



MULTISTATE TAX COMMISSION

444 North Capitol St., NW
Suite 425
Washington, DC 20001-1538
Telephone: 202.650.0300

www.mtc.gov

Nexus Program Director's April 30, 2025 Update on Nexus Law Developments Since November 20, 2024

Rulings or Administrative Actions

Alabama

The Department published in January 2025 “Alabama Corporate Income Tax FAQ” to provide helpful information about that tax.

The Department has adopted Alabama Administrative Code Section 810-6-5-.22.01 entitled “Collection and Reporting Requirements for Accommodations Intermediaries and Accommodations Providers,” implementing transient occupancy tax collection requirements under §40-26-1, Code of Ala. 1975. The regulation is effective February 14, 2025.

The Department published on April 9, 2025 “Alabama Partnerships and LLEs - S Corporations FAQ” providing income tax guidance for pass-through entities.

Arizona

The Department published in December 2024 Arizona Transaction Privilege Tax Ruling 24-1 to provide guidance on “substantial nexus” and sourcing for Arizona's transaction privilege tax (“TPT”), county excise tax, use tax, and city privilege taxes.

Colorado

The Department published PLR 24-008 dated December 30, 2024 providing that: A sale is sourced to the known location of the purchaser when the purchaser arranged for and hired a third-party shipping company to take possession of the property at the business location of the seller and deliver it to the purchaser located out-of-state.

Delaware

The Division of Revenue published “Delaware Short Term Rental FAQs” in December 2024 to provide guidance concerning accommodation intermediaries’ obligation to commence collecting the new short-term rental lodging tax.

Hawaii

The Department has published Tax Facts 2019-1 Revised April 2025 to provide out-of-state businesses guidance on nexus and Hawaii general excise tax, income tax and withholding tax.

Illinois

The Department proposed amendments in December 2024 to 86 Ill. Adm. Code 270 to implement recent legislative changes (Public Act 103-983) to the Home Rule Municipal Retailers' Occupation Tax, which changed the tax obligation for retailers maintaining a place of business in Illinois making sales to Illinois customers from outside of Illinois. Prior to January 1, 2025, such sales were subject to Use Tax only. On and after January 1, 2025, these retailers incur destination-based state and local retailers' occupation tax on these sales. Also, effective January 1, 2025, lease transactions are subject to Illinois Sales and Use Tax. See Illinois General Information Letter ST-24-0043-GIL explaining these legislative sourcing rule changes; Informational Bulletin dated December 2024 entitled "FY 2025-15, Illinois Sales and Use Tax Applies to Leased or Rented Tangible Personal Property" explaining the new provisions on taxation of leasing transactions.

The Department published in December 2024 "Illinois Frequently Asked Questions (FAQs) for Marketplace Facilitators, Marketplace Sellers, and Remote Retailers" to provide guidance on their sales/use tax collection responsibilities.

Indiana

The Department published Income Tax Information Bulletin #28 dated December 1, 2024 providing guidance on the application of state and county income taxes to residents with out-of-state income and nonresidents with Indiana source income.

The Department published Income Tax Information Bulletin #32 dated December 1, 2024 providing guidance regarding the income tax exemption for nonresident employees who work in Indiana for 30 or fewer days per year, and Income Tax Information Bulletin #33 dated December 1, 2024 providing guidance that withholding is required rather than encouraged and to reflect form revisions associated with the 30-day safe harbor for nonresident employees.

Massachusetts

The Department published on January 3, 2025 regulation 830 CMR 62.5A.1: Non-Resident Income Tax, describing Massachusetts source income for non-residents.

The Department published in March 2025 PROPOSED REGULATION AMENDMENT 830 CMR 63.39.1 stating that activity not entirely ancillary to the solicitation of orders of tangible personal property includes the placement of Internet cookies onto the computers or other electronic devices of in-state customers that gather customer search information used to adjust production schedules and inventory amounts, develop new products, or identify new items to offer for sale. This follows examples contained in the MTC Statement of Information Concerning P.L. 86-272, revised in 2021.

Maine

Maine Revenue Services has published in March 2025 regulations at Chapter 326, LEASES AND RENTALS OF TANGIBLE PERSONAL PROPERTY, setting forth requirements for leases and rentals of tangible personal property, including leases and rentals of software, relating to Maine Sales and Use Tax Law, effective January 1, 2025.

