

Income/Franchise:

Virginia: Administrative Ruling Says Loan Interest to Purchase Stock is Not Subject to Intercompany Addback Statute

Public Document No. 24-129, Va. Dept. of Tax. (12/11/24). The Virginia Department of Taxation (Department) issued a ruling in the taxpayer's favor that its intercompany interest expenses derived from the payment of loan interest to purchase stock was *not* related to the acquisition of intangible property as defined for purposes of Virginia's intercompany expense "addback statute" under Virginia Code § 58.1-402 B 9, and therefore it was not required to add back the interest expenses on its Virginia corporate income tax return. On a separate issue of "first impression," the Department also held that based on federal income tax principles and caselaw, as well as the underlying facts in this case, the taxpayer's original filed Virginia corporate income tax return was deemed timely filed for extension purposes even though a schedule (specifically, Virginia Schedule 500AB, which details payments that a taxpayer makes to related entities that are subject to "add-back" under Virginia Code § 58.1-402 B 8) was mistakenly omitted from the filing. In doing so, the Department reasoned that although it was not possible to see the "per entity detail of how the add-back additions were computed" until the taxpayer included the missing schedule, the original filing sufficiently "included all the figures needed to compute its Virginia income tax liability." Please contact us with any questions.

URL: <https://www.tax.virginia.gov/laws-rules-decisions/rulings-tax-commissioner/24-129>

— Joe Carr (McLean)
Tax Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Jennifer Alban Paschall (McLean)
Tax Principal
Deloitte Tax LLP
jalbanbond@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.