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The power of knowing
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State Tax Matters

The power of knowing

In this issue:

Amnesty/Voluntary Disclosure/Administrative

Indiana – DOR Adopts Interim Final Rule Implementing Tax Amnesty Program that Begins July 15

Interim Final Rule LSA Document #26-115, Ind. Dept. of Rev. (6/9/26). The Indiana Department of Revenue (Department) adopted an interim final rule implementing Indiana's tax amnesty program that is scheduled to take place between July 15, 2026 and September 9, 2026 [see *H.B. 1001 (2025)*, and *State Tax Matters, Issue 2025-18*; and *S.B. 243 (2026)*, and *State Tax Matters, Issue 2026-10*, for more details on the state tax legislation authorizing this upcoming amnesty program]. The upcoming amnesty program applies to most taxes that the Department administers (e.g., the state adjusted gross income tax, financial institutions tax, and gross retail and use tax) and offers eligible participants a potential waiver of all underlying penalties and interest. Outstanding tax liabilities for tax periods ending prior to January 1, 2024, generally are eligible for this program. This interim rule was originally proposed in May [see *LSA Document #26-1*, Ind. Dept. of Rev. (5/6/26), and *State Tax Matters, Issue 2026-19*, ***for details on the proposed interim rule***], and the adopted final version took effect on June 9, 2026, and is scheduled to expire on July 17, 2027. Please contact us with any questions.

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Nevada – Proposed Changes to Voluntary Disclosure Program Rules Reject Anonymous Applications

(LCB File No. R140-26I) Proposed Amended Reg. sections 360.440, 360.444, and 360.446, Nev. Tax Comm. (6/18/26). The Nevada Tax Commission is proposing additional changes to Nevada's voluntary disclosure (VDA) program rules [see *State Tax Matters, Issue 2024-37*, for earlier changes made to the same rules], some of which provide that i) the Nevada Department of Taxation (Department) "shall not accept an anonymous application for voluntary disclosure;" ii) an application must be submitted electronically through the Department's online portal unless a waiver is granted; and iii) "an application must identify the taxpayer on whose behalf the application is submitted and, if applicable, the taxpayer's authorized representative." Please contact us with any questions.

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Income/Franchise
Illinois – Amended Rules Reflect New Finnigan Apportionment for Unitary Business Groups

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. (eff. 6/4/26). The Illinois Department of Revenue (Department) has adopted 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 non-taxpayer members based on a ratio." Please contact us with any questions.

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Louisiana – Proposed Amendments to Market-Sourcing Rules Reflect Repeal of Sales Factor Throwout Rule and Other Law Changes

Proposed Amended Reg. sections 61:I.1135 & 61:I.1136, La. Dept. of Rev. (6/20/26). The Louisiana Department of Revenue is proposing changes to its market-based sourcing regulations to, among other revisions, reflect legislation enacted in 2023 [see *H.B. 631 (2023) / Act 430*, and *previously issued Multistate Tax Alert* for more details on this 2023 legislation] that repealed Louisiana's sales factor "throwout" rule for state corporate income tax purposes and removed "certain sales from the types of sales treated as apportionable income." If successfully requested by any interested parties, a public hearing to discuss these proposed rule changes and submit oral and written comments may be scheduled on July 28, 2026. Any written comments on the proposal are due by July 27, 2026. Please contact us with any questions.

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Maine – MRS Releases Summary of Legislation Addressing the OBBBA, New PTET and New Independent Office of Tax Appeals

2026 Session Legislation Enacted, Me. Rev. Serv. (6/26). Maine Revenue Services has posted a summary of various tax-related legislation enacted in 2026, including new law addressing Maine's updated conformity to the Internal Revenue Code (IRC), as well as decoupling from certain provisions under the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) [see *L.D. 2212 (H.P. 1491), signed by gov. 4/10/26*, and *State Tax Matters, Issue 2026-15*; and *L.D. 2188 (H.P. 1469), signed by gov. 4/13/26*, and *State Tax Matters, Issue 2026-16*, for more details on this new law]. The summary discusses Maine's treatment of the OBBBA provisions pertaining to the special depreciation allowance for qualified production property under IRC section 168(n), and the expensing of domestic research and experimental (R&D) expenditures under IRC section 174A.

