State Tax Matters

The power of knowing

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California court holds Glendale communications users tax inapplicable to video streaming absent voter approval

On July 7, 2026, the Los Angeles County Superior Court granted a motion for writ of administrative mandate in *Hulu, LLC v. City of Glendale*, No. 25NNCP00413 (Cal. Super. Ct. L.A. Cnty. July 7, 2026). The petitioners had requested a peremptory writ instructing the City of Glendale ("Glendale") to set aside its City Manager's order upholding tax assessments under Glendale's Communications Users Tax ("CUT") for residents' use of the petitioners' streaming platforms. The court concluded that the ballot pamphlet made available to Glendale's voters in connection with Measure U makes no mention of video services, and that Glendale's attempt to collect the CUT from the petitioners therefore requires voter approval under Proposition 218.

This Indirect Tax Alert summarizes the July 7, 2026 ruling.

URL: *https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/us-tax-california-court-holds-glendale-communications-users-tax-inapplicable-to-video-streaming.pdf*
[Issued August 25, 2026]

Maryland Tax Court holds Digital Advertising Gross Revenues Tax unconstitutional

On August 14, 2026, the Maryland Tax Court issued memorandum opinions and orders in three related appeals involving the Maryland Digital Advertising Gross Revenues Tax ("Tax"), Md. Code Ann., Tax-Gen. sections 7.5-101 through 7.5-301 (2021): *Apple Inc. v. Comptroller of Maryland*, No. 23-DA-OO-0456; *Google LLC v. Comptroller of Maryland*, No. 23-DA-OO-0649; and *Peacock TV, LLC v. Comptroller of Maryland*, No. 23-DA-OO-0654. Each case arose on cross-motions for summary judgment from the Comptroller of Maryland's ("Comptroller") denial of a refund of Tax paid for tax year 2022, the first year the Tax was collected. In each case, the court held that the Tax is preempted by the federal Internet Tax Freedom Act ("ITFA"), 47 U.S.C. section 151 note, and violates the dormant Commerce Clause and the Due Process Clause of the Fourteenth Amendment. The court granted the petitioners' motions on all counts in *Apple* and *Google* and in part in *Peacock*, denied the Comptroller's motions on those counts, reversed the Comptroller's decisions, and ordered refunds with interest as applicable under Maryland law. In *Peacock*, the court additionally held that the Tax violates the First Amendment and held for the Comptroller on the petitioner's foreign Commerce Clause claim.

This Indirect Tax Alert summarizes the three decisions.

URL: *https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/us-tax-maryland-tax-court-holds-digital-advertising-gross-revenues-tax-unconstitutional.pdf*
[Issued August 24, 2026]

Income/Franchise

Federal – Introduced U.S. House Bill Seeks to Limit State Taxation of Compensation Earned by Nonresident Telecommuters and Other Multistate Workers

H.R. 10142, introduced in U.S. House of Representatives 8/24/26. Pending legislation known as the "Multi-State Worker Tax Fairness Act of 2026" has been introduced in the U.S. House of Representatives which, if enacted, would "limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers." Under this pending federal legislation, in applying its income tax laws to the compensation of a nonresident individual, "a State may deem such nonresident individual to be present in or working in such State for any period of time only if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such compensation with respect to any period of time when such nonresident individual is physically present in another State." For purposes of determining the periods of time with respect to which compensation is paid, the pending legislation provides that "no State may deem a period of time during which a nonresident individual is physically present in another State and performing certain tasks in such other State" to be:

- time that is not normal work time unless such individual's employer deems such period to be time that is not normal work time;
- nonworking time unless such individual's employer deems such period to be nonworking time; or
- time with respect to which no compensation is paid unless such individual's employer deems such period to be time with respect to which no compensation is paid.

