



MULTISTATE INCOME/FRANCHISE TAX

Virginia budget bill requires corporations to file an informational report on unitary combined reporting Tax Alert

Overview

Virginia House Bill [H.B. 1800](#), Virginia's Bi-annual Budget Bill, contained amendments from Governor Ralph Northam requiring Virginia corporate taxpayers that are members of a unitary business group to file an informational report with the Department of Taxation ("Department") for the unitary group reflecting the combined net income and tax of the unitary group. Corporations must file the report with the Department on or before July 1, 2021.

Corporate income tax informational reporting

Governor Ralph Northam proposed numerous amendments to Virginia's Bi-annual Budget Bill, H.B. 1800, which were approved into law on April 7, 2021. As part of the amendments, the state is requiring Virginia corporate taxpayers that are members of a unitary business to file an informational report reflecting combined net income for the unitary group based on tax year 2019 information. Additionally, the information report requires taxpayers to show the difference in tax owed under unitary combined reporting as compared to the tax owed on the taxpayer's tax year 2019 Virginia corporate income tax return under current filing requirements. For purposes of the report, the unitary group does not include foreign corporations with average payroll, property, and sales factors outside of the United States of 80% or more.

Corporations must submit the report [electronically](#) with the Department on or before July 1, 2021. The report, which is an excel-based template, must be submitted electronically via the Department's web upload function. The due date will not be extended. Corporations who fail to timely file the report with the Department or make a material misstatement or omission with respect to the report will be subject to a penalty of \$10,000.

Virginia unitary combined report guidance

The Department recently posted a [reference guide](#) to its website providing guidance on how to file the unitary combined report with the Department. The guide includes worksheets and other information to assist with filing the unitary combined report.

The guide provides rules regarding fiscal year taxpayers. Generally, the unitary combined report must be based on the 2019 tax year. However, if any group member has not filed a tax year 2019 Virginia return because the extended due date for such return falls after July 1, 2021, then the unitary combined report may be filed using tax year 2018 computations rather than tax year 2019 computations. The Department will waive penalties on such group members with extended due dates after July 1, 2021 that file their unitary combined report using tax year 2018 computations so long as no material omission or misstatement is made on the report.

The guide also clarifies that the \$10,000 penalty for corporations who fail to timely file the report with the Department or make a material misstatement or omission applies to each corporation separately. The Tax Commissioner has the authority to waive the penalty upon determining that the requirement to file the report would cause an undue hardship. The request for penalty waiver must be in writing.

Get in touch

[David Vistica](#)

[Joseph Carr](#)

[Jennifer Alban-Bond](#)

[Ashley Higgins](#)



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30 Rockefeller Plaza
New York, NY 10112-0015
United States

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