

Income/Franchise:

Virginia: New Law Expands Filing Method Options, Addresses IRC §163(j), Creates PTE Tax Election

H.B. 348, signed by gov. 4/8/22. Effective July 1, 2022, new law decreases from *twenty* years to *twelve* years the time period for which an otherwise qualifying affiliated group of corporations must file on the same basis before it may apply to the Virginia Tax Commissioner for permission to change the basis of the type of Virginia corporate income tax return filed from consolidated to separate, or from separate or combined to consolidated.

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb348>

S.B. 386 / H.B. 224, signed by gov. 4/11/22. Effective July 1, 2022, and applicable for taxable years beginning on and after January 1, 2023 but before January 1, 2025, new law provides that certain affiliated groups of corporations may elect to change the basis of the type of Virginia corporate income tax return filed from combined to consolidated, if:

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=sb386>

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- The affiliated group has filed on the same basis for at least the preceding twenty years; and
- On or before January 1, 2022, at least one member of the affiliated group is a related entity to a state or national bank that is exempt from filing a Virginia corporate income tax return because it is instead subject to Virginia's bank franchise tax.

Any eligible affiliated group that elects to change the basis of the type of return filed under this legislation must agree to file returns computing its Virginia income tax liability under both the new filing method and the former method, and then it must pay the greater of the two amounts for the taxable year in which the new election is effective *and* for the immediately succeeding taxable year.

H.B. 1006, signed by gov. 4/11/22. Effective July 1, 2022, and applicable for taxable years beginning on and after January 1, 2022, new law revises Virginia's corporate and individual income tax treatment of the limitations on the deduction of business interest expense under Internal Revenue Code (IRC) section 163(j) by increasing the state deduction to 30%, rather than 20%, of the business interest disallowed pursuant to IRC section 163(j).

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb1006>

H.B. 1121 / S.B. 692, signed by gov. 4/11/22. Effective July 1, 2022, qualifying pass-through entities may make an annual election in Virginia to pay an entity-level state income tax for taxable years beginning on and after January 1, 2021, but before January 1, 2026. See recently issued Multistate Tax Alert for more details on this new Virginia pass-through entity tax election.

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb1121>

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=sb692>

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

Please contact us with any questions or comments.

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