

Income/Franchise:

New Jersey Division of Taxation Explains New Refundable Credit Related to Adoption of “Convenience of the Employer” Rule

Refundable Gross Income Tax Credit for New Jersey Residents Who Successfully Challenge Another State’s Imposition of the Convenience of the Employer Rule, N.J. Div. of Tax. (9/20/23). The New Jersey Division of Taxation (Division) issued guidance related to recently enacted New Jersey legislation that adopts a “convenience of the employer” rule for nonresident income sourcing for New Jersey gross (individual) income tax purposes [see A.B. 4694 (2023), and *State Tax Matters*, Issue 2023-30, for more details on these law changes] – specifically a new gross (individual) income tax credit applicable to tax years 2020 through 2023, for New Jersey residents who successfully win their own legal challenge to the taxing of their income by another state when the income is earned while they are located physically in New Jersey. Generally, to qualify for this new refundable credit, the taxpayer must:

URL: <https://www.nj.gov/treasury/taxation/individuals/refundablelegitcredit.shtml>

URL: <https://www.njleg.state.nj.us/bill-search/2022/A4694>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230728_4.html

- Be a New Jersey resident;
- Pay income tax or wage tax to another state;
- Apply for and be denied a refund from the other state on income earned while working remotely (e.g., from home) in New Jersey;
- File an appeal of the other state’s tax assessment in an out-of-state tax court or tribunal;
- Obtain a final judgment in their favor from that tax court or tribunal; and
- Receive a refund from the other state as a result.

According to the guidance, the final judgment in the taxpayer’s favor from the other state’s tax court or tribunal must also satisfy the other state’s laws for establishing finality – this includes “a New York State Order of Discontinuance issued by their Division of Tax Appeals and a corresponding Joint Stipulation of Discontinuance to verify that a final judgment was obtained by the taxpayer.” Please contact us with any questions.

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

Kevin Friedhoff (Morristown)
Senior Manager
Deloitte Tax LLP
kfriedhoff@deloitte.com

Steve Martin (Morristown)
Senior Manager
Deloitte Tax LLP
stevenmartin@deloitte.com

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