pennsylvania
DEPARTMENT OF REVENUE

CORPORATION TAX BULLETIN 2008-05

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*This Tax Bulletin rescinds and replaces **CORPORATION TAX BULLETIN NUMBER 97 Issued March 1985 and Revised April 2005 REV-816-K (1-05)**.

CORPORATE NET INCOME TAX - ADD-BACK OF TAXES IMPOSED ON OR MEASURED BY NET INCOME

Act No. 14 of May 5, 1981 amended Section 401 of the Tax Reform Code of 1971 to provide that, in arriving at Pennsylvania taxable income for taxable years beginning on or after January 1, 1981, no deduction shall be allowed for taxes imposed on or measured by net income. To the extent that such taxes have been deducted for Federal income tax purposes, they must be added back to Federal taxable income before apportionment for Pennsylvania Corporate Net Income Tax purposes.

THE FOLLOWING IS A LIST OF STATES WHICH, AS OF JANUARY 1, 2008, IMPOSE AN INCOME TAX SUBJECT TO PENNSYLVANIA CORPORATE NET INCOME TAX ADD-BACK:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio*
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Tennessee
Utah
Vermont
Virginia
West Virginia
Wisconsin

NOTE: The net income portion of the Philadelphia Business Privilege Tax is subject to add-back.

* Ohio is in the process of phasing out the franchise tax. This tax is being replaced by the Corporate Activities Tax which is not imposed on or measured by net income.

THE FOLLOWING STATES, AS OF JANUARY 1, 2008, DO NOT IMPOSE AN INCOME TAX SUBJECT TO PENNSYLVANIA CORPORATE NET INCOME TAX ADD-BACK:

Nevada	South Dakota	Texas	Washington	Wyoming

IMPORTANT

- If a corporation pays a tax to a state which is a combination of taxes imposed on net income and some other element (*i.e.*, gross receipts or net worth), the portion based on net income must be added back in calculating Pennsylvania taxable income.

  Example

  Company A does business in State X. State X imposes a franchise tax based on 7% of net income and 1% of gross receipts. During the tax period in question, Company A has net income in the state of $50,000 and gross receipts of $750,000. In calculating its Federal taxable income for this period, Company A reports a franchise tax expense for State X of $11,000 ($3,500 for the net income portion plus $7,500 for the gross receipts portion of the tax). In calculating Pennsylvania taxable income, Company A would be required to add-back $3,500 of the franchise tax paid to State X as taxes imposed on or measured by net income.

- If a corporation is required to pay a tax which could be based on either net income or some other item (*i.e.*, gross receipts or net worth), and the tax paid for the period is based on net income, the total tax is added back in the calculation of Pennsylvania taxable income.

  Example

  Company A does business in State Y. State Y imposes a franchise tax based on the greater of 7% of net income or 1% of gross receipts. During the tax period in question, Company A has net income in the state of $150,000 and gross receipts of $750,000.

  The calculation of the State Y franchise tax is as follows:

Net Income	$150,000 X .07 = $10,500
Gross Receipts	$750,000 X .01 = $ 7,500

  Since 7% of net income is greater than 1% of gross receipts, the taxpayer’s franchise tax liability to State Y for the year in question is $10,500.

In calculating its Federal taxable income for this period, Company A reports a franchise tax expense for State Y of $10,500. In calculating Pennsylvania taxable income, Company A would be required to add-back $10,500 of the franchise tax paid to State Y as taxes imposed on or measured by net income.

¾ If a corporation overpays or over accrues income taxes in a prior year and adjusts the income tax expense for this overpayment or over accrual in a subsequent year, then the taxpayer may decrease the tax add-back for the amount of this adjustment. However, the amount of the decrease is limited to the amount of these taxes added back in the year of the overpayment or over accrual.

Example

Company A incorporated in a state other than Pennsylvania on January 1, 1995 and is a cash basis taxpayer. Company A had no activity in Pennsylvania until 2005. When filing their Federal income tax return for 2004 they expensed taxes imposed on or measured by net income paid to State X of $10,000. In preparing their Federal income tax return for 2005 Company A expensed $12,000 of taxes imposed on or measured by net income paid to State X and added back this amount in the calculation of Pennsylvania taxable income. In 2006, Company A received a refund from State X of $5,000, $3,000 from 2004 and $2,000 for 2005. In preparing their Federal income tax return for 2006, the total amount of the refund was included in Federal taxable income. In calculating Pennsylvania taxable income, Company A would be allowed to reduce their tax add-back by the $2,000 refund received from State X for taxes paid and expensed for 2005. Since Company A was not subject to Pennsylvania Corporate Net Income Tax in 2004, they would not be able to reduce the tax add-back for the $3,000 refund paid and expensed in 2004 since it was not added back in the calculation of Pennsylvania taxable income in a prior period.