

# state tax issues

New York, New Jersey, Connecticut, Pennsylvania, and California tax most of the income subject to federal income tax, but all five states either limit or exclude the itemized deductions you claimed on your federal return. Florida does not impose income taxes on individuals.



## INTRODUCTION

You do not get a complete picture of your personal tax situation until you consider the impact of income taxes in the state or states where you work or live, or from which you derive certain types of income. Each state has specific tax laws so the impact can be very different depending on the state jurisdictions in which you are subject to tax. This chapter is devoted to providing a summary of the state income taxes that may impact you if you work or live in the states of New York, New Jersey, Connecticut, Pennsylvania and California. Florida does not impose a personal income tax.

But before we discuss the factors that distinguish these states from each other, we should point out the rules relating to income exclusions, which are quite similar:

## INCOME EXCLUSIONS

New York, New Jersey, Connecticut, Pennsylvania and California do not tax the following items of income:

- Interest on obligations of:
  1. The U.S. and its possessions, such as Puerto Rico (e.g., U.S. Treasury bills and bonds),
  2. Governmental agencies and municipalities within your state of residence, and
  3. Port Authority of New York and New Jersey for residents of New York and New Jersey, including such interest earned through bond funds.

**Caution:** *New York, New Jersey, Connecticut, Pennsylvania and California tax the interest income from municipal bonds issued by any other state. A mutual fund needs to have at least 50% of its assets invested in tax-exempt U.S. obligations and/or in California or its municipal obligations in order for any “exempt-interest dividends” to be exempt from California tax. The amount of income that can be excluded from California is based on the percentage of assets so invested.*

*A mutual fund needs to have at least 80% of its assets in tax-exempt U.S. obligations and/or in New Jersey or its municipal obligations in order for “exempt-interest dividends” to be exempt from New Jersey tax. The amount of income that can be excluded from New Jersey is based upon the percentage of assets so invested. However, distributions from mutual funds attributable to interest from federal obligations are exempt from New Jersey tax irrespective of whether the 80% test is met.*

chart

## 2015-2016 MAXIMUM NEW YORK TAX RATES

14

State or City	Maximum Tax Rates
New York State	8.82%
New York City	3.876%

*For 2012-2017, the maximum NYS tax rate is applicable for married filing joint taxpayers with income over \$2 million. For income under \$2 million, the top rate is 6.85%.*

- State and local income tax refunds (since they do not allow a deduction for payments of state and local income taxes).
- Social Security benefits.
- Certain pension and retirement benefits, subject to various limitations, including the payor of the pension, the age of the recipient, and which state is being considered.

## NEW YORK

### TAX RATES

Chart 14 shows the maximum tax rates imposed by New York State and New York City. These rates apply to all types of income since New York does not have lower tax rates for net long-term capital gains or qualifying dividend income.

### DEDUCTION ADJUSTMENTS

Your allowable federal itemized deductions are reduced if your New York adjusted gross income (“NYAGI”) exceeds \$200,000 (\$100,000 for single or married filing separately filers). The reduction starts at 25% and increases to 50% if your NYAGI exceeds \$525,000 and is below \$1 million. New York completely eliminates itemized deductions, except for 50% of charitable contributions, for taxpayers with more than \$1 million of NYAGI. This reduction is in addition to the disallowance of state and local income and sales taxes. For tax years beginning before 2016, the

charitable contribution deduction for taxpayers with a NYAGI of more than \$10 million is reduced to 25% of the corresponding federal deduction. For tax years beginning in or after 2016, all taxpayers with more than \$1 million of NYAGI are subject to the 50% reduction of the federal charitable contribution deduction.

New York State allows a deduction of \$1,000 for each dependent. In addition, New York State allows a deduction for some qualified education expenses, subject to certain limitations.

## BONUS DEPRECIATION

New York State does not conform to federal rules regarding bonus depreciation, as discussed in the business owner issues and depreciation deductions chapter.

The exception to this rule is that federal bonus depreciation is allowed in limited areas of Lower Manhattan — the “Liberty Zone,” south of Canal Street to the East River; and the “Resurgence Zone,” south of Houston Street and north of Canal Street.