Minnesota

The Department has published in January 2025 Income Fact Sheet #4, describing the income tax reciprocity agreements that Minnesota has entered into with neighbor states, and providing specific Minnesota income tax guidance to residents and non-residents of those states.

New Hampshire

The Department of Revenue Administration has published “New Hampshire Interest and Dividends Tax Frequently Asked Questions” and “New Hampshire Technical Information Release 2025-001” advising that the interest and dividends tax is repealed for tax periods beginning after December 31, 2024.

New Jersey

The Department of Treasury has proposed regulation 57 N.J.R. 305(a) that would adopt portions of the Multistate Tax Commission's guidelines on when a company's internet activities exceed a federal law's protection against state income taxes. Paul Williams, “NJ Floats Rules To Follow MTC Stance On Internet Activities,” *Law360* (February 18, 2025).

The Department has published TB-115 dated April 15, 2025, providing that the Department will begin a pilot mediation program on October 1, 2025. Mediation will offer a new option allowing taxpayers to resolve certain types of state tax controversies with the expectation of reducing the number of protests progressing to

the Conference and Appeals Branch (“CAB”) and the complaints filed with the New Jersey Tax Court. The Pilot seeks to provide a vehicle for taxpayers to resolve tax controversies quickly and with finality – without incurring costs generally associated with matters brought to CAB or Tax Court.

New York

The Department published Publication 831 (dated 2/25) entitled “Collection and Reporting Instructions for Printers and Mailers For sales on and after March 1, 2025” provides printers, mailers, or printer-mailers with the information necessary to collect and report the correct amount of sales tax due New York State on printing and mailing charges.

The Department has published “Deriving receipts for Article 9-A tax and MTA surcharge” setting forth the economic nexus threshold for corporate franchise tax and the MTC surcharge (periodically adjusted for inflation): \$1,283,000 for tax years beginning on or after January 1, 2024, and before January 1, 2026.

North Carolina

The Department published on January 1, 2025, updated 2025 Sales and Use Tax Bulletins (“SUTBs”), stating that North Carolina has eliminated its 200 transactions sales/use tax economic nexus threshold.

Pennsylvania

The Department published in December 2024 tax guidance entitled “Pennsylvania Tax Obligations for Online Retailers” emphasizing that a business with property or inventory in Pennsylvania is subject to Pennsylvania taxes. This requirement applies to online retailers with inventory stored at a distribution or fulfillment center located in Pennsylvania. Income and applicable sales taxes should be reported and remitted to the Department of Revenue.

South Carolina

The Department has circulated for public comment proposed Revenue Ruling #25-x dated March 10, 2025 entitled “Sourcing Gross Receipts for Services.”

Tennessee

The Department has published Tennessee Revenue Ruling No. 24-12 providing sourcing guidance for drop shipments for franchise and excise tax purposes. When the end user is located in Tennessee, the Taxpayer should source the sale to

Tennessee, and when the end user is located out of state, the Taxpayer should source the sale outside of Tennessee for Tennessee franchise and excise tax purposes.

Washington

The Department has published Excise Tax Advisory ETA 2241.2024 dated December 5, 2024 entitled "Non-Fungible Tokens," providing extensive guidance on sales and B&O tax treatment of NFTs and replacing prior guidance.

Wisconsin

The Department has published Publication 125 (dated 1/25) entitled "Credit for Tax Paid to Another State," providing guidance concerning residents with out-of-state source income claiming credit for tax paid to other states on such income.

Legislation

Arkansas

H.B. 1116 has been introduced in the Arkansas Legislature, which would provide an income tax exemption for nonresident employees (including withholding obligations for their employers) when employees are working in Arkansas for a 15-day threshold (with an additional \$2,500 threshold for personal income tax filing).

Idaho

The Idaho Legislature enacted HB 144, effective July 1, 2025, creating a sales tax collection exemption for a "small seller," defined as an Idaho resident making sales that do not exceed five thousand dollars (\$5,000) in cumulative gross receipts in the current or previous calendar year, but not including partnerships, corporations, or limited liability corporations.

