

## Multistate Tax Alerts

Throughout the week, we highlight selected developments involving state tax legislative, judicial, and administrative matters. The alerts provide a brief summary of specific multistate developments relevant to taxpayers, tax professionals, and other interested persons. Read the recent alerts below or visit the archive.

**Archive:** <https://www2.deloitte.com/us/en/pages/tax/articles/multistate-tax-alert-archive.html?id=us:2em:3na:stm:awa:tax>

### **California Franchise Tax Board holds Sixth Interested Parties Meeting on market-based sourcing regulation**

On May 14, 2021, the California Franchise Tax Board (FTB) issued its Notice of Sixth Interested Parties Meeting, informing the public that the FTB will hold an Interested Parties Meeting to solicit public comment on its fifth iteration of draft changes to California Code of Regulations, Title 18, section 25136-2, the market-based sourcing regulation. The Interested Parties Meeting was held on June 4. Written comments must be submitted to the FTB by July 5, 2021. Review the FTB's Notice, Explanation of Draft Language, and Draft Language for this version.

**URL:** <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/index.html>

This Multistate Tax Alert addresses some notable proposed changes in the FTB's fifth version of the draft market-based sourcing regulation.

[Issued May 19, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-california-franchise-tax-board-to-hold-sixth-interested-parties-meeting-on-market-based-sourcing-regulatio.pdf>

### **Illinois proposes new pass-through entity tax election**

On May 30, 2021, the Illinois Legislature approved Senate Bill 2531 (S.B. 2531), which allows partnerships (other than a publicly traded partnership) and S corporations to elect to pay a 4.95% entity level state tax on income. The proposed legislation is pending signature by Governor Pritzker, which he is expected to sign. If enacted, the election under S.B. 2531 can be made for taxable years ending on or after December 31, 2021 and beginning prior to January 1, 2026, provided that a \$10,000 limitation for the state and local tax deduction under IRC section 164(b)(6) still applies.

**URL:** <https://ilga.gov/legislation/billstatus.asp?DocNum=2531&GAID=16&GA=102&DocTypeID=SB&LegID=135185&SessionID=110>

This Multistate Tax Alert summarizes how the proposed Illinois PTE tax election applies and its potential impact on taxpayers.

[Issued June 4, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-illinois-proposes-new-pass-through-entity-tax-election.pdf>

### **Maryland enacts emergency bill addressing taxation of digital advertising and digital products**

Maryland emergency bill Senate Bill 787 (S.B. 787) amends the tax on digital advertising services and sales tax on digital products.

**URL:** <http://mgaleg.maryland.gov/mgaweb/Legislation/Details/SB0787?ys=2021RS>

This Multistate Tax Alert summarizes some of the changes in this bill.

[Issued June 3, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-mta-maryland-enacts-emergency-bill-addressing-taxation-of-digital-advertising-and-digital-products.pdf>

### **Massachusetts Supreme Judicial Court rules in favor of taxpayers on sales tax apportionment for software**

On May 21, 2021, the Massachusetts Supreme Judicial Court ruled in *Oracle USA, Inc. v. Commissioner of Revenue*, No. SJC-13013, 2021 BL 189431 (Mass. May 21, 2021) that Massachusetts taxpayers have a statutory right to apportion sales tax on software transferred for use in more than one state, and taxpayers are *not* precluded from seeking apportionment and refunds for excess sales tax paid through the general abatement process, even if they did not seek apportionment when tax was due as outlined in the regulations.

**URL:** <https://www.mass.gov/files/documents/2021/05/21/y13013.pdf>

This Multistate Tax Alert summarizes the Court's decision.

[Issued June 8, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-massachusetts-supreme-judicial-court-rules-in-favor-of-taxpayers-on-sales-tax-apportionment-for-software.pdf>

### **Montana enacts legislation increasing class eight business equipment tax exemption**

Montana Governor Greg Gianforte recently signed into law Montana House Bill 303 ("HB 303"), which amends MCA § 15-6-138(4) to provide an increase in the class eight business equipment tax exemption.

**URL:** [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P\\_SESS=20211&P\\_BLTP\\_BILL\\_TYP\\_CD=HB&P\\_BILL\\_NO=303&P\\_BILL\\_DFT\\_NO=&P\\_CHPT\\_NO=&Z\\_ACTION=Find&P\\_ENTY\\_ID\\_SEQ2=&P\\_SBJT\\_SBJ\\_CD=&P\\_ENTY\\_ID\\_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=303&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

This Multistate Tax Alert summarizes the amended exemption.

[Issued June 2, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-montana-enacts-legislation-increasing-class-eight-business-equipment-tax-exemption.pdf>

### **Overview of New York's new pass-through entity tax**

New York's 2021-2022 Budget Act (including S2509C/A3009C, among other bills) enacted on April 19, 2021, includes a new elective pass-through entity tax (PTET). This type of tax has been enacted by a number of states and is generally designed in response to the \$10,000 cap on the federal state and local tax deduction as added by the federal Tax Cuts and Jobs Act in 2017.

**URL:** <https://www.nysenate.gov/legislation/bills/2021/s2509/amendment/c>

This Multistate Tax Alert summarizes the new PTET and highlights some open issues.

[Issued June 7, 2021]

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-overview-of-new-yorks-new-pass-through-entity-tax.pdf>

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