

Income/Franchise:

Utah: New Law Redefines Business Income, Adopts Mobile Workforce Provisions and PTE Tax

H.B. 268, signed by gov. 3/23/22. New law modifies the definition of “business income” for state corporate income tax purposes, including permitting a taxpayer to elect to treat all income from the sale of intangible property as business income, applicable retroactively to taxable years beginning on or after January 1, 2022. Specifically, the legislation redefines business income as income that:

URL: <https://le.utah.gov/~2022/bills/static/HB0268.html>

- Is apportionable under the U.S. Constitution and is not allocated under Utah law, including income arising from:
- A transaction or activity in the regular course of the taxpayer’s trade or business; and
- Tangible and intangible property, if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer’s trade or business; or
- Would be allocable to Utah under the U.S. Constitution, but is apportioned rather than allocated in accordance with Utah law.

S.B. 39, signed by gov. 3/23/22. Another recently signed bill addresses the Utah tax liability and withholding requirements for some nonresident individuals earning wages in Utah by adopting a general bright-line 20-day threshold for employers to determine nonresident state income tax withholding requirements, effective for taxable years beginning on or after January 1, 2023. The legislation also delineates several exceptions to this general rule. The bill generally follows many of the provisions under the Multistate Tax Commission’s “Model Mobile Workforce Statute.”

URL: <https://le.utah.gov/~2022/bills/static/SB0039.html>

H.B. 444, signed by gov. 3/23/22. Another signed bill permits qualifying passthrough entities (PTEs) to make an annual election to pay an entity level state tax for taxable years beginning on or after January 1, 2022, but before December 31, 2025, in response to the \$10,000 cap on the federal individual income tax deduction for state and local taxes that was enacted in the 2017 federal tax overhaul legislation known as the Tax Cuts and Jobs Act (*i.e.*, P.L. 115-97) [see recently issued Multistate Tax Alert for more details on this new PTE tax]. Please contact us with any questions.

URL: <https://le.utah.gov/~2022/bills/static/HB0444.html>

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

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