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MULTISTATE INCOME/FRANCHISE TAX

California enacts Senate Bills 167 and 175 on NOLs and credits

Tax Alert

Overview

On June 27, 2024, California Senate Bill 167 ("SB 167") was enacted into law. SB 167 provides for a three-year suspension of net operating losses ("NOLs") under the California Personal Income Tax and Corporation Tax, a three-year cap on the use of business incentive tax credits to offset no more than $5 million of tax per year, and retroactive application of the Franchise Tax Board's Legal Ruling 2006-1 issued on April 28, 2006, with respect to the treatment of apportionment factors attributable to income exempt from California Corporation Tax Law. See our previous Tax Alert for an overview of the relevant provisions in SB 167.

In addition, Senate Bill 175 ("SB 175") was enacted on June 29, 2024. SB 175 is a companion bill to SB 167. This Tax Alert covers some of the relevant provisions in SB 175.

SB 175

- On June 29, 2024, SB 175 was enacted into law. SB 175 allows personal and corporate income taxpayers to get refunds for a range of tax credits, including the research and development ("R&D") credit, for the first time.
- For California personal income tax and corporate income tax purposes, SB 175 allows for a taxpayer to make an irrevocable election to receive an annual refundable credit amount for qualified credits.
- For taxable years beginning on or after January 1, 2024, and before January 1, 2027, taxpayers may receive a refundable credit equal to 20% of the qualified credits that would have otherwise been available but for the $5,000,000 business tax credit limitation enacted in SB 167.
- "Qualified credits" is defined as the credits listed under California Revenue and Taxation Code section 17039, subject to the limitations under section 17039.4. The R&D credit, California Competes credit, and low-income housing credit are some of the credits that could be refunded.

- SB 175 will make inapplicable the suspension of NOLs and the business tax credit limitation if the California Director of Finance determines that revenues over a multi-year forecast is sufficient without the revenue impact of the NOL suspension and credit limitation.

Get in touch

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