Minnesota

S.F. 46 has been introduced in the Minnesota Legislature, and would create an exemption from withholding and personal income tax liability on non-resident employees temporarily working in Minnesota for less than 30 days.

Mississippi

The Mississippi Legislature enacted L. 2025, S2805 , effective 07/01/2025, including the gross proceeds or gross income of third-party facilitators within the scope of any tax levied on the gross proceeds or gross income from room rentals in hotels or motels. The definition of "hotel or motel" is amended to include entities or individuals who facilitate, arrange, or broker one or more rooms intended or designed for dwelling, lodging or sleeping purposes that at any one time will accommodate

transient guests. Checkpoint, *State Tax Update*, “Third party facilitators to be taxed for hotel or motel rentals in Mississippi,” April 2, 2025.

New Jersey

S. 3604 has been introduced in the New Jersey Legislature and would eliminate the 200-transaction nexus requirement that currently imposes a sales tax collection obligation on remote sellers with only *de minimis* sales into New Jersey.

Ohio

The Legislature enacted HB 315, which allows a delivery network company to obtain a waiver of the requirement that they be treated as the seller of goods; defines delivery network company as a person that operates a business platform to facilitate delivery network services. Delivery network services is the pickup and delivery of a local product within 75 miles.

South Dakota

The Legislature has enacted SB 43, which provides that a remote seller or marketplace facilitator initially exceeding South Dakota's sales tax economic nexus threshold/criteria is not required to register and remit the tax prior to the first day of the first month that begins at least thirty days after meeting the criteria.

Utah

The Legislature enacted S.B. 47, repealing the “200 transactions” sales/use tax economic nexus threshold applicable to out-of-state sellers and marketplace facilitators, effective July 1, 2025.

Virginia

The Legislature enacted L. 2025, H2383 (c. 458), effective 07/01/2025, providing that an accommodations provider is not required to transmit a transient occupancy tax return to a locality if all of the accommodation provider's retail sales of accommodations are facilitated by an accommodations intermediary, and the accommodations provider attests that to the locality. State Tax Update, “Virginia reiterates when accommodations providers, intermediaries file transient occupancy tax returns,” *Checkpoint* (March 26, 2025).

Federal

Senators John Thune (R-SD) and Catherine Cortez Masto (D-Nev.) on April 10, 2025 introduced in the U.S. Senate a bill entitled the “Mobile Workforce State Income Tax Simplification Act,” which would establish a 30-day threshold before a mobile worker

temporarily working in another state would be subject to that state's income tax. Neither senator hails from a state that imposes individual income tax.

Cases

Illinois

More remote sellers have filed petitions in December 2024 challenging the constitutionality of the Illinois Level the Playing Field Legislation as imposing an undue burden on interstate commerce. This legislation imposes conflicting sourcing rules for state and local tax purposes, depending on whether the seller is in-state, out-of-state with some physical presence, or out-of-state with no physical presence. See *Life Is Good Retail, Inc. v. Illinois Department of Revenue*, case no. 24 TT119, Illinois Independent Tax Tribunal; *Hill House Home Inc. v. Illinois Department of Revenue*. Three similar cases are already pending. Michael Bologna, "Clothing Brand Joins Protests of Illinois's Uneven Sales Tax Law," *Bloomberg Tax News* (December 10, 2024).

Maryland

Apple filed a petition in *Apple Inc. v. Comptroller of the Treasury of Md.*, Md. T.C., No. 23-DA-00-0456, October 20, 2023, seeking refund of digital advertising tax payments, arguing the tax is illegal and unconstitutional. The Comptroller filed a motion for summary judgment on March 14, 2024, arguing that ITFA violates the anticommandeering doctrine of the Tenth Amendment, and Maryland's Digital Advertising Tax does not violate the dormant Commerce Clause or the Due Process Clause of the United States and Maryland Constitutions. Similar petitions have been filed by other large software companies, and all remain pending following briefing and oral argument.

Following the U.S. District Court's dismissal of Count IV of the complaint claiming that Maryland's Digital Advertising Gross Revenues Tax Act tax pass-through prohibition provision violated the First Amendment in *Chamber of Commerce of the U.S.A., et. al. v. Lierman*, Civil Action No. 21-cv-00410-LKG on July 3, 2024, the plaintiffs have appealed that ruling to the Fourth Circuit, docket no. 24-1727 and have filed their supporting brief. The appeal remains pending.

