

Administrative:

Tennessee: New Law Provides Some Taxpayer Protections for Reasonable Reliance on DOR Policy

H.B. 38, signed by gov. 4/22/21. New law provides that if the Tennessee Department of Revenue (Department) changes its policy regarding application of a certain Tennessee rule, law or tax, a taxpayer who relied on such policy before it was changed generally would *not* be liable for any assessment of additional tax or penalty that accrued before the policy was changed and was unpaid because of the taxpayer's reasonable reliance upon it. Specifically, the new law provides that a taxpayer may rely on guidance published by the Department concerning the Tennessee taxability of a privilege and that if the Department changes the guidance, a taxpayer who relied on the prior guidance is not liable for any additional tax, penalty or interest accrued before the guidance was changed and was unpaid because of the taxpayer's reasonable reliance on the prior guidance. Additionally, the new law specifies that if a taxpayer is audited by or requests specific advice from the Department and receives erroneous audit findings or advice, then the taxpayer is *not* liable for any assessment of additional tax, interest or penalty attributable to the erroneous finding or advice, to the extent that:

URL: <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0038&GA=112>

1. The taxpayer reasonably relied on the finding or advice,
2. The additional assessment did not result from the taxpayer failing to provide adequate or accurate information, and
3. The Department provided the finding or advice in writing, or the Department's records establish that the taxpayer received erroneous verbal advice.

The legislation includes related underlying definitions for terms associated with Department audits and published guidance. Please contact us with any questions.

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

John Paek (Atlanta)
Principal
Deloitte Tax LLP
jpaek@deloitte.com

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

Amber Rutherford (Nashville)
Senior Manager
Deloitte Tax LLP
amberrutherford@deloitte.com

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

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.