

State Tax Observations

New Jersey Adopts a “Convenience of the Employer” Rule

By Nicholas Rochedieu, JD, Director and Steven J. Eller, CPA, JD, Partner

New Jersey’s Governor Murphy recently signed A 4694, a Bill that created a “convenience of the employer” rule as noted in our prior [New Jersey Budget Article](#). The Governor held a press conference to sign the Bill and stated that the rule will bring New Jersey’s “policies in line with our neighboring states and bring our policies in line with New York.” The Bill also provides two different credits to incentivize employees to work in New Jersey. Details of the Bill follow.

“Convenience of the Employer” Rule

Effective for years beginning on or after January 1, 2023, New Jersey adopted a “convenience of the employer” rule very similar to New York. However, New Jersey’s rule only applies if the other state has an equivalent statute (i.e., New York).

The rule sources income of nonresidents to New Jersey where:

1. Work and compensation are paid by a New Jersey employer;
2. Services are performed outside of the state that were not required by the employer to be performed outside of New Jersey; and
3. The worker’s state of residence imposes an income or wage tax that requires employee compensation to be sourced to an employer’s location if the nonresident renders the service from an out-of-state location for the convenience of the nonresident employee and not due to the necessity of the employer.

The Bill also allows the Division of Taxation to adopt temporary regulations (effective for 180 days) to implement the changes above outside of the traditional Administrative Procedure Act process.

Credits and Grants for New Jersey Residents

Effective for tax years beginning on or after January 1, 2020, but before January 1, 2024, the Bill also includes a credit for New Jersey residents that obtain a final judgment from an out-of-state tax court or tribunal resulting in a New Jersey resident being refunded taxes paid to another state on income derived from services rendered while the resident taxpayer was within New Jersey. The credit equals 50% of the amount of taxes that are owed to New Jersey based upon the adjustment to the credit for taxes paid to other jurisdictions.

Effective July 21, 2023, the Bill also established two other funded programs administered by the New Jersey Economic Development Authority:

- \$35 million annual grant for businesses to re-assign their New Jersey resident employees from outside of New Jersey to a location in the state. Eligible businesses are required to have 25 or more full-time employees to be located principally outside of New Jersey. The grant – up to \$500,000 per entity – is based upon income tax withholdings of resident employees re-assigned to a New Jersey location.
- \$10 million funded credit for New Jersey residents who request and succeed in being re-assigned a work location by their employer to New Jersey from another state. The credit is \$2,000 per taxpayer. There will be an application process for the credit to be certified.

Statute of Limitation Change

The Bill allows a taxpayer to readjust a credit for taxes paid to another jurisdiction when the other state changes or corrects income either within the statute of limitations period or within one year from the “date the taxpayer received notification that the other state’s income tax was due,” whichever of such periods expires later. If the default New Jersey statute of limitations has expired, a taxpayer has only one year from the other state’s notification to claim an additional credit from New Jersey.

This change did not affect the requirement that the credit for taxes paid must have been claimed on an original return. [See [Bonanno v. Director, Division of Taxation \(Tax Ct. 1992\)](#)]

Contact Us

If you have any questions regarding these matters, please contact your PKF O’Connor Davies’ client engagement partner or:

Steven J. Eller, CPA, JD
Partner
seller@pkfod.com

Nicholas Rochedieu, JD
Director
nrochedieu@pkfod.com

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