



MULTISTATE INCOME/FRANCHISE TAX

Virginia proposes pass-through entity tax election Tax Alert

Overview

The Virginia Senate and House of Delegates have approved [Senate Bill 692](#) (S.B. 692) and [House Bill 1121](#) (H.B. 1121), respectively. The bills are currently under consideration by the opposite chamber. Under the proposed legislation, qualifying pass-through entities may make an annual election to pay an entity-level state income tax for taxable years beginning on and after January 1, 2022, but before January 1, 2026.

This Tax Alert summarizes some of the provisions of the proposed Virginia pass-through entity tax election.

Proposed pass-through entity tax election

- Effective for taxable years beginning on and after January 1, 2022, but before January 1, 2026.
- A qualifying pass-through entity is defined as a pass-through entity that is 100 % owned by natural persons or other individuals eligible to be shareholders in an S corporation.
- A pass-through entity includes limited partnerships, limited liability partnerships, general partnerships, limited liability companies, professional limited liability companies, business trusts, and S corporations.
- The election is an annual election.
- The election is made on a timely filed return. The election should be made on or before the due date for filing the applicable return, including any extensions that have been granted.

Proposed pass-through entity tax calculation

- The pass-through entity tax shall be computed at 5.75% of Virginia taxable income, as calculated pursuant to § 58.1-391.

- An electing pass-through entity is eligible for all credits, deductions, or other adjustments to taxable income under § 58.1-391.

Proposed subtraction for income subject to pass-through entity tax

- A corresponding individual income tax subtraction is available for taxable years beginning on and after January 1, 2022, but before January 1, 2026 for any amount of income derived from an electing pass-through entity.

Proposed credit for taxes paid to other states

- For taxable years beginning on and after January 1, 2021, but before January 1, 2026, the amount of income tax paid by a pass-through entity to another state that is substantially similar to the Virginia pass-through entity tax shall be deemed to have been paid by its individual owners for purposes of determining the credit for taxes paid to other states available to Virginia residents under § 58.1-332.

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