



MULTISTATE INCOME/FRANCHISE TAX

Illinois amends regulation defining taxable in other jurisdictions

Tax Alert

Overview

On September 9, 2022 Illinois adopted an [amendment](#) to 86 Ill. Adm. Code Section 100.3200, effective August 24, 2022. The amendment is related to the applicability of the definition of taxable in another state, country, or political subdivision for Illinois income tax purposes.

This Tax Alert summarizes some of the provisions of this amendment.

Amendment

The amendment to 86 Ill. Adm. Code Section 100.3200 removes the stipulation “that a treaty provision exempting certain persons, business activities or sources of income from tax is not subject to net income tax in that jurisdiction” for tax years ending on or after December 31, 2022. The regulation now states that for tax years ending on or after December 31, 2022 “if jurisdiction is otherwise present, that foreign country or political subdivision is not considered as being without jurisdiction by reason of the provisions of a treaty between that foreign country or political subdivision and the United States.” Thus, the presence of treaty protection will no longer by default subject taxpayers to Illinois throwback and throw-out rules.

Considerations

Taxpayers that have sales to foreign countries should review their Illinois apportionment calculations to determine whether the amendment impacts the determination of sales subject to the Illinois throwback or throw-out rules.

Get in touch

[Greg Bergmann](#)

[Brian Walsh](#)

[Dan Daly](#)

[Alice Fan](#)



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30 Rockefeller Plaza
New York, NY 10112-0015
United States

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