

Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors

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New York State Conforms to the Market Based Sourcing Approach for the Sourcing of Receipts from Services and the Use of Intangibles

For tax years beginning on or after January 1, 2015, receipts from services and intangibles will be sourced to where the customer receives the economic benefit and not where the service was performed. This is more commonly known as “market-based” sourcing of receipts. New York State’s change applies only to corporations. Unincorporated businesses are not affected. Previously, New York State applied a quasi market-based approach only to certain limited types of receipts such as those earned by broker-dealers registered with the SEC.

This change affects only New York State. New York City has yet not adopted any of these changes and is studying the impact of any changes on future tax revenues.

Under a market-based approach, receipts from services and intangibles are assigned to the state in which the customer, or customer’s marketplace, is located: where the “economic benefit” was received. Determining where the economic benefit of the service was received is not simple. The definition of “market” can vary substantially among states. The term can simply mean the customer’s actual location or commercial domicile, or it can even mean a different geographical area where the benefit of the service was provided to a customer of the customer.

As with California and Ohio, New York State adopted a hierarchical-based methodology in determining where the benefit was received although each state’s emphasis differs. Forthcoming guidance is expected from the New York State Department of Taxation and Finance.

The following table summarizes the states that have adopted market-based sourcing for receipts from services and intangibles and the type of entity the rules would apply to:

		Applies to Incorporated and Unincorporated Businesses?
Alabama		YES
Arizona	Beginning 1/1/14	YES
California		YES
Georgia		YES
Illinois		YES
Iowa		YES
Maine		YES
Maryland		YES
Massachusetts	Beginning 1/1/14	YES
Michigan		YES
Minnesota		YES
Nebraska	Beginning 1/1/14	CORPORATIONS ONLY

New York	Beginning 1/1/15	CORPORATIONS ONLY
Ohio		YES
Oklahoma		YES
Pennsylvania	Beginning 1/1/14	CORPORATIONS ONLY
Utah		YES
Washington		YES
Wisconsin		YES

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