

Income/Franchise:

Colorado: New Law Contingently Provides for Elective Passthrough Entity-Level Taxation

H.B. 1327, signed by gov. 6/23/21. Available for tax years beginning on or after January 1, 2022 “in an income year where there is a limitation on the deductions allowed to individuals” under Internal Revenue Code section 164, new law provides an annual election for some S corporations and partnerships to pay tax at the entity-level, which must be made on the return filed. The filing of such a return will be binding on “all electing pass-through entity owners.” The pass-through entity election generally applies to all types of owners, except a C corporation that is unitary with the partnership.

URL: <https://leg.colorado.gov/bills/hb21-1327>

Electing entities must pay income tax at a 4.55% rate. The pass-through entity tax generally applies to each electing owner’s pro rata or distributable share of income attributable to Colorado, as well as each resident electing owner’s pro rata or distributable share of income not attributable to Colorado. Electing pass-through entity owners would not be subject to tax on the portion of their income that was included in an electing Colorado pass-through entity tax return.

See forthcoming Multistate Tax Alert for more details on this legislation, and please contact us with any questions in the meantime.

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