

Income/Franchise:

California FTB Summarizes Provisions of Newly Enacted Elective Pass-through Entity Tax

Tax News, Cal. Fran. Tax Bd. (9/21). In its monthly newsletter, the California Franchise Tax Board (FTB) summarizes recently enacted legislation that provides for a new elective pass-through entity (PTE) tax in California [see A.B. 150 (2021) and previously issued Multistate Tax Alert for more details on this new tax], which is effective for taxable years beginning on or after January 1, 2021, and before January 1, 2026. According to the FTB, the new law allows certain qualifying pass-through entities to annually elect to pay an elective tax in the amount of 9.3% of the pro rata share or distributive share of the entity's partners, shareholders, or members. In turn, the FTB explains, the partners, shareholders and members receive a tax credit equal to that amount. The FTB notes that to qualify to make this election, the pass-through entity's owners must consist "solely of individuals, fiduciaries, trusts, estates or entities taxable as corporations," and the pass-through entity "cannot have a partnership as an owner, cannot be a publicly traded partnership, and the pass-through entity cannot be permitted or required to be in a combined reporting group." The FTB also notes that the election to pay the tax must be made on the entity's original, timely-filed return and is irrevocable for the taxable year; and for taxable years beginning on or after January 1, 2021, and before January 1, 2022, "the tax must be paid on or before the due date of the original return of the electing pass-through entity, without regard to any extension of time for filing a return for the taxable year of election." The FTB announces that it is developing forms for qualifying entities to elect and pay the tax, as well as for partners, shareholders, and members to claim their corresponding tax credit. Please contact us with any questions.

URL: <https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/september-2021/print-version.pdf>

URL: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB150

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-california-enacts-pass-through-entity-tax-election.pdf>

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