The pending federal legislation includes a number of relevant underlying definitions, and if enacted, would take effect immediately. Note that this pending federal legislation potentially may limit state "convenience of the employer"-type rules – for example, in taxing jurisdictions like New York that may otherwise treat wages of employees assigned to a New York office as New York-sourced even when the employees are working from their homes outside of New York [see the bill's underlying *Press Release: Himes, Gottheimer, Pappas Introduce Bill to Prevent Double Taxation of Remote Workers* for additional details surrounding its introduction in the U.S. House of Representatives].

Also note that similar federal legislation was introduced in the U.S. House of Representatives in 2024 [see *State Tax Matters, Issue 2024-45*, for details on this previously introduced federal legislation]. Please contact us with any questions.

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Alabama – DOR Notice on Nonresident Employee Withholding Reflects Mobile Workforce Law With 30-Day Threshold

Notice: Alabama Income Tax Withholding Guidance for Nonresident Employees, Ala. Dept. of Rev. (8/25/26). A recently posted Alabama Department of Revenue (Department) notice explains that an employer generally must withhold Alabama income tax from wages paid to a nonresident employee "only to the extent the wages are attributable to services physically performed in Alabama," and that if a nonresident employee "performs no services in Alabama during the year, Alabama income tax withholding is not required solely because the employer is located in Alabama." In doing so, the Department refers to Alabama's "*relatively new 30-day safe harbor rule*," which exempts Alabama earnings from taxation for certain out-of-state workers performing services in Alabama for 30 or fewer days in a calendar year [see *H.B. 379 (2025) / Act 2025-334*, and *State Tax Matters, Issue 2025-19*, for details on Alabama's "mobile workforce" legislation, which was enacted in 2025]. The Department also notes that it will not follow the Alabama Tax Tribunal's 2023 ruling involving a nonresident remote worker [see *State Tax Matters, Issue 2023-12*, for more details on this 2023 ruling] "to the extent that ruling is inconsistent" with this notice. Please contact us with any questions.

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Illinois – DOR Denies Taxpayer's Alternative Apportionment Request to Include 50% GILTI in Sales Factor Denominator

General Information Letter IT 26-0008-GIL, Ill. Dept. of Rev. (7/28/26). In a recently posted general information letter, the Illinois Department of Revenue (Department) denied an Illinois corporate taxpayer's request to deviate from the use of Illinois' standard apportionment formula for the tax year at issue by including 50% of its global intangible low-taxed income (GILTI) in its sales factor denominator, holding that the taxpayer failed to sufficiently show that application of Illinois' standard statutory formula in this case lead to a "grossly distorted result." In doing so, the Department explained that an alternative apportionment method may not be invoked, either by the Department or by a taxpayer, merely because it reaches a different apportionment percentage than the required standard statutory formula. In its petition, the taxpayer claimed that Illinois law including 50% of GILTI in its taxable income for the tax year at issue but that does not include corresponding apportionment factors "results in taxation without factor representation, attributing income to Illinois without equitable factor relief" – and that by including 50% of GILTI in the sales factor denominator, the taxpayer's proposed alternative apportionment method would align "income with economic activity" and correct "distortion."

The Department concluded that based on the facts provided in its petition, the taxpayer failed to adequately show that Illinois' standard statutory apportionment provisions did not fairly represent its in-state activities and the market for its goods, services, and other sources of business income. In rejecting the petition, the Department also noted that the taxpayer's request:

- did not indicate whether the taxpayer determined its standard statutory apportionment formula for the tax year at issue;
- contained no information relative to the market for the taxpayer's goods and services, or by which a determination could be made, as to whether the standard apportionment formula failed to fairly reflect that market; and
- contained no evidence that the proposed alternative apportionment method produced a "reasonable result."

