

New Jersey Legislature Passes New Tax Rules

July 6, 2023



On Monday July 3rd, as New Jersey's fiscal year came to a close, Governor Phil Murphy signed a series of bills passed by the state's legislature for the next fiscal year. The new laws will have a particular impact on several tax provisions going forward. See below for details on the tax changes.

- The state will mimic its sales tax economic nexus thresholds and now apply them for income tax purposes. Essentially, an out-of-state taxpayer with 200 or more in-state transactions or in-state receipts of more than \$100,000 will be deemed to have income tax economic nexus.
- Partnerships operating in New Jersey will see a shift in their apportionment rules as the state moves away from a three-factor formula based on cost of performance to the more popular single-sales factor market-based approach. This change will align partnerships with the current sourcing rules in affect for C and S corporations.
- Net operating losses will now be available before claiming a dividend received deduction. New Jersey was an outlier, allowing for the deduction prior to claiming a net operating loss (NOL), which effectively limited the amount of NOL available for use by a state taxpayer.
- The state will increase its Global Intangible Low-Taxed Income (GILTI) deduction from 50% to 95%, putting the state in line with many others,

including Connecticut and New York.

- Corporate combined reporting rules will switch from the *Joyce* methodology, which looks at each entity of a combined group separately when determining if it is subject to tax in the state, to *Finnigan*, in which an entire group is taxable if one member of the group is taxable.
- Starting in 2026, a new property tax relief program will provide seniors earning less than \$500,000 per year a credit for half of their property tax, up to \$6,500.
- Beginning in tax year 2023, New Jersey will institute a new reciprocal “Convenience of the Employer Rule” targeting nonresident remote workers who work for a New Jersey-based business. This comes in response to New York’s convenience rule, which has cost New Jersey billions in tax credits for residents subject to New York’s income tax while telecommuting from New Jersey. The rule only applies if the reciprocal state itself has a convenience rule; for example, New York has one but Pennsylvania does not.

Noticeably absent from the legislation was an extension of the state’s temporary corporate tax surcharge, which increased the tax rate from 9% to 11.5% starting in 2018. The surcharge was previously extended in 2021 and is set to expire this year. State lawmakers agreed to let the surcharge sunset to help the state regain a competitive footing in its race against other states to lure business.

If you have questions about how these changes in the law will affect your New Jersey business, please contact [Alan Goldenberg](#), Principal and Leader of the State and Local Tax and Tax Controversy groups, or your Anchin Relationship Partner.