

## North Carolina informational reporting of market-based sourcing calculation

On October 2, 2015, we issued a Tax Alert summarizing House Bill 97 (H.B. 97),<sup>1</sup> which made various modifications to North Carolina tax law.<sup>2</sup> Among the changes is a requirement that corporate taxpayers with apportionable income greater than \$10 million must file, as part of their 2015 corporate income tax return, an informational report (Form NCDOR CD-400 MS, available [here](#)) with the Department of Revenue (Department) showing the calculation of the taxable year 2014 sales factor using market-based sourcing.<sup>3</sup> The 2014 sales factor is required to be computed based on the market-based provisions outlined in H.B. 97 (e.g., sales of services are to be sourced based on the “delivered to” location), as well as the model market-sourcing regulations drafted by the Multistate Tax Commission (MTC).<sup>4</sup> Along with other required information, the informational report must include:

- The corporation’s apportionment percentage used on the corporation’s 2014 North Carolina corporate tax return,
- The corporation’s 2014 apportionment percentage as calculated under the market-based sourcing rules provided in H.B. 97,
- The corporation’s primary industry code under the North American Industry Classification System, and
- Any other information prescribed by the Secretary of the Department.<sup>5</sup>

The informational report must be filed at the time the corporate taxpayer’s income tax return is due for the 2015 taxable year under N.C. Gen. Stat. §105-130.17(b).<sup>6</sup> Accordingly, for calendar-year taxpayers, the due date for filing the informational report is April 15, 2016. A taxpayer may not request an extension of time to file the informational report, and a penalty of \$5,000 shall be assessed for failure to file the report in a timely manner.<sup>7</sup>

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<sup>1</sup> Ch. S.L. 2015-241 (H.B. 97, signed by Governor Pat McCrory on Sept. 18, 2015). A copy of the adopted law is accessible [here](#).

<sup>2</sup> Our Tax Alert, “North Carolina enacts significant tax law changes,” issued on Oct. 2, 2015, is available [here](#).

<sup>3</sup> H.B. 97, Sec. 32.14A.(a), (b).

<sup>4</sup> H.B. 97, Sec. 32.14A.(b), (c). The Department may also publish additional market-based sourcing guidelines consistent with the MTC regulations. H.B. 97, Sec. 32.14A.(c).

<sup>5</sup> H.B. 97, Sec. 32.14A.(d).

<sup>6</sup> H.B. 97, Sec. 32.14A.(e).

<sup>7</sup> *Id.* Note, however, “The Secretary may reduce or waive the penalty as provided in N.C. Gen. Stat. §105-237.” *Id.*