



This Week in State Tax (TWIST)

August 19, 2024



New Jersey: Garden State Updates Guidance on S Corporation Requirements

The Division of Taxation has issued a revised Tax Bulletin TB 105-(R) implementing changes to the Corporation Business Tax for S Corporations and Qualified Subchapter S Subsidiaries (QSSS) that were enacted in December 2022. The law eliminated the requirement for a separate New Jersey S corporation election for a federal S corporation for privilege periods beginning on or after December 22, 2022. The guidance provides the procedures for a federal S Corporations or QSSS with a federal approval letter for its status. For federal approval letters dated on or after December 22, 2022, the S corporation must file a Shareholder Jurisdictional Consent and a copy of the federal approval. If the federal S Corporation or QSSS elects to be treated as a C Corporation for New Jersey purposes (known as a “hybrid corporation”), shareholder consent is still required. For federal approval letters dated before December 22, 2022, Shareholder Jurisdictional Consent and proof of federal S corporation status must be submitted for privilege periods on or after December 22, 2022. For periods beginning before December 22, 2022, the corporation must make a retroactive election.

The guidance also includes details on the procedures for election into and revocation of the election to be treated as a C Corporation for New Jersey purposes. The election is made by indicating the entity is a hybrid corporation on its tax return, either Form CBT-100 or Form CBT-100U (not Form CBT-100S), by the later of the original due date or extended due date. Revocation of the election must be finalized on or before the 15th day of the third month of the current privilege period. The Division has also released an [FAQ](#) on December 2022 law changes. Please contact Jim Venere or Andrew Eskola with questions on TB-105(R).date or extended due date. Revocation of the election must be finalized on or before the 15th day of the third month of the current privilege period. The Division has also released an [FAQ](#) on December 2022 law changes. Please contact [Jim Venere](#) or [Andrew Eskola](#) with questions on [TB-105\(R\)](#).

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