

Income/Franchise:

California FTB Summarizes Recently Enacted Changes to Pass-Through Entity Tax

Tax News, Cal. Fran. Tax Bd. (June 2022). In the latest issue of its monthly newsletter, the California Franchise Tax Board (FTB) summarizes new law that provides some technical corrections to California's elective pass-through entity (PTE) tax [see S.B. 113 (2022) and previously issued Multistate Tax Alert for more details on this recently enacted legislation]. In it, the FTB explains that S.B. 113 (2022) eliminated the tentative minimum tax (TMT) limitation retroactively beginning with the 2021 taxable year, as well as made additional retroactive changes for taxable years beginning on or after January 1, 2021, by expanding certain definitions under the PTE elective tax and PTE credit as follows:

URL: <https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/index.html>

URL: https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202120220SB113

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

- Qualified net income now includes a qualified taxpayer's guaranteed payments received from the qualified entity subject to California personal income tax;
- A qualified entity can now have a partnership as a direct owner; and
- A qualified taxpayer who is a partner, member, or shareholder of a qualified entity can be a disregarded single member limited liability company (SMLLC), as long as the disregarded SMLLC is solely owned by an individual, fiduciary, estate, or trust subject to California personal income tax.

Lastly, the FTB summarizes how S.B. 113 (2022) has reordered credit usage to allow for use of other state tax credits before the PTE credit for tax years beginning on or after January 1, 2022, and before January 1, 2026. Please contact us with any questions.

— Christopher Campbell (Los Angeles)
Principal
Deloitte Tax LLP
cwcampbell@deloitte.com

Kathy Freeman (Sacramento)
Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

Shirley Wei (Los Angeles)
Senior Manager
Deloitte Tax LLP
shiwei@deloitte.com

Gregory Bergmann (Chicago)
Partner
Deloitte Tax LLP
gbergmann@deloitte.com

Robert Waldow (Minneapolis)
Principal
Deloitte Tax LLP
rwaldow@deloitte.com

Olivia Schulte (Washington, DC)
Manager
Deloitte Tax LLP
oschulte@deloitte.com

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