The summary also addresses Maine's new law i) permitting pass-through entities to annually elect to pay a new entity-level income tax (PTET); ii) creating within Maine's Department of Administrative and Financial Services an "Independent Office of Tax Appeals" to replace Maine's current "Board of Tax Appeals;" and iii) imposing a 2% surcharge on certain individuals whose Maine taxable income for the year exceeds $1 million (or $1.5 million or $750,000, depending on filing status) [see *L.D. 2212 (H.P. 1491), signed by gov. 4/10/26*, and *State Tax Matters, Issue 2026-15*; and *L.D. 2178 (S.P. 883), signed by gov. 4/16/26*, and *State Tax Matters, Issue 2026-16*, for more details on this new law]. Please contact us with any questions.

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Massachusetts – DOR Posts Guidance on New Law that Partially Conforms to Some OBBBA Provisions

Technical Information Release (TIR) 26-4: Massachusetts Conformity to Certain Provisions in Public Law No. 119-21, Mass. Dept. of Rev. (6/23/26). The Massachusetts Department of Revenue posted a technical information release ("TIR 26-4") that provides information on whether the net income measure of the Massachusetts corporate excise tax imposed by G.L. c. 63, and the Massachusetts income tax imposed by G.L. c. 62, conform to certain provisions of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) in light of recently enacted Massachusetts legislation [see *H.B. 5470, signed by gov. 6/12/26*, and *previously issued Multistate Tax Alert* for more details on this Massachusetts legislation] that limits such conformity to certain federal research and experimental (R&D) expensing changes, as well as temporarily decouples from certain business interest, depreciation, and expensing provisions. TIR 26-4 includes a chart listing various OBBBA provisions that principally affect federal gross income or federal deductions and indicating whether (or not) the Massachusetts income tax and the Massachusetts corporate excise conform to such provisions.

Additional discussion about H.B. 5470's implications on Massachusetts conformity with the OBBBA's provisions may be found in the Department's "Working Draft TIR: Tax Provisions in the Fiscal Year 2026 Final Mid-Year Supplemental Appropriation Bill" ("Draft TIR"), which has been posted for public comment. Among its topics, the Draft TIR covers:

- delayed conformity to certain provisions in the OBBBA, including:
  - domestic R&D expense deductions under Internal Revenue Code (IRC) sections 174 and 174A,
  - bonus depreciation for qualified production property under IRC section 168(n),
  - increased dollar thresholds for deductible amounts when expensing certain business assets under IRC section 179;
  - modification of limitation on business interest expense deduction under IRC section 163(j), and
  - changes to the tax treatment of investments in qualified opportunity zones under IRC section 1400Z-2;
- potential relief from some penalties and interest for 2025 late payments and underpayments made prior to the enactment of H.B. 5470; and
- the new elective excise tax for eligible passthrough entities to account for Massachusetts' 4% surcharge on individual income in excess of $1 million.

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Vermont – New Law Updates State Conformity to IRC and Decouples from Some OBBBA Provisions, Including IRC § 250 Deduction

H.B. 933, signed by gov. 6/18/26; H.R. 1 Reconciliation Bill (also known as OBBBA) Conformity, Vt. Dept. of Taxes (6/26). Effective retroactively on January 1, 2026, and applicable to taxable years beginning on and after January 1, 2025, recently enacted legislation generally updates statutory references to the Internal Revenue Code (IRC) for Vermont personal and corporate income tax purposes, referring to the federal income tax law as in effect on December 31, 2025 (previously, December 31, 2024), but "without regard to the federal income tax rates" under IRC section 1. However, the new law also decouples components of Vermont's corporate income tax from certain provisions enacted by the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) pertaining to IRC section 250; bonus depreciation under IRC sections 168(k) and 168(n); and IRC section 174A. Additionally, the legislation follows IRC section 174 as in effect on December 31, 2024.

