



New Exclusions Under New Jersey Gross Income Tax Act and Major Enhancements to QSBS Exclusion Under OBBBA—Key Opportunities for Tax Planning

Client Advisories

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For dispositions of Qualified Small Business Stock (QSBS) on or after January 1, 2026, New Jersey now follows Section 1202 of the Internal Revenue Code (Section 1202), allowing New Jersey taxpayers to exclude gains from the sale of QSBS from New Jersey gross income.

The One Big Beautiful Bill Act (OBBBA), signed into law on July 4, 2025, has significantly expanded the benefits available under Section 1202 for QSBS holders. These changes, coupled with the New Jersey exclusion, present substantial new opportunities for founders, investors, and business owners to maximize tax savings and plan strategically for liquidity events and wealth transfer.

Key OBBBA Enhancements

Shortened Holding Periods: Gain recognized from the sale of QSBS acquired after OBBBA's enactment now qualifies for partial capital gain exclusion with holding periods as short as three years (50% exclusion for 3–4 years, 75% for 4–5 years, and 100% for 5+ years), offering greater flexibility for investors. Gain recognized on the sale of QSBS acquired before OBBBA still requires a five-year holding period to qualify for exclusion.

Higher Exclusion Cap: The per-issuer flat cap on excluded gain has increased from \$10 million to \$15 million (inflation-adjusted), with the alternative limit of 10× basis retained. Strategic planning is essential, as the exclusion applies only once per disposition, even if payments are received over multiple years.

Expanded Issuer Eligibility: The gross asset limit for QSBS issuers has increased from \$50 million to \$75 million (inflation-adjusted), allowing more growth-stage companies to qualify and broadening investment opportunities. The test is applied “at all times” before the issuance and “immediately after” the issuance of the stock. If a

company's assets grow beyond the threshold *after* the stock is issued, the stock already issued remains qualified, provided the company was below the limit at the time of issuance.

QSBS Qualification Requirements (Unchanged)

- Stock must be issued by a domestic C-corporation at original issuance.
- Issuer's assets must not exceed the gross asset limit before and immediately after issuance.
- At least 80% of assets must be used in qualified active business.
- Certain industries remain excluded (e.g., finance, hospitality, professional services, certain consulting services).

New Jersey Gross Income Exclusion

Contemporaneous with the enactment of OBBBA, Governor Murphy signed Bill A4455/S4503 into law, allowing NJ taxpayers to exclude gains from dispositions of QSBS from New Jersey gross income that occur on or after January 1, 2026. The gain exclusion is available for both existing and newly issued QSBS stock, with eligible shareholders being permitted to exclude up to 100% of capital gains on QSBS stock held for more than 5 years, subject to the greater of: (i)(A) \$10 million for QSBS issued before July 5, 2025, or (B) \$15 million for QSBS issued after July 4, 2025; or (ii) 10x basis.

This additional benefit now available to New Jersey taxpayers holding QSBS further enhances the significant tax savings available to holders of QSBS under Section 1202, now enhanced through OBBBA.

Strategic Implications

With these enhancements, careful planning around QSBS acquisition, holding periods, and disposition timing can yield significant tax advantages for business owners, investors, and families. Estate planning and gifting strategies can also be optimized to leverage QSBS exclusions to further wealth transfer objectives.

For tailored guidance on QSBS eligibility, investment timing, and estate planning strategies, contact **Bonnie Diaz** at bdiaz@archerlaw.com or 201-498-8516, **Justin Csik** at jcsik@archerlaw.com or 856-673-7144, or **Tara Zane** at tzane@archerlaw.com or 856-354-3088.

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