

Income/Franchise:

Virginia Department of Taxation Ruling Explains Intangible Expense “Addback” Statute and its Exceptions

Public Document No. 24-125, Va. Dept. of Tax. (11/18/24). The Virginia Department of Taxation (Department) issued a lengthy ruling addressing Virginia’s intercompany intangible expense addback statute and its statutory exceptions, concluding that for the taxpayer in this case:

URL: <https://www.tax.virginia.gov/laws-rules-decisions/rulings-tax-commissioner/24-125>

1. The Department’s adjustments to an addback to include all royalties paid to a certain affiliate were correct, without further reduction for claimed “research and development expenses” paid by one affiliate to another, because the taxpayer did not actually incur those research and development expenses;
2. The taxpayer was eligible for Virginia’s “subject-to-tax exception” on the addback to the extent the taxpayer was subject to tax in another addback state or the affiliate at issue paid tax to another state on the royalty income received from the taxpayer, calculated on a post-apportionment basis; and
3. Any interest expenses not related to intangible property as defined under Virginia Code § 58.1-302 were not subject to Virginia’s addback statute.

Please contact us with any questions.

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