

## Income/Franchise:

### West Virginia: Proposed Rule Changes Reflect Adoption of Single Sales Factor and Market-Based Sourcing

*Notice of Rule Modification of Proposed Amended Regs. Sections 110-24-1, 110-24-2, 110-24-3 et al., W. Va. State Tax Dept. (9/21/21); Notice of Agency Approval of Proposed Amended Regs. Sections 110-24-1, 110-24-2, 110-24-3 et al. and filing with Legislative Rule-Making Review Committee, W. Va. Dept. of Rev. (7/27/21).*

Following comments received from its initially proposed state corporation net income tax rules reflecting legislation enacted earlier this year [see H.B. 2026 (2021) and previously issued Multistate Tax Alert for more details on this new law], the West Virginia State Tax Department has issued modifications to its proposal. The lengthy proposed rules reflect new West Virginia law that includes:

**URL:** <https://apps.sos.wv.gov/adlaw/registers/readpdf.aspx?did=39971>

**URL:** <https://apps.sos.wv.gov/adlaw/registers/readpdf.aspx?did=39963>

**URL:** [https://www.wvlegislature.gov/Bill\\_Status/bills\\_history.cfm?INPUT=2026&year=2021&sessiontype=RS](https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2026&year=2021&sessiontype=RS)

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-west-virginia-adopts-single-factor-sales-and-market-sourcing-apportionment.pdf>

- Moving from a three-factor apportionment formula consisting of property, payroll, and double-weighted sales to a single-sales factor formula, effective for tax years beginning on or after January 1, 2022;
- Eliminating the sales factor “throw-out” rule for certain sales of tangible personal property made on or after January 1, 2022; and
- Adopting market-based sourcing for certain receipts derived from services and intangible property on sales made on or after January 1, 2022, in place of its “costs of performance” sourcing methodology.

The updated proposal includes a specified sunset date that the rule “shall terminate and have no further force or effect on August 1, 2027.” Please contact us with any questions.

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