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Investment management tax alert
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New York State simplifies apportionment for Regulated Investment Companies (RICs) and reduces the fixed dollar minimum tax

Overview

On April 9, 2017, the New York State legislature passed the 2017-2018 Budget Bill[1] (the "Budget Bill"), which the governor signed into law on April 10, 2017.

For tax years beginning after December 31, 2014, both New York State (NYS) and New York City (NYC) narrowed the definition of investment capital which had the impact of requiring RICs and REITs to determine the apportionment of their gross receipts to NYS and NYC and compute the fixed dollar minimum tax on gross receipts under a revised rate schedule, which ranged up to $200,000. This marked a substantial departure from the relatively small amount of minimum tax that RICs and REITs historically paid to NYS and NYC.

The Budget Bill generally simplified apportionment for RICs and REITs and has reduced the fixed dollar minimum tax for RICs and REITs. Under the new apportionment rules, RICs and REITs generally may elect to apply an 8-percent apportionment factor to receipts from certain financial instruments[2] and the maximum fixed dollar minimum tax under the rate schedule is now capped at $500. These changes are effective for taxable years beginning on or after January 1, 2016[3].

Additionally, NYS has provided a letter to industry indicating that, for the taxable year beginning on or after January 1, 2015, and before January 1, 2016, the Department of Taxation and Finance will allow RICs and REITs to use the 8% apportionment factor for purposes of determining NYS-sourced gross receipts, even though they were not eligible to make the fixed percentage election.

Note that NYC has only adopted the revised apportionment rule. NYC has not adopted the lower fixed dollar minimum rate schedule on New York City receipts as of the date of this Tax Alert.

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[1] A copy of the Budget Bill can be found here, starting at page 89.
[2] The election is irrevocable, applies to all qualified financial instruments, and must be made on an annual basis on the taxpayer's original, timely filed return, determined with regard to extensions of time for filing.
[3] Only applies to non-Captive RICs/REITs. A Captive RIC/REIT is a RIC/REIT not regularly traded on an established securities market, and more than fifty percent of the voting stock of which is owned or controlled, directly or indirectly, by a single entity treated as an association taxable as a corporation under the Internal Revenue Code that is not exempt from federal income tax and is not a RIC/REIT.

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