

## Income/Franchise:

### New Jersey: New and Updated Bulletins Reflect CBT Law Changes Involving Combined Reporting and Banks

*Tax Bulletin No. TB-113: Captive Investment Companies, Real Estate Investment Trusts, and Regulated Investment Companies and Combined Groups*, N.J. Div. of Tax. (11/1/23); *Tax Bulletin No. TB-91 (R): Banking Corporations and Combined Returns*, N.J. Div. of Tax. (rev. 11/1/23); *Tax Bulletin No. TB-99(R): Income Reporting and Returns for Banking Corporations for Privilege Periods Ending on and after July 31, 2020*, N.J. Div. of Tax. (rev. 11/1/23); *Tax Bulletin No. TB-86 (R): Included and Excluded Business Entities in a Combined Group and the Minimum Tax of a Taxpayer that is a Member of a Combined Group*, N.J. Div. of Tax. (rev. 11/1/23). The New Jersey Division of Taxation (Division) posted new and updated bulletins reflecting recently enacted legislation that made significant changes to New Jersey's corporation business tax (CBT) for privilege periods ending on and after July 31, 2023 [see A.B. 5323 (2023) and previously issued Multistate Tax Alert for more details on these recent law changes]. One new bulletin addresses:

URL: <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/tb113.pdf>

URL: <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/tb91.pdf>

URL: <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/tb99.pdf>

URL: <https://www.nj.gov/treasury/taxation/pdf/pubs/tb/tb86.pdf>

URL: <https://www.njleg.state.nj.us/bill-search/2022/A5323>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-jersey-enacts-changes-to-corporation-tax-laws.pdf>

1. Changes to the CBT treatment for certain investment companies, real estate investment trusts (REITs), and regulated investment companies (RICs) in relation to combined groups,
2. The exclusion of such entities from the group if they are owned by a bank or a savings and loan association with \$15 billion or less in assets, and
3. Related return filing procedures.

This bulletin explains that, effective for privilege periods ending on and after July 31, 2023, the CBT Act was amended to require the inclusion of investment companies, RICs, and REITs meeting the statutory definition of "captive" versions of those entities as members of the combined group and taxed as C corporations; additionally, these "captives" must add back any deductions and expenses that are only permitted to investment companies, RICs, and REITs under the Internal Revenue Code. Other recently updated bulletins reflect how, beginning with tax year 2023, a certain form (Form BFC-1) is discontinued and that banking corporations and financial business corporations that are members of a combined group must be included as a member reported on the Form CBT-100U, "so the discontinuation of the form does not impact combined filers."

Another updated bulletin explains which business entities are (and are not) included in a New Jersey combined group, clarifying that for periods ending on and after July 31, 2023 (i.e., the "Finnigan Years") for purposes of N.J.S.A. 54:10A-4.7.e, the group is one taxpayer so that although one member may have P.L. 86-272 protection, the combined group will not have P.L. 86-272 protection if any other member(s) exceeds the

protections of P.L. 86-272 or if one of the other members has activities in New Jersey that are not protected by P.L. 86-272. The bulletin lists some activities that are not “P.L. 86-272 protected,” including sales of services, sales of intangibles, sales of real estate, or sales of financial products. Please contact us with any questions.

— Norm Lobins (Cleveland)  
Managing Director  
Deloitte Tax LLP  
nlobins@deloitte.com

Kevin Friedhoff (Morristown)  
Senior Manager  
Deloitte Tax LLP  
kfriedhoff@deloitte.com

Steve Martin (Morristown)  
Senior Manager  
Deloitte Tax LLP  
stevenmartin@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).