Massachusetts

In *Welch v. Commissioner of Revenue*, No. 24-P-109 (April 3, 2025), the Massachusetts Appeals Court affirmed the Appellate Tax Board's decision upholding the Commissioner's assessment on the taxpayer's gain income from the sale of stock in a software company located in Massachusetts that the taxpayer founded and worked for since 2003. The taxpayer also resided in Massachusetts until moving to New

Hampshire, shortly before retiring from the company and selling his stock in 2015. The court interpreted G. L. c. 62, § 5A, and 830 Code Mass. Regs. § 62.5A.1(3)(c)(8) (2006), concluding that the gain from the sale was Massachusetts source income "derived from or effectively connected with" the taxpayer's trade or business or employment, G. L. c. 62, § 5A (a), even though at the time of the sale he was no longer actively engaged in a trade or business or employment in the commonwealth. The taxpayer reported no wage income for the first few years and took minimal salary for some years after that. He became the CEO in 2010. The taxpayer sold his stock to the company in 2015 and resigned, with the resignation contingent on the sale occurring.

Michigan

The parties in *Apex Labs. Int'l Inc. v. Detroit*, Mich. Tax Trib., No. 16-000724-R-TT, reached a settlement agreement filed January 7, 2025. A holding company disputed that it had nexus with Detroit and owed tax on capital gains from its sale of a tobacco testing company based on the holding company doing business in Detroit. Richard Tzul, "Delaware Holding Company Settles \$800,000 Tax Fight with Detroit," Bloomberg Law News (January 9, 2025).

Minnesota

The U.S. Supreme Court has denied the certiorari petition of Uline, Inc., which sought review of the decision in *Uline, Inc. v. Commissioner of Revenue*, No. A23-1561 (August 7, 2024), in which the Minnesota Supreme Court affirmed a Tax Court decision upholding the Commissioner of Revenue's income tax assessment against Uline, Inc. ("Uline"), an industrial and packaging product business located in Wisconsin. Uline sent sales representatives into Minnesota and claimed protection from tax under P.L. 86-272. The Minnesota Supreme Court determining that Uline's sales representatives performed market research in Wisconsin, which was unprotected non-solicitation activity pursuant to the *Wrigley* "independent business function" test.

New York

In *In re RICHARD S. MYERS AND ERIN LANGAN*, DTA No. 850197 (January 8, 2025), the New York Division of Tax Appeals upheld application of the New York "convenience of the employer" rule to impose income tax on wages earned outside of New York by taxpayers working remotely for a New York employer during the pandemic.

Ohio

The Ohio Supreme Court has affirmed the Ohio Board of Tax Appeals in *Total Renal Care, Inc. v. Harris*, SLIP OPINION NO. 2024-OHIO-5685 (2025), upholding the Department's denial of CAT refund claims by a provider of kidney dialysis services to patients in Ohio. The patients were required to undergo monthly blood testing, with labs in Florida performing the testing. Also, the provider performed related administrative services outside of Ohio. The Board determined that the patients received the benefit of the lab work and related administrative services in Ohio, where they underwent the dialysis treatment, so those services were properly sourced to Ohio. In addition, the Board determined that insufficient evidence was presented to show the amounts attributable to those services performed out-of-state.

In *Straub Nissan LLC v. Harris*, No. 2022-422 (October 23, 2024), the Ohio Board of Tax Appeals determined that a West Virginia auto dealership was not subject to Ohio CAT on its receipts from sales of motor vehicles to Ohio residents who traveled to the dealership, took possession of the vehicles at the dealership premises and drove the vehicles back home to Ohio under the CAT sourcing rules, in that the vehicles were not transported to Ohio under those circumstances.

