



TAX BULLETIN 25-5

Virginia Department of Taxation

October 28, 2025

IMPORTANT INFORMATION REGARDING CORPORATE APPORTIONMENT OF INCOME FROM A PASS-THROUGH ENTITY

A Recent Court Decision Held That the Application of the Blended Apportionment Approach Was Unconstitutional If a Pass-Through Entity Was Not Part of the Corporation's Unitary Business

In a recent court decision, the general requirement that a corporation use blended apportionment factors when the corporation is an owner of a pass-through entity ("PTE") was held to be inconsistent with the U.S. Constitution to the extent that such corporation and such PTE do not have a unitary relationship.

***Dep't of Taxation v. FJ Mgmt., Inc.* Limits an Aspect of Blended Apportionment**

The Department of Taxation has a long-standing general policy of using blended apportionment for corporate income tax purposes when the corporation is an owner of a PTE. "Blended apportionment" uses an apportionment formula that combines the corporate owner's share of the PTE's apportionment factors with the corporation's own factors. This blended formula is then applied to the corporation's total apportionable income, including its share of the PTE's apportionable income.

The Virginia Court of Appeals recently decided *Dep't of Taxation v. FJ Mgmt., Inc.*, 907 S.E.2d 541 (Va. App. Ct. 2024) ("the *FJ Mgmt.* case"), which concerned a corporation that owned an ownership interest in a PTE. The Court held that because the corporate owner did not have a unitary relationship with that PTE, the corporate owner's share of the PTE's property, payroll, and sales factors may not be included in its own to create one, blended apportionment formula. As a result, the amount of the non-unitary PTE's income on which a corporate partner is to be taxed equals its distributive share of such income apportioned to Virginia at the PTE-level based on the PTE's own apportionment factors.

Instructions for Impacted Corporations

If there is not a unitary relationship between a corporate owner and the PTE, then PTE income may not be included in the corporation's Income Subject to Apportionment, Line 3(g) of Schedule 500A. Similarly, the PTE's apportionment factors may not be included in the corporation's apportionment factors, Line 1 or 2 of Schedule 500A. Instead, to reflect the PTE's income on the corporate income tax return on a non-blended basis:

- The corporation's share of the PTE's income must be included on Line 3(b) of Form 500A along with allocated dividend income,
- The corporation's share of the PTE's income from Virginia sources, determined by the PTE using its own apportionment formula as if it were a corporation, must be included on Line 3(i) of Form 500A along with any dividend income allocated to Virginia,
- The box on Line 3(i) of Form 500A must be checked, and
- The corporation's return must include a statement listing the name and FEIN of each non-unitary PTE apportioned on a non-blended basis.

The Taxable Year 2025 corporate income tax return and instructions will be updated to provide a checkbox. For Taxable Years 2024 returns and before, please consult the Department's website, <http://www.tax.virginia.gov>, for how to reflect this on such return. If amending a return to address this case, mark the amended return check box and enter the reason code in the space provided. Use the reason code 12, Other Income Reported on Schedule 500A, and enclose the appropriate documentation.

Please note that this is a temporary solution to ensure that non-unitary PTE income and the PTE's income from Virginia sources as determined and reported on its Schedule VK-1 is kept separate and not blended with the corporation's own income and apportionment. Because the Department's existing forms do not have lines for this, Lines 3(b) and 3(i) are being used. These instructions may be modified for future years when the Department revises its forms.

Transition Relief for Taxable Years 2024 and Before

Because the *FJ Mgmt.* case represents a meaningful change, the Department will, for Taxable Year 2024 and before:

- Not require returns, including amended returns, to be filed in accordance with this new policy. Instead, such returns will be permitted to apply the Department's long-standing blended apportionment policy, even if no unitary relationship exists.
- Allow returns, including amended returns, to be filed in conformity with the *FJ Management* case using the instructions described above.

However, please note that any return, including amended returns, filed to make use of this transition relief must be filed within the applicable statute of limitations.

Additional Information

This Tax Bulletin is available online in the [Laws, Rules & Decisions](#) section of the Department's website. If you have additional questions, please visit the Department's website at <http://www.tax.virginia.gov>, or contact the Department at (804) 367-8037.