

## Income/Franchise:

### Massachusetts DOR Posts Working Draft Release on New Entity-Level Taxation for Some Pass-through Entities

*Working Draft TIR – Pass-through Entity Excise*, Mass. Dept. of Rev. (12/30/21). The Massachusetts Department of Revenue (Department) posted a draft technical information release (draft TIR) addressing state law [see H. 4009 (2021) and previously issued Multistate Tax Alert for more details on this new law] that provides an election for some “eligible pass-through entities (PTEs)” to pay a new entity-level excise tax (PTE Excise) on qualified income that is taxable in Massachusetts at a rate of 5%, applicable for taxable years beginning on or after January 1, 2021. The Department states that the purpose of this release is to explain the PTE Excise election, computation of the excise, filing and payment requirements, and computation of the PTE Excise credit that is available to qualified members of a PTE that makes the election. According to the draft TIR, the excise generally is equal to 5% of:

**URL:** <https://www.mass.gov/technical-information-release/working-draft-tir-pass-through-entity-excise>

**URL:** <https://malegislature.gov/Bills/192/H4009>

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

- PTE income attributable to qualified members who are Massachusetts residents; plus
- PTE income attributable to nonresident qualified members multiplied by the PTE’s Massachusetts apportionment percentage for the taxable year for which the PTE Excise is paid.

Qualified members are allowed a Massachusetts personal income tax credit for 90% of their share of the PTE Excise paid by the PTE. The PTE Excise credit is refundable if it is claimed against Massachusetts personal income tax and treated as an overpayment.

For tax years beginning on January 1, 2021, the draft TIR provides that the total amount of all PTE Excise estimated payments for the 2021 taxable year must be made by January 15, 2022, as well as includes guidance on how to make such payments.

Comments on the draft TIR are due by January 21, 2022. Please contact us with any questions.

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