

Income/Franchise:

Virginia: New Law Revises PTE Tax and Rules for an Affiliated Group to Change its Filing Status

H.B. 1456 / S.B. 1476, signed by gov. 3/27/23. Effective for taxable years beginning on and after January 1, 2021, but before January 1, 2026, new law amends certain provisions pertaining to Virginia's elective pass-through entity tax (PTET), including removing the requirement that to qualify for the PTET election, a pass-through entity must be 100% owned by natural persons or persons eligible to be shareholders in an S corporation (thus making the PTET election available to pass-through entities with owners that are corporations or pass-through entities). See recently issued Multistate Tax Alert (March 28, 2023) for more details on these law changes to the PTET.

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=231&typ=bil&val=hb1456>

URL: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=231&typ=bil&val=sb1476>

H.B. 1405 / S.B. 796, signed by gov. 3/26/23. Effective July 1, 2023, and applicable to requests filed with the Virginia Department of Taxation on or after July 1, 2023, new law amends the requirements for a qualifying affiliated group to elect to change its Virginia corporate income tax filing method status by removing the condition that its tax liability for the previous tax year not be decreased by such a requested change in filing status. The bill leaves intact Virginia's other remaining requirements for an affiliated group to change its Virginia filing method status (*e.g.*, changing from consolidated to separate filing, or from separate or combined to consolidated filing), including that the electing affiliated group must:

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- Have filed on the same basis in Virginia for the preceding twelve years; and
- Agree to compute its tax liability under both the requested new return basis and the former return basis and be liable for the greater of the two amounts for the taxable year in which the requested new return basis is effective and the immediately succeeding taxable year.

Please contact us with any questions.

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