VA Tax Changes: *Calculation of Multi-State Apportionment May Benefit Manufacturers*

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Apportionment options may benefit Manufacturers in Virginia

Companies designated as manufacturers in Virginia can now elect to use heavier-weighted sales factor apportionment to determine their taxable income in Virginia. Based on legislation passed in 2009, this new apportionment election is being phased in over a three-year period starting with tax years beginning on or after July 1, 2011. This applies to calendar year 2012 and years thereafter. Keep in mind that to qualify for the special election, certain wage and employment thresholds must be met and maintained over the three-year period. If not maintained, an additional tax ("recapture") and interest will be assessed. The phase-in is as follows:

Taxable years beginning on or after July 1, 2011 but before July 1, 2013

Qualifying manufacturing companies may use a triple-weighted sales factor

$$\frac{\text{Payroll Factor} + \text{Property Factor} + (\text{Sales Factor} \times 3)}{5} = \text{VA Apportionment Factor}$$

Taxable years beginning on or after July 1, 2013 but before July 1, 2014

Qualifying manufacturing companies may use a quadruple-weighted sales factor

$$\frac{\text{Payroll Factor} + \text{Property Factor} + (\text{Sales Factor} \times 4)}{6} = \text{VA Apportionment Factor}$$

Taxable years beginning on or after July 1, 2014

Qualifying manufacturing companies may use a single sales factor to apportion taxable income to Virginia

$$\frac{\text{Sales in Virginia}}{\text{Sales Everywhere}} = \text{VA Apportionment Factor}$$

Who is a qualifying manufacturing company?

A qualifying manufacturing company in Virginia is a manufacturer that derives fifty percent or more of its gross receipts from manufacturing activities, or fifty percent or more of its employees are engaged in manufacturing activities.

How can the election be made?

The election is made by the company on its Virginia corporate or pass-through entity income tax return. Specifically, the election is made on either Form 500A (apportionment for corporations) or Form 502A (apportionment for pass-through entities) which are included with the company's tax return. The company may make an apportionment election and, once made, is bound by the election and applicable phase-in provisions for three total taxable years. For example, if a company with a tax year beginning January 1, 2012 elects on its 2012 tax return to use the modified apportionment method, its subsequent apportionment factors must be calculated as follows:

Calendar Year	Tax Year	Apportionment Method
1/1/12 – 12/31/12	2012	Three factor formula, triple-weighted sales
1/1/13 – 12/31/13	2013	Three factor formula, triple-weighted sales
1/1/14 – 12/31/14	2014	Three factor formula, quadruple-weighted sales
1/1/15 – 12/31/15	2015	Taxpayer has option to move to single sales factor OR return to three factor formula, double weighted sales

The company in the previous example elects the modified apportionment on its 2012 tax return. As a result, the company is bound by the election's phase-in provisions for 2013 and 2014 (three total tax years). After 2014, the company may switch back to the traditional three-factor formula (payroll, property, double-weighted sales) or may elect to use single sales factor apportionment for another three years.

What are the benefits of making the election?

Multistate manufacturing companies (either C-corporations or pass-through entities with VA non-resident partners/shareholders) who have high sales outside of Virginia can benefit from electing the alternate apportionment method. A company that does not have nexus in other states who manufactures and ships products out of Virginia can have a lower apportionment percentage under the new election.

Case study

Tax Year: 2012
Federal Taxable Income: $450,000
Payroll: Virginia - $350,000, Everywhere - $700,000 (Virginia apportionment = 50%)
Property: Virginia - $500,000, Everywhere - $800,000 (Virginia apportionment = 62.5%)
Revenue: Virginia - $360,000, Everywhere - $1,800,000 (Virginia apportionment = 20%)

Option 1: No Election made (double-weighted sales)

Apportionment factor = (50 + 62.5 + (20 x 2)) / 4 = 38.125%
2012 Virginia taxable income = $450,000 x 38.125% = $171,563
2013 (no change) - Virginia taxable income = $450,000 x 38.125% = $171,563
2014 (no change) - Virginia taxable income = $450,000 x 38.125% = $171,563
2015 (no change) - Virginia taxable income = $450,000 x 38.125% = $171,563

Total VA taxable income 2012 to 2015 = $686,252
VA tax due 2012 to 2015 = $41,175

Option 2: Election made (triple-weighted sales)

Apportionment factor = (50 + 62.5 + (20 x 3)) / 5 = 34.5%
2012 Virginia taxable income = $450,000 x 34.5% = $155,250
2013 (no change from 2012) - Virginia taxable income = $450,000 x 34.5% = $155,250
2014 (quadruple sales) - Virginia taxable income = $450,000 x 32.08% = $144,360
2015 (single sales factor) Virginia taxable income = $450,000 x 20% = $90,000

Total VA taxable income 2012 to 2015 = $544,860
VA tax due 2012 to 2015 = $32,691

Total Tax Savings = $8,484

Note: The apportionment election is not required to be made. A manufacturer can continue apportioning income using the traditional three-factor formula of payroll, property, and double-weighted sales. Keep in mind that if the election is made, there are wage and employment requirements that must be met to avoid additional tax ("recapture") and interest. Please see the guidelines from the Virginia Department of Taxation (page 5) for further details: http://www.tax.virginia.gov/Documents/2012_Single_Sales_Factor_Guidelines.pdf