



This Week in State Tax (TWIST)

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Multistate: States Propose Various Combined Reporting Changes

State legislatures are generally back in session, or will soon be in certain states. One state tax topic that is always of interest to multistate taxpayers is proposed bills to shift states to mandatory unitary combined reporting. 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. So far, in 2024, two bills that would adopt worldwide combined reporting have been introduced in Tennessee (House Bill 2043 and Senate Bill 1934). Currently, Tennessee is a separate reporting state. These bills would also repeal the sales and use tax on the retail sale of food and food ingredients. 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 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." In 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 percent 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. Finally, in South Carolina, Senate Bill 298 adopts 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. This 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. Stay tuned to TWIST for updates on these bills.

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