

Income/Franchise:

New Jersey Division of Taxation Posts Revision to CBT Policy on Combined Groups and P.L. 86-272

Revision to Division Policy on Combined Groups and P.L. 86-272, N.J. Div. of Tax. (4/12/22). The New Jersey Division of Taxation (Division) posted an update to its website indicating that for state corporation business tax (CBT) purposes, “after discussions with stakeholders and interested parties,” it has decided to revise its policy on the treatment of members of a combined group that are “claiming P.L. 86-272.” Specifically, the Division states that “although a combined group is a taxpayer and taxed as one taxpayer pursuant to N.J.S.A. 54:10A-4(h) and N.J.S.A. 54:10A-4(z),” for purposes of N.J.S.A. 54:10A-4.7(a), “P.L. 86-272 protection for a member will be determined on an entity-by-entity basis.”

URL: <https://www.state.nj.us/treasury/taxation/cbt/combinedgroupsrevision.shtml>

The Division explains that prior to this announcement, it had stated in the instructions for the 2019, 2020, and 2021 New Jersey CBT-100U returns and in “multiple technical bulletins” that:

“If one member in the combined group has nexus and sufficient activities in New Jersey to be taxed based on income, no member that has nexus with New Jersey may claim P.L. 86-272 protection.”

Given its policy reversal on this issue, the Division states that if a combined group filed their 2019, 2020, or 2021 New Jersey CBT-100U following the return instructions and/or guidance of these technical bulletins, the managerial member may amend the group’s 2019, 2020, and 2021 New Jersey CBT-100U returns to reflect this policy change. The Division also announces that it intends to revise its technical bulletins accordingly. Please contact us with any questions.

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