



MULTISTATE INCOME/FRANCHISE TAX

## South Carolina enacts a pass-through entity-level tax election and updates IRC conformity

Tax Alert

### Overview

On May 17, 2021, South Carolina enacted [Senate Bill 627](#) (S.B. 627), which permits certain pass-through entities (PTEs) – including some qualifying partnerships, limited liability companies, and S corporations – to elect to pay South Carolina income tax on active trade or business income at the entity level. Correspondingly, in computing South Carolina taxable income, a qualified owner of such electing PTE must exclude active trade or business income from the PTE provided that the PTE properly filed its South Carolina entity-level income tax return and paid the applicable taxes that included the active trade or business income or loss.

This annual election must be made on or before the due date for filing the applicable income tax return, including extensions. The election will be available for tax years beginning after 2020.

On May 18, 2021, South Carolina enacted [House Bill 4017](#) (H.B. 4017) which generally updates corporate and personal income tax statutory references to the Internal Revenue Code (IRC) referring to the federal law in effect as amended through December 31, 2020 and “includes the effective date provisions contained in it.” However, the legislation specifically decouples from IRC sections 172(a) and 461(l) for certain tax years.

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