State Tax Matters
Issue 2026-33
The power of knowing
August 21, 2026

State Tax Matters

The power of knowing

In this issue:

Administrative
North Carolina – New Law Says Administrative Agencies are Not Entitled to Deference from Reviewing Courts

S.B. 445, *signed by gov. 8/11/26*. Effective immediately and applicable to actions "pending or filed on or after" the legislation's enactment date, newly signed legislation revises North Carolina's standard for review of a state agency's interpretation of North Carolina rules and regulations. Specifically, the legislation provides that in interpreting North Carolina rules and regulations, reviewing courts "may be informed by the agency's interpretation of its own rules or regulations but shall apply traditional de novo review to the interpretation of State rules and regulations." Similarly, reviewing administrative law judges "may be informed by the demonstrated knowledge and expertise of the agency with respect to facts and inferences within the specialized knowledge of the agency but shall apply traditional de novo review to the interpretation of State rules and regulations." Please contact us with any questions.

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

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

Walter Tarcza (Charlotte)
Tax Manager
Deloitte Tax LLP
wtarcza@deloitte.com

Income/Franchise
Multistate Tax Commission Adopts Revisions to Model Special Industry (Airlines) Sourcing Rule

Special Industry Regulation on Airlines (Reg.IV.18.(e)), Multistate Tax Commission (rev. 2026); *Adopting Resolution: Revisions to the MTC Special Industry Regulation on Airlines, Reg. IV.18.(e)*, Multistate Tax Commission (8/11/26). The Multistate Tax Commission (MTC) recently adopted changes to its model special industry rule on the sourcing of airline receipts, which stems from the MTC Uniformity Committee's overall project to review and update the MTC's model receipts sourcing regulations [see *State Tax Matters, Issue 2025-27*, for more details on the project]. Among the adopted revisions, is an updated definition of "transportation revenue," which is now redesignated as "transportation receipts," that expressly addresses receipts from:

- selling tickets for travel on unrelated airlines under codeshare, interline, and capacity purchase arrangements;
- selling "points" or "miles" to credit card banks and others;
- selling food and inflight services such as entertainment and wireless internet; and
- baggage fees.

The revisions also seek to clarify the receipts factor by "modernizing language and using parallel terms in the factor's numerator and denominator," as well as incorporate "drafter's notes in the regulation to provide background and to identify issues that states may want to address." The revisions include defining an "airline," as well as new and amended illustrative examples. Please contact us with any questions.

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

Amber Rutherford (Nashville)
Tax Managing Director
Deloitte Tax LLP
amberrutherford@deloitte.com

District of Columbia – Emergency Legislation Decouples from Some OBBBA Provisions and Addresses PTETs and UBT

A26-0416 (D.C.B. 26-0724), enacted without mayor's signature 8/13/26. The District of Columbia (D.C.) "Fiscal Year 2027 Budget Support Emergency Act of 2026" was recently enacted without D.C. Mayor Muriel Bowser's signature, and pursuant to a subtitle within it known as the "Tax Code Conformity and Clarification Emergency Amendment Act of 2026," decouples from certain aspects of the federal One Big Beautiful Bill Act (commonly referenced as "OBBBA" and more formally as P.L. 119-21) for tax years 2025 through 2029 – 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).

In doing so, this latest D.C. emergency legislation continues to decouple from many provisions under earlier temporary legislation known as the "D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025," which took effect from February 12, 2026, and is scheduled to expire on September 25, 2026 [see *State Tax Matters, Issue 2026-1*, for more details on this temporary legislation, as well as *State Tax Matters, Issue 2026-8*, for subsequent developments related to the temporary legislation].

Regarding the ability for D.C. residents to claim an individual income tax credit for certain taxes paid to nonresident states for mandatory or elective entity-level income taxes on pass-through entities, the emergency legislation requires these individuals to add back to their federal adjusted gross income their apportioned share of any state and local tax that was paid by the pass-through entity and deducted from the individual's federal taxable income for taxable years beginning after December 31, 2025. Additionally, the emergency legislation seeks to address some disparities pertaining to the D.C. unincorporated business tax.

This latest D.C. emergency legislation takes effect immediately and remains in effect through November 11, 2026. Please contact us with any related questions.

