

## Income/Franchise:

### Kansas: New Law Modifies Adjustments Related to §163(j) and NOLs and Revises PTET

S.B. 410, signed by gov. 4/24/24. Newly signed legislation contains several tax-related measures, including provisions that clarify certain Kansas addition and subtraction adjustments for disallowed business interest expense under Internal Revenue Code (IRC) section 163(j) [see previously issued Multistate Tax Alert for details on Kansas' conformity to certain provisions under the federal 2017 Tax Cuts and Jobs Act] to specify that the addition modification is applicable to interest expenses paid or accrued in previous tax years and carried forward and allowed as a deduction in the current tax year under IRC section 163. The newly signed legislation also clarifies that a subtraction modification is allowed for interest expense actually paid or accrued in the current tax year which was disallowed pursuant to the IRC section 163(j) limitation. Additionally, for tax year 2021, the legislation further clarifies that a subtraction modification is allowed for an amount equal to the sum of any interest expenses paid or accrued in tax years 2018, 2019 and 2020 less the sum of amounts allowed as a deduction pursuant to IRC section 163 in tax years 2018, 2019 and 2020. The legislation also creates a subtraction modification allowing taxpayers that carried back federal net operating losses (NOLs) in tax years 2018 through 2020 pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act to subtract such amounts from their income for Kansas income tax purposes; taxpayers may carry forward such NOLs for up to twenty years, and eligible taxpayers are allowed an extension to file amended returns for tax years 2018 through 2020 until April 15, 2025.

**URL:** [https://www.kslegislature.org/li/b2023\\_24/measures/sb410/](https://www.kslegislature.org/li/b2023_24/measures/sb410/)

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-kansas-legislature-overrides-governor-veto-to-enact-significant-indirect-and-income-tax-law-changes.pdf>

Some other provisions in the bill revise aspects of Kansas' elective pass-through entity tax [see previously issued Multistate Tax Alert for more details on Kansas' pass-through entity tax election] such as specifying that the tax rate for electing entities is the highest tax rate imposed by the Kansas individual income tax (rather than fixed at 5.7%). In addition, the bill modifies the calculation of taxable income for the pass-through entity tax election to the sum of each nonresident electing pass-through entity owner's pro rata or distributive share of the electing pass-through entity's income attributable to the State and each resident electing pass-through entity owner's pro rata or distributive share of the electing pass-through entity's income calculated as either the sum of income attributable to the State and income not attributable to the State; or income attributable to the State. The electing pass-through entity must use the same method of calculation for all resident electing pass-through entity owners. These various pass-through entity tax law changes are applicable retroactively for taxable years beginning on or after January 1, 2022. Please contact us with any questions.

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-alert-kansas-enacts-pass-through-entity-tax-election.pdf>

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