

Income/Franchise:

New Jersey: Updated Bulletin Reflects CBT Law Changes Involving Bright-Line Economic Nexus

Tax Bulletin No. TB-108: Nexus for Corporation Business Tax for Privilege Periods Ending on and after July 31, 2023, N.J. Div. of Tax. (rev. 1/18/24). The New Jersey Division of Taxation (Division) posted an updated bulletin reflecting legislation enacted in 2023 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]. Correcting a typographical error from an earlier version, the updated bulletin continues to address New Jersey's bright-line economic nexus standard and provides general guidelines for determining whether the activities of a corporation create nexus with New Jersey for CBT purposes for privilege periods ending on and after July 31, 2023. The bulletin notes that P.L. 86-272 does not apply to services or intangible personal property; and sales and activities involving financial products, financial instruments, and financial services are *not* P.L. 86-272 protected because they are not tangible personal property. Accordingly, "if a financial business corporation, banking corporation, credit card company, or similar business has nexus with New Jersey," the taxpayer is subject to the CBT based on or measured by income. The bulletin also notes that "the offering, soliciting, selling, accepting, or buying of digital assets such as virtual currency or non-fungible tokens (NFTs) and/or offering of services pertaining to them is the offering and selling of financial products, financial instruments, and financial services and is not P.L. 86-272 protected." In the context of combined groups, the bulletin reminds that "as all combined groups are now required to use the Finnigan method, the combined group cannot claim P.L. 86-272 protection if one of the members either has activities that are not protected by P.L. 86-272 or that exceed the protections of P.L. 86-272." Please contact us with any questions.

URL: <https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb108.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>

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