

CORPORATE INCOME TAX MATRIX

Issue	Explanation; Current Law	Proposal
Apportionment		
Sales Factor	<p>Double-weighted sales factor</p> <p>Vermont law apportions the income from taxable corporations with activity both inside and outside Vermont according to three factors: property, payroll, and sales, with sales double weighted. 32 V.S.A. § 5833(a).</p>	<p>Move to triple-weighted sales factor</p> <p>Variations:</p> <ul style="list-style-type: none"> • Move to single sales factor? • Phased-in single sales factor at a specified date? • Review to determine impact and then consider moving to single sales factor? • Any check to stop or revert move to single sales factor?
Affiliated Corporations; Combined Reporting		
Joyce vs. Finnigan Method of Apportionment	<p>Vermont is a Joyce state</p> <p><u>Joyce</u> The Joyce method determines whether the State has nexus with each individual entity of the unitary group and treats each as a separate taxpayer for purposes of apportionment. The starting point is the unitary group's total income, including income from entities without nexus. However, if an entity does not have nexus with the State, then its apportionment factors are excluded from the numerator. Under the Joyce method, throwback/throwout is determined on a case-by-case basis. This means that one unitary entity having nexus in the destination state for sales does not preclude throwback of sales made by another unitary entity that does not have nexus in the destination state.</p> <p><u>Finnigan</u> The Finnigan method determines whether the State has nexus with the unitary group as a whole, and thus treats the group as one taxpayer. The</p>	<p>Move to Finnigan method?</p> <p>If change is made in statute, add language clarifying that "taxpayer" means all corporations within the combined reporting group.</p>

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	<p>rational is that if any entity within the unitary business has nexus, then all of the entities fall within the state’s taxing jurisdiction. This means that all unitary group entities’ apportionment factors are included in the numerator, even those who do not have nexus with the state. Under the Finnigan method, throwback/throwout is only an option for sales made into states with which no entity within the unitary group has nexus.</p>	
<p>Throwback vs. Throwout</p>	<p>The throwback/throwout issue arises where there is “nowhere income,” which is sales income that is not taxed in any state. Both methods increase the relative weight of in-state sales in the sales factor, thus increasing the income apportioned to the state. Throwback increases a greater amount of income apportioned to Vermont than throwout.</p> <p><u>Throwback for TPP: Added back to Numerator (Vermont sales)</u> For tangible personal property, sales are ordinarily assigned to the state of the destination of the goods. However, if the property is shipped from Vermont and either the sales are made to the federal government, or the “corporation is not taxable in the State in which the purchaser takes possession,” then the sales are “thrown back,” to Vermont. 32 V.S.A. § 5833(a)(3)(A)(ii). This usually occurs because the corporation does not have nexus with the destination state, typically due to P.L. 86-272.</p> <p><u>Throwout for Intangible Property: Excluded from Denominator (total sales)</u> For sales of intangibles, sales are ordinarily assigned to the state in which the taxpayer's market for the sales is located. However, if the market for the taxpayer’s sales is in a state where the taxpayer is not taxable, or if the market cannot be determined, then the sales are excluded from the denominator. 32 V.S.A. § 5833(a)(3)(D).</p>	<p>Make sales of both TPP and intangibles subject to the same calculation (throwback or throwout)?</p>

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Water's Edge; Overseas Business Organizations	80/20 rule in regulation Allows overseas business organizations that have 80% or more of their property and payroll outside of the U.S. to exclude their apportionment factors from the numerator	Include income and apportionment factors of taxable corporations that are incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States.