

Is a trend starting for special state tax treatment of retailers?

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In brief

Retail companies are not often thought of within the group of industries that has special treatment for state and local tax purposes. However, in the last two years New Mexico and Virginia have enacted special state income tax rules for retailers. Retailers should be aware of New Mexico's combined reporting requirement and Virginia's single sales factor apportionment method applicable to certain retailers.

In detail

New Mexico requires combined reporting for 'big box' retailers

On April 4, 2013, New Mexico enacted [H.B. 641](#), which requires mandatory unitary combined reporting for certain large retailers for taxable years beginning on or after January 1, 2014. Specifically, unitary corporations that make retail sales of goods in a New Mexico facility that is larger than 30,000 square feet must file a combined return with other unitary corporations. There is an exception for large retailers that employ at least 750 employees at facilities that do not provide retail sales of goods.

Virginia's single sales factor phase-in for retailers

Virginia enacted [S.B. 49](#) on April 6, 2012, which provides

for a phased-in mandatory single sales factor for 'retail companies.' For taxable years beginning on or after July 1, 2012, retail companies use a triple weighted sales factor. For taxable years beginning on or after July 1, 2014, retail companies use a quadruple weighted sales factor. A single sales factor is required for retail companies for tax years beginning on or after July 1, 2015.

A 'retail company' means a domestic or foreign corporation primarily engaged in activities that, in accordance with the North American Industry Classification System, United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sectors [44-45](#).

The takeaway

There are many state and local tax matters unique to retailers. While most issues are sales tax related, New Mexico and Virginia have recently proven that special income tax treatment may be applied to retailers. Does this signal a trend? Special treatment could be favorable or unfavorable. For example, Virginia's change may have been motivated by a desire to provide tax relief for in-state retailers. However, New Mexico's change could have been implemented to bring out-of-state entities within the state's taxing jurisdiction. Retail companies should be aware of the recent state changes, and remain diligent to identify future state tax changes targeted to the retail industry.

Let's talk

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