

Income/Franchise:

Georgia DOR Proposes Rule Implementing New Elective Pass-through Entity-Level Taxation

Notice IT-2021-5: Proposed Regs. sections 560-7-3-.03 (Election to Pay Tax at the Pass-Through Entity Level), 560-7-3-.06 (Taxation of Corporations), 560-7-3-.08 (Partnerships), and 560-7-5-.02 (Accounting Periods and Basis of Net Income), Ga. Dept. of Rev. (10/27/21). Pursuant to recently enacted legislation that provides an annual irrevocable election for S corporations and partnerships to pay tax at the entity-level [see H.B. 149 (2021), and previously issued Multistate Tax Alert for more details on this new law], the Georgia Department of Revenue has proposed rules concerning administration and implementation of this election, which is available for tax years beginning on or after January 1, 2022. The proposal includes pertinent definitions, as well as provides which entities are eligible to make the election; how to make the election; how to compute the income and the tax; how an owner subtracts the income that was taxed at the pass-through entity level; and rules regarding tax attributes. The proposed regulations also contain rules regarding underlying estimated payments, audits, investment pass-through entities and exempt owners, and withholding. A virtual public hearing on the proposal is scheduled for November 29, 2021, and written comments are due on the same date. Please contact us with any questions.

URL: <https://dor.georgia.gov/notice-it-2021-5-regulation-hearing>

URL: <https://www.legis.ga.gov/legislation/59024>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-georgia-enacts-a-pass-through-entity-level-tax.pdf>

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