/multistate-tax-alert-utah-enacts-new-targeted-advertising-tax.pdf>

[Issued April 7, 2026]

Amnesty

Indiana – Amnesty Program Offering Potential Waiver of All Interest and Penalties to Begin on July 15; Lookup Tool Available on May 18

[April Tax Bulletin](#), Ind. Dept. of Rev. (4/6/26). The Indiana Department of Revenue (Department) released a bulletin reminding that pursuant to legislation enacted in 2025 [see [H.B. 1001 \(2025\)](#), and [State Tax Matters, Issue 2025-18](#), for more details on this 2025 legislation] requiring the Department to establish a tax amnesty program for most taxes it administers (e.g., the state adjusted gross income tax, financial institutions tax, and gross retail and use tax) and which provides for a potential waiver of all underlying penalties and interest, the program will take place between July 15, 2026 and September 9, 2026 (formerly listed with a "September 15, 2026" end date). According to the bulletin, outstanding tax liabilities for tax periods ending prior to January 1, 2024, generally are eligible for this program, and "a tax amnesty eligibility lookup tool will be available May 18, which will allow people to look up if they have any eligible liabilities." The Department's tax amnesty program webpage is located [here](#). Please contact us with any questions.

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Income/Franchise

Maine – State High Court Says Out-of-State Manufacturer Has Nexus and In-State Activities Exceeded P.L. 86-272 Protections

Case No. 2026 ME 30, Me. (4/2/26). In a case involving an out-of-state S corporation operating as a liquor manufacturer and supplier, the Maine Supreme Judicial Court (Court) affirmed summary judgment in the Maine State Tax Assessor's favor, concluding that based on the facts, the out-of-state manufacturer's in-state activities exceeded protections afforded under P.L. 86-272, and thus it was obligated to withhold Maine income tax on behalf of its shareholders for the 2011 through 2017 audit period at issue. Under the facts, to sell its liquor products to Maine retailers in accordance with applicable state liquor laws, the manufacturer was required to use a licensed broker to ship its merchandise to an in-state "bailment warehouse" operated by a state subcontractor, where the alcohol was then sold from the bailment warehouse to the Maine Bureau of Alcoholic Beverage and Lottery Operations (*i.e.*, the sole Maine wholesaler under applicable state liquor laws), which then ultimately sold the liquor products to Maine retailers. For the entire audit period, the liquor was shipped to the bailment warehouse pursuant to "delayed-transfer-of-title" provisions either pursuant to i) applicable contract terms in effect for the first part of the audit, or ii) for the second part of the audit, a new state statute delineating that spirits become the property of the Maine Bureau of Alcoholic Beverage and Lottery Operations upon removal from the warehouse for shipment to an agency liquor store. Under these facts, the Court reasoned that because the manufacturer retained title to the stock of liquor that it shipped to the bailment warehouse until it was removed or sold, it effectively owned and sold tangible property in Maine and thus had nexus with Maine for income tax purposes.

Additionally, the Court rejected the manufacturer's claims that Maine's "compelled bailment" and "compelled delay in the transfer of title" to sell liquor products to Maine retailers either i) constituted "entirely ancillary" solicitation activities that fell under the protections afforded by P.L. 86-272, or ii) violated the Commerce Clause – and concluded that Maine had a legitimate interest in regulating the sale and distribution of alcohol in the State. Lastly, the Court affirmed the assessment of underlying penalties and denied penalty abatement, holding that the manufacturer's claims "in the face of Maine rules and statute" did not amount to substantial authority. A relatively lengthy dissenting opinion follows. Please contact us with any questions.

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Maryland – New Law Decouples from OBBBA’s IRC §168(n) Special Depreciation and Limits Certain §168(k) Bonus Depreciation

S.B. 284, signed by gov. 4/8/26. Maryland’s recently enacted “Budget Reconciliation and Financing Act of 2026” includes provisions that decouple from the new qualified production property depreciation under Internal Revenue Code (IRC) section 168(n) as enacted under the federal One Big Beautiful Bill Act (commonly referenced as “OBBBA” and more formally as P.L. 119-21) for all taxable years beginning after December 31, 2025, as well as create corresponding modifications. Also applicable for all taxable years beginning after December 31, 2025, the legislation limits the amount of IRC 168(k) bonus depreciation allowance that a qualifying manufacturing entity may claim against Maryland taxable income to 20% of the adjusted basis of the qualified property, as well as creates corresponding modifications.

See *State Tax Matters, Issue 2026-2*, for details on Maryland’s response to the OBBBA for those taxable years beginning in calendar year 2025, and please contact us with any questions.

