State Tax Matters
Issue 2026-35
The power of knowing
September 4, 2026

State Tax Matters

The power of knowing

In this issue:

Income/Franchise
Ohio – Reminder: Individual Income Tax Deductions for Certain Capital Gains Commence for TYs Beginning in or After 2026

Pursuant to legislation enacted in 2021, Ohio provides two individual income tax capital gains deductions for certain Ohio taxpayers that commence to apply for tax years beginning in or after 2026 [see *previously issued Multistate Tax Alert* for details on this 2021 Ohio legislation and its provisions]. Specifically, investors in certain Ohio-based venture capital operating companies (VCOCs) are entitled to a new deduction of capital gains from certified VCOC investments, and certain Ohio taxpayers with capital gains from the sale of an ownership interest in an Ohio business are entitled to a new deduction, for tax years beginning in or after 2026. 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

Tennessee – Updated Franchise and Excise Tax Manual Clarifies Treatment of NOL and Credit Carryforwards in Certain Reorganizations

Franchise and Excise Tax Manual, Tenn. Dept. of Rev. (updated 6/26); *Tax Manual Updates*, Tenn. Dept. of Rev. (6/26). The Tennessee Department of Revenue updated its Tennessee franchise and excise tax manual to, among other changes, clarify the treatment and disposition of net operating loss (NOL) and tax credit carryforwards "in the case of certain conversion, merger, and reorganization transactions." The manual generally explains that "each taxpayer is considered a separate entity for Tennessee franchise and excise tax purposes," and that "when there is a merger, consolidation, or like transaction the successor entity cannot use loss carryovers generated by a predecessor entity." Additionally, "when two or more businesses merge, only losses of the survivor corporation will be allowed." However, the manual explains that "if a business merges into a shell entity, where the successor is essentially the same taxpayer as the predecessor, then the successor entity may take a deduction for the predecessor's loss carryover." Working examples illustrate the "shell entity" concept and resulting tax treatment under various scenarios. Please contact us with any questions.

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

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

Wisconsin – Software Sales Must be Sourced In-State Because End-Users are Not Taxpayer’s Licensees

Case No. 2025CV4117, Wis. Cir. Ct. (8/19/26). In a ruling involving an out-of-state corporation (“the taxpayer”) specializing in creating database management system software (“DMS software”) that contracts with an in-state third-party (“the AP”) that develops software applications using the taxpayer’s DMS software to ultimately deliver those software applications to its own software application customers (“end-users”), a Wisconsin circuit court (Court) largely affirmed a 2025 Wisconsin Tax Appeals Commission decision [see *Docket No. 20-W-174*, Wis. Tax App. Comm. (11/20/25) and *State Tax Matters, Issue 2025-47*, for more details on the 2025 ruling], which held that based on the circumstances and terms of the respective agreements among the taxpayer, the AP, and the end-users, the income the taxpayer receives from the AP’s customers for the use of its DMS software alongside the AP’s software must be sourced to Wisconsin under state law. In doing so, the Court agreed that the taxpayer here does not license its software to the end-users of the AP’s computer software, and that the receipts at issue must be sourced to Wisconsin because the situs of the purchase (*i.e.*, the location where the AP is billed for the purchase or license of the taxpayer’s intangible property) lies in Wisconsin. Please contact us with any questions.

Scott Bender (Milwaukee)
Tax Principal
Deloitte Tax LLP
sbender@deloitte.com

Michael Gordon (Milwaukee)
Tax Managing Director
Deloitte Tax LLP
michagordon@deloitte.com

Gross Receipts
Tennessee – Updated Tax Manual Reflects 2026 Appellate Court Case on Taxing Receipts from Cloud-Based Services and Hosting

Business Tax Manual, Tenn. Dept. of Rev. (updated 6/26); *Tax Manual Updates*, Tenn. Dept. of Rev. (6/26). The Tennessee Department of Revenue updated its Tennessee business tax (TBT) manual to, among other changes, “provide new information on the taxability of software, cloud hosting, and cloud-based services” following the Tennessee Court of Appeals’ (Court) 2026 opinion [see *Case No. M2024-01399-COA-R3-CV*, Tenn. Ct. App. (5/13/26) and *State Tax Matters, Issue 2026-20*, for more details on this decision] involving an out-of-state software company engaged in the business of selling and licensing enterprise resource planning software under various business models. In the 2026 decision, the Court held that the company’s receipts from certain sales of cloud hosting and cloud-based services constituted taxable services for TBT purposes. Please contact us with any questions.

