



MULTISTATE INCOME/FRANCHISE TAX

Reminder – New York pass-through entity tax considerations for 2022 tax year

Tax Alert

Overview

During calendar year 2022, New York enacted Senate Bill (S.B.) 8948 and the 2022-2023 New York Budget Bill, which both revised the New York pass-through entity tax (“NYS PTET”). These bills extended the due date for the 2022 NYS PTET election and expanded the options available for S corporations to compute their NYS PTET taxable income.

This Tax Alert provides some considerations for the NYS PTET for the 2022 tax year.

2022 NYS PTET election due date

The due date for the 2022 NYS PTET election was originally March 15, 2022. However, on May 6, 2022, New York enacted Senate Bill S.B. 8948, which extended the due date of the election for eligible partnerships and New York S corporations to **September 15, 2022**. See the previously issued [Tax Alert](#) from May 13, 2022 for more information on S.B. 8948.

As a result of the due date extension for tax year 2022, an eligible electing entity that makes the NYS PTET election after June 15, 2022 (but before September 15, 2022) is required to make an estimated payment equal to 50% of the required annual payment with its election. Please note that **an additional estimated payment of 25% of the required annual amount is also due by September 15, 2022** (i.e., 75% of the required annual payment must be made by September 15, 2022).

S corporations that only have New York resident shareholders

The 2022-2023 New York Budget Bill was enacted on April 9, 2022 and revised the NYS PTET to expand the options for resident New York S corporations to compute their taxable income for tax years beginning on or after January 1, 2022. See the previously issued [Tax Alert](#) from April 27, 2022 for more

information on the Budget Bill. The bill's revisions provide an option for New York S corporations (whose shareholders are all New York residents) to elect into the NYS PTET as an "electing resident S Corporation." To compute its NYS PTET taxable income, an electing resident S Corporation includes all items of income, gain, loss, or deduction included in the taxable income of a New York resident under Article 22.

To qualify as an electing resident S Corporation for tax year 2022, the resident S Corporation must do the following:

- Make a NYS PTET election by September 15, 2022;
- Pay 75% of the required annual payment under the New York electing resident S Corporation regime by September 15, 2022; and
- Certify as an electing resident S Corporation by March 15, 2023.

Considerations

Passthrough entities should consider whether the 2022 law changes could be beneficial to their partners or shareholders. Such entities, include but are not limited to, those with fact patterns similar to the below. Please note, additional analysis should be performed because the determination of the benefit could be different for each partner or shareholder.

- Partnerships that have New York resident partners with federal taxable income ("FTI") including, but not limited to, investment partnerships, partnerships with significant income from transactions, and partnerships doing business outside of New York
- Partnerships with New York sourced income that have non-resident partners
- S corporations with federal taxable income that only have New York resident shareholders
- S corporations with New York sourced income that have both resident and non-resident shareholders

Get in touch

[Greg Bergmann](#)

[Robert Waldow](#)

[Jack Trachtenberg](#)

[Don Roveto](#)

[Hernan Stigliano](#)

[Dennis O'Toole](#)

[Todd Hyman](#)

[Mary Jo Brady](#)

[Alyssa Keim](#)

[Olivia Schulte](#)



30 Rockefeller Plaza
New York, NY 10112-0015
United States

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2022 Deloitte Development LLC. All rights reserved.