



State Tax Matters

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Administrative

New Jersey – Division of Taxation Says It's Pausing Acceptance of Letter Ruling Requests for 60 Days Beginning October 1

[Letter Rulings](#), N.J. Div. of Tax. (9/11/26). The New Jersey Division of Taxation (Division) announced that effective October 1, 2026, it is “pausing the acceptance of letter rulings for sixty days so that the process can be reviewed.” According to the Division, letter ruling requests received before October 1, 2026, “will be responded to.” Additionally, the Division explains that taxpayers and tax practitioners may continue to request general written guidance from the New Jersey Regulatory Services Branch concerning the application of New Jersey tax laws and regulations and that “taxpayers and tax practitioners should continue to monitor the Division’s website regarding the letter ruling process.” Please contact us with any questions.

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Income/Franchise

California - New Law Requires LAO Assessment of Water's Edge Election, R&D Credits, and Other Major Tax Expenditures

[S.B. 1349](#), signed by gov. 9/20/26. New law directs the California Legislative Analyst's Office (LAO) to “comprehensively assess” certain defined California “major tax expenditures” and then publish a separate report on each such expenditure which must be submitted to the California Legislature. As part of the assessment, LAO must identify any savings that the California Legislature “can realize by reducing or limiting the major tax expenditures” and include related recommendations for the California Legislature. Under the new law, these “major tax expenditures” are defined as:

- California's water's-edge election as allowed by Cal. Rev. & Tax. Code section 25110;
- Credits relating to increasing research activities as allowed by Cal. Rev. & Tax. Code sections 17052.12 and 23609;
- Change in cost basis of inherited property pursuant to rules relating to gain or loss from the sale or other disposition of property prescribed in Cal. Rev. & Tax. Code sections 18031 and 24911;
- Exclusion from recognition of gain or loss on the exchange of property held for productive use or investment (also known as “like-kind exchanges”) pursuant to the rules prescribed by Cal. Rev. & Tax. Code sections 18031 and 18031.5 of the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2) and Cal. Rev. & Tax. Code sections 24941 and 24941.5 of the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2);

- Deductions relating to accelerated depreciation of research and experimental costs allowed pursuant to rules prescribed by Cal. Rev. & Tax. Code sections 17201 and 17201.1; and
- Special apportionment of business income for qualified cable system operators pursuant to Cal. Rev. & Tax. Code section 25136.1.

The legislation requires the LAO to complete and publish its first such report by January 1, 2028, and to complete and publish each subsequent report annually – in whatever sequence it determines thereafter – “until the fifth and final report is submitted on January 1, 2032.” Please contact us with any questions.

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Pennsylvania – Philadelphia Notice Explains BIRT Decoupling from OBBBA Provisions Pertaining to R&D Expenses, §163(j), and §168(n)

Advisory notice: Philadelphia joins Pennsylvania in decoupling from certain federal tax provisions in the One Big Beautiful Bill Act, City of Philadelphia, Pa. Dept. of Rev. (9/17/26). A City of Philadelphia, Pennsylvania (City) Department of Revenue (Department) advisory notice addresses recently enacted legislation [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 enables the City to conform to the Commonwealth of Pennsylvania’s rules in decoupling the net income component of the City business income and receipts tax (BIRT) from some aspects of the federal One Big Beautiful Bill Act (commonly referenced as “OBBBA” and more formally as P.L. 119-21) – specifically the OBBBA provisions pertaining to:

- the expensing of domestic research and experimental (R&D) expenditures in Internal Revenue Code (IRC) section 174A and related sections;
- the modifications of adjusted taxable income (ATI) and the limitation on business interest under IRC section 163(j); and
- the special depreciation allowance for qualified production property under IRC section 168(n).

The notice explains the process for such OBBBA-related decoupling in determining the net income for BIRT “Method II” filers for tax years beginning after December 31, 2024, and states that “the Department will waive penalty and interest for Tax Year 2025 for taxpayers who made their required 2025 payment and 2026 estimated payment by April 15, 2026.”