To the extent you take advantage of bonus depreciation on your federal return, either directly or from a pass-through entity, you will need to recompute your New York depreciation without applying the bonus depreciation rules. New York State does conform to the federal rules regarding IRC Section 179 depreciation expense, as discussed in the business owner issues and depreciation deductions chapter.

## NEW YORK LONG-TERM CARE INSURANCE CREDIT

New York State allows a credit equal to 20% of the premiums paid during the tax year for the purchase or continuing coverage under a qualifying long-term care insurance policy.

## FAMILY TAX RELIEF AND “CIRCUIT BREAKER” TAX CREDITS

For tax years 2014 through 2016, there is a refundable credit of \$350 available for New York residents with NYAGI of at least \$40,000 but not more than \$300,000 who claimed one or more dependent children under the age of 17 on the last day of the tax year and had a tax liability that was equal to or greater than zero.

Qualifying New York City residents can claim a credit against property taxes paid when property tax exceeds a percentage, varying from 4 to 6%, of their income. Both homeowners and

renters are eligible, and the amount of property tax deemed paid by renters is set at 15.75% of adjusted rent paid in the taxable year.

## NEW YORK CITY UBT

Self-employed persons working in New York City are subject to a 4% Unincorporated Business Tax (“UBT”) if their total unincorporated business gross income exceeds \$85,000 (after the maximum allowance for taxpayer’s services of \$10,000 (limited to 20% of UBT income) and a \$5,000 exemption).

New York City residents can claim a credit against their NYC personal income tax for a portion of the UBT paid by them, including their share of the UBT tax paid by a partnership. The credit is 100% of the UBT paid if your taxable income is \$42,000 or less, gradually declining as your income reaches \$142,000, at which point the credit is limited to 23% of the UBT paid.

Beginning in 2009, single sales factor is being phased in over 10 years. For 2015, the allocation formula was 80% receipts, 10% payroll and 10% property. For 2016, the allocation is 87%, 6.5%, 6.5% and for 2017 it is 93%, 3.5%, 3.5%.

## METROPOLITAN COMMUTER TRANSPORTATION MOBILITY TAX (“MCTMT”)

Beginning in 2009, a tax was imposed on employers and self-employed individuals engaged in business within the 5 boroughs of New York City and the counties of Nassau, Rockland, Orange, Putnam, Suffolk, Dutchess and Westchester. A graduated tax rate between 0.11% and 0.34% applies to employers based upon the amount of quarterly payroll. For quarters beginning on or after April 1, 2012, payroll must be greater than \$312,500 in a calendar quarter before the employer tax applies. The tax also applies to self-employed individuals, including partners in partnerships and members of LLCs that are treated as partnerships based on their net earnings from self-employment allocated to the MCTD. The tax does not apply if the allocated net earnings from self-employment are \$50,000 or less for the year.

## COLLEGE SAVINGS PROGRAM, CREDITS AND EXPENSES

New York State has a program that allows you to make contributions to Section 529 plans as discussed in detail in the chapter on education incentives. New York State allows a deduction up to \$5,000 (\$10,000 if married filing jointly) if paid to a New York Section 529 plan.

In addition, a tuition credit or itemized deduction is available if you were a full-year New York State resident or your spouse or dependent (for whom you taken an exemption) was an undergraduate student enrolled at or who attended an institution of higher education and paid qualified tuition expenses, and are not claimed on another person's return. The credit may be as much as \$400 per student; 4% of qualified expenses up to \$10,000. Alternatively, the maximum tuition deduction is \$10,000 per student. You may claim the credit or the deduction, but not both.

## NEW JERSEY

### TAX RATES

The maximum tax rate imposed by New Jersey is 8.97%. This rate applies to all types of income since New Jersey does not have lower tax rates for net long-term capital gains or qualifying dividend income.

**Note:** For New Jersey, the marginal tax rate for single taxpayers with taxable income in excess of \$75,000 but less than \$500,000 is 6.37%. Married/civil union partner taxpayers filing jointly are subject to the 6.37% rate on income in excess of \$150,000 but less than \$500,000. Single and married/civil union partner taxpayers filing jointly with incomes over \$500,000 are subject to a top marginal rate of 8.97%.

