

## Income/Franchise:

### New Jersey Division of Taxation Explains Income Excluded from CBT Return Under Tax Treaty

*Notice: Income Excluded Pursuant to a Tax Treaty and CBT Returns*, N.J. Div. of Tax. (12/1/22). The New Jersey Division of Taxation (Division) updated its notice referencing administrative rules that address various matters pertaining to the 2018 through 2020 law changes to New Jersey's corporation business tax (CBT), including "clarifications on the exclusion of income that was exempt from federal taxation pursuant to a treaty with a foreign nation" [see *State Tax Matters*, Issue 2022-21, for details on the earlier version of this notice]. The updated notice adds that for CBT taxpayers filing on a worldwide group basis, the income from foreign corporations and foreign non-corporate entities is included in entire net income without regard to any treaty protections. In doing so, the notice states that the application of treaty protections to a worldwide group is contrary to the legislative intent in providing a worldwide election: "which was to tax the world-wide group on all of its global income regardless of whether or not the jurisdiction where the income is earned is subject to a tax treaty with the United States." The Division explains that it will appropriately update the CBT return instructions for the subsequent tax years as the 2018 through 2021 returns have already been filed. Please contact us with any questions.

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

**URL:** [https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220527\\_4.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220527_4.html)

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

Kevin Friedhoff (Morristown)  
Senior Manager  
Deloitte Tax LLP  
[kfriedhoff@deloitte.com](mailto:kfriedhoff@deloitte.com)

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **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.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).