

Income/Franchise:

New Hampshire: Proposed Rules Reflect IRC §163(j) Decoupling and Market-Sourcing Apportionment for Financial Institutions

Final Proposal to Adopt Rev 303.06 and 304.10, N.H. Dept. of Rev. Admin. (3/27/24). The New Hampshire Department of Revenue Administration (Department) released final proposed text of an administrative rule reflecting state legislation enacted in 2023 [see S.B. 189 (2023) / Chapter 163 and *State Tax Matters*, Issue 2023-31, for more details on this legislation] that permits a New Hampshire business profits tax (BPT) taxpayer to fully deduct its business interest expense in the year it is incurred, thereby decoupling from the limitations on the deduction of business interest expense under Internal Revenue Code (IRC) section 163(j), for tax years beginning on or after January 1, 2024. Specifically, the proposed text provides the following:

URL: <https://www.revenue.nh.gov/laws/proposed-rules.htm>

URL: https://www.gencourt.state.nh.us/bill_Status/billinfo.aspx?id=770&inflect=2

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230804_6.html

“A business organization with a fiscal tax period that begins before, and ends on or after, January 1, 2024 and has a carry forward of disallowed business interest under section 163(j) of the IRC at the end of such fiscal tax period, shall be allowed as a deduction of such disallowed business interest expense, under RSA 77-A:4, XX, in 3 equal parts over 3 consecutive years, beginning with the first taxable period commencing on or after the end of said fiscal period.”

The Department also released final proposed text revising its rule on computing special industry apportionment of financial institutions to reflect the market-based sourcing apportionment methodology adopted by 2019 state legislation. According to the Department, it is expected that these final rule proposals collectively will be considered by New Hampshire’s Joint Legislative Committee on Administrative Rules (JLCAR) during their April 19, 2024 meeting. Please contact us with any questions.

— Bob Carleo (Boston)
Managing Director
Deloitte Tax LLP
rcarleo@deloitte.com

Liz Jankowski (Boston)
Principal
Deloitte Tax LLP
ejankowski@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 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.