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MULTISTATE INCOME/FRANCHISE TAX

California shifts to SSF apportionment for financial institutions and extends elective PTET

Tax Alert

Overview

On June 27, 2025, California Governor Newsom signed Senate Bill 101 ("S.B. 101" or the "Budget Act") and Senate Bill 132 ("S.B. 132"), a taxation trailer bill which requires banks and financial institutions to use a single sales factor apportionment formula when apportioning business income to California, as well as extends the elective pass-through entity tax ("PTET"). Governor Newsom also signed Senate Bill 102 ("S.B. 102"), which amended the Budget Act and included a provision to repeal the Budget Act and any related appropriation bills if Assembly Bill 131/Senate Bill 131 ("A.B. 131/S.B. 131"), a separate public resources trailer bill, was not signed by the Governor on June 30th. On June 30, 2025, Governor Newsom signed SB 131.

This Tax Alert summarizes some of the relevant tax provisions in S.B. 132.

Single sales factor for financial institutions

- California generally requires an apportioning trade or business, *other than* an apportioning trade or business that derives more than 50 percent of its gross business receipts from conducting one or more *qualified business activities*, to apportion its business income by using a single sales factor formula. For taxable years beginning before January 1, 2025, savings and loan activities and banking and financial activities have been included in the definition of *qualified business activities*, so they have been required to use an evenly weighted three-factor formula for California apportionment purposes.
- To align banks and financial institutions with nearly all corporations, S.B. 132 amends California Revenue and Taxation Code ("CRTC") section 25128 and provides that for taxable years beginning on or after January 1, 2025, a "qualified business activity" includes only an agricultural business activity or an extractive business activity, as defined by the Corporation Tax Law, and removes savings and loan activities and banking and financial activities.

- For taxable years beginning on or after January 1, 2025, an apportioning trade or business deriving income from savings and loan activities or banking or financial activities must apportion its business income by using a single sales factor formula.
- Since S.B. 132 is effective for tax years beginning on or after January 1, 2025, affected taxpayers may see a change in their California apportionment percentage for the current tax year.

Extension of elective PTET

- S.B. 132 generally extends the elective PTET to taxable years beginning on or after January 1, 2026, and before January 1, 2031, subject to the extension of the federal SALT cap under IRC section 164(b)(6). However, if before December 1, 2031, IRC section 164(b)(6) is repealed, the elective PTET would become inoperative for taxable years beginning on or after the January 1st after IRC 164(b)(6) is repealed, and the elective PTET provisions would be repealed as of December 1st of that year.
- A qualified taxpayer that is a partner, shareholder, or member of an electing PTE that makes the elective PTET election for their taxable year beginning on or after January 1, 2025, and before January 1, 2026, and files its return on a fiscal year basis pursuant to CRTC section 18566, is allowed the PTET credit against net tax as defined in CRTC section 17039 in the qualified taxpayer's taxable year beginning on or after January 1, 2026, and before January 1, 2027.
- An electing pass-through entity is required to make a payment by June 15th of the taxable year of the election of the amount equal to, or greater than, either $1,000 or 50 percent of the elective tax paid in the prior taxable year, whichever is greater. On or before the original due date of the electing pass-through entity's return, without regard to any extension for filing granted, the electing pass-through entity must pay an amount equal to the elective tax due for the taxable year, less the payment made on or before June 15th of the taxable year. However, for taxable years beginning on or after January 1, 2026, and before January 1, 2031, if the electing pass-through entity fails to make these payments as required, or if a payment is less than the amount required, the electing pass-through entity is still able to make an election for that taxable year.
- For taxable years beginning on or after January 1, 2026, and before January 1, 2031, a qualified taxpayer is allowed to claim a PTET credit against net tax as defined in CRTC section 17039. However, the credit allowed to a qualified taxpayer is reduced if the electing pass-through entity does not make a payment by June 15th or makes a payment that is less than the required amount. The reduced credit is equal to 9.3 percent of the sum of the qualified taxpayer's guaranteed payments and the qualified taxpayer's pro rata share or distributive share of income subject to the PTET, reduced by an amount equal to 12.5 percent of the qualified taxpayer's pro rata share of the amount due but not paid under CRTC section 19914.

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