



This Week in State Tax (TWIST)

April 10, 2023



WEST VIRGINIA



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West Virginia: New Subtraction Created to Offset Apportionment Changes

In 2021, West Virginia adopted single sales factor apportionment for tax years beginning on or after January 1, 2022. Effective for *sales* made on or after January 1, 2022, market-based sourcing was adopted for service and intangible receipts, and the throw-out rule was repealed. Recently-enacted legislation (House Bill 3286, signed March 29, 2023) provides a new subtraction intended to offset the financial statement impact of the 2021 apportionment changes. Specifically, if the application of the three apportionment changes collectively results in an aggregate increase in the taxpayer's net deferred tax liability or an aggregate decrease in the taxpayer's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the taxpayer shall be entitled to a new subtraction. The subtraction will be taken over a 10-year period beginning with the taxpayer's tax year that begins on or after January 1, 2033 and will be equal to one tenth of the amount necessary to offset the increase in the net deferred tax liability or decrease in the net deferred tax asset. The subtraction is available only to publicly traded companies, and any taxpayer intending to claim the subtraction must file a statement with the Tax Commissioner on or before July 1, 2024, specifying the total amount of the subtraction. The statement must be made on such form and in such manner as prescribed by the Commissioner. Please stay tuned to TWIST for additional legislative updates.



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