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

Tyler Greaves (Boston)
Tax Senior Manager
Deloitte Tax LLP
tgreaves@deloitte.com

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

Michael Hilder (McLean)
Tax Senior Manager
Deloitte Tax LLP
mhilder@deloitte.com

Maine – MRS Explains 2026 Returns and Estimated Payments for Newly Created PTET

Maine Tax Alert, Me. Rev. Serv. (8/26). A recently posted Maine Tax Alert issued by Maine Revenue Services (MRS) addresses legislation enacted earlier this year that permits pass-through entities to annually elect to pay a new entity-level income tax (PTET) [see *L.D. 2212 (H.P. 1491)*, *signed by gov. 4/10/26*, and *State Tax Matters, Issue 2026-15* for more details on this new law], and it discusses filing 2026 PTET returns in Maine and making underlying estimated tax payments. In doing so, MRS explains that Maine's PTET program applies to each taxable year that the pass-through entity elects to be subject to the tax. Additionally, the amount of the PTET for each taxable year is "equal to the distributive share of income of all qualified members increased by the PTET paid to Maine and PTET amounts paid to other states that are substantially similar to the Maine PTET multiplied by the highest marginal individual income tax rate under 36 M.R.S. §5111, excluding the 2% surcharge under 36 M.R.S. §5111(7)." In this respect, MRS states that for tax years beginning in 2026, the applicable PTET tax rate is 7.15%. The guidance also explains that qualified members may claim a refundable income tax credit equal to 90% of their distributive share of the Maine PTET paid. Please contact us with any questions.

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

Ian Gilbert (Boston)
Tax Senior Manager
Deloitte Tax LLP
iagilbert@deloitte.com

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

Michigan – Guidance Issued on Calculating Premiums and Retaliatory Taxes for Insurer Unitary Business Groups

Notice: Calculating Premiums Tax and Retaliatory Tax Liability for a Unitary Business Group of Insurers, Mich. Dept. of Treasury (8/11/26). Pursuant to a 2024 Michigan Court of Appeals decision requiring a unitary business group (UBG) of insurers to file a unitary return that calculates both Michigan premiums tax and Michigan retaliatory tax liabilities at the UBG level, a new Michigan Department of Treasury (Department) notice provides detailed guidance and specifics on how to actually calculate these two tax liabilities at the UBG level [see *Case No. 364790*, Mich. Ct. App. (6/20/24), and *State Tax Matters, Issue 2024-26* for more details on the 2024 decision, as well as *Notice to Taxpayers Regarding Nationwide Agribusiness Insurance Co v Department of Treasury*, Mich. Dept. of Treasury (2/19/26) and *State Tax Matters, Issue 2026-8*, for more details on an earlier Department notice addressing the same 2024 decision]. Moreover, the notice explains that Michigan returns filed in response to the 2024 decision have "been on hold" pending the Department's implementation of the result in that case – as such, "those returns will now be reviewed and processed based on the calculation guidance provided in this notice."

Additionally, the notice explains that the Department is developing underlying new forms and instructions to be used starting with tax year 2026, as well as underlying interim schedules to be used for tax year 2025 and any prior years for which the statute of limitations is open. "To avoid processing errors," according to the notice, these new interim schedules should be used for such years when filing an original or amended return based on the result in the 2024 decision. For open years prior to 2025, the notice states that amended returns are *not* required to be filed solely to comply with the 2024 decision and this notice – but they will be accepted. Please contact us with any questions.

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

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

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

New York City – Enacted Local Law Lowers Personal Income Tax Credit on Proportionate Share of Paid UBT for Certain High-Income Residents

Int 0972-2026 (Local Law No. 133 of 2026), *enacted without mayor's signature 8/18/26*. Effective immediately, and applicable for taxable years beginning on or after January 1, 2026, recently enacted New York City (City) local law decreases the existing credit against the City personal income tax on certain high-income residents for such residents' share of City unincorporated business tax (UBT) paid by partnerships in which such residents are partners or businesses of which such residents are proprietors. For taxable years beginning on or after January 1, 2026, the new law provides that if a City resident's City taxable income for the year is at least $142,000 but less than $1 million, the amount of such UBT credit remains at 23% of the applicable amount. However, if City taxable income is at least $1 million but less than $1.25 million, the UBT credit phases down from 23% to 15%; and if City taxable income is $1.25 million or more, the UBT credit decreases to 15% of the applicable amount. Note that New York City Mayor Zohran Mamdani's proposed *FY 2027 Executive Budget* had included reductions to this UBT credit.

