

Income/Franchise:

Tennessee: Updated Tax Manual Reflects Treatment of TCJA Changes Involving FDII and IRC §174

Franchise and Excise Tax Manual, Tenn. Dept. of Rev. (updated 3/23); *Tax Manual Updates*, Tenn. Dept. of Rev. (3/23). The Tennessee Department of Revenue (Department) recently updated its franchise and excise tax manual to incorporate certain state tax law changes and clarifications, some of which address the state tax implications of certain changes under the 2017 federal tax overhaul legislation known as the Tax Cuts and Jobs Act (*i.e.*, P.L. 115-97 or “TCJA”). Regarding the TCJA, the updated manual:

URL: https://www.tn.gov/content/dam/tn/revenue/documents/tax_manuals/march-2023/Franchise-Excise-Tax.pdf

URL: https://www.tn.gov/content/dam/tn/revenue/documents/tax_manuals/march-2023/Updates-March-2023.pdf

- Reflects the Department’s revised position that in computing net earnings or loss for Tennessee excise tax purposes, taxpayers are entitled to the full amount of the federal deduction relating to foreign-derived intangible income (FDII) under Internal Revenue Code section 250(a)(1)(A) [see recently issued Multistate Tax Alert for more details on this Tennessee policy]; and
URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-tennessee-treatment-of-fdii.pdf>
- Includes details on the new “Schedule J” lines to implement Tennessee’s decoupling from Internal Revenue Code section 174, as amended by the TCJA, relating to research and development expenditures [note: for tax years beginning on or after January 1, 2022, state law (see S.B. 2397 (2022) and *State Tax Matters*, Issue 2022-13 for more details on this new law) provides that IRC section 174 must be applied for Tennessee franchise and excise tax purposes as it was in effect immediately before enactment of the TCJA and that, as a result, “taxpayers may continue to immediately deduct research and development expenditures as paid or incurred during the tax year”].
URL: <https://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=SB2397&ga=112>
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220401_9.html

Other updates to the manual clarify how a taxpayer determines whether it is a “manufacturer” that is eligible for the \$2 billion cap on a manufacturer’s franchise tax base. Please contact us with any questions.

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

Amber Rutherford (Nashville)
Senior Manager
Deloitte Tax LLP
amberrutherford@deloitte.com

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