Oregon

The U.S. Supreme Court (Docket No. 24A243) has denied the taxpayer's petition for certiorari in *SANTA FE NATURAL TOBACCO COMPANY v. Department of Revenue*, (TC 5372) (SC S069820) 372 Or 509 (2024). The Oregon Supreme Court affirmed the lower court, upholding the Department of Revenue's income tax assessment in. The taxpayer, an out-of-state tobacco manufacturer, argued that P.L. 86-272 applied to protect it against Oregon's income tax. The court applied the *Wrigley* "independent business function" test in determining whether the taxpayer's in-state activities were limited to those "ancillary to solicitation," finding that conduct of employees soliciting Oregon tobacco product retailers to place orders with Oregon wholesalers went beyond "solicitation," in that those employees at times took "prebook orders" from retailers, filling out an order form for tobacco products. The prebook order form would be signed by the retailer, would include the product amounts and delivery dates, and the employee would send that prebook order to the wholesaler. The incentive agreements between the tobacco manufacturer and the wholesalers required the wholesalers to accept these prebook orders and otherwise imposed penalties them. The tobacco manufacturer also established "specific prebook goals" for its employee trade representatives. The court characterized this activity as "facilitation" of a sale, not solicitation of an order, which went beyond the scope of protected activities under P.L. 86-272. The court found that these "prebook orders"

were not *de minimis*, and analogized them to the “agency stock checks” at issue in *Wrigley*.

In *Time Warner Inc. v. Department of Revenue*, No. TC-MD 220337N (March 31, 2025), the Oregon Tax Court in an interim order reviewing the Department’s corporate tax assessment, granted in part the Department’s motion for partial summary judgement and determined that seven networks, subsidiaries of the taxpayer, qualified as interstate broadcasters within the meaning of ORS 314.680(3) in that under their affiliation agreements, they transmitted programming to viewers nationwide through third-party cable and satellite distributors and cable television systems (“network third-party affiliates”) and received income based on the number of subscribers, which were apportionable based on the relative Oregon audience size. The court noted that nothing in the plain language of the statute or the legislative history suggests that a broadcaster must have a contractual relationship with its audience. Operating a television network that receives revenue based on the audience size or number of subscribers qualifies as “the business of broadcasting.” The taxpayer argued unsuccessfully that the network third-party affiliates were the broadcasters and the networks had no contractual relationship with Oregon viewers. The court determined that the taxpayer had substantial nexus with Oregon, based on the networks’ extensive national advertising, which reached Oregon consumers, and its monthly revenues from third-party affiliates were attributable to the number of Oregon subscribers in monthly reports. The court found no due process violation with the assessment, in that the networks generated significant income – including from Oregon viewers – through the activity of distributing cable programming.

In *NBC Universal Enterprise Inc. v. Department of Revenue*, TC-MD 170037R (March 25, 2025), the Oregon Tax Court entered a ruling similar to its *Time Warner* decision, based on similar facts.

Pennsylvania

The U.S. Supreme Court (Docket No. 23-914) denied the petition for certiorari filed by the taxpayer in *Zilka v. Tax Review Board of Philadelphia*, in which the Pennsylvania Supreme Court found that Philadelphia did not unconstitutionally discriminate against interstate commerce when it allowed Diane Zilka, a Philadelphia resident working for a Wilmington, Delaware employer, a credit against the city’s wage tax for local income tax paid to Wilmington, but denied additional credits for out-of-state income tax Zilka paid to Delaware.

South Carolina

Additional amicus briefs have been filed (National Retail Federation, Institute of Professions in Taxation in support of Amazon, Law Professors Tessa Davis and Clinton Wallace in support of the Department) with the South Carolina Supreme Court in its pending review of *Amazon Services, LLC v. South Carolina Department of Revenue*, Supreme Court Appellate Case No. 2024-000625, the lower court order affirming the Department's sales tax assessment on three months of 2016 FBA sales.

Texas

In *The GEO Group, Inc. v. Hegar*, No. 23-0149, the Texas Supreme Court affirmed the trial court, which upheld the Texas Comptroller's denial of the taxpayer's sales/use tax refund claim. The taxpayer, a Florida corporation that contracts with federal and state government entities to detain their inmates in GEO Group's correctional facilities, claimed to be a private, for-profit corporation qualifying as an "agent" or "instrumentality" of the federal or state government and thus exempt from certain state taxes on its purchases pursuant to those contracts. The court determined that the taxpayer failed to meet its burden to show that it was in fact an "agent" or "instrumentality" of the government.

Richard Cram
Director, National Nexus Program