Subsequently issued guidance from the Vermont Department of Taxes (Department) clarifies that, pursuant to this new law, "beginning in tax year 2025, Vermont's calculation of adjusted gross income for individuals and federal taxable income for corporations now retroactively conforms to many federal tax changes" enacted by the OBBBA, yet "Vermont has also retroactively decoupled from several federal provisions beginning in tax year 2025." In this respect, the Department cautions that if a Vermont taxpayer's income tax return contains "business activity with the following characteristics" (see list below), its 2025 Vermont return may be impacted by this new partial conformity to federal law for tax year 2025 and beyond:

- an individual, business, corporate, or fiduciary income tax filer in Vermont that has deducted domestic research and experimentation (R&D) expenses pursuant to the new IRC section 174A on its federal return;
- an individual, business, corporate, or fiduciary income tax filer in Vermont that has deducted depreciation related to qualified production property pursuant to the new IRC section 168(n) on its federal return; or
- a "C" corporation that files in Vermont and offsets foreign-derived intangible income (FDII) or global intangible low-tax income (GILTI) with an IRC section 250 deduction on its federal return in tax year 2025.

For such affected taxpayers, the Department has created a "*2025 Vermont Income Tax Form Instructions Federal Conformity Supplement*," and warns those that have already filed their 2025 Vermont income tax returns that they may need to amend them. For those that have not yet filed their 2025 Vermont income tax returns, the Department recommends consulting these new supplemental instructions when they file before the extension deadline. For those incurring penalties or interest due to these listed conformity/decoupling changes, the Department suggests contacting it to "request relief," and states that these requests "will be reviewed on a case-by-case basis considering the taxpayer's specific facts and circumstances."

Applicable to taxable years beginning on and after January 1, 2027, this enacted legislation also increases Vermont's existing R&D credit from 27% of the federal R&D credit amount to 75% of the federal R&D credit amount. Please contact us with any questions.

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Virginia – Taxpayer Successfully Shows It's No Longer a Retail Company Required to Use Single Sales Factor Apportionment

Public Document No. 26-25, Va. Dept. of Tax. (5/11/26). The Virginia Department of Taxation (Department) issued a ruling in a corporate taxpayer's favor that, based on the provided facts, its original North American Industry Classification System (NAICS) "retail" classification code did not properly reflect its primary activities for the taxable years ended December 31, 2021 through 2023 ("tax years at issue"), and thus the company was not required to apportion its income as a retail company under Virginia Code § 58.1-422.1 using a single sales factor. Under the stipulated facts, the auditor had applied Virginia's single sales factor apportionment required for retail companies, rather than Virginia's standard three-factor apportionment formula, on the basis that the corporate taxpayer had classified itself as a "retailer" on its Virginia and federal corporate income tax returns. However, the taxpayer filed an application for correction, contending that it was not a retailer for the tax years at issue as its business activities had changed over time from primarily retail to primarily wholesale and thus it should apportion its income using Virginia's standard three-factor apportionment formula. The company also submitted supporting documentation reflecting that it primarily generated sales from wholesale trade activities for each of the tax years at issue. In holding for the taxpayer, the Department explained that even though the company did *not* amend its corresponding federal income tax returns to update its newer NAICS classification, it was not precluded from amending its Virginia income tax returns to do the same because the update does not impact its reported federal taxable income. Please contact us with any questions.

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Sales/Use/Indirect

Kentucky – Federal Agency Files Suit Challenging Validity of New 14.25% Excise Tax on Prediction Market Operators

Case No. 3:26-cv-00049, E.D. Ky. (*complaint filed 6/23/26*). A lawsuit filed by the U.S. Commodity Futures Trading Commission (CFTC) alleges, among other claims, that Kentucky's recently enacted excise tax that is to be imposed on defined "prediction market operators" at a rate of 14.25% of a prediction market operator's transaction fees beginning January 1, 2027 [see *H.B. 757 (2026)*, and *previously issued Multistate Tax Alert* for additional details on this new Kentucky excise tax] violates the U.S. Constitution's Supremacy Clause as applied on CFTC-regulated designated contract markets. Please contact us with any questions.

