

## Income/Franchise:

### Colorado DOR Discusses Law Changes Involving Listed “Tax Havens” and Combined Return Inclusion

*Income Tax Topics: Section 303(8)(b) Entities*, Colo. Dept. of Rev. (rev. 12/21). The Colorado Department of Revenue (Department) issued guidance addressing legislation enacted in 2021 [see H.B. 1311 (2021), and previously issued Multistate Tax Alert for more details on these law changes] that requires a Colorado combined group to include certain affiliates that are “incorporated in a foreign jurisdiction for the purpose of tax avoidance,” and provides a rebuttable presumption that a corporation is created for “tax avoidance” purposes if it is incorporated in one of 44 listed jurisdictions, applicable to tax years beginning on or after January 1, 2022. The guidance explains that a C corporation is not incorporated in a foreign jurisdiction for the purpose of tax avoidance “if the taxpayer proves to the satisfaction of the executive director of the Department that its incorporation in a listed jurisdiction has economic substance pursuant to section 7701(o) of the Internal Revenue Code (which does not include state or federal tax purposes).” Other topics addressed in the guidance include Colorado subtraction adjustments from federal taxable income for certain subpart F income and global intangible low-taxed income (GILTI) amounts in determining the net income of certain C corporations incorporated outside of the United States. Please contact us with any questions.

**URL:** [https://tax.colorado.gov/sites/tax/files/documents/ITT\\_Section\\_303%288%29%28b%29\\_Entities\\_Dec\\_2021.pdf](https://tax.colorado.gov/sites/tax/files/documents/ITT_Section_303%288%29%28b%29_Entities_Dec_2021.pdf)

**URL:** <https://leg.colorado.gov/bills/hb21-1311>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-colorado-enacts-several-law-changes-impacting-income-and-indirect-taxes.pdf>

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