### DEDUCTION ADJUSTMENTS

Except as noted below, no deduction is allowed for itemized deductions since New Jersey is a "gross income" state. In addition to the income exclusions noted above, New Jersey allows the following deductions to reduce your taxable income:

- Personal exemptions of \$1,000 each for you and your spouse (or domestic partner). New Jersey allows a \$1,500 personal exemption for each dependent child or other dependent (who qualifies as your dependent for federal income tax purposes). Taxpayers 65 years of age or over at the close of the taxable year, blind, or disabled, and certain dependents attending college are allowed an additional \$1,000 exemption.
- Alimony, separate maintenance, or spousal support payments to the extent they are includible in the gross income of the recipient (regardless of where the recipient lives).
- Medical expenses in excess of 2% of New Jersey gross income.
- The 50% portion of business travel and entertainment expenses that is disallowed on your federal return for self-employed individuals, business owners, and partners in a partnership.

- Property taxes up to a maximum of \$10,000 paid on a personal residence.
- Tenants are allowed a property tax deduction based on 18% of the rent paid during the year.

If you are considered a self-employed individual for federal income tax purposes or you received wages from an S corporation in which you were a more than 2% shareholder, you may deduct the amount you paid during the year for health insurance for yourself, your spouse/civil-union partner/domestic partner, and your dependents. The amount of the deduction may not exceed the amount of your earned income, as defined for federal income tax purposes, derived from the business under which the insurance plan was established. You may not deduct any amounts paid for health insurance coverage for any month during the year in which you were eligible to participate in any subsidized plan maintained by your (or your spouse's/civil-union partner's/domestic partner's) employer. Note that for federal tax purposes, you may be able to deduct amounts paid for health insurance for any child of yours who is under the age of 27 at the end of 2015. However, for New Jersey purposes, you may deduct such amounts only if the child was your dependent.

### NEW JERSEY BUSINESS INCOME

New Jersey requires taxpayers to report gross income by category. Prior to 2012, a loss within one category of income could only be applied against other income within that same category. Thus, a net loss in one category of income could not be applied against income or gains in another (e.g., net profits from business). As outlined below, there have been significant changes to the New Jersey business tax regime for years after 2011.

In 2011, legislation established an alternative business calculation under the gross income tax as a mechanism that permits taxpayers who generate income from different types of business entities to offset gains from one type of business with losses from another, and permits taxpayers to carry forward business-related losses for a period of up to 20 taxable years.

The law specifically permits taxpayers to net gains and losses derived from one or more of the following business-related categories of gross income: net profits from business; net gains or net income from rents, royalties, patents, and copyrights; distributive share of partnership income; and net pro rata share of S corporation income. The law specifies that a taxpayer who sustains a loss from a sole proprietorship may apply that loss against income derived from a partnership, subchapter S corporation, or rents and royalties, but is prohibited from applying losses from these categories to income that is not related to the taxpayer's conduct of the taxpayer's own business, including salaries and wages, the disposition of property, and interest and dividends.

The law provides that net losses from business-related categories of income may be carried forward and applied against income in future taxable years. The law limits the application of net losses which are carried forward to gains and losses from the same business-related categories of income from which the net loss is derived, and allows the losses to be carried forward for a period of up to 20 taxable years following the year the net loss occurs.

The law also phases in the tax savings equally over 5 years beginning with tax year 2012. Once fully implemented, the maximum savings will be equal to 50% of the savings that would accrue from unlimited netting between these income categories and the net loss carry forward.

In 2012, New Jersey repealed the “regular place of business” rule and the “throw-out” rule for corporations. With the repeal of the “regular place of business” rule, businesses in New Jersey are now able to apportion income outside of the state even if they do not maintain an office outside New Jersey. Repeal of the “throw-out” rule eliminates the requirement to throw sales out of the denominator of the gross receipts factor for sales to jurisdictions that do not impose certain business taxes.

Commencing in 2012, there was a 3-year phase-out of the property and payroll factors for apportioning income to New Jersey. This law modifies the Corporation Business Tax formula used to determine the portion of the income of a corporation subject to tax by New Jersey from a 3-factor formula to a single sales factor formula. Beginning in 2014, the apportionment formula was fully phased in using the receipts factor at 100%. Single sales factor apportionment only applies to C corporations and S corporations and not entities taxed as partnerships or sole proprietorships.

