



State of New Jersey
Department of the Treasury

— Division of Taxation —

**Notice: Corporation Business Tax
Legislation Adjusts and Clarifies Certain State Tax Compliance Standards and Restricts
Certain State Tax Benefits
(P.L. 2014, c. 13)**

Amendment to the Corporation Business Tax Act, enacted June 30, 2014

P.L. 2014, c.13 amends N.J.S.A. 54:10A-6.1(a), N.J.S.A. 54:10A-15.11(b), and N.J.S.A. 54:10A-4(k)(6)(F) of the Corporation Business Tax Act effective on and after June 30, 2014, and applies to privilege periods ending on or after July 1, 2014. The specific changes in the law are described as follows:

Section 1 of the new law amends N.J.S.A. 54:10A-6.1(a), to revise the definition of "operational income." The law now defines "operational income" that is subject to allocation to New Jersey as income from tangible and intangible property if the acquisition, management, **or** disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. Previously, operational income was defined as income from real or tangible property if the acquisition, management, **and** disposition of the property constitute integral parts of the taxpayer's trade or business operations.

This amendment is in response to the holding of *McKesson Water Products Company v. Director, Div. of Taxation*, 408 N.J. Super. 213 (App.Div. 2009) affirming *McKesson Water Products Company v. Director, Div. of Taxation*, 23 N.J. Tax 449 (Tax Ct. 2007), where the Court held that all three activities must be integral parts of the taxpayer's regular trade or business operations in order for the income to constitute "operational" income.

Section 2 of the new law amends N.J.S.A. 54:10A-15.11(b) in response to the Tax Court decision in *BIS LP, Inc. v. Director, Div. of Taxation*, 2014 N.J. Tax (App. Div. Apr. 11, 2014). In 2002, legislation was enacted to require New Jersey partnerships to make payments on behalf of their nonresident partners. In the *BIS* decision, the court determined that the statute did not bar a nonresident partner that had no New Jersey filing obligation from claiming a refund of tax it did not pay, but that was paid on its behalf. The effect of this new law is that payments made by a partnership on behalf of its nonresident partners are only refundable to a nonresident partner that files a New Jersey tax return and reports income that is subject to tax in this State. In that case, the nonresident partner may apply the tax that was paid by the partnership and credited to the nonresident partner's partnership account against the partner's tax liability and claim a refund of any resulting overpayment. The law also provides that a partnership that pays tax pursuant to N.J.S.A. 54:10A-15.11 is not entitled to claim a refund of payments credited to the account of any of its nonresident partners.

Section 3 of the new law amends N.J.S.A. 54:10A-4(k)(6)(F) to require that a corporation's net operating loss be reduced by the amount excluded from federal taxable income under subparagraph (A), (B), or (C) of subsection (a)(1) of IRC § 108 for the privilege period of the discharge. Amounts excluded under IRC § 108 include debt discharged and excluded from income on account of bankruptcy, insolvency, or qualified farm indebtedness.

Last Updated: Monday, 08/18/14