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KPMG reports: Missouri (REIT dividends deductible); New York (qualified emerging technology company); multistate (worldwide combined reporting)

KPMG This Week in State Tax—produced weekly by the KPMG State and Local Tax practice—focuses on recent state and local tax developments.

- **Missouri:** The state Administrative Hearing Commission held that dividends received from a Missouri real estate investment trust (REIT) were deductible in determining Missouri taxable income, despite the fact that REIT dividends are not treated as dividends for purposes of the deduction allowed under IRC section 243.

- **New York:** The state Tax Appeals Tribunal upheld an administrative law judge (ALJ) determination that a taxpayer combined group was not a "qualified emerging technology company" (QETC) eligible for the lower corporate tax rate applicable to qualified New York manufacturers for the 2012-2014 tax years at issue. The tribunal agreed with the ALJ's conclusion that each and every member of a combined group, tested separately, must be a QETC, for the group to be considered a QETC.

- **Multistate:** Currently, no U.S. state requires worldwide combined reporting; but certain states, such as Minnesota, Hawaii, and New Hampshire, considered worldwide combined reporting proposals in 2023.

    - **Tennessee:** House Bill 2043 and Senate Bill 1934 that would adopt worldwide combined reporting have been introduced in 2024.

    - **Vermont**: While there is no formal bill proposed yet, legislators in Vermont are reportedly studying a draft bill that would implement worldwide combined reporting. This comes on the heels of prior legislative changes made to Vermont's combined reporting rules that require, beginning with the 2023 tax year, U.S. organized corporations with significant foreign activity to be included in the combined group.

    - **Colorado:** Colorado House Bill 24-1134 would make the state's corporate income tax more uniform by "replacing the current combined reporting standard with the Multistate Tax

Commission's standard and modifying the computation of the receipts factor to make it more congruent with the unitary business principle."

- **New Mexico:** Senate Bill 181 would change the makeup of the water's-edge combined group to exclude only "foreign" corporations with less than 20% of their property, payroll, and sales sourced to locations within the United States. Currently, the exclusion applies to all such corporations, wherever organized or incorporated. The bill would also eliminate the exclusion for Subpart F income.

- **South Carolina:** Senate Bill 298 would adopt specific standards under which the Department of Revenue may require a combined return or adjust a taxpayer's income if, for instance, intercompany transactions lack economic substance or are not at fair market value. The bill sets forth criteria for determining if these conditions are met (i.e., in determining whether transactions between members of the affiliated group of entities are not at fair market value, the Department must apply the standards contained in the IRC section 482 regulations). Another section of the bill addresses which entities could be included in a combined group. The bill passed the House on February 2, 2024, with amendments, and it now returns to the Senate, which had passed an earlier version last year.

Read a February 2024 report prepared by KPMG LLP