

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 86

An Act to amend and reenact § 58.1-408 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-422.1, relating to apportionment of corporate income tax; retail companies.

[H 154]

Approved March 6, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-408 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-422.1 as follows:

§ 58.1-408. What income apportioned and how.

The Virginia taxable income of any corporation, except those subject to the provisions of § 58.1-417, 58.1-418, 58.1-419, 58.1-420, ~~or~~ 58.1-422, *or 58.1-422.1*, excluding income allocable under § 58.1-407, shall be apportioned to the Commonwealth by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor, plus twice the sales factor, and the denominator of which is four; however, where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one.

§ 58.1-422.1. *Retail companies; apportionment.*

A. For taxable years beginning on or after July 1, 2012, the Virginia taxable income of a retail company, excluding income allocable under § 58.1-407, shall be apportioned within and without the Commonwealth as follows:

1. From July 1, 2012, until July 1, 2014, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus triple the sales factor and the denominator of which is five, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus two;

2. From July 1, 2014, until July 1, 2015, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus quadruple the sales factor and the denominator of which is six, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus three; and

3. From July 1, 2015, and thereafter, by multiplying such income by the sales factor.

B. As used in this section, "retail company" means a domestic or foreign corporation primarily engaged in activities that, in accordance with the North American Industry Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sectors 44-45.