



The Aftermath of New Jersey Tax Reform - What's Left?

New Jersey Bankers Association
CFO Conference

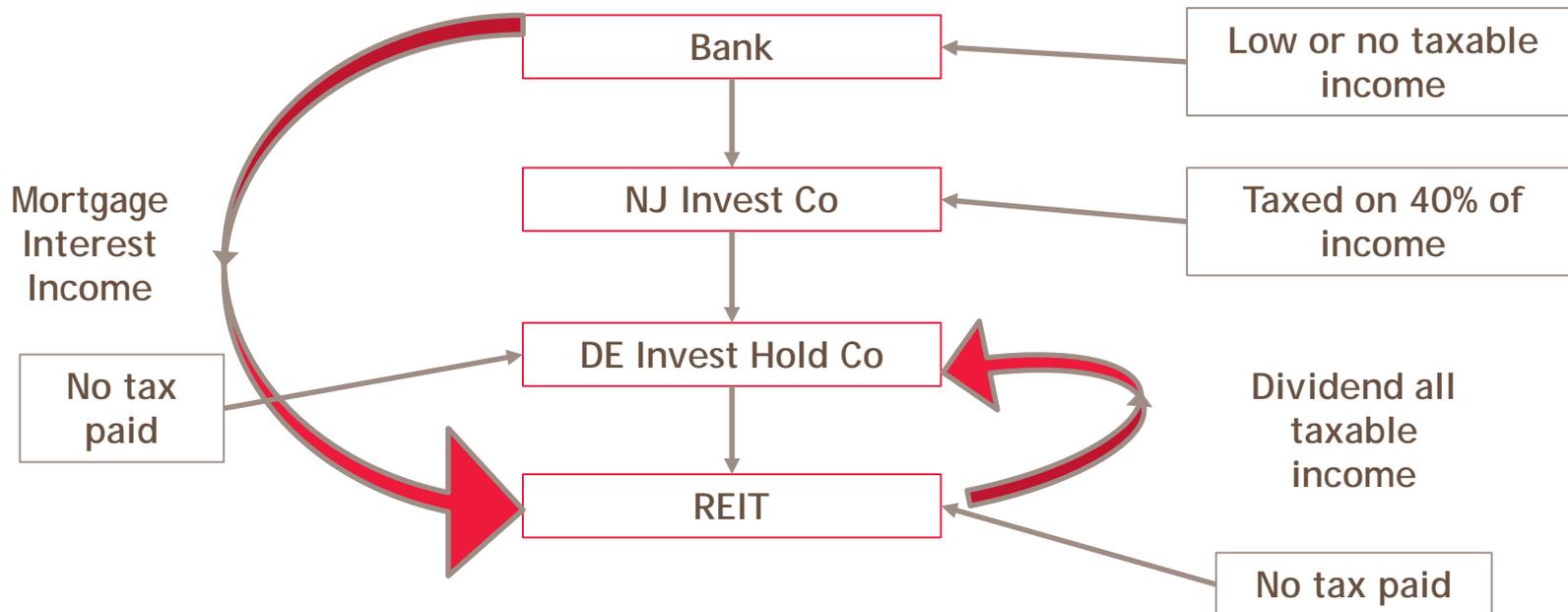
Glenn Richard James, CPA
Managing Director, BDO USA, LLP

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The World before Unitary Reporting



- Structure dependent on:
 - ❖ Separate return filing in New Jersey
 - ❖ DE Invest Hold Co not taxable in NJ
- Shifting receipts to DE shifted income dollar for dollar

New Jersey Investment Company & REIT Special Exclusions

For tax periods ending after July 30, 2019

- ▶ Is there still a 60% investment company exclusion?
- ▶ Is there still a 96% REIT exclusion?

54:10A-5(d)

“Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or real estate investment trust... shall, in the case of an investment company, be measured by 40% of its entire net income ..., and in the case of a real estate investment trust, by 4% of its entire net income ..., at the rates hereinbefore set forth for the computation of tax on net income ..., but in no case less than \$250, **For privilege periods ending on or after July 31, 2019, the tax rate shall be applied against taxable net income.**” (Emphasis supplied)

Elimination of REIT Dividend from Sepco ENI of DIHC

54:10A-4.6,18.d.