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

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

Sales/Use/Indirect
Alabama – Amended Rule Reflects New Law that Excludes Certain Interchange Fees from Tax Base

Amend. Reg. section 810-6-3-.50, Ala. Dept. of Rev. (eff. 10/15/26). An amended rule from the Alabama Department of Revenue reflects recently enacted legislation [see *S.B. 221 (2026)*, and *State Tax Matters, Issue 2026-16*, for more details on this legislation] that, effective as of September 1, 2026, provides that the amount of any credit card transaction fee charged for an electronic payment transaction "shall be excluded from the amount on which basis sales and use tax is assessed for that electronic payment transaction." Specifically, the amended rule provides that "to be excludable from the measure of sales and use tax," the credit card transaction fee must be "separate and identifiable from other charges." Please contact us with any questions.

Doug Nagode (Atlanta)
Tax Managing Director
Deloitte Tax LLP
dnagode@deloitte.com

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

Liudmila Wilhelm (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
lwilhelm@deloitte.com

Georgia – Online Provider's DNA Testing Services with Kits Deemed Nontaxable; Kits are Subject to Use Tax

Letter Ruling SUT-2026-02, Ga. Dept. of Rev. (6/22/26). In a letter ruling involving an online provider of individualized ancestral and health history reports that it generates from customers' "DNA" saliva specimens that are mailed by the customers to its in-state laboratory for processing, the Georgia Department of Revenue (Department) held that the company is providing nontaxable services that are *not* bundled transactions for Georgia sales tax purposes. Under the submitted facts, the online provider mails collection kits to customers from an out-of-state distribution center. Its customers collect their saliva specimens and then mail the kits back to the online provider's Georgia laboratory for processing; customers subsequently access their generated individualized reports through the online provider's website. Under these facts, the Department explains that even though the company also furnishes DNA testing kits for its customers to collect the saliva samples, the true object of these transactions is nontaxable DNA testing services. Additionally, the Department held that the online provider owes Georgia use tax on the DNA testing kits it provides to customers based on its cost price, because the company is the consumer of the tangible kits used to provide nontaxable services. The Department also noted that the online provider may claim a credit against its Georgia use tax due "for like sales and use taxes lawfully imposed by another state." Please contact us with any questions.

Doug Nagode (Atlanta)
Tax Managing Director
Deloitte Tax LLP
dnagode@deloitte.com

Liudmila Wilhelm (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
lwilhelm@deloitte.com

Ryan Robertson (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
ryrobertson@deloitte.com

Tennessee – DOR Addresses Suspended Enforcement of Newly Taxable International Money Transmission Services

Important Notice #26-12, Tenn. Dept. of Rev. (updated 8/26). A Tennessee Department of Revenue (Department) notice addressing legislation enacted earlier this year [see *Public Chapter 1035 (2026)*] that will impose Tennessee sales tax on certain entities licensed under the Tennessee Money Transmission Modernization Act on the service of transmitting money from a location originating in Tennessee to a location outside of the United States has been updated to reflect the Tennessee Davidson County Chancery Court's recent order that "prohibits the Department from enforcing Public Chapter 1035 until a final judicial determination is made regarding the constitutionality of the law." The notice explains that while this new tax was originally scheduled to go into effect January 1, 2027, "it will not be enforced until the litigation concludes." The Department also states that if the tax is upheld, "a 45-day grace period will follow before enforcement begins." Please contact us with any questions.

Doug Nagode (Atlanta)
Tax Managing Director
Deloitte Tax LLP
dnagode@deloitte.com

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

Holly Boever (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
hboever@deloitte.com

Liudmila Wilhelm (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
lwilhelm@deloitte.com

Tennessee – Updated Tax Manual Includes Guidance on Rounding Due to Penny Shortage and Sourcing

Sales and Use Tax Manual, Tenn. Dept. of Rev. (updated 8/31/26); *Tax Manual Updates*, Tenn. Dept. of Rev. (6/26). The Tennessee Department of Revenue updated its Tennessee sales and use tax manual to, among other changes, include guidance on Tennessee legislation enacted earlier this year [see *H.B. 1744 (2026)* and *State Tax Matters, Issue 2026-12*, for more details on this 2026 legislation] that provides entities with precise rules for rounding to the nearest nickel in certain cash transactions in response to the federal government's decision to end production of the penny. Another manual update provides guidance on the "sourcing of sales of products that originate from business locations in Tennessee and that are delivered to locations outside of Tennessee." Please contact us with any questions.

Doug Nagode (Atlanta)
Tax Managing Director
Deloitte Tax LLP
dnagode@deloitte.com

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

Liudmila Wilhelm (Atlanta)
Tax Senior Manager
Deloitte Tax LLP
lwilhelm@deloitte.com