

Income/Franchise:

District of Columbia Addresses Treatment of Pass-Through Entity Taxes Paid to Other Jurisdictions

OTR Tax Notice 2022 – 03: District Treatment of Pass-through Entities Taxes Paid to Other Jurisdictions, D.C. Office of Tax & Rev., Office of the CEO (3/31/22). The District of Columbia (DC) Office of Tax and Revenue (OTR) issued “OTR Tax Notice 2022-03,” which provides guidance on the ability for DC residents to claim an individual income tax credit for certain taxes paid to nonresident states for mandatory or elective entity-level income taxes on pass-through entities (“PTE Taxes”). In doing so, the OTR explains that it interprets that D.C. Code § 47-1806.04(a) – which was enacted prior to any PTE Taxes by other states in response to the \$10,000 cap on the federal individual income tax deduction for state and local taxes that was part of the 2017 federal tax overhaul legislation known as the Tax Cuts and Jobs Act (*i.e.*, P.L. 115-97) – does *not* restrict a DC resident individual taxpayer from claiming a credit for such taxes paid by a pass-through entity so long as the PTE Tax is “akin to an individual net income tax and does not fall within the enumerated tax types listed in D.C. Code § 47-1806.04(a).” To the extent permitted, the OTR explains that such resident individual generally may claim a credit on their DC individual income tax return “equal to the total share of state and local tax shown on the individual resident member’s tax return filed with the other state.” However, the OTR states that such credit is limited to the DC tax calculated on the resident individual’s distributive or pro-rata share of income subject to tax at the entity-level. The notice cautions that it “does not change the enumerated tax types listed in D.C. Code § 47-1806.04(a)” and, therefore, DC residents may *not* claim such credit for a franchise tax, license tax, excise tax, unincorporated business tax, occupation tax, or any tax so characterized by the other taxing jurisdiction. Please contact us with any related questions.

URL: https://otr.cfo.dc.gov/sites/default/files/dc/sites/otr/publication/attachments/OTR_NOTICE_2022-03_State_Credit_for_PTET_3_31_2022.pdf

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