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MULTISTATE INCOME/FRANCHISE TAX

Georgia and Indiana enact legislation relating to IRC section 174

Tax Alert

Overview

Georgia and Indiana recently enacted legislation decoupling or providing modifications from the Tax Cuts and Jobs Act ("TCJA") amendments to IRC section 174, joining six other states in decoupling or providing modifications from the TCJA amendments to section 174 for corporate income tax purposes.

This Tax Alert summarizes the legislation in Georgia and Indiana and provides considerations for those six other states.

IRC section 174

Federal

The TCJA amended section 174 to require taxpayers to amortize specified research and experimental expenditures over a five-year period for domestic expenditures and a fifteen-year period for foreign expenditures. Prior to the TCJA amendments, section 174 provided taxpayers with two different methods for treating research and experimental expenditures: (1) taxpayers were permitted to currently deduct research and experimental expenditures paid or incurred in connection with a trade or business as if they were expenses which were not chargeable to capital account; and (2) taxpayers had the option to make an election to defer expenses paid or incurred in connection with the taxpayer's trade or business, which were not expensed and were chargeable to capital account, and deduct the expenses ratably over a period of not less than 60 months.

Georgia

On May 2, 2023, Georgia Senate Bill 56 ("S.B. 56") was enacted into law. Pursuant to S.B. 56, for taxable years beginning on or after January 1, 2022, Georgia retroactively decouples from the TCJA amendments to section 174 and specifically provides that section 174 should be treated as it was in effect before the enactment of the TCJA.

Indiana

On May 4, 2023, Indiana Senate Bill 419 ("S.B. 419") was enacted into law. Among other items, S.B. 419 provides that for tax years beginning on or after January 1, 2022, corporate taxpayers are required to addback the amount of research and experimental expenditures claimed as a deduction in the current taxable year under section 174(a)(2)(B) and take an immediate deduction of all research and experimental expenditures incurred in the current year pursuant to section 174(a)(2)(A).

Other state considerations

The six other states that have previously decoupled or provided a modification from the TCJA amendments to section 174 for corporate income tax purposes include:

- **California**: The state adopts section 174 in effect as of January 1, 2015, which does not include the TCJA amendments to section 174.
- **Kentucky**: The Kentucky Department of Revenue has provided informal guidance to Deloitte stating that Kentucky will not require taxpayers to follow the TCJA amendments to section 174 for the 2022 tax year only.
- **Mississippi**: Incorporates legislation providing that for tax years beginning after December 31, 2022, the state provides taxpayers with an election to either (1) take a full and immediate deduction of specified research and experimental expenditures or (2) follow the five- and fifteen-year amortization period allowed under section 174.
- **Tennessee**: The state specifically follows the version of section 174 that existed immediately before the enactment of the TCJA.
- **Texas**: The state adopts section 174 in effect as of January 1, 2007, which does not include the TCJA amendments to section 174. Further, the state has specific rules regarding its cost of goods sold deduction but does look to the federal treatment of research and experimental expenditures.
- **Wisconsin**: The state specifically decouples from the TCJA section (sec. 13206 of P.L. 115-97) that amended section 174.

Get in touch

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Have a specific question relating to states that decouple or provide a modification from the TCJA amendments to IRC section 174? Reach out to one of our Jurisdictional Technical Leads.

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