Please contact us with any questions.

Don Roveto (New York)
Tax Partner
Deloitte Tax LLP
droveto@deloitte.com

Jack Trachtenberg (New York)
Tax Principal
Deloitte Tax LLP
jtrachtenberg@deloitte.com

Mary Jo Brady (Jericho)
Tax Managing Director
Deloitte Tax LLP
mabrady@deloitte.com

Ken Jewell (New York)
Tax Managing Director
Deloitte Tax LLP
kjewell@deloitte.com

Josh Ridiker (New York)
Tax Managing Director
Deloitte Tax LLP
jridiker@deloitte.com

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

Jimmy Valenzuela (Washington D.C.)
Tax Manager
Deloitte Tax LLP
jivalenzuela@deloitte.com

Ohio – State High Court Denies Taxpayer Challenge and Affirms Validity of Financial Institution Tax Rate Structure

Case No. 2025-0412, Ohio (8/13/26). In a case involving an out-of-state headquartered financial institution claiming that Ohio's financial institution tax (FIT) rate structure fails the U.S. Constitution's Commerce Clause "internal consistency test" and violates the Due Process Clause, the Ohio Supreme Court (Court) affirmed the taxpayer's denied refund [see *Case No. 2022-1361*, Ohio Bd. of Tax App. (2/20/25) and *State Tax Matters, Issue 2025-8*, for details on the underlying 2025 Ohio Board of Tax Appeals ruling] and held the taxpayer failed to show the FIT rate structure was unconstitutional. In doing so, the Court commented that the FIT's rate structure "can be understood as reflecting the legislative task to create a tax policy that incentivizes financial institutions to do business in Ohio," and that pursuant to this Court's precedent, "Ohio is free to pursue such a policy because the Commerce Clause does not erect a per se barrier against a state's adoption of tax policies that seek to achieve 'fair encouragement of in-state business.'" The Court also explained that the FIT "is structured to allow Ohio to tax only the portion of a bank's equity capital that is attributable to its business in Ohio," and that such structure does not discriminate against interstate commerce or result in double taxation as it "operates evenhandedly across its entire structure, irrespective of the taxpayer's status as an interstate or intrastate business."

Note that petitions for a writ of certiorari with the U.S. Supreme Court generally must be filed within 90 days after the Ohio Supreme Court enters its final judgment in the case. Please contact us with any questions.

Courtney Clark (Columbus)
Tax Partner
Deloitte Tax LLP
courtneyclark@deloitte.com

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

Matt Culp (Columbus)
Tax Senior Manager
Deloitte Tax LLP
mculp@deloitte.com

Paige Purcell (Columbus)
Tax Senior Manager
Deloitte Tax LLP
pfitzwater@deloitte.com

Sales/Use/Indirect

Illinois – New Rule Implements Remote Retailer Amnesty Program that Began August 1 and Runs through October 31

New 86 Ill. Adm. Code 131.185, Ill. Dept. of Rev. (8/14/26). The Illinois Department of Revenue adopted a new rule that implements its ongoing "remote retailer amnesty program," which was enacted in 2025, began on August 1, 2026, and runs through October 31, 2026 [see *H.B. 2755 (Public Act 104-0006)* and *previously issued Multistate Tax Alert* for more details on the enacted 2025 Illinois legislation]. The program provides potential amnesty for certain unpaid Illinois state and local retailers' occupation tax (ROT) imposed on the sale of tangible personal property sold to an Illinois customer by a remote retailer during the period January 1, 2021, through June 30, 2026. Remote retailers participating in the program must report and remit, at a simplified ROT rate, state and local ROTs due on eligible transactions. In exchange for participation, the rule explains that qualifying remote retailers potentially may receive full abatement of any underlying penalties and interest on eligible transactions. The new rule also explains that the amnesty program generally is *not* open to servicepersons or Illinois retailers with an in-state physical presence. The rule includes relevant definitions, details eligibility and requirements for program participation, and took effect on July 28, 2026. Please contact us with any questions.

