



MULTISTATE INCOME/FRANCHISE TAX

Missouri enacts pass-through entity tax election Tax Alert

Overview

On June 30, 2022, Missouri [House Bill 2400](#) (H.B. 2400) was signed into law. Under the legislation, partnerships and S corporations may make an annual election to pay an entity level state tax for taxable years ending on or after December 31, 2022.

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

Pass-through entity tax election

- Effective for taxable years ending on or after December 31, 2022.
- An affected business entity is a partnership or S corporation that elects to pay the pass-through entity tax. Partnership includes a limited liability company that is treated as a partnership for federal income tax purposes. S corporation includes a corporation or limited liability company that is treated as an S corporation for federal income tax purposes.
- The election is an annual election.
- The election shall be made on such form and in such manner as the director of revenue may prescribe.
- The election shall be signed by either each member of the electing entity at the time the election is filed, or by any officer, manager, or member of the electing entity who is authorized to make such election and who attests to having such authorization under penalty of perjury.

Pass-through entity tax calculation

- The tax shall be imposed on the sum of the separately and non-separately computed items of the affected business entity to the extent derived from or connected with sources within the state, decreased by the deduction under Internal Revenue Code (IRC) section 199A, and modified by applicable state modifications. Such sum shall

be multiplied by the highest individual income tax rate in effect, which is currently 5.4%.

- An affected business entity must remit the pass-through entity tax due at the time that the affected business entity's return is due.
- If an affected business entity is a direct or indirect member of another affected business entity, when calculating its net income or loss, it should subtract its distributive share of income or add its distributive share of loss from the affected business entity in which it is a direct or indirect member to the extent the income or loss was derived from or connected with sources within the state.
- Net losses may be carried forward to succeeding tax years for which the affected business entity elects to be subject to the pass-through entity tax.
- Each electing partnership and S corporation shall report to each of its members, for each tax year, the member's direct pro rata share of the pass-through entity tax and its indirect pro rata share of the pass-through entity tax.

Pass-through entity tax credit

- Each member of the electing entity that is subject to individual income tax shall be allowed a credit equal to the member's direct and indirect pro rata share of the entity level tax paid.
- Each member of the electing entity that is subject to corporate income tax shall be allowed a credit equal to the corporation's direct and indirect pro rata share of the entity level tax paid. Such credit shall be applied after all other credits.
- The pass-through entity tax credit is non-refundable, but may be carried forward to subsequent tax years, until the credit is fully taken.
- A nonresident individual member is not required to file a Missouri income tax return if the only income derived from the state for such member is from one or more affected business entities that have elected to pay the pass-through entity tax.

Credit for taxes paid to other states

- Effective for taxable years ending on or after December 31, 2022, a Missouri resident or part-year resident may claim a credit for their direct or indirect pro rata share of tax paid to another state or the District of Columbia on income of any partnership or S corporation of which they are a member, provided the taxes paid results from a tax that the Missouri director of revenue determines is substantially similar to the Missouri pass-through entity tax.

Other considerations

- H.B. 2400 provides that an affected business entity shall designate an affected business entity representative for the tax year to act on behalf of the affected business entity in any action required or permitted to be taken by an affected business entity pursuant to this section, a proceeding to protest proposed assessments, an appeal to the administrative hearing commission, or review by the judiciary with respect to such action, and the affected business entity's members shall be bound by those actions.

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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