

Income/Franchise:

South Carolina: Draft Revenue Ruling Addresses New Elective Pass-through Entity Tax

Draft Revenue Ruling No. RR 21-x, S.C. Dept. of Rev. (11/2/21). The South Carolina Department of Revenue released a draft revenue ruling reflecting newly enacted state legislation [see S.B. 627 (2021) for details on new law that creates the pass-through entity tax election] that includes an annual election for some qualifying pass-through entities (PTEs) to pay South Carolina income tax on active trade or business income at the entity level [see previously issued Multistate Tax Alert for more details on South Carolina's new elective pass-through entity tax], applicable for tax years beginning after 2020. Among other topics, the draft revenue ruling:

URL: <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/RR-draft-active-trade-business-income.pdf>

URL: https://www.scstatehouse.gov/sess124_2021-2022/bills/627.htm

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-south-carolina-enacts-a-pass-through-entity-level-tax-election-and-updates-irc-conformity.pdf>

1. Provides a brief summary of recent Internal Revenue Service guidance regarding a pass-through entity's deduction of certain state and local income taxes;
2. Provides a brief review of guidance on South Carolina Code section 12-6-545(A) through (F), which allows individuals, estates, or trusts to use an "optional" income tax rate to compute the tax on "active trade or business income or loss" received from a pass-through business in lieu of the standard income tax rate under South Carolina Code section 12-6-510; and
3. Addresses general technical and compliance questions regarding the new election in South Carolina Code section 12-6-545(G) by a qualified PTE to report and pay tax on active trade or business income at the entity level.

The proposal includes answers to several frequently asked questions concerning South Carolina's new PTE tax. Comments on the draft revenue ruling are due by November 16, 2021. Please contact us with any questions.

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