



This Week in State Tax (TWIST)

January 12, 2026



New York: Reduced tax rate requires all members of combined group to meet requisite criteria

A New York appellate court upheld an administrative determination that the reduced corporate tax rate applicable to “qualified emerging technology companies” (QETCs) was only available to a combined group if each group member individually met the criteria for the reduced rate. The taxpayer, an affiliated group of companies located both within and without New York that provided video, high-speed data, and digital voice services to both residential and business customers, filed its New York combined returns using the 6.5 percent rate applicable to QETCs. On audit, the Department of Taxation and Finance determined that the group was not a QETC and applied the regular 7.1 percent rate. An Administrative Law Judge (ALJ) rejected the taxpayer’s subsequent petition for redetermination, and the matter was taken to the appellate court.

New York law, for the years at issue (2012-2014), provided two methods for determining whether a taxpayer was entitled to the reduced rate. The first method (“Method One”) required that an entire combined group may be considered a QETC if the taxpayer “(1) is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing; (2) has property principally used for that purpose in New York; and (3) the adjusted basis of such property is at least one million dollars or all of its real and personal property is located in New York.” The second method (“Method Two”) was available only to QETCs that are located in New York. It did not explicitly provide for the treatment of combined groups. In this matter, the taxpayer argued that, even though certain members of the group were not located in New York, the group, taken as a whole, met the criteria to be considered a QETC and was entitled to the reduced rate under Method Two.

It was undisputed that certain members of the combined group were not located in New York during the relevant time, thus the question before the appellate court was whether the applicable statutory provisions required every member of a combined group to independently meet the definition of QETC and be located in New York for the combined group to be entitled to the reduced rate. In interpreting the statutory language and legislative intent, the court upheld the ALJ decision that the taxpayer’s combined group was not entitled to the reduced tax rate, because under Method Two, certain members of the combined group were not located in New York and accordingly failed to meet the QETC criteria. This conclusion centered on the fact that the legislature had explicitly provided requirements to determine if a combined group could be a QETC under Method One, but “failed to delineate a specific set of criteria” for combined groups in Method Two. Treating the entire group as a QETC under Method Two when not all members were located in New York would, therefore, grant a reduced rate

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should be available at least to those members that individually met the QETC criteria, determining that this would “effectively result in decombining the group and ‘distort the group’s economic activity in New York’.” As to qualifying under Method One, the court indicated that New York law treated each individual member of a combined group as a taxpayer, and it was clear that not all members had the requisite amount of personal and real property in the state. Finally, the court rejected an argument that denying the group QETC status because one or more of its members lacked New York presence would violate the dormant Commerce Clause. On this issue, the court noted that “legislative enactments carry an exceedingly strong presumption of constitutionality” and that the system did not discriminate against out-of-state commerce because a non-New York entity could still qualify for QETC status through some New York presence. Contact [Aaron Balken](#) or [Alec Schwartz](#) with questions about [Matter of Charter Communications](#).

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