



## Tax Credits and Combined Returns

**TB-90 - Issued June 21, 2019**  
**Tax: Corporation Business Tax**

P.L. 2018, c. 48 and P.L. 2018, c. 131 collectively mandate combined reporting for privilege periods ending on and after July 31, 2019 (beginning on and after August 1, 2018 if a full 12-month privilege period of the managerial member begins August 1, 2018 and ends July 31, 2019). This Technical Bulletin explains the sharing of a tax credit pursuant to [N.J.S.A. 54:10A-4.6.i](#).

There are various tax credits with a variety of limitations. Some tax credits may not reduce the tax liability of a taxpayer below 50% of their tax liability for the tax year while other tax credits cannot reduce a taxpayer's tax liability below the minimum tax. There are tax credits that can reduce the tax liability of a taxpayer to zero. There are also refundable credits that are refundable to the taxpayer that earned the credits. Each tax credit has its own limitations and carryovers. This Technical Bulletin only addresses the sharing of tax credits among combined group member and other related matters.

[N.J.S.A. 54:10A-4.6.i](#) states that:

Tax credits earned by a member of a combined group shall be utilized as follows:

- (1) If a taxable member of a combined group earns a tax credit in a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:18A-4.7, C.54:18A-4.8, and C.54:18A-4.11), then the taxable member may share the credit with other taxable members of the combined group. Any amount of credit that is utilized by another taxable member of the combined group shall reduce the amount of credit carryover that **may** be carried over by the taxable member that originally earned the credit. If a taxable member of a combined group has a tax credit carryover derived from a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:18A-4.7, C.54:18A-4.8, and C.54:18A-4.11), then the taxable member **may** share the carryover credit with other taxable members of the combined group.
- (2) If a taxable member of a combined group has a tax credit carryover derived from a privilege period beginning prior to the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:18A-4.7, C.54:18A-4.8, and C.54:18A-4.11), then the taxable member **may** share the carryover credit with other taxable members of the combined group.
- (3) If a taxable member of a combined group has a tax credit carryover derived from a privilege period during which the taxable member was not a member of such combined group, the credit carryover shall remain available to be utilized by such taxable member or other group members.
- (4) To the extent a taxable member has more than one corporation business tax credit that it may utilize in a privilege period, whether such credits were earned by said member or are available to said member in accordance with paragraphs (1), (2) and (3) of this subsection, the order of priority of the application of the credits shall be as prescribed by the director. [Emphasis added]

**Qualifying for Tax Credits - generally.** Each tax credit has its own requirements. Unless otherwise stated by the authorizing statute, tax credits are calculated on a separate entity basis. However, for purposes of New Jersey Research Credit ([N.J.S.A. 54:10A-5.24](#)), the combined group members included on the same New Jersey combined return will follow the federal consolidated control group rules applicable to qualified research expenditures and qualified payments for research performed in New Jersey.

**Sharing of Tax Credits by Combined Group Members - generally.** Taxable members of a combined group may share their tax credits and tax credit carryovers with other taxable members of the combined group that are included on the same New Jersey combined return. The decision to share (or not share) tax credits or tax credit carryovers remains with the taxable member who generated the tax credit or tax credit carryover. Tax credits and tax credit carryovers may be shared among members of the same combined group regardless of whether such taxable members were part of the same combined group when the tax credit or tax credit carryover was generated. Sharing tax credits or tax credit carryovers is allowed as long as the taxable members are included on the same New Jersey combined return for the group privilege period.

The tax credit/credit carryover available for future use by the taxable member that originally earned the credit must be reduced by any amount that is shared (used) by another taxable member.

Taxable members may share tax credits with other taxable members of the combined group included on the same New Jersey combined return as the taxable members see fit within the limitations of [N.J.S.A. 54:10A-4.6.i](#) and the applicable limitations in each tax credit statute. For tax credits with a 50% of tax liability limitation, the limitation will apply on a separate entity basis and not 50% of the total combined group tax liability. For tax credits that cannot reduce the tax liability of a taxpayer below the minimum tax, this limitation will apply on a separate entity basis and not on the total minimum tax of the combined group.

**Refundable Tax Credits** that are generated by a particular taxable member of a combined group are allowable to that taxable member unless the refundable tax credit is shared by the taxable member with other members of the combined group. A taxable member is not forced to transfer or share the tax credit. Thus, in a year a taxpayer is a taxable member of a combined group and that taxable member has a refundable credit, the taxable member does not have to share that credit. If a taxable member has nonrefundable credits, the taxable member can share those credits with the other members. If the taxable member wants to receive a refund of the credit, the taxable member must notify its managerial member and the Director of the Division of Taxation on the tax return. A tax credit that is refundable to a specific taxable member of a combined group does not relieve that taxable member from its joint and several liability for the tax liabilities of the combined group pursuant to [N.J.S.A. 54:10A-4.10.d](#).

**Benefit Transfer Certificates.** So long as tax credits/credit carryovers are shared among taxable members of a combined group included on the same New Jersey combined return, no benefit transfer certificate is necessary. Transfers of tax credits/credit carryovers to taxpayers outside the combined group filing a New Jersey combined return require a benefit transfer certificate, as applicable.

The Division of Taxation is in the process of drafting regulations addressing the topics covered by this Technical Bulletin.

**More Information.** General information on the changes resulting from P.L. 2018, c. 48, and P.L. 2018, c. 131 can be found in Technical Bulletin [TB-84\(R\)](#), *Changes to the New Jersey Corporation Business Tax*, For additional information on the entities that can be included as a taxable member of a combined group, see Technical Bulletin [TB-86\(R\)](#), *Included and Excluded Business Entities in a Combined Group and the Minimum Tax of a Taxpayer That is a Member of a Combined Group*.

**Note:** A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to the applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.