



MULTISTATE INCOME/FRANCHISE TAX

## Kansas enacts pass-through entity tax election Tax Alert

### Overview

On April 14, 2022, Kansas' Governor signed [House Bill 2239](#) (H.B. 2239) into law. Under the legislation, pass-through entities may make an annual election to pay an entity level state tax for taxable years beginning on or after January 1, 2022.

This Tax Alert summarizes some of the provisions of H.B. 2239.

### Pass-through entity tax election

- Effective for taxable years beginning on or after January 1, 2022.
- Pass-through entities include S corporations or partnerships.
- The election is an annual election.
- The election is made on the return filed by the electing S corporation or partnership. The filing of such return is binding on all electing pass-through entity owners.

### Pass-through entity tax calculation

- The pass-through entity tax is imposed on the sum of each resident electing pass-through entity owner's distributive share of the electing pass-through entity's income and each nonresident electing pass-through entity owner's distributive share of income attributable to the state.
- Electing pass-through entity owner means, with respect to an S corporation, a shareholder of the S corporation and, with respect to a partnership, a partner in the partnership, except that a partner does not include a C corporation.
- The tax rate for the pass-through entity tax is 5.7%.

- Any credit allowed, except for the credit for the amount of income tax paid to another state by a resident partner, that is attributable to the activities of an electing pass-through entity shall be claimed by the pass-through entity and not passed through to or claimed by the electing pass-through entity owners only for taxable periods in which the election is made.
- Any excess credit, net operating loss, or other modification may be carried forward on the electing pass-through entity's return but may only be utilized in a year in which the electing pass-through entity has made the election.

## Pass-through entity tax credit

- Electing pass-through entity owners may claim a credit against income tax equal to their direct share of the Kansas pass-through entity tax. Any excess credit is refundable to the electing pass-through entity owner.
- A nonresident individual or fiduciary whose only source of income from Kansas is income from an electing pass-through entity is not required to file a Kansas income tax return.

## Other considerations

- Electing pass-through entities are required to make estimated tax payments in the same manner as corporations. Estimated tax payments are required if the entity's Kansas income tax liability can reasonably be expected to exceed \$500. Penalties and interest for noncompliance with the estimated tax payment requirements shall not apply to the first taxable period for which the election is applicable.

## Get in touch

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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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