

## Income/Franchise:

### New Jersey: Permanent Rules Address GILTI, FDII and Intercompany Expense “Addback” Provisions

*Readoption of Specially Adopted Amendment with Amendments: N.J.A.C. 18:7-5.18; Readoption of Specially Adopted New Rules with Amendments: N.J.A.C. 18:7-3.25, N.J.A.C. 18:7-5.19, and N.J.A.C. 18:7-5.20*, N.J. Div. of Tax. (4/5/21). The New Jersey Division of Taxation (Division) adopted permanent state corporation business tax (CBT) rules that took effect as of April 5, 2021, which include addressing:

**URL:** [https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=e7ab079a-d1fc-4157-90a1-4457fbc23fc8&config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvGwky16hNN9rcMfcun6&pddocfullpath=%2fshared%2fdocument%2fadministrative-codes%2furn%3acontentItem%3a6298-1SY1-JX8W-M550-00008-00&pdcontentcomponentid=234140&pdteaserkey=sr0&pditab=allpods&ecomp=L5w\\_kkk&earg=sr0&prid=188da052-f880-43a8-b00a-e999021116b9](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=e7ab079a-d1fc-4157-90a1-4457fbc23fc8&config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvGwky16hNN9rcMfcun6&pddocfullpath=%2fshared%2fdocument%2fadministrative-codes%2furn%3acontentItem%3a6298-1SY1-JX8W-M550-00008-00&pdcontentcomponentid=234140&pdteaserkey=sr0&pditab=allpods&ecomp=L5w_kkk&earg=sr0&prid=188da052-f880-43a8-b00a-e999021116b9)

1. Whether Internal Revenue Code (IRC) section 951A global intangible low-taxed income (GILTI) and foreign-derived intangible income (FDII), including IRC section 250 deductions, qualify for dividend exclusion;
2. Whether GILTI and FDII must be included in the numerator of the CBT apportionment factor;
3. New Jersey’s intercompany interest and intangible expense “addback” statute to account for certain changes to New Jersey’s “foreign nation” and “unreasonable” exceptions, as well as the impact of New Jersey’s combined reporting regime;
4. Whether previously taxed dividend income may be excluded from entire net income in certain situations; and
5. The taxation of dividends included in entire net income for periods from January 1, 2017 through January 1, 2019.

The Division’s adoption largely mirrors the version as originally proposed on November 2, 2020 [see previously issued Multistate Tax Alert for details on these permanent CBT rules as originally proposed]. Prior to this final adoption, the Division had been operating under its earlier “specially adopted” corresponding temporary rules addressing the same [see previously issued Multistate Tax Alert for more details on these temporary CBT rules]. Please contact us with any questions.

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/proposed-new-jersey-regulations-address-market-based-sourcing.html?id=us:2em:3na:stm:awa:tax:040921&sfid=70110000003817XQAQ>

**URL:** <https://www2.deloitte.com/us/en/pages/tax/articles/new-jersey-issues-temporary-rules-addressing-gilti-fdii-addback-provisions.html?id=us:2em:3na:stm:awa:tax:040921&sfid=70110000003817XQAQ>

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