



**BDO Seidman, LLP**  
Accountants and Consultants

## Subject:

# New York and Georgia Single Sales Factor Apportionment

# State Tax Alert

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Pursuant to New York's Budget Bill signed by the Governor on April 12, 2005, and Georgia's House Bill 191 signed by its governor on April 6, 2005, New York and Georgia will be moving to the single factor sales apportionment formula. The move adds New York and Georgia to a growing list of states that currently, or intend to, employ the single factor sales formula.

## Date/Timing:

The single factor sales apportionment formula will be phased in over a three-year period for both New York and Georgia as follows:

<b>New York</b>	<b>Georgia</b>
Tax Years beginning January 1, 2006: Sales – 60 percent Property – 20 percent Payroll – 20 percent	Tax Years beginning January 1, 2006: Sales – 80 percent Property – 10 percent Payroll – 10 percent
Tax Years beginning January 1, 2007: Sales – 80 percent Property – 10 percent Payroll – 10 percent	Tax Years beginning January 1, 2007: Sales – 90 percent Property – 5 percent Payroll – 5 percent
Tax Years beginning January 1, 2008: Sales – 100 percent	Tax Years beginning January 1, 2008: Sales – 100 percent

There is no mention of adding a "throwback" rule to the New York or Georgia apportionment regulations and as such, the move to the single sales apportionment formula should be very significant for companies with high in-state property and payroll that sell tangible personal property as its primary business in deriving sales.

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However, this change to a single factor sales apportionment can present great New York and Georgia tax exposure to companies that primarily record sales of something other than tangible personal property. A proper review of a company’s business activities and New York’s and Georgia’s sales sourcing rules may provide these companies with a more beneficial filing position.

There has been a steady trend among companies toward sales of other than sales of tangible personal property. The change in composition of companies’ balance sheets where intangible assets are a larger component than in previous years represents a change in the way companies do business. A reduced investment in real and tangible personal property reflects this shift away from sales of tangible personal property. This shift in focus to sales of other than sales of tangible personal property can present great New York and Georgia tax exposure and opportunity to these companies from the employment of a single factor sales formula.

### **Recommended Action:**

Companies with high New York or Georgia sourced sales for apportionment purposes should be made aware that their New York and/or Georgia state corporate income tax liability will likely increase over the next several years. Companies whose primary income streams consist of sales other than sales of tangible personal property should review the New York and Georgia sourcing rules related to their specific industry to properly source their revenue streams to the appropriate state.

### **How BDO Seidman Can Help:**

BDO Seidman can assist companies to properly characterize a sale as either a sale of tangible personal property or a sale of service in order to properly source the receipts from such sales. BDO Seidman will review your company’s facts and circumstances against the different sourcing methodologies for sales of tangible personal property and for sales of services and other business receipts in order to provide you with the most beneficial filing position.

**FOR MORE INFORMATION  
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