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New Jersey – Tax Court Says "75% Threshold Test" Invalidates Prepared Food Regulation

Case No. 014341-2014, N.J. Tax Ct. (6/16/26). In a published opinion involving the validity of a New Jersey administrative regulation addressing taxable "prepared food" – specifically, the threshold test under N.J. Admin. Code section 18:24-12.2A providing that if a seller's sales of prepared food exceed 75% of its gross sales and utensils are available at a kiosk, then *all* the seller's food sales are deemed taxable as prepared food – the New Jersey Tax Court (Court) granted partial summary judgment in the taxpayer's favor that N.J. Admin. Code section 18:24-12.2A invalidly extends beyond the bounds of the corresponding statute that it was intended to supplement. In declaring N.J. Admin. Code section 18:24-12.2A invalid and "ultra vires," the Court explained that New Jersey's corresponding "prepared food" statute (*i.e.,* N.J. Stat. Ann. section 54:32B-3(c)(3)) that was adopted to comply with the Streamlined Sales and Use Tax Agreement (SSUTA) "makes no mention of a 75% threshold test" and "makes no distinction between sellers based on gross sales." Further, the Court noted there is no New Jersey legislative history or subsequent statutory amendments supporting such a threshold test. In this respect, the Court reasoned that the regulation at issue invalidly:

- attempts to add to the statute "something which is not there;"
- results in inconsistencies with certain statutory provisions in some situations; and
- overrides the statutory definition in some situations.

According to the Court, the regulation therefore "contradicts the statutory approach" and, in essence, invalidly creates a new tax in New Jersey – despite a subsequent SSUTA interpretive opinion defining the phrase "food sold with eating utensils provided by the seller" and incorporating a similar 75% threshold test. Please contact us with any questions.

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Property

Michigan – Appellate Court Says Rental Restrictions are Intangible Factors that May Affect Real Property's True Cash Value

Case No. 371826, Mich. Ct. App. (6/16/26). In a case involving the property tax valuation of a senior care retirement center, the Michigan Court of Appeals (Court) held that the property's underlying rental restrictions pursuant to federal law constituted an intangible factor that may affect the property's "usual selling price" and thus must be considered in determining the center's true cash value for property tax assessment purposes. In doing so, the Court held that the Michigan Tax Tribunal (Tribunal) made an error of law by failing to consider the rent restrictions in its property tax valuation. The Court also noted that the Michigan Supreme Court has recognized that certain intangible factors – while not taxable in and of themselves – may potentially increase or decrease the value of a property and that these intangible factors "should be reflected in the assessment process to the extent that they increase or decrease the value of the subject real property." The Court explained that the rental restrictions in this case may directly affect the present economic income of the property and "likely affect what a buyer would be willing to pay for the property given its decreased earning capacity." Under the provided facts, the retirement center constituted a "qualified residential rental project" that was partially financed with tax exempt bonds under federal law; in exchange for this tax-exempt bond financing, the property is subject to certain rental restrictions under federal law. In light of these facts and its conclusion, the Court remanded the case for the Tribunal to consider the rental restrictions in its assessment and likewise consider "any offsetting tax benefits for the tax-exempt bond financing, if relevant and supported with sufficient evidence." Please contact us with any questions.

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New York City – Proposed Rules Released on New Pied-à-terre Surcharge with Virtual Public Hearing Scheduled for July 9

Proposed Rule Relating to Surcharge on Certain Non-Primary Residences, N.Y.C. Dept. of Fin. (6/5/26); *Proposed New chapter 62 of Title 19 of the New York City Administrative Code*, N.Y.C. Dept. of Fin. (6/5/26). Pursuant to recently enacted New York State budget legislation [see *S9009C / A10009C, signed by gov. 5/28/26*, and *previously issued Multistate Tax Alert* for more details on this state budget legislation] that imposes a new New York City surcharge on certain high value residential property not serving as a primary residence (often described as a "pied-à-terre tax"), the New York City Department of Finance (Department) is proposing rules relating to the administration of this surcharge. The Department has scheduled a virtual public hearing to discuss its proposal on July 9, 2026, and any written comments on the proposal are due on the same date. Please contact us with any questions.

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