

NEW JERSEY CORPORATION BUSINESS TAX



CLAIM FOR EXCEPTIONS TO DISALLOWED INTEREST AND INTANGIBLE EXPENSES AND COSTS FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2018

This Packet Contains:

- Schedule G-2 Part I Exceptions to the Addback of Interest Expenses
- Schedule G-2 Part II Exceptions to the Addback of Intangible Expenses and Costs

These schedules are for TAX YEARS BEGINNING ON OR AFTER January 1, 2018.
The previous version of this schedule is available on the Division of Taxation's website (www.njtaxation.org)

Schedule G-2 Instructions

For definitions of a related member, intangible expenses and costs, intangible interest expenses and costs, and intangible property see the instructions for Schedule G of the New Jersey CBT-100 or CBT-100S return. Form BFC-1 return filers that are banks subject to the reporting requirements of N.J.S.A. 54:10A-34, are required to use the new revised Schedule G-2 for their 2019 BFC-1 return that corresponds to the taxpayer's 2018 calendar year entire net income. The previous version of this schedule is available on the Division of Taxation's website (www.njtaxation.org).

NOTE: For tax years beginning on or after January 1, 2018, the **treaty exceptions have been limited** pursuant to P.L. 2018, c. 48.

PART I

Exception 1

1. Complete the enclosed schedule if the taxpayer included any interest expense on Schedule G, Part I of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that was directly or indirectly paid, accrued, or incurred to a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States pursuant to P.L. 2018, c. 48 and:
 - (i) The related member was subject to tax in the foreign nation on a tax base that included the payment paid, accrued, or incurred; and
 - (ii) The related member's income received from the transaction was taxed at an effective tax rate equal to or greater than a rate of three percentage points less than the rate of tax applied to taxable interest by the State of New Jersey

Exception 2

1. Complete the enclosed schedule if the taxpayer included any interest expense on Schedule G, Part I of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that was directly or indirectly paid, accrued, or incurred to a related member and for which the payment of such interest:
 - a) was not to avoid taxes otherwise due under Title 54 of the Revised Statutes of Title 54A of the New Jersey Statutes,
 - b) was paid pursuant to arm's length contracts at an arm's length rate of interest, and
 - c) (1) The related member was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation,
 - (2) A measure of the tax includes the interest received from the related member,
 - (3) The rate of tax applied to the interest received by the related member is equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this State.

A copy of the return from the state, possession, or foreign nation on which the related member reported interest income must be submitted with the taxpayer's return.

Exception 3

1. Complete the enclosed schedule if the taxpayer included any interest expense on Schedule G, Part I of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that was directly or indirectly paid, accrued, or incurred to a related member that is a corporation that files a Corporation Business Tax return in New Jersey, and such member included those amounts in its entire net income.
2. If claiming this exception for more than one related member, complete Exception 3 for each related member and enter the total for all related members in the Total Exceptions Chart for Part I.

3. If an exception to the disallowance of the interest expense was determined under Exception 1 and/or 2, an exception under this provision for that related member is not available.

Exception 4

1. Complete the enclosed schedule if the taxpayer included any interest expense on Schedule G, Part I of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that was directly or indirectly paid, accrued, or incurred to a independent lender and the taxpayer filing this return guarantees the debt on which the interest is required.

PART II

Exception 1

1. Complete the enclosed schedule if the taxpayer included any intangible expenses and costs including intangible interest expenses and costs on Schedule G, Part II of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that were directly or indirectly paid, accrued, or incurred to a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States and:
 - (i) The related member was subject to tax in the foreign nation on a tax base that included the payment paid, accrued, or incurred; and
 - (ii) The related member's income received from the transaction was taxed at an effective tax rate equal to or greater than a rate of three percentage points less than the rate of tax applied to taxable interest by the State of New Jersey.

Exception 2

1. Complete the enclosed schedule if the taxpayer included any intangible expenses and costs including intangible interest expenses and costs on Schedule G, Part II of the CBT-100 or CBT-100S return (or the BFC-1 return, if applicable) that were directly or indirectly paid, accrued, or incurred to a related member that is a corporation that files a Corporation Business Tax return in New Jersey, and such member has included those amounts in its entire net income.
2. If claiming this exception for more than one related member then complete Exception 2 for each related member and enter the total for all related members in the Total Exceptions Chart for Part II.

Notes:

Any other exceptions can not be made on the return. The amounts paid to related members as reported on line (a) of Schedule G, Part I and/or Part II, must be included in the amount reported on line (c) of Schedule G, Part I and/or Part II.

