

Income/Franchise:

North Carolina DOR Summarizes Law Changes on Net Worth Calculation, Intercompany Loans, and NOLs

2022 Tax Law Changes, N.C. Dept. of Rev. (12/20/22). The North Carolina Department of Revenue (Department) issued a summary of tax legislative changes that “take effect for tax year 2022 as well as changes made by the 2022 General Assembly, regardless of effective date.” The summary includes discussion of legislation enacted in 2022 providing that the net worth of a foreign entity filing a federal income tax return is based on the value of assets deemed to be in the United States, as well as technical corrections pertaining to certain net loss calculations and intercompany loans [see H.B. 83 (2022), and *State Tax Matters*, Issue 2022-27, for more details on this legislation]. According to the summary, the legislation added language clarifying that:

URL: <https://www.ncdor.gov/2022-tax-law-changes>

URL: <https://www.ncleg.gov/BillLookup/2021/H83>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220708_6.html

1. “The net worth of a foreign entity that is filing a federal income tax return is based on the value of the assets in the United States,” and
2. A corporation may not artificially reduce its franchise tax base by making a noninterest-bearing loan to an affiliate.

The summary also explains that the provisions of North Carolina’s net loss calculations that are based on federal consolidated income tax filings must be computed on a separate entity basis; accordingly, North Carolina law now explicitly states that the Department must apply the standards contained in regulations adopted under Internal Revenue Code sections 381 and 382 on a separate entity basis in determining the extent to which a loss survives a merger or acquisition. Please contact us with any questions.

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