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Virginia – Intercompany Loan Interest is Not Subject to Addback Statute Due to Valid Business Purpose

Public Document No. 26-6, Va. Dept. of Tax. (1/26/26). The Virginia Department of Taxation (Department) issued a ruling in the taxpayer’s favor that its interest expenses paid pursuant to an intercompany loan agreement that was part of a centralized cash management system used by the taxpayer and many of its affiliates was *not* required to be added back on its Virginia corporate income tax return under Virginia’s intercompany expense “addback statute,” as the taxpayer successfully showed that the cash-management system had a valid business purpose other than the avoidance or reduction of tax due. Specifically, the Department explained that the taxpayer demonstrated clear and convincing evidence that the cash-management system had the valid business purpose of managing cash deposits centrally and minimizing costs among a very large number of subsidiaries. As part of its support, the taxpayer presented evidence that, by consolidating its banking arrangements, it was able to enhance efficiency, decrease costs, and increase profitability. Moreover, the Department noted that the taxpayer showed that the corresponding items of interest income received by the affiliate were subject to tax in other states, and “thus there does not appear to have been an intention to avoid tax.” Please contact us with any questions.

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Credits/Incentives

West Virginia – New Law Postpones Sunset Date on Modifications for Businesses Located in In-State Federal Opportunity Zones

H.B. 4784, signed by gov. 4/1/26. Effective June 10, 2026, and applicable “retrospectively for taxable years beginning or after January 1, 2024,” new law revises existing state law providing certain qualified opportunity zone businesses located in West Virginia’s federally designated opportunity zones with specified state corporate and individual income tax modifications, by sunsetting the existing West Virginia provisions for those taxable years beginning on and after *January 1, 2033*, rather than *January 1, 2024*. Please contact us with any questions.

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Sales/Use/Indirect

Streamlined Sales Tax Governing Board Addresses Penny Elimination and Suggests Rounding Method in Cash Transactions

Penny Elimination - SST and State Specific Guidance, Streamlined Sales Tax Governing Board (3/27/26). Addressing the federal government’s decision to end production of the penny, the Streamlined Sales Tax Governing Board (Board) posted general guidance suggesting that if a customer pays in cash and exact change cannot be provided due to penny shortages, “retailers may need to round the total amount due to the nearest nickel,” but that such rounding “does not alter the sales tax calculation itself.” The guidance explains that these retailers must calculate sales tax by multiplying the taxable sales price by the applicable sales tax rate, and “rounding the amount to the nearest cent by carrying the computation to the third decimal place and rounding up whenever the third decimal exceeds four” – as well as reiterates that the sales tax calculation method must remain “unchanged regardless of payment type.” The guidance also cautions retailers that “other state and federal laws unrelated to sales tax may impact any rounding policy,” and recommends they consult with “their legal advisor to determine if their business may be impacted by these other laws.” The Board has also posted some links to penny-related information prepared by specific states and recommends checking back for further updates. Please contact us with any questions.

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Alabama – New Rule Reflects 2025 Legislation on Enacting Local Sales and Use Tax Exemptions

Adopted New Reg. section 810-6-4-.21.03, Ala. Dept. of Rev. (3/31/26). The Alabama Department of Revenue (Department) adopted a new rule reflecting legislation enacted in 2025 [see *H.B. 191 (2025)*, and *State Tax Matters, Issue 2025-19*, for more details on this 2025 legislation] that established certain conditions for the enactment of Alabama county or municipal sales and use tax exemptions. According to the Department’s initial rule proposal [see *State Tax Matters, Issue 2026-6* for details on the rule text as originally proposed], the new rule seeks to provide “procedures to localities for adopting a local sales and use tax exemption where a corresponding state sales and use tax exemption exists.” In adopting the final new rule, the Department explains that any state law that enacts or amends an Alabama sales and use tax exemption “shall apply only to state sales and use taxes and shall not apply to county or municipal sales and use taxes” unless certain listed conditions are met. The new rule is scheduled to take effect on May 15, 2026. Please contact us with any questions.

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Colorado – Ruling Says Online Payment Processor is Not a Retailer or Marketplace Facilitator and Thus Had No Tax Collection Responsibility

Private Letter Ruling - PLR 26-003, Colo. Dept. of Rev. (3/16/26). In a private letter ruling involving an out-of-state company engaged in the business of providing card payment processing services and fraud detection to e-commerce merchants who sell their merchandise and services online to end-customers, the Colorado Department of Revenue’s Office of Tax Policy concluded that based on the provided facts where the company’s role and existence was largely invisible to the end-customers (but for the “Terms of Service” hyperlink on the merchant’s payment page and what they see on their credit card billing statement), the company was *neither* operating as a retailer, marketplace facilitator, consignee, or auctioneer, *nor* was it a salesperson, representative, or peddler under Colorado law and thus was not liable for collecting and remitting applicable Colorado sales tax on the transactions at issue. Among the other relevant facts, the out-of-state payment processor had no responsibility or control over the merchants’ e-commerce platforms, never had any actual or constructive possession of the goods or inventory that were the subject of the sales by the merchants, and did *not* control, participate in, assist with, facilitate, or otherwise have any involvement in any of the activities that were typical of a retail vendor making retail sales to customers, including pricing. Please contact us with any questions.