“All dividends paid by one member to another member of the combined group shall be eliminated from the income of the recipient.”

54:10A-4(k)(5)

“Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section” (Before amendment by the 2018 acts)

UNB Investment v. Director of Division of Taxation, NJ Tax Court (5/12/2004)
held no exclusion under -4(k)(5) for dividend from REIT.

Exclusion of Dividend From REIT in Denominator of Sharing Factor for Combined Group

- -4.6, 18.d. elimination provision applies to determination of Sepco ENI in computing combined group ENI
- No such provision in determining denominator of sharing factor for Combined Group (54:10A-4.7)



Surtax Applicability

- Applies to taxpayers with “allocated taxable net income” of more than \$1,000,000
- Is this applied on a combined or separate company basis?

I. REIT Div. Elim'd, Div. Included in Denominator; InvestCo and REIT Adj Allowed, Sepco Surtax

	Bank	NJInvestco	DIHC	REIT	Total
Receipts	\$20,000,000	\$1,000,000	\$4,000,000	\$4,000,000	\$29,000,000
Expenses	(20,000,000)	-	-	-	(20,000,000)
Dividends Pd deduct				(4,000,000)	(4,000,000)
Dividends rec'd elim			(4,000,000)		(4,000,000)
Entire net income sepco	\$ -	\$1,000,000	\$ -	\$ -	\$1,000,000
Sharing factors	69%	3%	-	14%	86%
Shares of combined ENI	\$689,655	\$34,483	\$ -	\$137,931	\$862,069
NJ invest co "adjustment"		(20,690)			(20,690)
REIT "adjustment"				(132,414)	(132,414)
Taxable net income	\$689,655	\$13,793	\$ -	\$5,517	\$708,966
Base income tax rate	9%	9%	9%	9%	
Base income tax	\$62,069	\$1,241	\$ -	\$497	\$63,807
Surtax rate	2.5%	2.5%	2.5%	2.5%	
Surtax	\$ -	\$ -	\$ -	\$ -	\$ -
Total income tax	\$62,069	\$1,241	\$ -	\$497	\$63,807

II. REIT Div. Included in Denominator; InvestCo and REIT Adj Allowed, Sepco Surtax

	Bank	NJInvestco	DIHC	REIT	Total
Receipts	\$20,000,000	\$1,000,000	\$4,000,000	\$4,000,000	\$29,000,000
Expenses	(20,000,000)	-	-	-	(20,000,000)
Dividends Pd deduct				(4,000,000)	(4,000,000)
Dividends rec'd elim			-		-
Entire net income sepco	\$ -	\$1,000,000	\$4,000,000	\$ -	\$5,000,000
Sharing factors	69%	3%	-	14%	86%
Shares of combined ENI	\$3,448,276	\$172,414	\$ -	\$689,655	\$4,310,345
NJ invest co "adjustment"		(103,448)			(103,448)
REIT "adjustment"				(662,069)	(662,069)
Taxable net income	\$3,448,276	\$68,966	\$ -	\$27,586	\$3,544,828
Base income tax rate	9%	9%	9%	9%	
Base income tax	\$310,345	\$6,207	\$ -	\$2,483	\$319,034
Surtax rate	2.5%	2.5%	2.5%	2.5%	
Surtax	\$86,207	\$ -	\$ -	\$ -	\$86,207
Total income tax	\$396,552	\$6,207	\$ -	\$2,483	\$405,241

