

## Income/Franchise:

### New York: Signed Budget Bill Includes Revisions to PTE Tax and Creates New York City PTE Tax

AB 9009-C / SB 8009-C, signed by gov. 4/9/22. Governor Kathy Hochul signed into law the New York 2022-2023 Budget Act, which contains some revisions to New York's elective pass-through entity-level tax (NYS PTET) that was enacted under New York's 2021-2022 Budget Act 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) [see previously issued Multistate Tax Alert (June 7, 2021) for more details on New York's pass-through entity tax, as well as previously issued Multistate Tax Alert (October 7, 2021) for some additional NYS PTET implementation guidance]. The new NYS PTET-related revisions include:

**URL:** [https://nyassembly.gov/leg/?default\\_fld=&leg\\_video=&bn=A09009&term=0&Summary=Y&Actions=Y](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A09009&term=0&Summary=Y&Actions=Y)

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**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-overview-of-new-yorks-new-pass-through-entity-tax.pdf>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-recent-guidance-addressing-new-yorks-new-pass-through-entity-tax.pdf>

- Clarifying that for partners and shareholders of an electing entity, in calculating New York adjusted gross income, the addback for "income taxes" does not include the NYS PTET, the new New York City PTET (described below), or similar taxes imposed by other states provided that those taxes are added back under a separate provision (applicable for tax years beginning on or after January 1, 2021); and
- Providing New York S corporations whose shareholders are all New York residents a new option of electing into the NYS PTET as an "electing resident S corporation," which generally provides that all income from such entity included in the taxable income of a New York resident is included in computing NYS PTET taxable income; this serves to increase the NYS PTET credit allowed against the New York State personal income tax to members of the electing resident S corporation and would be available for the 2022 tax year if applicable requirements are met.

Applicable for tax years beginning on or after January 1, 2023, the New York 2022-2023 Budget Act also provides for a New York City elective pass-through entity-level tax (NYC PTET) under new New York Tax Law Article 24-B, which will supplement the existing NYS PTET and allow electing partnerships (with at least one New York City resident partner) and S corporations (with only New York City resident partners) to pay the applicable New York City personal income tax at the entity level, effectively increasing the NYS PTET credit amount to cover the New York City personal income tax. The New York 2022-2023 Budget Act also amends the New York City General Corporation Tax (GCT) to provide that "taxes on or measured by profits or income" added back in computing GCT entire net income include taxes paid under Article 24-A (NYS PTET) and Article 24-B (NYC PTET); this amendment is effective for tax years beginning on or after January 1, 2021.

See forthcoming Multistate Tax Alert for more details on these and other recently enacted tax law changes, including related taxpayer considerations, and please contact us with any questions in the meantime.

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