**Note:** *New Jersey withholding tax calculations for nonresident partners will continue to be based on the corporate apportionment formulas as modified by the laws above. This could result in a significant disparity between income subject to tax by New Jersey for nonresident partners and the amount of nonresident withholding tax on the same income.*

## BONUS DEPRECIATION

New Jersey has not conformed to federal rules regarding bonus depreciation. See the chapter on business owner issues and depreciation deductions.

## IRC SECTION 179 EXPENSE

New Jersey permits a limited IRC Section 179 deduction of up to a maximum of \$25,000. If you have more than one business, farm or profession, you may not deduct more than a total of \$25,000 of IRC Section 179 costs for all activities. To the extent higher IRC Section 179 deductions were taken for federal purposes, you will need to recompute your New Jersey deduction.

## COLLEGE SAVINGS PROGRAM

New Jersey does not provide for a college savings credit or deduction.

## NEW JERSEY HOMESTEAD BENEFIT AND SENIOR FREEZE (PROPERTY TAX REIMBURSEMENT) PROGRAMS

These programs provide property tax relief for amounts paid on a principal residence.

### Senior Freeze Program

The Senior Freeze Program provides for a reimbursement of the difference between the amount of property taxes paid for the base year and the amount for which you are applying for a reimbursement. Applicants must meet the following conditions to be eligible for a Senior Freeze property tax reimbursement:

- Have been age 65 or older OR receiving federal Social Security disability benefits;
- Have lived in New Jersey for at least 10 years as either a homeowner or a renter;
- Have owned and lived in your home for at least 3 years;
- Have paid the full amount of the property taxes due on the home for the base year and each succeeding year up to and including the year in which you are claiming the reimbursement; and
- Have met the income limits for the base year and for each succeeding year up to and including the year for which you are claiming the reimbursement. These limits apply regardless of marital/civil-union status. However, applicants who are married or in a civil-union must report combined income of both spouses/civil-union partners.

**Note:** *Under the terms of the State Budget for FY 2016, only those applicants whose income for 2013 did not exceed \$84,289 and whose*

income for 2014 did not exceed \$70,000 (the original limit was \$85,553) will be eligible to receive reimbursements for 2014 provided they met all the other program requirements. Residents whose 2014 income was over \$70,000 but not over \$85,553 will not receive reimbursements for 2014, even if they met all the other program requirements. The Division of Taxation will send notices to these applicants advising them that they are not eligible to receive reimbursement payments for 2014. However, by having filed an application by the October 15, 2015 extended due date, these residents established their eligibility for benefits in future years and ensure that they will be mailed an application for 2015.

The program is expected to continue in 2016 for property taxes paid in 2015.

### Homestead Benefit Program

The requirements for the Homestead Benefit are slightly different, have different filings deadlines and are not age-based. It is possible to be eligible for both the Homestead Benefit Program and the Senior Freeze (Property Tax Reimbursement) program, but the amount of benefits received cannot exceed the amount of property taxes paid on their principal residence.

## CONNECTICUT

### TAX RATES

The maximum tax rate imposed by Connecticut is 6.99%. This rate applies to all types of income since Connecticut does not have lower tax rates for net long-term capital gains or qualifying dividend income.

**Note:** The maximum tax rate for Connecticut is 6.9% for the following individuals:

- Filing status is Single or Married filing separately with Connecticut taxable income of over \$250,000 but not over \$500,000.
- Filing status is Head of Household with Connecticut taxable income of over \$400,000 but not over \$800,000.
- Filing status is Joint or Qualifying Widow(er) with Connecticut taxable income of over \$500,000 but not over \$1,000,000.

If your taxable income is more than these thresholds, the maximum tax rate is 6.99%.

### RECAPTURE TAX AMOUNT FOR TAXPAYERS IN HIGHER INCOME BRACKETS

A taxpayer whose Connecticut AGI exceeds the income thresholds specified below, after computing his or her Connecticut income tax liability using the applicable tax rates, and after applying the 3% phase-out provision, is required to add the recapture amount of tax as indicated below. The result of the recapture tax is essentially that the entire AGI is taxed at the highest income tax rate, without the benefit of graduated rates.

- **Filing status is "Single" or "Married filing separately:"** If Connecticut AGI is more than \$200,000.
- **Filing status is "Head of household:"** If Connecticut AGI is more than \$320,000.
- **Filing status is "Joint" or "Qualifying widow(er):"** If Connecticut AGI is more than \$400,000.

