

Income/Franchise:

New York City: Some Relief for Certain S Corps Making NYS PTET Election Retroactively Subject to NYS PTET Addback

Finance Memorandum No. 22-2: Interest and Penalty Relief for Taxpayers Retroactively Subject to the State Pass Through Entity Tax Addback Provision for the 2021 Tax Year, N.Y.C. Dept. of Fin. (5/17/22). A recently issued memorandum from the New York City (City) Department of Finance (Department) explains that the Department may not apply interest or impose penalties for City General Corporation Tax (GCT) and City Banking Corporation Tax (Bank Tax) purposes with respect to additional tax due resulting from a “Chapter 59 addback” – which refers to how for tax years beginning on or after January 1, 2021, S corporations electing to pay tax at the entity level that are subject to the GCT or Bank Tax retroactively may be required to add back New York State Pass Through Entity Tax (“NYS PTET”) deducted from federal taxable income – if the additional tax due is paid by June 15, 2022. The Department explains the circumstances under which such interest and penalty relief may apply for the 2021 tax year, noting that qualifying taxpayers entitled to relief under this memo filing a return or an amended return for this purpose on or before June 15, 2022 should enter special condition code “PT” in the special condition code box at the top of the return.

URL: <https://www1.nyc.gov/assets/finance/downloads/pdf/fm/2022/fm-22-2.pdf>

See previously issued Multistate Tax Alert from April 27, 2022 and Multistate Tax Alert from May 13, 2022 involving recent law changes to the NYS PTET, as well as a forthcoming Multistate Tax Alert on this new memorandum, and please contact us with any questions.

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-new-york-2022-2023-budget-includes-revisions-to-pass-through-entity-tax-and-creates-new-york-city-pass-through-entity-tax.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-new-york-extends-election-deadline-for-tax-year-2022.pdf>

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