A separate Refund Claim (Form A-3730) stipulating all the facts and providing all applicable evidence to support the taxpayer's claim, must be submitted in order to request any other exception.

NAME AS SHOWN ON RETURN

FEDERAL ID NUMBER

SCHEDULE G-2 PART I

EXCEPTIONS TO THE ADBACK OF INTEREST

NOTE: A copy of the return from the state, possession, or foreign nation on which the related member reported interest income must be submitted with the taxpayer's return. If more space is needed, enclose a schedule listing the information.

EXCEPTION 1 - Amounts Paid, Accrued, or Incurred to a Related Member(s) in a Foreign Nation that has a Comprehensive Treaty with the United States

1. Was any interest included on Schedule G, Part I of the CBT-100, CBT-100S, or BFC-1 return, directly or indirectly paid, accrued, or incurred to a related member in a foreign nation that has a comprehensive income tax treaty with the United States?

Yes. Complete the following schedule.

No. You do not qualify for this exception.

Table with 7 columns: Name of Related Member, Name of Nation, Description of Treaty, Allocation Factor, Nation's Rate of Tax, Tax Paid, Amount Allowed to Deduct. Includes a total row at the bottom.

EXCEPTION 2

Interest paid to a related member that was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation and which jurisdiction includes as a measure of the tax the interest received from the related member and applies a rate of tax to the interest received by the related member equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this state.

If claiming this exception for more than one related member, complete Exception 2 for each related member and enter the total for all related members in the Total Exceptions Chart.

Name of Related Member:

FID # of Related Member:

Fiscal Period of Related Member:

Name of the state, possession, or foreign nation in which the related member is subject to a tax on net income or receipts:

Amount of interest income included in the measure of net income or gross receipts subject to tax by the state, possession, or foreign nation:

- 1. Enter the amount of interest claimed by the taxpayer as deductible and reported as income or receipts subject to tax by the related member.....
2. Enter the taxpayer's allocation factor from line 2, page 1 of the New Jersey CBT-100, CBT-100S, or BFC-1 return. If non-allocating, enter 1.00.....
3. Enter the tax rate used to compute from line 9 of the New Jersey CBT-100 or BFC-1 or line 4 of New Jersey CBT-100S.....
4. Multiply column A, line 2 by column A, line 3 and enter the result here.....
5. Enter the tax rate applied to the net income or receipts from the return of the related member filed in the state, possession, or foreign nation of the related member on which the interest income is being reported.....
6. Enter the related member's allocation factor from the return filed in the state, possession, or foreign nation on which the interest income is being reported. If non-allocating, enter 1.00.....
7. Multiply column A, line 5 by column A, line 6 and enter the result here.....
8. Subtract column B, line 7 from Column B, line 4 and enter result here.....
9. Exception Amount. If the amount on column B, line 8 is greater than .03, enter zero in column C, line 9. If the amount on column B, line 8 is equal to or less than .03, enter amount from column C, line 1 in column C, line 9 and on line 2 of the Total Exceptions Chart for Part I.....

Table with 3 columns: Column A, Column B, Column C. Contains calculation steps for Exception 2.

NAME AS SHOWN ON RETURN

FEDERAL ID NUMBER

SCHEDULE G-2 PART I continued EXCEPTIONS TO THE ADBACK OF INTEREST

NOTE: A copy of the return from the state, possession, or foreign nation on which the related member reported interest income must be submitted with the taxpayer's return. If more space is needed, enclose a schedule listing the information.

EXCEPTION 3 – Interest Paid, Accrued, or Incurred to Related Corporations Filing in New Jersey

If claiming this exception for more than one related member, complete Exception 3 for each related member and enter the total for all related members in the Total Exceptions Chart.

Name of Related Member: _____

FID # of Related Member: _____

Fiscal Period of Related Member: _____

- 1. Was any interest expense included in Schedule G, Part I of this return, directly or indirectly paid, accrued, or incurred to the above related member and included in a New Jersey CBT-100, CBT-100S, or BFC-1 return filed by the related member?
2. Was the tax liability reported on the related member's New Jersey CBT-100, CBT-100S, or BFC-1 return greater than the statutory minimum tax?

Table with 2 columns: Column A Taxpayer, Column B Related Member. Rows 1-8 detailing interest deduction calculations.

EXCEPTION 4 – Interest Paid, Accrued, or Incurred to an Independent Lender

- 1. Was any interest listed on Schedule G, Part I of the New Jersey CBT-100, CBT-100S, or BFC-1 return directly or indirectly paid, accrued, or incurred to an independent lender?
2. Is the debt upon which the interest is required guaranteed by the taxpayer filing this return?