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Utah – Amended Rule Reflects Statutory Revisions to Financial Institution Sales Factor Sourcing

Amended Section R865-6F-32. Taxation of Financial Institutions, Utah State Tax Comm. (9/15/26). The Utah State Tax Commission (Commission) amended one of its rules to reflect legislation enacted in 2025 [see *S.B. 219 (2025)* and *State Tax Matters, Issue 2025-12*, for more details on this legislation] that, effective for taxable years beginning on or after January 1, 2026, provides that a financial institution's sales from defined investment and asset and trading activities generally are *not* sourced to Utah for state corporation franchise (income) tax purposes. When it originally proposed these rule changes, the Commission had explained that the 2025 legislation directs it to “make rules that do not allow the numerator of the sales factor fraction to include sales from investment activities and assets and trading activities and assets, while requiring the denominator of the sales factor fraction to include those sales” [see *State Tax Matters, Issue 2026-32*, for details on the rule as originally proposed]. As such, the adopted changes include modifying the updated rule's general application date to taxable years beginning on or after January 1, 2026, and retaining the rule's original application date for taxable years beginning on or after January 1, 1998, “only for the purpose of a financial institution's initial election as to whether the institution will include certain property in the property factor.” The amended rule took effect on September 10, 2026. Please contact us with any questions.

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Gross Receipts

Ohio – State High Court Affirms that Pharmaceutical Company’s Receipts from Wholesale Distributors Must be Adjusted for Chargebacks

[Case No. 2025-1477](#), Ohio (9/22/26). In a case involving a company that manufactures and sells pharmaceuticals to drug store retailers at an agreed-upon sales price using wholesale distributors that it invoices at a higher wholesale acquisition cost (WAC) purchase price where all parties generally anticipate a “chargeback” that ultimately will reduce the WAC purchase price pursuant to the agreements with downstream drug store retailers, the Ohio Supreme Court (Court) affirmed a 2025 Ohio Board of Tax Appeals (BTA) ruling [see [Case No. 2024-485](#), Ohio Bd. of Tax App. (10/9/25) and [State Tax Matters, Issue 2025-40](#), for more details on this 2025 BTA ruling] to hold that the pharmaceutical company does not owe Ohio commercial activity tax (CAT) based on the list price it uses for generic pharmaceutical drugs but only on the actual sale price paid by the customers. In doing so, the Court agreed that because the pharmaceutical company never actually receives the total WAC amounts at issue under the provided facts, they cannot be considered “gross receipts” under Ohio Rev. Code section 5751.01(F), and thus the underlying Ohio CAT assessment must be adjusted.

Under the provided facts, when a wholesale distributor sells prescription drugs to the retailers, it submits a chargeback adjustment to the pharmaceutical company based on the difference between the WAC and the contracted purchase price, which is typically processed within 48 hours. The distributor then remits the net sale price (*i.e.*, the WAC less the chargeback) to the pharmaceutical company. Accordingly, the Court agreed with the BTA’s determination that the amount the pharmaceutical company received from the sale of its prescription drugs to retailers (*i.e.*, the list price less the chargeback) was the “amount realized” as its gross receipts for Ohio CAT purposes, and that the full list price is *not* taxable under the Ohio CAT because the company never actually received this amount in return for its sale of prescription drugs. Please contact us with any questions.

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Washington – Appellate Court Remands B&O Tax Nexus Case Back to Trial Court for De Novo Review

[Case No. 41068-4-III](#), Wash. Ct. App. (9/22/26). In a state business and occupation (B&O) tax case involving an out-of-state company engaged in the franchising and sub-franchising of certain dentistry practices in various states (including Washington), and which argued that because its business connections to Washington failed to meet the “substantial nexus” threshold it did not owe any B&O taxes and was entitled to a full refund of underlying B&O taxes paid, a Washington Court of Appeals (Court) reversed the lower trial court’s ruling that had granted summary judgment for the Washington Department of Revenue and remanded the case back to the trial court for de novo review. In doing so, the Court concluded that genuine issues of material fact exist such that granting summary judgment was improper and that, on remand, the company “will have the burden to prove not only that the tax assessed amount was incorrect but also the correct assessment, if any.” The Court explained that if the company can meet its burden of proving that the auditor’s calculation or classification of income was incorrect on remand, then the company will also have the burden of demonstrating the correct method of calculating substantial nexus and its B&O tax liability.

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