

Income/Franchise:

West Virginia: New Law Adopts Single Sales Factor, Market-Based Sourcing for Some Passthrough Income

H.B. 4410, signed by gov. 3/30/22. Applicable for taxable years beginning on and after January 1, 2022, new law amends West Virginia's personal income tax provisions on the allocation and apportionment of income of nonresidents from multistate business activity arising from certain flow-through entities to mirror many of the West Virginia corporate net income tax legislative changes enacted in 2021 [see H.B. 2026 (2021) and previously issued Multistate Tax Alert for more details on the 2021 corporate net income tax law changes], including:

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

URL: 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;
- Eliminating the sales factor "throw-out" rule for certain sales of tangible personal property; and
- Adopting market-based sourcing for certain receipts derived from services and intangible property in place of its "costs of performance" sourcing methodology.

Under this legislation, a "flow-through entity" generally means an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company and may include some publicly traded partnerships.

See forthcoming Multistate Tax Alert for more details on these recent law changes, including related taxpayer considerations, and please contact us with any questions in the meantime.

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