



MULTISTATE INCOME/FRANCHISE

Kentucky amends pass-through entity tax election Tax Alert

Overview

On March 31, 2023, Kentucky [House Bill 5](#) (H.B. 5) was enacted into law. This bill amends the provisions of House Bill 360 (H.B. 360), which enacted a pass-through entity tax (“PTET”) in the state.

This Tax Alert summarizes some of the provisions of H.B. 5 related to the PTET.

Kentucky pass-through entity tax election

- For taxable years beginning on or after January 1, 2022, an authorized person, defined as any individual with the authority from the electing entity to bind the electing entity or sign returns on its behalf, may elect annually, on behalf of the electing entity, to have the tax imposed under Kentucky Revised Statutes (“KRS”) 141.020 (individual income tax) imposed upon the electing entity and based upon the ordinary income and the separately stated items of income calculated under KRS 141.206 (pass-through income tax).
- The election must be made on a form prescribed by the Kentucky Department of Revenue and the Department may promulgate administrative regulations as needed to administer the tax.
- For taxable years beginning on or after January 1, 2022, but before January 1, 2023, the PTET election must be made between March 31, 2023, and August 31, 2024. For taxable years beginning on or after January 1, 2023, the election may be made at any time but not later than the 15th day of the 4th month after the close of the taxable year or the 15th day of the 10th month after the close of the taxable year if properly extended.
- For taxable years beginning on or after January 1, 2022, but before January 1, 2024, an electing entity is not required to make estimated income tax payments. For taxable years beginning on or after January 1, 2024, an electing entity will be required to make estimated payments on meeting the requirements.

- The election, once made for a taxable year, is irrevocable and binding upon all direct and indirect owners of the electing entity receiving a proportionate share of the entity's income.

PTET credit

- For taxable years beginning on or after January 1, 2022, a refundable credit will be allowed equal to 100% percent of the entity owner's proportionate share of the tax paid by the pass-through entity for the taxable year.
- The credit can be claimed by the entity owner against the individual income tax imposed and is based on the pro rata share of the entity owner's income from the pass-through entity.
- An electing entity must report to the direct owner of the entity, their share of the tax paid by the pass-through entity for the taxable year for purposes of the credit.

Get in touch

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Have a question relating to this or any other pass-through entity tax regime? Reach out to one of our national multistate pass-through entity tax specialists.

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