



MULTISTATE INCOME/FRANCHISE TAX

New Jersey announces compliance initiative for Corporation Business Tax Tax Alert

Overview

On June 3, 2021, the New Jersey Division of Taxation (“Division”) announced a new compliance initiative for corporation business tax. Beginning June 15, 2021 and running through October 15, 2021, companies that had nexus with New Jersey prior to filing as part of a combined return that did not previously file as separate entities for periods prior to 2019 have the opportunity to voluntarily come forward and comply with their Corporation Business Tax filing requirements.

This Tax Alert summarizes some of the significant provisions of the New Jersey [Corporation Business Tax - Combined Reporting Initiative](#) (“CBT initiative”).

CBT initiative

The CBT initiative runs from June 15 through October 15 and applies to corporations with New Jersey nexus that filed as part of a combined return for 2019 but failed to previously file separate company returns. In determining whether a corporation has [nexus](#) in New Jersey, consideration is given to such factors as:

- The nature and extent of the activities of the corporation in the state;
- The location of its offices and other places of business;
- The continuity, frequency, and regularity of the activities in the state;
- The employment of agents, officers, and employees in the state; and
- The location of the actual seat of management or control of the corporation.

Companies that were included in a combined return are not eligible for a standard Voluntary Disclosure Agreement; however, the state will consider entering into agreements with approved companies under the CBT initiative based on the following factors and according to the following terms:

- Companies must not be incorporated in New Jersey, authorized to do business in the state, or registered for Corporation Business Tax prior to being included as part of a 2019 or 2020 combined return.
- Companies must provide the New Jersey registration number of the managerial member.
- The look-back period will be limited to the periods ending after June 30, 2016, or the date nexus was established with New Jersey, whichever is later.
- Companies must file all required returns and remit payment of the reported tax liability within 45 days of execution of the agreement.
- The Division will waive all penalties, but all returns will be subject to routine audits.
- Companies will remit payment of interest within 30 days of assessment.
- Failure to respond to the CBT initiative will result in the look-back period going beyond periods ending after June 30, 2016 and all applicable penalties and interest being assessed.

Considerations

In addition to the above referenced considerations, taxpayers should be mindful that the New Jersey Division of Taxation asserts that, in receiving gross receipts from New Jersey sources, out-of-state corporations are exercising their corporate franchise, doing business, employing or owning capital or property, or maintaining an office in New Jersey. See NJ register 43 N.J.R. 2193(b). Moreover, this foregoing expansive nexus standard was amended in 2002.

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