Table with 3 columns: Name of Independent Lender, Amount of Indebtedness, Amount Deducted. Includes a total row for line 4 of the Total Exceptions Chart.

A copy of the loan agreement evidencing the guarantee of the debt by the taxpayer must also be submitted with this return.

TOTAL EXCEPTIONS CHART for Part I

Table with 2 columns: Description of Exception, Amount. Rows 1-5 for Exception 1, Exception 2, Exception 3, Exception 4, and Total Part I Exceptions.

NAME AS SHOWN ON RETURN

FEDERAL ID NUMBER

SCHEDULE G-2 PART II

EXCEPTIONS TO THE ADDBACK OF INTANGIBLE EXPENSES AND COSTS

NOTE: Claim for an exception to the requirement to add back to entire net income intangible expenses and costs including intangible interest expenses and costs, paid, accrued, or incurred to a related member(s). If more space is needed, enclose a schedule listing the information.

EXCEPTION 1 – Amounts Paid, Accrued, or Incurred to a Related Member(s) in a Foreign Nation that has a Comprehensive Treaty with the United States

1. Were any of the intangible expenses and costs, including intangible interest expenses and costs reported on Schedule G, Part II of the CBT-100, CBT-100S, or BFC-1 return directly or indirectly paid, accrued, or incurred to a related member in a foreign nation that has a comprehensive income tax treaty with the United States?

Yes. Complete the following schedule.

No. You do not qualify for this exception.

Table with 7 columns: Name of Related Member, Name of Nation, Description of Treaty, Allocation Factor, Country's Rate of Tax, Tax Paid, Amount Allowed to Deduct.

(a) Total – enter here and on line 1 of the Total Exceptions Chart for Part II

EXCEPTION 2 – Intangible Expenses and Costs Paid, Accrued, or Incurred to Related Corporations Filing in New Jersey

If claiming this exception for more than one related member, complete Exception 2 for each related member and enter the total for all related members in the Total Exceptions Chart.

Name of Related Member:

FID # of Related Member:

Fiscal Period of Related Member:

1. Were any of the intangible expenses and costs including intangible interest expenses and costs reported on Schedule G, Part II of the CBT-100, CBT-100S, or BFC-1 return directly or indirectly paid, accrued, or incurred to the above related member and included in a New Jersey CBT-100, CBT-100S, or BFC-1 return, filed by the related member?

Yes. Answer question 2.

No. You do not qualify for this exception.

2. Was the tax liability of the related member greater than the statutory minimum tax?

Yes. Complete the following schedule.

No. You do not qualify for this exception.

- 1. Enter in column A and column B the amount of intangible expenses and costs claimed by the taxpayer as being deductible
2. Enter entire net income of related member from line 1, page 1 of New Jersey CBT-100, CBT-100S, or BFC-1 return. IF THE AMOUNT ON LINE 2 IS ZERO OR LESS, STOP HERE. THE EXCEPTION AMOUNT TO BE ENTERED ON LINE 8 IS ZERO, OTHERWISE PROCEED TO LINE 3.
3. Enter the lesser of line 1, column B or line 2, column B.
4. Enter the respective allocation factors from line 2, page 1 of the New Jersey CBT-100, CBT-100S, or BFC-1 return. If non-allocating, then enter 1.00
5. Multiply line 1 by line 4 for column A and line 3 by line 4 for column B. Enter the result here.
6. Enter the respective tax rates used to compute line 9 of the New Jersey CBT-100 or BFC-1 or line 4 of CBT-100S
7. Multiply line 5 by line 6 and enter the result here
8. Exception Amount. If line 7, column B is greater than line 7, column A, enter the amount from line 1, column A, otherwise divide the amount on line 7, column B by line 6, column A, and then divide that result by line 4, column A. Enter result here and on line 2 of the Total Exceptions Chart for Part II.

Table with 2 columns: Column A Taxpayer, Column B Related Member. Rows correspond to items 1-8 in the list above.

TOTAL EXCEPTIONS CHART for Part II

- 1. Exception 1 – Enter amount from line (a) of Schedule G-2, Part II, Exception 1
2. Exception 2 – Enter amount from line 8 of Schedule G-2, Part II, Exception 2
3. Total Part II Exceptions – Add lines 1 and 2. Enter total here and on line (b) of Schedule G, Part II

Table with 2 columns for lines 1, 2, and 3 of the Total Exceptions Chart.