

Income/Franchise:

New Jersey Division of Taxation Formally Adopts and Finalizes Combined Reporting and NOL Rules

Amended N.J.A.C. 18:7-1.3, 1.14, 1.16, 1.17, 2.1, 3.4, 3.6, 3.10, 3.13, 3.15, 3.16, 3.23, 5.2, 5.11, 5.12, 5.13, 5.14, 5.15, 7.6, 8.3, 8.7, 8.8, 8.10A, 8.12, 10.1, 11.6, 11.7, 11.8, 11.12, 11.15, 11.17, 11.18, 12.1, 12.2, 12.3, and 13.8; New N.J.A.C. 18:7-1.24, 1.25, 3.23A, 3.26, 3.27, 3.28, 3.29, 5.21, 5.22, 5.23, 11.17A, and 21, N.J. Div. of Tax. (eff. 9/19/22). The New Jersey Division of Taxation (Division) issued new and amended administrative rule changes reflecting New Jersey tax reforms enacted in 2018 [see A.4202 (2018) and previously issued Multistate Tax Alert, and A.4495 (2018) and previously issued Multistate Tax Alert for more details on the 2018 law changes], as well as subsequent related law changes enacted in 2020 [see A.B. 4809 (2020) / P.L. 2020, c. 118 (Chapter 118), and A. 4721 (2020) / P.L. 2020, ch. 95 (Chapter 95) for more details on these law changes from 2020], that address certain aspects of New Jersey net operating loss (NOL) deductions and composition of combined filing group returns; as well as make amendments to existing rules to address federal tax reform measures applicable for tax years beginning on and after January 1, 2017 under the federal Tax Cuts and Jobs Act of 2017 (*i.e.*, P.L. 115-97), a reduced dividend received deduction, and various provisions of the Internal Revenue Code from which New Jersey has decoupled. Additionally, among numerous other revisions, the rules collectively:

URL: [https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=62451441-752f-4277-abff-6bb4f83ac7ab&nodeid=AABAABAABAAEAHAAB&nodepath=%2FROOT%2FAAB%2FAABAAB%2FAABAABAAB%2FAABAA BAABAEE%2FAABAABAABAAEAHAH%2FAABAABAABAAEAHAAB&level=6&haschildren=&populated=false&title=54+N.J.R.+1819\(a\)&config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvGwky16hNN9rcMfcun6&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A66BP-B7V1-F4NT-X241-00008-00&ecomp=vgf5kkk&prid=162ce008-b58d-43ac-b901-f651a084ae51](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=62451441-752f-4277-abff-6bb4f83ac7ab&nodeid=AABAABAABAAEAHAAB&nodepath=%2FROOT%2FAAB%2FAABAAB%2FAABAABAAB%2FAABAA BAABAEE%2FAABAABAABAAEAHAH%2FAABAABAABAAEAHAAB&level=6&haschildren=&populated=false&title=54+N.J.R.+1819(a)&config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvGwky16hNN9rcMfcun6&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A66BP-B7V1-F4NT-X241-00008-00&ecomp=vgf5kkk&prid=162ce008-b58d-43ac-b901-f651a084ae51)

URL: http://www.njleg.state.nj.us/2018/Bills/A4500/4202_R1.PDF

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/new-jersey-enacts-sweeping-corporate-business-tax-changes.html>

URL: https://www.njleg.state.nj.us/2018/Bills/A4500/4495_I1.HTM

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/nj-a4495-enacted-conforming-cbt-to-irc-sec-250-deduction-and-amending-mandatory-combined-reporting-provisions.html>

URL: https://pub.njleg.state.nj.us/Bills/2020/PL20/118_.PDF

URL: https://pub.njleg.state.nj.us/Bills/2020/PL20/95_.PDF

- Address federally exempt income addback adjustments, including clarification of the impact of the New Jersey treatment of federal income excluded under tax treaties;
- Address treatment of foreign corporations with effectively connected income (ECI) filing a Federal Form 1120-F;
- Consider treatment of the single-member limited liability company (SMLLC)/share of partnership flow-through amounts for purposes of an “80/20” determination;
- Address potential adjustments to prevent income and allocation data from being omitted or duplicated when changing filing methodologies;

- Modify New Jersey’s NOL and NOL carryover regime from pre-allocation to post-allocation for privilege periods ending on and after July 31, 2019; and
- Reflect imposition of a state corporation business tax (CBT) surtax on a temporary basis.

Note that several topics addressed in these rule changes were previously addressed in technical bulletins released by the Division. Please contact us with any questions.

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