

June 20, 2019

## Advisory Notice #2 – Net Interest Expense Limitation [IRC Sec. 163(j)] Tax Policy Update

### **Clarification of May 29, 2019 Advisory Notice – Treatment of Federal Interest Expense Limitation for the Philadelphia Business Income and Receipts Tax (BIRT).**

This Advisory Notice serves to clarify how the IRC Sec. 163(j) interest expense limitation should be calculated for BIRT purposes:

It is the general intent for a BIRT Method II taxpayer to calculate its interest expense limitation consistent with the guidance provided in the Pennsylvania Department of Revenue’s Corporation Tax Bulletin 2019-03. For BIRT Method II taxpayers that file a federal consolidated return, if the federal consolidated group reports an interest limitation under Section 163(j), each member of the federal consolidated group with a BIRT filing requirement must come up with its own set of calculations on a separate entity basis to determine if the interest expense limitation applies to it. When calculating the interest limitation on a separate entity basis without elimination of related party receipts, this analysis will include a determination of whether the separate entity BIRT taxpayer has sufficient gross receipts<sup>1</sup> to meet the requirements of IRC Sec. 163(j).

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<sup>1</sup> There is an exception to the interest expense limitation for taxpayers with average annual gross receipts for the three prior taxable years of \$25 million or less.