

North Carolina “market-based sourcing” report due April 15; no extensions

Overview

On October 2, 2015, we issued a Tax Alert summarizing House Bill 97 (H.B. 97),¹ which made various modifications to North Carolina tax law.² Among the changes is a requirement that corporate taxpayers with apportionable income greater than \$10 million must file 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.³ 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).⁴ Along with other required information, the informational report is due April 15, 2016 for all taxpayers and 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.⁵

All corporate taxpayers must file the informational report by April 15, 2016, regardless of whether they are calendar year or fiscal year taxpayers.⁶

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.⁷

Contacts

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¹ 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](#).

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

³ H.B. 97, Sec. 32.14A.(a), (b).

⁴ 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).

⁵ H.B. 97, Sec. 32.14A.(d).

⁶ Ch. S.L. 2015-268 (H.B. 259, signed by Governor Pat McCrory on Oct. 1, 2015). Sec. 32.14A.(e).

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