



MULTISTATE INCOME/FRANCHISE TAX

California enacts Senate Bills 167 and 175 on NOLs and credits Tax Alert

Overview

On June 27, 2024, California Senate Bill 167 ("[SB 167](#)") was enacted into law. SB 167 provides for a three-year suspension of net operating losses ("NOLs") under the California Personal Income Tax and Corporation Tax, a three-year cap on the use of business incentive tax credits to offset no more than \$5 million of tax per year, and retroactive application of the Franchise Tax Board's [Legal Ruling 2006-1](#) issued on April 28, 2006, with respect to the treatment of apportionment factors attributable to income exempt from California Corporation Tax Law. See our previous [Tax Alert](#) for an overview of the relevant provisions in SB 167.

In addition, [Senate Bill 175](#) ("SB 175") was enacted on June 29, 2024. SB 175 is a companion bill to SB 167. This Tax Alert covers some of the relevant provisions in SB 175.

SB 175

- On June 29, 2024, SB 175 was enacted into law. SB 175 allows personal and corporate income taxpayers to get refunds for a range of tax credits, including the research and development ("R&D") credit, for the first time.
- For California personal income tax and corporate income tax purposes, SB 175 allows for a taxpayer to make an irrevocable election to receive an annual refundable credit amount for qualified credits.
- For taxable years beginning on or after January 1, 2024, and before January 1, 2027, taxpayers may receive a refundable credit equal to 20% of the qualified credits that would have otherwise been available but for the \$5,000,000 business tax credit limitation enacted in SB 167.
- "Qualified credits" is defined as the credits listed under California Revenue and Taxation Code section 17039, subject to the limitations under section 17039.4. The R&D credit, California Competes credit, and low-income housing credit are some of the credits that could be refunded.

- SB 175 will make inapplicable the suspension of NOLs and the business tax credit limitation if the California Director of Finance determines that revenues over a multi-year forecast is sufficient without the revenue impact of the NOL suspension and credit limitation.

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