

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>

New York Supreme Court Appellate Division holds broker-dealer sourcing rules do not apply to non-broker-dealer disregarded entities

On March 10, 2022, the New York Supreme Court, Appellate Division, Third Department (“Appellate Division”) issued its opinion in *Matter of BTG Pactual NY Corporation v. New York State Tax Appeals Tribunal et al.* The Appellate Division affirmed a 2020 New York Tax Appeals Tribunal decision that the Taxpayer could not apply New York’s special broker-dealer customer based sourcing rules to receipts derived from the Taxpayer’s single member limited liability company, a non-broker-dealer disregarded entity. The Taxpayer also owned another disregarded entity that was a registered broker-dealer.

URL: <https://decisions.courts.state.ny.us/ad3/Decisions/2022/531667.pdf>

This Multistate Tax Alert summarizes this New York decision.

[Issued April 6, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-new-york-supreme-court-appellate-division-holds-broker-dealer-sourcing-rules-do-not-apply-to-non-broker-dealer-disregarded-entities.pdf>

Texas Supreme Court rules in taxpayer’s favor regarding apportionment dispute

On March 25, 2022, the Texas Supreme Court held in *Sirius XM Radio, Inc. v. Hegar* that the taxpayer properly computed its apportionment factor for Texas franchise tax purposes by sourcing receipts to Texas based on where the taxpayer’s programs were produced and not the location where the customer received the benefit of the taxpayer’s service. As a result of the decision, the case has been remanded to the court of appeals to determine the fair value of the taxpayer’s services performed in Texas.

URL: <https://www.txcourts.gov/media/1453921/200462.pdf>

This Multistate Tax Alert summarizes the Texas Supreme Court’s decision and provides some taxpayer considerations.

[Issued April 1, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-texas-supreme-court-rules-in-taxpayers-favor-regarding-apportionment-dispute.pdf>

Utah enacts election to treat income from sales of intangible property as business income

On March 23, 2022, Utah Governor Spencer J. Cox signed House Bill 268 into law. Effective for taxable years beginning on or after January 1, 2022, corporations may elect to treat income from sales of intangible

property, that otherwise would have been treated as allocable nonbusiness income, as apportionable business income. The election must be made on or before the extended deadline for filing the Utah return. According to the legislation, once the election is made, it is irrevocable.

URL: <https://le.utah.gov/~2022/bills/static/HB0268.html>

This Multistate Tax Alert summarizes these new provisions.

[Issued April 1, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-utah-enacts-election-to-treat-income-from-sales-of-intangible-property-as-business-income.pdf>

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