### DEDUCTION ADJUSTMENTS

No deductions are allowed for itemized deductions, as Connecticut is a "gross income" state, as modified by the income exclusions noted above.

Connecticut allows resident individual taxpayers' income tax credits for real estate and personal property taxes paid to Connecticut political subdivisions on their primary residences or privately owned or leased motor vehicles. The maximum credit amount cannot exceed your personal tax liability. These credits are phased out for higher income persons.

### BONUS DEPRECIATION

Connecticut has conformed to federal rules regarding bonus depreciation. Connecticut does not allow bonus depreciation for C corporations. See the chapter on business owner issues and depreciation deductions.

## tax tip

## 27

## RESIDENCY CAUTION

Your principal residence is in Connecticut but you work in New York City and maintain an apartment there. During the year you were present in New York for more than 183 days. You are a statutory resident of both New York State and New York City for tax purposes. As a result, Connecticut, New York State, and New York City would tax all of your income. A partial credit is available to offset some of this additional tax.

You can eliminate this tax by being present in New York State for 183 days or less or by eliminating the New York City apartment. By statute, a partial day in New York is considered a full day spent in New York with minor exceptions. Also, a day working at your home in Connecticut will be considered by New York to be a day working in New York, while Connecticut will consider it a day working in Connecticut. Therefore, income allocated to these days will be taxed by both New York State and Connecticut with no offsetting credit. Be sure to maintain substantiation to support the days in and out of New York.

## IRS SECTION 179 EXPENSE

Connecticut does conform to the federal rules regarding IRC Section 179 depreciation expense as discussed in the business owner's issues and depreciation deductions chapter.

## COLLEGE SAVINGS PROGRAM

Connecticut taxpayers may deduct contributions to the Connecticut Higher Education Trust from federal AGI, up to \$5,000 for individual filers and \$10,000 for joint filers. Amounts in excess of the maximum allowable contributions may be carried forward for 5 years after the initial contribution was made.

The "CHET Baby Scholars" program provides up to \$250 toward a newborn's future college costs. For children born or adopted on or after January 1, 2014, CHET Baby Scholars will deposit \$100 into a CHET account. A second deposit of \$150 will be made if family and friends add at least \$150 to the child's enrolled CHET account within 4 years. The deadline to participate is 12 months after the child's birth or adoption and there are no income limitations.

## chart

2015-2016 MAXIMUM  
PENNSYLVANIA TAX RATES

15

State or City	Maximum Tax Rates
Pennsylvania	3.07%
Philadelphia	3.924%

See chart 16 for Philadelphia rate of tax withheld on Form W-2.

## PENNSYLVANIA

## TAX RATES

Pennsylvania imposes a flat tax on all income at a rate of 3.07% (see Chart 15). Pennsylvania has 8 categories (buckets) of income, and income/loss from one bucket may not be used to offset income/loss from another. The single flat tax rate of 3.07% applies to all types of income since Pennsylvania does not have lower tax rates for net long-term capital gains or qualifying dividend income.

Income from a business is subject to allocation and apportionment to the extent the business is "doing business" both within and outside of Pennsylvania. The default method is specific allocation if the taxpayer has books and records to substantiate the allocation. However, most taxpayers apportion their business income. The apportionment formula for Pennsylvania Personal Income Tax

chart

16

## PHILADELPHIA RATE OF TAX WITHHELD ON FORM W-2 FOR WAGES

Period	Resident	Nonresident
July 1, 2013 - June 30, 2014	3.924%	3.495%
July 1, 2014 - June 30, 2015	3.92%	3.4915%
July 1, 2015 and subsequent years	3.9102%	3.4928%

purposes is an equal-weighted 3-factor method, and the sales factor utilizes a cost of performance method.

**Note:** *The 3-factor apportionment method, based upon cost of performance, differs from the corporate tax apportionment method of a single sales factor based upon market sourcing.*

Philadelphia imposes a Wage Tax on compensation earned by residents of the City and on nonresidents who work within the City. The tax rate for compensation paid after July 1, 2015 is 3.9102% for residents and 3.94828% for nonresidents. However, nonresidents may apportion their income based upon duty days spent working within the City of Philadelphia.

