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This Week in State Tax (TWIST)



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New Jersey: Division issues guidance regarding new temporary limitations on use of NOLs

The New Jersey Division of Taxation recently issued a technical bulletin providing guidance regarding the temporary limitations enacted earlier this year on the utilization of net operating loss (NOL) carryovers from losses generated in prior years. Per the new law, for privilege periods ending on or after July 31, 2026, but before July 31, 2030, taxpayers (other than public utilities) may deduct no more than $1 million of NOL carryovers. The bulletin clarifies that a combined group is treated as a single taxpayer for purposes of the $1 million limitation, and the limitation applies in addition to the existing 80 percent limitation for certain NOLs. Under N.J.S.A. 54:10A-4(w), the 80 percent limitation follows the federal treatment under I.R.C. § 172(a)(2), which limits the NOL deduction to 80 percent of taxable income. Short-period taxpayers must prorate the limitation based on the number of months in the privilege period. Losses generated in the privilege period ending July 31, 2026, are not subject to the limitation until that loss is claimed in a subsequent period as an NOL deduction. The bulletin also notes that the new law provides relief from penalties and interest on underpayments of estimated tax due after December 31, 2025, but before January 1, 2027, to the extent the underpayments result from the temporary NOL limitations.

For privilege periods ending on or after July 31, 2030, but before July 31, 2032, taxpayers may deduct NOL carryovers that remained unused because of the temporary $1 million limitation, but that deduction is limited to 75 percent of the taxpayer's allocated entire net income for the privilege period, in addition to the 80 percent limitation. This additional 75 percent limitation does not apply to a taxpayer that was not subject to the $1 million limitation. For privilege periods ending on or after July 31, 2032, the temporary limitations no longer apply, and taxpayers must apply the ordinary New Jersey NOL rules for the relevant period, including the 80 percent deduction limitation on post-allocation NOLs generated in privilege periods beginning after July 31, 2023.

Please contact Andrew Eskola with questions about Technical Bulletin 118.

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