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NJ Tax Relief – Business Alternative Income Tax (BAIT)

New NJ Law Permits State Income Tax Deduction Under Certain Circumstances Using Pass-through Entities.

If you have NJ income, and a partnership, LLC or S-Corp, we recommend discussing with your accountant how to take advantage of this new law.

New Jersey recently enacted the Pass-Through Business Alternative Income Tax Act (BAIT). BAIT is intended to circumvent the federal \$10,000 cap on state and local tax ("SALT") deductions. BAIT allows pass-through entities (including partnerships) to elect to pay an entity level income tax to New Jersey. The amount of this tax would reduce the income of a pass-through entity for federal tax purposes and thereby indirectly allow a deduction of such state income taxes that would otherwise be subject to the \$10,000 cap on SALT deductions. This would result in less federal income (and therefore less federal income tax) for those who receive Form K-1 from the pass-through entity.

We are recommending that New Jersey businesses and corresponding New Jersey resident shareholders should review their situation to see if they can take advantage of this program.

The following are some examples of the federal income tax savings that could result from the election by the firm to pay tax under the Act:

- Example 1 - Your NJ Gross Income Tax (NJGIT) from business income sourced to New Jersey is \$10,000 and you are in the 24% federal income tax bracket. You would save \$2,400 in federal income tax ($\$10,000 \text{ (NJGIT)} \times .24 \text{ (federal tax bracket)} = \$2,400$).
- Example 2 - Your NJGIT from business income sourced to New Jersey is \$25,000 and you are in the 32% federal income tax bracket. You would save \$8,000 in federal income tax ($\$25,000 \text{ (NJGIT)} \times .32 \text{ (federal tax bracket)} = \$8,000$).

For tax year 2020, the entire liability for BAIT is due by January 15, but in order to obtain the tax deduction in 2020, payment must be received by New Jersey by December 31. Beginning in 2021, for the 2021 tax year, the business must make estimated payments of the tax under BAIT on April 15, June 15 and September 15 and January 15. However, for tax deduction purposes, you will want to make payment by December 31.

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