

## Income/Franchise:

### California FTB Posts Implementation Guidance on Newly Enacted Elective Pass-through Entity Tax

*Pass-through entity (PTE) elective tax: Assembly Bill (AB) 150 SALT cap workaround, Cal. Fran. Tax Bd. (9/8/21).* The California Franchise Tax Board (FTB) posted implementation guidance covering California's newly enacted elective pass-through entity (PTE) tax [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. The FTB explains that certain qualifying pass-through entities annually may elect to pay such entity-level state tax on income, and qualified taxpayers in turn receive a credit for their share of the entity level tax to reduce their respective California personal income tax. The FTB guidance addresses which entities are qualified to make the PTE tax election; who constitutes "qualified taxpayers" for credit purposes; how and when to make the PTE tax election; how to calculate the PTE tax and underlying credits; and which forms to file in the process.

**URL:** <https://www.ftb.ca.gov/file/business/credits/pass-through-entity-elective-tax/index.html>

**URL:** [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB150](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>

Qualifying pass-through entities annually elect to pay the elective tax in the amount of 9.3% of the pro rata share or distributive share of the entity's partners, shareholders, or members; correspondingly, the qualifying partners, shareholders and members receive a nonrefundable tax credit equal to that amount. Unused credits can be carried over for up to five years. According to the FTB, the following tax forms for qualified entities to make the PTE elective tax payments and for qualified taxpayers to claim tax credits are in development and will be available as noted:

- Pass-Through Entity Elective Tax Payment Voucher (FTB 3893) – Available November 1, 2021;
- Pass-Through Entity Elective Tax Calculation (FTB 3804) – Available January 2022; and
- Pass-Through Entity Elective Tax Credit (FTB 3804-CR) – Available January 2022.

Please contact us with any questions.

— Christopher Campbell (Los Angeles)  
Principal  
Deloitte Tax LLP  
cwcampbell@deloitte.com

Mark Chao (Costa Mesa)  
Managing Director  
Deloitte Tax LLP  
mchao@deloitte.com

Gregory Bergmann (Chicago)  
Partner  
Deloitte Tax LLP  
gbergmann@deloitte.com

Shirley Wei (Los Angeles)  
Senior Manager  
Deloitte Tax LLP  
shiwei@deloitte.com

Olivia Schulte (Washington, DC)  
Manager  
Deloitte Tax LLP  
oschulte@deloitte.com

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