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Deloitte Tax LLP | February 4, 2022

MULTISTATE INCOME/FRANCHISE TAX

California legislature proposes changes to pass-through entity tax

Tax Alert

Overview

On February 2, 2022, Assembly Bill 87/Senate Bill 113 (A.B. 87) was introduced in the California legislature proposing certain technical corrections to California's recently enacted elective pass-through entity tax (see A.B. 150 (2021) and our previously issued Tax Alert for more details about this tax).

This Tax Alert summarizes some of the proposed changes in A.B. 87.

California A.B. 87

If A.B. 87 is passed as currently drafted, it would make the following changes:

Effective for tax years beginning on or after January 1, 2021:

- Allow the pass-through entity tax credit to reduce the net income tax below the tentative minimum tax.
- Include guaranteed payments to consenting qualified taxpayers in the qualified entity tax base for purposes of computing the pass-through entity tax.
- Include single member limited liability companies ("SMLLCs") owned by individuals, estates, or trusts in the definition of a qualified taxpayer (allowing these SMLLCs to consent and for their owners to receive a pass-through entity tax credit).
- Include entities that have partnerships as partners in the definition of a qualified entity, allowing them to make the pass-through entity tax election. However, partnerships are not qualified taxpayers, which means their income is not included in the pass-through entity tax base and the partnership does not receive a pass-through entity tax credit.

Effective for tax years beginning on or after January 1, 2022:

- Re-order credit usage to allow for use of other state tax credits before the pass-through entity tax credit for tax years beginning on or after January 1, 2022 and before January 1, 2026.

- Eliminate the $5 million business credit limit for tax years beginning on or after January 1, 2022.
- Remove the net operating suspension for tax years beginning on or after January 1, 2022.

Get in touch

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