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MULTISTATE INCOME/FRANCHISE TAX

Missouri enacts changes to pass-through entity tax, including opt-out election

Tax Alert

Overview

On July 12, 2024, Missouri House Bill 1912 (H.B. 1912) was signed into law. The legislation revises various provisions under Missouri law allowing qualifying pass-through entities to make an annual election to pay an entity-level state tax.

This Tax Alert summarizes some of the provisions of H.B. 1912.

Opt-out election

- Members of an electing pass-through entity, including shareholders of an S corporation and partners/members of a partnership/limited liability company, are allowed to make an opt-out election to exclude their allocable share of the pass-through entity's separately and non-separately stated items from the pass-through entity tax.
- The opt-out election is considered timely filed for a tax year, and for all subsequent tax years, if the member files it before or in conjunction with their annual tax return.
- If a member does not file an opt-out election for a tax year, that member shall not be precluded from timely filing an opt-out election for subsequent years.
- An opt-out election by a nonresident member is effective only if the member agrees to file a Missouri income tax return and to make timely payments of all taxes imposed with respect to their share of the electing pass-through entity's income and accept the state’s authority to collect those taxes and impose any interest and penalties, as applicable.

Other pass-through entity tax provisions

- The legislation provides that the maximum allowable credit for income taxes paid to other states applies to credits claimed by S corporation shareholders.

- The definition of "partnership" was updated to exclude publicly traded partnerships.
- The tax base for the pass-through entity tax was modified by changing the deduction for qualified business income under Internal Revenue Code section 199A to the business income deduction allowed under state law.
- Electing pass-through entities must file Form MO-PTE, Pass-Through Entity Income Tax Return.
- Fiduciaries of a trust or estate member of an electing pass-through entity are entitled to claim a credit equal to the trust or estate’s direct and indirect pro rata share of the tax paid by the electing pass-through entity.
- The designated affected business entity representative can sign and effectuate a valid pass-through entity tax election.

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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