

Income/Franchise:

New Jersey: Updated Bulletin Reflects CBT Law Changes Involving Net Deferred Tax Liability Deduction & Combined Returns

Tax Bulletin No. TB-96(R): Net Deferred Tax Liability Deduction and Combined Returns, N.J. Div. of Tax. (rev. 9/19/23). The New Jersey Division of Taxation (Division) posted an updated bulletin reflecting recently enacted legislation that made significant changes to New Jersey's corporation business tax (CBT) [see A.B. 5323 (2023) and previously issued Multistate Tax Alert for more details on these recent law changes], including a series of amendments to New Jersey's net deferred tax liability deduction (NDTLD), which provides a "special ASC-740 relief deduction" for certain businesses adversely affected by New Jersey's shift to combined reporting and which was part of New Jersey's combined reporting legislation enacted in 2018 [see A.4202 (2018), and previously issued Multistate Tax Alert for more details on New Jersey's relevant 2018 tax law changes; and see A.4495 (2018), and previously issued Multistate Tax Alert for more details on additional relevant New Jersey 2018 tax law changes]. According to the updated bulletin, while this deduction can still be taken for privilege periods beginning on and after January 1, 2023, the allowable deduction amount will be calculated differently than originally legislated. Specifically, the updated bulletin provides:

URL: <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/tb96.pdf>

URL: <https://www.njleg.state.nj.us/bill-search/2022/A5323>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf>

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>

- The NDTLD can be taken over a minimum of 27 group privilege periods (instead of the originally legislated 10 group privilege periods);
- There is no requirement that the periods be consecutive;
- There are two NDTLD periods: one for group privilege periods beginning on or after January 1, 2023, but before January 1, 2030, and another for group privilege periods beginning on or after January 1, 2030;
- The amount that can be claimed on the tax return is governed by the deduction percentage for that period; and
- If an entity cannot use the NDTLD in a particular group privilege period because of the income limitation in N.J.S.A. 54:10A-4(k)(16)(G), the balance is carried forward for use in a future period, but the total amount used in a given period cannot exceed the allowable deduction percentage for that privilege period.

The updated bulletin also explains that for the first deduction period (group privilege periods beginning on or after January 1, 2023, but before January 1, 2030), the deduction is limited to 1% per period of the total NDTLD

amount for the first 7 group privilege periods. For the second deduction period (privilege periods beginning on or after January 1, 2030), the deduction is limited to 5% per period of the total remaining NDTLD until fully used. Furthermore, “the 1% and 5% amounts are calculated once at the beginning of each deduction period,” and they are not recalculated each time a deduction is claimed on the tax return. According to the bulletin, “This means that for the first group privilege period beginning on or after January 1, 2030, to calculate the amount of the allowable deduction for each period, you deduct the amount that was used by the combined group during the previously deduction period from the total NDTLD and then multiply the remainder by 5%” – this will “give you the amount that you deduct each group privilege period starting with the group privilege period beginning on or after January 1, 2030, until the deduction is fully used.” In answering some other questions regarding the NDTLD, the Division also states that it is in the process of drafting regulations addressing the topics covered by this bulletin. Please contact us with any questions.

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