

## Income/Franchise:

### New Jersey: New Voluntary Initiative Seeks to Resolve Corporate Transfer Pricing Issues

*Transfer Pricing Initiative*, N.J. Div. of Tax. (6/22); *Transfer Pricing Initiative – Frequently Asked Questions*, N.J. Div. of Tax. (6/22). The New Jersey Division of Taxation (Division) announced that beginning June 15, 2022, and continuing through March 2, 2023, it is implementing a voluntary initiative to work with corporate taxpayers to “expedite the resolution of corporate intercompany pricing issues (IPI).” According to the Division, the purpose of this initiative is to:

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

URL: <https://nj.gov/treasury/taxation/cbt/tpinitiativefaq.shtml>

- Fairly and consistently expedite the resolution of IPI subject to adjustment under N.J.S.A. 54:10A-10 and N.J.A.C. 18:7-5.10;
- Provide some certainty and uniformity to taxpayers;
- Reduce time in related disputes; and
- Form an efficient basis for resolution of this corporate tax issue for all open tax years.

The Department explains that if it determines a taxpayer has an IPI, it may re-determine the New Jersey net income of the corporation properly attributable to its business carried on in New Jersey, and that this new initiative “provides taxpayers with potential IPI an opportunity to fairly and expeditiously resolve all tax years, within the statute of limitations, for which the taxpayer has filed a return.” According to the Department, the initiative applies to all filed New Jersey corporate income tax returns within the statute of limitations that have intercompany transactions that would be subject to adjustment under the applicable laws, including taxpayers currently under audit; taxpayers notified of upcoming audit; taxpayers with a case pending before the New Jersey Conference and Appeals Branch; and unidentified taxpayers with related party intercompany pricing. However, the initiative does *not* apply to matters in any stage of litigation. Taxpayers wishing to participate must, among other requirements, complete the applicable “Election to Participate in Transfer Pricing Initiative” form by September 15, 2022, and provide all required transfer pricing, tax, and financial information and documentation to the Department by October 31, 2022.

For those taxpayers successfully completing this initiative, the Department states that it will:

- Propose a settlement amount and methodology based on information provided and principles in the regulations under Internal Revenue Code section 482 and N.J.A.C. 18:7-5.10 within 90 days of receipt of all the requisite information;
- Attempt to settle any corporate tax issues for the tax periods covered by this initiative;
- Waive all applicable penalties; and
- Waive all rights to assess any additional tax, interest or penalties except for adjustments relating to federal corrections for all settled tax types.

The Department notes that participating taxpayers retain the right to opt out of the initiative at any time prior to signing the closing agreement. Furthermore, the Department states that for taxpayers choosing *not* to participate in this initiative by September 15, 2022, or not successfully completing the initiative, it will take the following actions:

- Assess all applicable penalties;
- Not waive any penalties;
- Audit according to “our regular audit schedule;” and
- Not agree to a methodology or settlement for any unaudited open tax years.

A series of Department answers to related “frequently asked questions” (FAQs) also have been issued on this new transfer pricing initiative.

Note that this initiative generally would *not* apply to transactions within a New Jersey combined group but rather only to New Jersey separate return filings, or possibly to transactions between New Jersey combined groups and any excluded affiliates.

See recently issued Multistate Tax Alert for more details on this program, including some taxpayer considerations regarding additional open audit years, and please contact us with any questions.

— Norm Lobins (Cleveland)  
Managing Director  
Deloitte Tax LLP  
nlobins@deloitte.com

Joe Garrett (Birmingham)  
Managing Director  
Deloitte Tax LLP  
jogarrett@deloitte.com

Kevin Friedhoff (Parsippany)  
Senior Manager  
Deloitte Tax LLP  
kfriedhoff@deloitte.com

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

**About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.