Philadelphia imposes an unearned income tax, known as the "School Income Tax," upon all residents of the City. The tax rate is 3.9102%, and typically matches the Wage Tax rate. Some examples of taxable unearned income are dividends, certain rents and royalties, S corporation distributable income, and short-term (held for 6 months or less) capital gains. Earned income that is otherwise subject to the Philadelphia Business Income and Receipt Tax ("BIRT"), the Net Profits Tax ("NPT") or Wage Tax is not subject to the School Income Tax.

Philadelphia imposes a BIRT, (f/k/a the Business Privilege Tax ("BPT")), upon all persons engaged in business within the City. "Persons" includes individuals, partnerships, associations and corporations. Rental activities are usually considered to be business activities. The BIRT is the sum of 2 taxes; one on income and one on gross receipts. For 2015, the gross receipts tax rate is 0.1415%, and the income tax rate is 6.41% on net taxable income. For the 2014 tax year, the income tax apportionment methodology is property, payroll and double weighted sales divided by 4. For the 2015 tax year, the income tax apportionment methodology will be a single sales factor. The sales factor and taxable receipts for

the gross receipts tax are determined on a cost of performance method for most businesses.

Philadelphia imposes a NPT on the net profits from the operation of a trade, business, profession, enterprise or other activity conducted by individuals, LLCs, partnerships, associations or estates and trusts. The tax is imposed on the entire net profit of any self-employed person who is a resident of Philadelphia regardless of the location of the business. It is also imposed on businesses conducted in Philadelphia by nonresidents. Corporations are not subject to this tax. Also, the proportionate amount of partnership, LLC and other association income attributable to corporate partners or members is exempt from the NPT. For residents, the NPT rate is 3.92% for 2014 and 3.9102% for 2015 and for nonresidents the NPT rate is 3.4915% for 2014 and 3.4828% for 2015.

### DEDUCTION ADJUSTMENTS

No deductions are allowed for itemized deductions, as Pennsylvania is a "gross income" state, as modified by the income exclusions noted above.

### BONUS DEPRECIATION

Pennsylvania required that taxpayers add back the federal bonus depreciation. The taxpayer may then subtract an amount equal to  $\frac{3}{7}$  of the taxpayer's ordinary depreciation deduction under IRC Sec. 167. The deduction may be claimed in succeeding taxable years until the entire amount of the addback has been claimed. Any disallowed depreciation not claimed as a result of the subtraction may be claimed in the last year that the property is depreciated for federal tax purposes.



## IRC SECTION 179

Pennsylvania permits a limited deduction of up to a maximum of \$25,000 using IRC section 179. If you have more than one business, farm or profession, you may not deduct more than a total of \$25,000 of IRC section 179 costs for all activities. To the extent higher Section 179 deductions were taken for federal purposes, you will need to recompute your Pennsylvania depreciation deductions.

## COLLEGE SAVINGS PROGRAM

Pennsylvania allows a deduction of up to the maximum federal annual exclusion amount of \$14,000 (\$28,000 if married filing jointly) for 2014 and 2015 to any Pennsylvania or non-Pennsylvania 529 plan in computing Pennsylvania taxable income.

## CALIFORNIA

### TAX RATES

California's top marginal income tax rate is 12.3% for the 2015 tax year. This rate applies to all types of income since California does not have lower tax rates for net long-term capital gains or qualifying dividend income.

The following table shows the 2015 marginal tax rates in effect for married filing joint taxpayers:

#### Taxable Income:

\$526,444 or less	9.3%
\$526,445 to \$631,732	10.3%
\$631,733 to \$1,052,886	11.3%
Over \$1,052,886	12.3%

There is an additional Mental Health Services Tax of 1% for taxable income in excess of \$1,000,000.

### BONUS DEPRECIATION

California did not conform to the federal bonus depreciation provisions.

### IRC SECTION 179 EXPENSE

California law only allows a maximum deduction of \$25,000. The California maximum expensing amount is reduced dollar-for-dollar by the amount of qualified expensing-eligible property placed in service

during the year in excess of \$200,000. California's \$200,000 phase-out threshold is not adjusted for inflation.

### ESTIMATED TAX PAYMENTS

Installments due shall be 30% of the required annual payment for the first required installment, 40% of the required annual payment for the second required installment, and 30% of the required annual payment for the fourth required installment. No payment is required for the third installment.

