

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 Office of Tax Appeals concludes gain from goodwill constitutes apportionable business income to nonresident S corporation shareholders

On January 5, 2022, the California Office of Tax Appeals (OTA) issued its opinion in *In the Matter of the Appeal of: T. Faries and Estate of D. Faries Jr. (Dec'd) (Faries)*. The OTA concluded that (1) the gain derived from an S corporation's sale of goodwill constituted apportionable business income to its nonresident shareholders under California Code of Regulations, title 18, ("Regulation") section 17951-4(f), (2) the S corporation's sale of goodwill constituted an "occasional sale," and accordingly, its gross receipts therefrom were properly excluded from the sales factor under Regulation section 25137(c)(1)(A), and (3) the taxpayer failed to demonstrate by clear and convincing evidence that exclusion of such gross receipts pursuant to Regulation 25137(c)(1)(A) caused the S corporation's apportionment percentage to unfairly reflect the extent of its business activities in California.

URL: https://ota.ca.gov/wp-content/uploads/sites/54/2022/03/18043049_Faries_Opinion_010522wm.pdf

This Multistate Tax Alert summarizes some of the highlights from the *Faries* decision and provides some taxpayer considerations.

[Issued April 14, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-california-ota-concludes-gain-from-goodwill-constitutes-apportionable-business-income-to-nonresident-s-corporation-shareholders.pdf>

California Franchise Tax Board issues guidance on sourcing gross receipts from sales of services to business entities

On March 25, 2022, the California Franchise Tax Board issued Legal Ruling 2022-01, which provides guidance on how to source gross receipts derived from sales of services by one business to another business for purposes of calculating the California sales factor.

URL: <https://www.ftb.ca.gov/tax-pros/law/legal-rulings/2022-01.pdf>

This Multistate Tax Alert summarizes Legal Ruling 2022-01, and unless otherwise noted, quotations in this Alert are from the ruling.

[Issued April 18, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-california-franchise-tax-board-issues-guidance-on-sourcing-gross-receipts-from-sales-of-services-to-business-entities.pdf>

Idaho enacts law to protect Idaho businesses from taxation by other jurisdictions

On March 29, 2022, Idaho's Governor signed House Bill 677 (H.B. 677) into law. Effective upon signage, H.B. 677 provides that no out-of-state taxing entities may impose tax on Idaho businesses for conducting sales in Idaho between Idaho businesses and nonresidents physically present in the State.

URL: <https://legislature.idaho.gov/sessioninfo/2022/legislation/H0677/>

This Multistate Tax Alert summarizes some of the provisions of H.B. 677.

[Issued April 13, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-idaho-enacts-law-to-protect-idaho-businesses-from-taxation-by-other-jurisdictions.pdf>

Kentucky enacts various indirect and income tax changes and establishes a tax amnesty program

On April 13, 2022, Kentucky's legislature overrode the governor's veto to enact House Bill 8 (H.B. 8). The legislation, among other things, expands the sales and use tax base by adding new taxable services, creates new excise taxes on vehicle sharing or renting and electric vehicle charging, reduces the individual income tax rate if certain budgetary conditions are met, updates Kentucky's Internal Revenue Code conformity date for state income tax purposes, and establishes a tax amnesty program.

URL: <https://apps.legislature.ky.gov/record/22RS/hb8.html>

This Multistate Tax Alert summarizes some of the provisions of H.B. 8.

[Issued April 18, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-kentucky-enacts-various-indirect-and-income-tax-changes-and-establishes-a-tax-amnesty-program.pdf>

Mississippi enacts pass-through entity tax election

On April 14, 2022, Mississippi's Governor signed House Bill 1691 (H.B. 1691) into law, effective from and after January 1, 2022. Under the legislation, any partnership, S corporation, or similar pass-through entity may make an election to pay an entity level state income tax for the 2022 calendar year, and for each calendar year thereafter.

URL: <http://billstatus.ls.state.ms.us/2022/pdf/history/HB/HB1691.xml>

This Multistate Tax Alert summarizes some of the provisions of H.B. 1691.

[Issued April 19, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mississippi-enacts-pass-through-entity-tax-election.pdf>

West Virginia adopts single sales factor and market-based sourcing for flow-through entities

On March 30, 2022, West Virginia's Governor signed into law House Bill 4410 (H.B. 4410). The bill adopts a single-sales factor apportionment formula with market-based sourcing for flow-through entities, effective for the 2022 tax year. This development generally brings the apportionment formula for flow-through entities in

conformity with the corporate income tax apportionment changes enacted in 2021, which are also effective for the 2022 tax year.

URL: https://www.wvlegislature.gov/bill_status/bills_history.cfm?INPUT=4410&year=2022&sessiontype=RS

This Multistate Tax Alert summarizes some of the provisions in H.B. 4410.

[Issued April 19, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-west-virginia-adopts-single-sales-factor-and-market-based-sourcing-for-flow-through-entities.pdf>

Lawmakers enact and propose fuel tax suspensions and relief

Lawmakers in Maryland, Georgia, and Connecticut have enacted temporary suspensions of their motor fuel taxes. Additionally, lawmakers in other states have proposed legislation to suspend their motor fuel taxes. On the federal level, Congressional lawmakers have introduced legislation to suspend the federal gasoline tax through December 31, 2022.

This Multistate Tax Alert outlines the enacted fuel tax suspensions in Maryland, Georgia, and Connecticut, summarizes other fuel tax suspension proposals, and provides some considerations and implications for taxpayers.

[Issued April 18, 2022]

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-lawmakers-enact-and-propose-fuel-tax-suspensions-and-relief.pdf>

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