

Income/Franchise:

Pennsylvania: New Law Phases in Increased NOL Carryover Limits and Amends Intercompany Intangible Expense Addback

S.B. 654, signed by gov. 7/11/24. Effective immediately, new law gradually increases Pennsylvania's current "40% of taxable income" percentage cap for "net loss carryover" (NLC) deductions under Pennsylvania's corporate net income tax (CNIT) for taxable years beginning after December 31, 2024, effectively phasing in an 80% cap for taxable years beginning after 2028. Specifically, under the legislation, taxpayers are permitted the basic 40% deduction on all net losses incurred in a tax year before January 1, 2025, and then for net losses incurred after 2024, are entitled to deduct a higher percentage, less an adjustment for the actual percentage of income already offset by the 40% limit. For tax years beginning in 2025, taxpayers may deduct 40% of taxable income for a net loss incurred in a tax year before January 1, 2025; and the legislation provides that the phased-in higher deduction is 50% during tax years beginning in 2026, 60% during tax years beginning in 2027, 70% during tax years beginning in 2028, and 80% for tax years beginning after 2028.

[URL: https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2023&ind=0&body=S&type=B&bn=654](https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2023&ind=0&body=S&type=B&bn=654)

Addressing certain issues related to Pennsylvania's adoption of market-based sourcing on receipts from certain intangible property and codification of an economic nexus standard [see *State Tax Matters*, Issue 2022-28, for more details on this adoption and codification in 2022], the legislation also amends Pennsylvania's intercompany intangible expense "addback" statute by allowing the affiliate receiving the intercompany income to make an election to exclude the income from its CNIT base – in which case the taxpayer reporting the corresponding expense addback would forgo the credit otherwise allowed for taxes paid by the affiliate. Please contact us with any questions.

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220715_1.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220715_1.html)

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