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Idaho – New Law Addresses Penny Shortage and Required Rounding in Cash Transactions

S.B. 1350, signed by gov. 3/31/26. Addressing the federal government’s decision to end production of the penny, recently enacted Idaho legislation provides sellers with precise rules for rounding to the nearest multiple of five cents in certain cash transactions. While the legislation provides a specific rounding method for purposes of completing certain cash transactions with purchasers – whether such rounding occurs on the total amount due for the transaction (*i.e.*, the sum of the total sales price plus any applicable taxes, fees, or other charges) or the amount of change due back to a purchaser – it nevertheless requires that Idaho taxes be computed based on the total sales price *before* any such rounding occurs. Please contact us with any questions.

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Indiana – Ruling Says Technology Developer is Not a Marketplace Facilitator and Thus Not Liable for Tax on Auction Transactions

Revenue Ruling 2026-02-RST, Ind. Dept. of Rev. (3/16/26). An Indiana Department of Revenue (Department) ruling involving a technology developer providing auction software solutions for traditional, online and hybrid auctions held that based on the provided facts, the company did *not* meet the definition of a “marketplace facilitator” and thus was not required to collect and remit Indiana sales tax on the auction transactions conducted through its provided technology solutions and infrastructure. Among the relevant facts, the developer did *not* i) participate in the underlying bidding activity between its customers and its customers’ customers, ii) take title to any items, buy or list products for sale, or iii) act as an agent, broker, or intermediary in the auction transactions. Additionally, the developer did *not* collect funds or process payments on the auction platform; instead, the developer’s customers chose and contracted with their own third-party payment processors to finalize auction sales. Moreover, the developer’s customers retained exclusive transactional control with many auction payments occurring off-platform using cash, checks, and direct bank transfers. Under these given facts, the Department reasoned that because the developer did not facilitate the retail transactions between a seller’s products and their respective customers and had no means to track these types of auction transactions, it did not meet the definition of a “marketplace facilitator” under state law and thus was not required to collect and remit Indiana sales tax on the auction transactions at issue. Note that the technology developer did collect applicable Indiana sales tax on its sales of downloaded software and “SaaS technology solutions” to its own customers. Please contact us with any questions.

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Nevada – Draft Rule Proposal Includes Several Changes to Marketplace Facilitator Provisions

LCB File No. R076-26: Draft Proposed Amended Reg. section 372, Nev. Tax. Comm. (4/2/26). The Nevada Tax Commission submitted a draft of several proposed changes to Nevada’s administrative rule on sales tax collection and remittance requirements for remote sellers, marketplace sellers and marketplace facilitators – providing additional marketplace facilitator remittance information, clarifying amendments, and various relevant definitions. Among the draft proposed changes, is defining “virtual currency” as a digital representation of value that functions as a medium of exchange, unit of account or store of value, but which does not have legal tender status in any jurisdiction – and which does not include coupons or gift cards issued by a retailer. Please contact us with any questions.

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Wisconsin – New Law Revises Exemption for Certain M&E Consumed or Destroyed in Use Exclusively for Qualified Research

A.B. 670, signed by gov. 4/3/26. New law revises Wisconsin’s sales and use tax exemption available to certain manufacturers and biotechnology companies on their purchase of machinery and equipment consumed or destroyed in use exclusively for qualified research by permitting the exemption to be claimed also by certain persons engaged in “contract research services,” which is defined as “research conducted by a person on behalf of a customer that, if conducted by employees of the customer, would constitute qualified research.” Under the new law, “qualified research” means qualified research as defined under Internal Revenue Code section 41(d)(1), and it also includes qualified research that is funded by i) a member of a combined group for another member of a combined group, and ii) customers for whom contract research services are provided. Please contact us with any questions.

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Property

Alabama – Amended Rule Increases Business Tangible Personal Property Exemption from \$40K to \$100K

Amended Reg. section 810-4-1-14, Ala. Dept. of Rev. (3/31/26). The Alabama Department of Revenue adopted administrative rule changes reflecting legislation enacted in 2025 [see *H.B. 543 (2025)* and *State Tax Matters, Issue 2025-20*, for more details on this law change], which increases the market value threshold amount for which tangible personal property owned by a business is exempt from state-levied Alabama ad valorem tax from \$40,000 to \$100,000. The revised rule also provides for the process by which a county or municipality may adopt or discontinue a personal property exemption of up to \$100,000. The rule revisions are scheduled to take effect on May 15, 2026; no changes were made to the text of the amendments as originally proposed [see *State Tax Matters, Issue 2026-5*, for details on the revised text as originally proposed]. Please contact us with any questions.

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