



MULTISTATE INCOME/FRANCHISE TAX

## New Jersey enacts tax credits related to investments in artificial intelligence

### Tax Alert

## Overview

On July 25, 2024, New Jersey [Senate Bill 3432](#) (S.B. 3432) was signed into law. S.B. 3432 revises various provisions under New Jersey's Economic Recovery Act of 2020, creating the "Next New Jersey Program" and offering tax credits to artificial intelligence ("AI") businesses that plan significant capital investments and job creation in the state.

This Tax Alert summarizes some of the provisions of S.B. 3432.

## The Next New Jersey Program

- The Next New Jersey Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority ("NJEDA").
- The purpose of the Next New Jersey Program is to attract new investment to New Jersey in the AI and AI related industries, to create new jobs, and to create economic opportunities in the state.
- Under S.B. 3432, NJEDA may award tax credits to an eligible business upon the application of the chief executive officer, or equivalent officer, of the eligible business and following the payment of fees, subject to limitations set forth in the Economic Recovery Act of 2020.
- To be eligible for tax credits under the Next New Jersey Program, a business's chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:
  - (1) The business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than \$100 million;
  - (2) The business will create new full-time jobs in the state in an amount equal to or greater than 100 new full-time jobs;
  - (3) The business or its division is primarily engaged in the AI industry or the large-scale AI data center industry. A business would be considered primarily engaged in the AI industry if at least 50 percent of the business's employees are engaged in AI-related

- activities, or at least 50 percent of the business's revenue is generated from AI-related activities, or both;
- (4) The business will enter into a collaborative relationship with New Jersey-based public or private research universities or technology startup companies, or both;
  - (5) The qualified business facility shall be in compliance with minimum environmental and sustainability standards;
  - (6) For construction contracts valued in excess of \$2,000, the project shall comply with the NJEDA's affirmative action requirements; and
  - (7) Each worker employed to perform construction work in connection a capital improvement or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development.
- The bill provides that up to \$500 million in tax credits, originally allocated for the New Jersey Aspire Program and the Emerge Program, be made available to eligible AI businesses under the Next New Jersey Program.
  - The amount of the tax credit allowed to an eligible business shall be the lesser of:
    - (1) the product of 0.1 percent of the eligible business's total capital investment multiplied by the number of new full-time jobs;
    - (2) 25 percent of the eligible business's total capital investment; or
    - (3) \$250 million.
  - The bill defines AI to mean the development of software and hardware, and the end-use application of technologies that are able to perform tasks normally requiring human intelligence, including, but not limited to, visual perception, speech recognition, decision-making, translation between languages, and generative artificial intelligence, which generates new content in response to user inputs of data.
  - Tax credits awarded can be used to offset Corporate Business Tax or Insurance Premiums Tax or can be transferred for no less than 85 percent of their value.

## Considerations

The application for this new tax credit program is in development and currently not available. Taxpayers should consult with their tax advisors to assist with analyzing potential eligibility for the program and to discuss a workplan for pursuing the tax credit, as applicable.

## Get in touch

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