



MULTISTATE INCOME/FRANCHISE TAX

Virginia enacts changes to pass-through entity tax Tax Alert

Overview

On March 27, 2023, Virginia [House Bill 1456/Senate Bill 1476](#) (H.B. 1456/S.B. 1476) was enacted into law, which includes certain amendments to Virginia's elective pass-through entity tax ("PTET"). This Tax Alert summarizes some of the provisions of H.B. 1456/S.B. 1476.

H.B. 1456/S.B. 1476

H.B. 1456/S.B. 1476 makes the following changes to Virginia's elective PTET, effective for taxable years beginning on and after January 1, 2021, but before January 1, 2026:

- Eliminates the definition of a "qualifying pass-through entity", which removes the requirement that to qualify for the PTET election, a pass-through entity must be 100% owned by natural persons or persons eligible to be shareholders in an S corporation. As such, the PTET election is now available to pass-through entities with owners that are corporations or pass-through entities.
- Defines "eligible owner" to mean a direct owner of a pass-through entity who is a natural person subject to the Virginia individual income tax or an estate or trust subject to the Virginia income tax imposed on estates and trusts.
- Modifies the calculation of the tax so that it is imposed on the income, gain, loss, or deduction attributable to eligible owners. Under the prior law, the tax was imposed directly on a qualifying pass-through entity, for which the definition has now been eliminated.
- Clarifies that the tax is imposed on the pro rata or distributive share of the Virginia taxable income of each nonresident eligible owner that is attributable to Virginia sources subject to the modifications required under Virginia law. All of the pro rata or distributive share of the

Virginia taxable income of each resident eligible owner is included in the PTET Virginia taxable income base. This is consistent with the [draft guidelines](#) issued by the Virginia Department of Taxation on October 31, 2022.

- Allows an eligible owner of an electing pass-through entity to claim a credit in an amount equal to the owner's pro rata share of the tax paid by the electing pass-through entity.

For more information on the Virginia PTET election, please see our previous [Tax Alert](#).

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Have a question relating to this or any other pass-through entity tax regime? Reach out to one of our national multistate pass-through entity tax specialists.

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