III. REIT Div. Included in Denominator; Sepco Surtax

	Bank	NJInvestco	DIHC	REIT	Total
Receipts	\$20,000,000	\$1,000,000	\$4,000,000	\$4,000,000	\$29,000,000
Expenses	(20,000,000)	-	-	-	(20,000,000)
Dividends Pd deduct				(4,000,000)	(4,000,000)
Dividends rec'd elim			-		-
Entire net income sepco	\$ -	\$1,000,000	\$4,000,000	\$ -	\$5,000,000
Sharing factors	69%	3%	-	14%	86%
Shares of combined ENI	\$3,448,276	\$172,414	\$ -	\$689,655	\$4,310,345
NJ invest co "adjustment"					-
REIT "adjustment"					-
Taxable net income	\$3,448,276	\$172,414	\$ -	\$689,655	\$4,310,345
Base income tax rate	9%	9%	9%	9%	
Base income tax	\$310,345	\$15,517	\$ -	\$62,069	\$387,931
Surtax rate	2.5%	2.5%	2.5%	2.5%	
Surtax	\$86,207	\$ -	\$ -	\$ -	\$86,207
Total income tax	\$396,552	\$15,517	\$ -	\$62,069	\$474,138

IV. REIT Div. Included in Denominator

	Bank	NJInvestco	DIHC	REIT	Total
Receipts	\$20,000,000	\$1,000,000	\$4,000,000	\$4,000,000	\$29,000,000
Expenses	(20,000,000)	-	-	-	(20,000,000)
Dividends Pd deduct				(4,000,000)	(4,000,000)
Dividends rec'd elim			-		-
Entire net income sepco	\$ -	\$1,000,000	\$4,000,000	\$ -	\$5,000,000
Sharing factors	69%	3%	-	14%	86%
Shares of combined ENI	\$3,448,276	\$172,414	\$ -	\$689,655	\$4,310,345
NJ invest co "adjustment"					-
REIT "adjustment"					-
Taxable net income	\$3,448,276	\$172,414	\$ -	\$689,655	\$4,310,345
Base income tax rate	9%	9%	9%	9%	
Base income tax	\$310,345	\$15,517	\$ -	\$62,069	\$387,931
Surtax rate	2.5%	2.5%	2.5%	2.5%	2.5%
Surtax	\$86,207	\$4,310	\$ -	\$17,241	\$107,759
Total income tax	\$396,552	\$19,828	\$ -	\$79,310	\$495,690

V. Worst Case

	Bank	NJInvestco	DIHC	REIT	Total
Receipts	\$20,000,000	\$1,000,000	\$4,000,000	\$4,000,000	\$29,000,000
Expenses	(20,000,000)	-	-	-	(20,000,000)
Dividends Pd deduct				(4,000,000)	(4,000,000)
Dividends rec'd elim			-		-
Entire net income sepco	\$ -	\$1,000,000	\$4,000,000	\$ -	\$5,000,000
Sharing factors	80%	4%	-	16%	100%
Shares of combined ENI	\$4,000,000	\$200,000	\$ -	\$800,000	\$5,000,000
NJ invest co "adjustment"					-
REIT "adjustment"					-
Taxable net income	\$4,000,000	\$200,000	\$ -	\$800,000	\$5,000,000
Base income tax rate	9%	9%	9%	9%	
Base income tax	\$360,000	\$18,000	\$ -	\$72,000	\$450,000
Surtax rate	2.5%	2.5%	2.5%	2.5%	2.5%
Surtax	\$100,000.00	\$5,000.00	\$ -	\$20,000.00	\$125,000.00
Total income tax	\$460,000	\$23,000	\$ -	\$92,000	\$575,000

Surtax for Periods Ending before July 31, 2019

- Surtax applies to “allocated entire net income” before any investment company or REIT exclusion.
- An example of a New Jersey Investment Company tax calculation for 2018:

	Reg Tax	Sur Tax	Total Tax
Entire net income	\$1,500,000	\$1,500,000	\$1,500,000
Allocation %	<u>91%</u>	<u>91%</u>	<u>91%</u>
Allocated ENI	1,365,000	1,365,000	1,365,000
NJ Investco exclusion at 60%	<u>(819,000)</u>	<u>-0-</u>	
Taxable amount	546,000	1,365,000	
Tax rate	<u>9%</u>	<u>2.5%</u>	<u>[6.1%]</u>
Tax	<u>\$49,140</u>	<u>\$34,125</u>	<u>\$83,265</u>