

Income/Franchise:

Illinois DOR Posts FAQs on New Entity-Level Taxation for Some Pass-through Entities

What is the Pass-Through Entity (PTE) Tax?, Ill. Dept. of Rev. (12/2/21). The Illinois Department of Revenue (Department) issued some answers to frequently asked questions (FAQs) reflecting new law [see Public Act 102-0658 (S.B. 2531 (2021))] and previously issued Multistate Tax Alert for more details on this new law] allowing certain partnerships and S corporations to elect to pay an entity level state tax on income (PTE tax). According to the Department, the PTE tax rate is equal to 4.95% of the taxpayer's net income for the taxable year, and a partnership or S corporation making the election is liable for paying the PTE tax. However, if the electing partnership or S corporation fails to pay the full amount of tax deemed assessed, the partners or shareholders are liable to pay the tax assessed (including penalties and interest).

URL: <https://www2.illinois.gov/rev/questionsandanswers/Pages/689.aspx>

URL: <https://www.ilga.gov/legislation/publicacts/102/PDF/102-0658.pdf>

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

The Department also explains that the election to pay the PTE tax is made on Form IL-1065, Partnership Replacement Tax Return, or Form IL-1120-ST, Small Business Replacement Tax Return, for tax years ending on or after December 31, 2021. When a partnership or S corporation makes the election to pay the entity-level tax, "it is required to make quarterly estimated payments if the expected tax due (including both the Pass-through entity tax and replacement tax) is more than \$500 or incur late estimated payment penalties per Illinois Income Tax Act Section 804." However, the FAQs provide that the Department "will waive late estimated payment penalties related to an election to pay the PTE tax for tax years ending before December 31, 2022." Taxpayers are encouraged to make voluntary prepayment of the pass-through entity tax "to reduce any tax payment due when the return is filed." Please contact us with any questions.

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