You are to remit all payments electronically once you make an estimate or extension payment exceeding \$20,000 or you file an original return with a total liability over \$80,000 for any taxable year that begins on or after January 1, 2009. Once you meet the threshold, all subsequent payments regardless of amount, tax type, or taxable year must be remitted electronically. Individuals who do not pay electronically will be subject to a 1% noncompliance penalty.

There are limits on the use of the prior year's tax safe harbor. Individuals who are required to make estimated tax payments, and whose California AGI is more than \$150,000 (or \$75,000 for married filing separately), must figure estimated tax based on the lesser of 90% of their current year's tax or 110% of their prior year's tax including AMT. Taxpayers with current year California AGI equal or greater than \$1,000,000 (or \$500,000 for married filing separately), must figure estimated tax based on 90% of their tax for the current year.

### SUSPENDED NET OPERATING LOSS CARRYOVERS

For taxable years beginning 2008 through 2011, California suspended the net operating loss deduction. However, taxpayers with MAGI of less than \$500,000 for 2008/2009 and \$300,000 for 2010/2011 were not affected by the net operating loss suspension rules.

Taxpayers may continue to compute and carry over net operating losses during the suspension period. The carryover period for suspended 2008–2011 losses is extended by one year for losses incurred in 2010; 2 years for losses incurred in 2009; 3 years for losses incurred in 2008; and 4 years for losses incurred in taxable years beginning before 2008.

California allows net operating losses incurred in taxable years beginning on or after January 1, 2013, to be carried back to each of the preceding 2 taxable years. A net operating loss cannot be carried back to any taxable year before January 1, 2011. For net operating losses attributable to 2013, the carryback amount to any taxable year cannot exceed 50% of the net operating loss. For 2014 net operating losses, the carryback cannot exceed 75% of the net operating loss. Net operating losses attributable to taxable years beginning on or

after January 1, 2015 can be carried back in full. A taxpayer may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year. If the taxpayer elects to relinquish the carryback period, the net operating loss is carried forward only to the years eligible under the applicable carryover period.

## FLORIDA

### TAX RATES

Florida does not impose a personal income tax.

### PROPERTY TAX EXEMPTIONS

Florida resident property owners may receive an exemption from a portion of Florida property taxes. The homestead exemption provides that the first \$25,000 of the value of a taxpayer's primary, permanent Florida residence is exempt from all property taxes, including school district taxes. The second \$25,000 of value is fully taxable, and the third \$25,000 of value is exempt from all non-school taxes.

In addition to the homestead exemption, there are \$500 exemptions from property tax available to widows and widowers who have not remarried and to legally blind individuals. Florida also provides property tax exemptions for military veterans and military members deployed during the previous calendar year.

### S CORPORATIONS

Florida recognizes the federal S corporation election and does not impose tax on S corporations except for years when they are liable for federal tax. Tax on taxable S corporations is imposed only on built-in gains and passive investment income. Because Florida does not have a personal income tax, other S corporation income is not taxed.

Qualified subchapter S subsidiaries are not treated as separate corporations or entities from the S corporation parent.

### BONUS DEPRECIATION AND SECTION 179 EXPENSING

C corporations are taxed in Florida.

Florida conforms to federal rules regarding bonus depreciation for property placed in service after December 31, 2014.

For tax years beginning before January 1, 2015, Florida required that taxpayers add back to taxable income 100% of Federal Section 179 deductions in excess of \$128,000 and deduct  $\frac{1}{7}$  of the addback each year for 7 years. For assets placed in service after 2014, no addbacks are required for section 179 deductions.

## OTHER CONSIDERATIONS

### SAME-SEX MARRIED COUPLES AND REGISTERED DOMESTIC PARTNERS

The Supreme Court's decision striking down Section 3 of DOMA had a significant impact on same-sex married couples with regard to their federal and state income and estate taxes, health care benefits, social security and retirement benefits.

The U.S. Department of the Treasury and the IRS have ruled that same-sex couples, legally married in jurisdictions that recognize their marriages, will be treated as married for all federal law purposes. The ruling applies regardless of whether the couple lives in a jurisdiction that recognizes same-sex marriage or does not recognize same-sex marriage. This applies for federal income, gift, and estate tax purposes. This ruling does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law. Legally married same-sex couples generally must file their federal income tax return using either the married filing joint or married filing separate status.

