



This Week in State Tax (TWIST)

March 9, 2026



New Jersey: SCOTUS declines to review Garden State ruling on related party addback

The United States Supreme Court has denied a writ of *certiorari* relating to ongoing New Jersey litigation over the deductibility of royalty payments made to a related party. Under New Jersey law, royalties paid to a related party must be added back in determining taxable income, but a deduction is allowed if the taxpayer can show that the adjustments are “unreasonable.” Prior to 2020, the “Unreasonable Exception” applied only to “the extent the payee pays tax to New Jersey on the income stream” (geographic limitation). The Division removed the geographic limitation in 2020. In the petition to the Supreme Court, the taxpayer argued that “[b]y permitting an addback only to the extent of the New Jersey activity of the royalty recipient and taxing the royalty income received by the royalty recipient using the royalty payor’s apportionment factor,” New Jersey was violating the Commerce Clause and Due Process Clause. In the taxpayer’s view, the New Jersey addback created an incentive for intrastate activity over interstate activity. On the state level, the New Jersey Superior Court, Appellate Division determined in 2025 that by amending the regulation in 2020, New Jersey “cured” the unconstitutionality of the geographic limitation. The New Jersey Supreme Court declined to review the appellate court which led to taxpayer’s petition to the U.S. Supreme Court. Please contact [James Venere](#) and [Andrew Eskola](#) with questions on *Lorillard Tobacco Co. v. Sciarrotta, U.S.*, [No. 25-769](#), cert. denied Mar. 3, 2026.

Learn about us:



[kpmg.com](https://www.kpmg.com)

INTERNAL USE ONLY

© 2026 KPMG LLP, a Delaware limited liability partnership, and its subsidiaries are part of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS039001

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.