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New Hampshire – State High Court Says Water's Edge Combined Group Can't Offset Capital Gains with Member's Capital Loss Carryback

Case No. 2025-0240, N.H. (8/26/25). In a New Hampshire business profits tax (BPT) case involving a water's edge combined group and use of a member's capital loss carryback, the New Hampshire Supreme Court (Court) reversed a 2025 trial court ruling [see *Docket No. 217-2023-CV-282*, N.H. Superior Ct, Merrimack County (2/21/25) and *State Tax Matters, Issue 2025-9*, for details on the lower court ruling in this case] to hold that the taxpayer *cannot* apply a long-term capital loss carryback generated by one member of the group to the water's edge group's capital gains under New Hampshire law. The Court explained that under N.H. Rev. Stat. Ann. chapter 77-A, capital losses incurred by a member of a water's edge combined group may offset only that member's own capital gains, and applicable state statutes essentially require group members to determine their net incomes separately before combining them. In this respect, the Court reversed the lower court's determination that New Hampshire Administrative Rules, Rev 302.09 and Rev 302.10, improperly added to and contradicted the enabling state statutes. The Court also concluded that barring groups from applying one member's capital loss carryback against another member's capital gain does *not* infringe on either the United States or New Hampshire Constitutions, and it rejected the taxpayer's claim that denying the setoff in this case resulted in an unconstitutional tax on the group's extraterritorial income – noting the record did *not* indicate that the taxpayer here had petitioned for the use of an alternative apportionment method. Please contact us with any questions.

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Sales/Use/Indirect
California – September 10 "IPM" Meeting to Address Taxation of Electronically Delivered Digital Products, Prewritten Software

Topic: "Revisions to Sales and Use Tax Regulations 1502, Computers, Programs, and Data Processing, 1507, Technology Transfer Agreements, and 1699.6, Use Tax Direct Payment Permits, and new Sales and Use Tax Regulations 1502.2, Custom Computer Software, 1600, Application of Sales and Use Tax to Digital Products, 1600.1, Tax Liability Threshold for Digital Products, 1600.2, Digital Products Purchased for Multiple Points of Use, and 1600.3, Digital Products Purchased Solely for Use Outside this State or in Interstate or Foreign Commerce," Cal. Dept. of Tax and Fee Admin. (7/7/26). Pursuant to recently enacted legislation that amends California sales and use tax law by subjecting to tax beginning as of January 1, 2027, the permanent or temporary transfer of the right to open, view, access, download, copy, update, possess, store, manipulate, or otherwise use certain defined digital products transferred electronically or accessed remotely [see *S.B. 122*, *signed by gov. 6/29/26,* and *previously issued Multistate Tax Alert* for more details on this legislation] – where such a "digital product" includes prewritten computer software – the California Department of Tax and Fee Administration (CDTFA) has scheduled an Interested Parties Meeting ("IPM") on September 10, 2026 (from 10am to 12pm PT) to discuss proposed amendments and new regulations that implement and interpret this legislation. The scheduled IPM meeting follows the CDTFA's July 21 workshop addressing the same legislation [see *State Tax Matters, Issue 2026-28*, for details on the July 21 workshop]. Please contact us with any questions.

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Illinois – More Trade Associations Challenge Validity of Recently Enacted Digital Asset Tax

Case No. _____, Ill. Cir. Ct. (*complaint filed 8/21/26*). Additional trade associations have filed suit seeking, among other things, a declaration that Illinois' new "Digital Asset Tax" is invalid under the Illinois and United States Constitutions and violates the federal Internet Tax Freedom Act (ITFA) [see *State Tax Matters, Issue 2026-29*, for details on a separate lawsuit filed by other trade associations seeking a similar declaration]. The Illinois Digital Asset Tax is imposed on the privilege of receiving digital asset business activity by a customer in Illinois and is required to be collected and remitted by "digital asset brokers" beginning January 1, 2027 [see *S.B. 3019 (Public Act 104-0468)* and *previously issued Indirect Tax Alert* for more details on this new tax]. According to the filed complaint, this "first-in-the-nation tax on digital assets" should have been informed by "careful legislative deliberation and public input," but instead was "publicly revealed on the very last day of the Illinois General Assembly's 2026 session," and "rushed through both legislative chambers within hours, without meaningful debate."

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