



This Week in State Tax (TWIST)

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New Jersey: Guidance Issued on New Law Changes

On July 3, 2023, New Jersey Assembly Bill 5323 was signed into law by Governor Phil Murphy. This bill made significant revisions to New Jersey's Corporation Business Tax (CBT) laws, including further refinements to the state's combined reporting provisions. The Division of Taxation has begun issuing guidance relating to the changes in Assembly Bill 5323; in many instances, the Division is updating previously released Technical Bulletins to incorporate the recent law changes. TB-87(R) was revised on August 23, 2023, to address the application of the IRC section 163(j) limitation to combined groups and the repeal of the state related party interest and intangible expense addback requirement for privilege periods ending on and after July 31, 2023. The Division had already been treating the members of a combined group as one taxpayer for purposes of applying the IRC section 163(j) limitation, which treatment is now codified. However, the revised Bulletin addresses the interaction of the section 163(j) limits with the now-repealed related party addback rules. TB-93(R) was revised to reflect the expanded definition of a unitary business that is applicable to privilege periods ending on and after July 31, 2023.

Another Bulletin, TB-100(R), which addresses the combined group as a "taxpayer," was also revised in light of Assembly Bill 5323 and made clearer that the New Jersey combined group is treated as one taxpayer. One portion of note in the revised Bulletin is the discussion of the application of P.L. 86-272 to combined groups. Recall, in 2022, the Division announced that P.L. 86-272 protection would be determined on an entity-by-entity basis, despite the fact that the combined group was generally taxed as one taxpayer and the CBT instructions generally applied P.L. 86-272 on a group-wide basis. The entity-by-entity approach was applied retroactively to 2019, 2020, and 2021 returns. Per revised TB-100(R), this policy (entity-by-entity) does not apply to privilege periods ending on and after July 31, 2023. Further, the Bulletin notes that for privilege periods ending on and after July 31, 2023, New Jersey follows the *Finnigan* apportionment approach. Please stay tuned to TWIST for additional New Jersey updates.

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