Individuals who were in same-sex marriages may, but are not required to, file original or amended returns choosing to be treated as married for federal tax law purposes for the years still open under the statute of limitations, generally 3 years from the date the return was filed or 2 years from the date the tax was paid. As a result, refund claims can still be filed for the tax years, 2012 and 2013.

On June 26, 2015, the U.S. Supreme Court held, in *Obergefell v. Hodges*, that the Fourteenth Amendment requires states to offer same-sex marriage and recognize same-sex marriages performed elsewhere. All 50 U.S. states, 4 of 5 U.S. territories, and the District of Columbia are fully compliant with the *Obergefell* decision.

In New Jersey, a civil union couple may file a joint New Jersey tax return beginning with the 2007 tax year and generally civil unions entered into outside New Jersey will be recognized in New Jersey for state tax purposes. New Jersey civil union couples must take the affirmative step of getting married in order to get the federal tax benefits now available.

Please refer to the chapter on planning for same-sex couples for more information.

## BUILD AMERICA BONDS

Build America Bonds (tax credit type) provide the bondholder a non-refundable tax credit of 35% of the interest paid on the bond each year. If the bondholder lacks sufficient tax liability in any year to fully utilize that year's credit, the excess credit can be carried forward for use in future years.

## NONRESIDENT TAXATION

Residents of New York, New Jersey, Connecticut, Pennsylvania or California working in other states as nonresidents are taxed by that other state. The income subject to tax is generally based on an allocation of salary and other earned income, using a formula comparing days worked within and outside the state. Also, the sale of real property located in a nonresident state by a nonresident is typically subject to tax by the nonresident state. This includes the gain on the sale of a cooperative apartment by a nonresident of New York State. However, you are allowed to reduce your resident state tax by a credit amount based on the tax paid to the nonresident state, subject to limitations.

**Note:** *New York State treats days worked at home for the convenience of the employee as days worked in New York. To qualify as a day worked outside New York, you must prove that there was a legitimate business reason that required you to be out of state, such as meeting with a client or customer. You should keep a diary or calendar of your activities and with supporting documents proving your whereabouts (e.g., airplane tickets, credit card statements, bank statements and your passport).*

New York taxes certain income received by a nonresident related to a business, trade, profession or occupation previously carried on within New York, whether or not as an employee. This income includes, but is not limited to, income related to covenants not to compete and income related to termination agreements.

**Note:** *Pennsylvania has signed reciprocal agreements with Indiana, Maryland, New Jersey, Ohio, Virginia, and West Virginia under which one state will not tax employee compensation subject to employer withholding by the other states. These agreements apply to employee compensation only and not to income from sole proprietorships, partnerships and other entities.*

**Note:** *Other state tax credits are allowed California residents for net income taxes paid to another state (not including any tax comparable to California's alternative minimum tax) on income also subject to the California income tax. No credit is allowed if the other state allows California residents a credit for net income taxes paid to California. These reverse credit states include Arizona, Indiana, Oregon and Virginia.*

## RESIDENCY CAUTION

Individuals who maintain a residence in one jurisdiction, such as New York City, but also have a residence in another jurisdiction must be very careful to avoid the strict rules that could make them a resident of both jurisdictions for tax purposes (see Tax Tip 27). Generally, if you maintain a permanent place of abode in New York, New Jersey, Connecticut or Pennsylvania and spend more than 183 days in that state, you will be taxed as a resident of that state even if your primary residence is in another state. California applies a similar test using 9 months as the threshold, unless you can prove that the time spent in the state was due to a temporary or transitory purpose. In addition, the domicile test treats you as a resident of New York or New Jersey even if you only spend as little as 30 days in the state if you continue to be domiciled there. "Domicile" is generally defined as the place which is most central to your life and is determined using a facts and circumstances test.

## STATE ESTATE OR INHERITANCE TAXES

New York, New Jersey, Connecticut and Pennsylvania impose an estate or inheritance tax on persons who are domiciled in the state or have property located in the state. California and Florida do not have an estate or inheritance tax. See the chapter on estate and gift tax planning for a further discussion.

Connecticut is the only state in the country that imposes a state gift tax. The gift tax is imposed on the aggregate amount of Connecticut taxable gifts made on or after January 1, 2005 is \$2,000,000