



MULTISTATE INCOME/FRANCHISE TAX

West Virginia adopts single sales factor and market-based sourcing for flow-through entities

Tax Alert

Overview

On March 30, 2022, West Virginia's Governor signed into law [House Bill 4410](#) (H.B. 4410). The bill adopts a single-sales factor apportionment formula with market-based sourcing for flow-through entities, effective for the 2022 tax year. This development generally brings the apportionment formula for flow-through entities in conformity with the corporate income tax apportionment changes enacted in 2021, which are also effective for the 2022 tax year.

This Tax Alert summarizes some of the provisions in H.B. 4410.

Apportionment changes

H.B. 4410 amends West Virginia's personal income tax provisions for the allocation and apportionment of income of nonresidents from multistate business activity arising from certain flow-through entities. Flow-through entities is defined to mean S corporations, partnerships, limited partnerships, limited liability partnerships, or limited liability companies. H.B. 4410 mirrors many of the West Virginia corporate net income tax legislative changes enacted in 2021, including adopting a single-sales factor formula and market-based sourcing of certain receipts. More specifically, the bill includes the following modifications to West Virginia law:

- Changes the apportionment factor for flow-through entities from a three-factor apportionment formula to a single-sales factor formula.
- Introduces market-based sourcing for sales of services and intangible property for flow-through entities.

H.B. 4410 is effective for tax years beginning on or after January 1, 2022.

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