Mary Pat Kohberger (Chicago)
Tax Managing Director
Deloitte Tax LLP
mkohberger@deloitte.com

Robyn Staros (Chicago)
Tax Managing Director
Deloitte Tax LLP
rstaros@deloitte.com

Pennsylvania – DOR Announces October 1 Enforcement Date for New Law Mandating Destination-Based Sourcing for Philadelphia and Allegheny Counties

Resources: Local Sales Tax Rules for Philadelphia and Allegheny Counties, Pa. Dept. of Rev. (8/26). Referencing legislation enacted earlier this year [see *S.B. 146 (Act 21)*, *signed by gov. 7/12/26*, and *State Tax Matters, Issue 2026-28*, for more details on this legislation] that "requires vendors selling taxable products or services to customers in Philadelphia and Allegheny counties to collect and remit local sales taxes" for tax years beginning after December 31, 2025, recently posted Pennsylvania Department of Revenue (Department) guidance states that because vendors "may need time to adjust" to this law change, the Department "will not begin enforcing these new rules until October 1, 2026." Under the new law, the guidance explains that vendors who are already required to collect and remit Pennsylvania's 6% sales tax must collect and remit Philadelphia's 2% local sales tax and Allegheny County's 1% local sales tax on taxable sales made to customers in those respective counties. The guidance also states that prior to this law change, "local sales tax was generally based on point of sale (*i.e.,* where the vendor was located);" however, after the law change "local sales tax is now based on point of destination (*i.e.,* where the product or service is delivered)." According to the Department, this law change "aligns with how Pennsylvania's state sales tax is administered." Please contact us with any questions.

Kristy Kirk (Harrisburg)
Tax Managing Director
Deloitte Tax LLP
krikirk@deloitte.com

Mike O'Malley (Philadelphia)
Tax Senior Manager
Deloitte Tax LLP
mikomalley@deloitte.com

Other/Miscellaneous

Maryland – Tax Court Strikes Down Digital Ad Gross Revenues Tax (DAGRT) as Unconstitutional and in Violation of ITFA

Case No.23-DA-OO-0649, Md. Tax Ct. (8/14/26); *Case No. 23-DA-OO-0654*, Md. Tax Ct. (8/14/26); *Case No. 23-DA-OO-0456*, Md. Tax Ct. (8/14/26). In memorandum opinions and orders in three related cases involving Maryland's novel tax on digital advertising services (*i.e.,* Maryland's "Digital Advertising Gross Revenues Tax" or "DAGRT") [see *previously issued Multistate Tax Alert (February 18, 2021)* and *previously issued Multistate Tax Alert (June 3, 2021)* for details on the DAGRT's initial enactment], the Maryland Tax Court (Court) held that the DAGRT is unconstitutional and preempted by the federal Internet Tax Freedom Act (ITFA). Holding for the challengers, the Court concluded that the DAGRT is discriminatory in violation of both the U.S. Constitution's Dormant Commerce and Due Process Clauses – and, in its reasoning, noted that the "economic reality" of the DAGRT is that "its everyday operation discriminates against more globally robust companies in interstate commerce to the advantage of the Maryland tax collectors, both because the tax rate is not proportional to the economic benefits in Maryland (i.e., is not fairly apportioned and especially fails the external consistency test) and because the revenue threshold favors in-state businesses over global businesses (i.e., discrimination)." The Court also explained that the ITFA precludes the DAGRT from being imposed and that its language "is indeed a 'clear and manifest' expression of what Congress wanted: no state discrimination against internet services." In one of the cases, the Court also held that the DAGRT violates the First Amendment but held for the Maryland Comptroller on the challenger's foreign Commerce Clause claim.

See forthcoming Multistate Tax Alert for more details, and please contact us with any questions.

Lindsay McAfee (San Francisco)
Tax Principal
Deloitte Tax LLP
lmcafee@deloitte.com

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

Lindsay Crews (San Francisco)
Tax Partner
Deloitte Tax LLP
lcrews@deloitte.com

Michael Spencer (Washington D.C.)
Tax Senior Manager
Deloitte Tax LLP
mispencer@deloitte.com