

TaxNewsFlash

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Kentucky: Deadline to claim deferred tax deduction is July 1, 2019

In 2018, two comprehensive tax reform bills (House Bill 366 and House Bill 487) were enacted in Kentucky. Collectively, this legislation made substantial changes to Kentucky's tax code. One of the most significant changes was the repeal of Kentucky's unique nexus consolidated return rules and adoption of mandatory unitary combined reporting.

Recognizing that certain companies would be adversely affected by the change, House Bill 458 (signed by the governor in April 2019) allows publicly traded companies whose deferred tax positions are negatively affected as a direct result of the change to combined reporting to claim a deduction in an amount necessary to fully offset the financial statement impact that results from the change. The deduction may be claimed only by filing the recently released Schedule DTD on or before July 1, 2019.

KPMG observation

The Department of Revenue has no leeway to extend the date even for reasonable cause. As such, there are only about six weeks left to file this form, or no deduction will be allowed.

Deferred tax deduction for publicly traded companies

The deferred tax deduction applies only to publicly traded companies "including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with accounting principles generally accepted in the United States of America...."

House Bill 458 does not specifically mandate that the company be traded on a U.S. stock exchange. Thus, foreign publicly traded companies with U.S. operations that are affected by the move to combined reporting appear eligible to claim the deduction.

Although the default filing methodology in Kentucky beginning with the 2019 tax year is mandatory unitary combined reporting, taxpayers may elect to file a consolidated return in lieu of a unitary combined report. The consolidated return must include all members of the taxpayer's affiliated group as determined under IRC section 1504(a). House Bill 458 makes clear that the tax deferred deduction

is available only to those taxpayers that file a mandatory unitary combined report. Taxpayers that elect to file a consolidated return are ineligible to claim the deferred tax deduction.

Only corporate taxpayers that experience an increase in their net deferred tax liabilities, a decrease in their net deferred tax assets, or a change from a net deferred tax asset position to a net deferred tax liability position are eligible to claim the deduction. The Schedule DTD instructions require a corporation to measure its Kentucky deferred tax assets and liabilities before unitary combined reporting and then measure those "deferreds" again after the enactment of unitary combined reporting. Assuming there is a negative "deferred tax impact," this amount is divided by the corporate tax rate of 5% and by the corporation's Kentucky apportionment factor to arrive at the deferred tax deduction amount.

Taxpayers that meet the eligibility requirements (discussed above) may claim the deduction for tax years beginning on or after January 1, 2024. The deduction will be taken ratably over a 10-year period.

For more information, contact a KPMG State and Local Tax professional:

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