RÉSUMÉ DIGEST

ACT 430 (HB 631) **2023 Regular Session** **Nelson**

Existing law establishes methods for attributing income to La. for purposes of determining corporation income tax. Further provides that sales attributable to this state shall include sales where the goods, merchandise, or property are received in this state by the purchaser. The calculation of the La. apportionment percent of a taxpayer's net apportionable income is based on various ratios depending on the industry sector of the taxpayer.

Existing law requires sales other than sales of tangible personal property to be sourced to La. if the taxpayer's market for the sale is in this state. Further provides specific provisions for the sourcing of sales to La. as follows:

(1) The sale of immovable property, if and to the extent the property is located in the state.

(2) The sale of a service, if and to the extent the service is delivered to a location in the state.

(3) The sale or exchange of intangible property, if and to the extent the intangible property is used in the state.

(4) The sale of intangible property where the property sold is a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent that the intangible property is used in or is otherwise associated with the state.

Prior law required the following sales to be sourced to La:

(1) The rental, lease, or license of immovable property, if and to the extent the property is located in the state.

(2) The rental, lease, or license of tangible personal property, if and to the extent the property is located in the state.

(3) The lease or license of intangible property, if and to the extent the intangible property is used in the state.

Prior law required sales of intangible property not otherwise described in existing law to be excluded from the numerator and the denominator of the sales factor.

New law repeals prior law. Existing law provides that if the taxpayer's customer is an individual, the taxpayer shall source receipts from the sale of a service as follows:

(1) If the customer is a natural person and the service is a direct personal service, the sale shall be sourced to the state where the customer received the direct personal service.

(2) Services that are not direct personal services that are delivered to customers who are natural persons with a La. billing address shall be sourced to this state.

(3) If the sourcing methodology in existing law fails to clearly reflect the taxpayer's market in this state, the taxpayer may utilize, or the department may require, the use of other criteria and methodologies to approximate the taxpayer's market in this state.

Existing law provides that if the taxpayer's customer is an entity unrelated to the taxpayer, the taxpayer shall source receipts from the sale of a service as follows:

(1) If a service is provided to an unrelated entity and the service has a substantial connection to a specific geographic location, the income shall be sourced to La. if the geographic location is in this state. Service receipts that have a substantial connection to geographic locations in multiple states shall be reasonably sourced between those states.

(2) If the service provided to an unrelated entity does not have a substantial connection to a specific geographic location, sales from services delivered to unrelated entities shall be sourced to the commercial domicile of the taxpayer.

(3) If the sourcing methodology in existing law fails to reflect the taxpayer's market in this state, the taxpayer may utilize, or the department may require, the use of other criteria and methodologies to approximate the taxpayer's market in this state.

Prior law provided that if the taxpayer is not taxable in a state to which a sale is assigned or if the state of assignment cannot be determined or reasonably approximated then the sale shall be excluded from the numerator and the denominator of the sales factor.

New law repeals prior law.

New law is applicable to tax years beginning on or after January 1, 2024.

Effective January 1, 2024.

(Amends R.S. 47:287.95(L)(1); Repeals R.S. 47:287.95(M))