



MULTISTATE INCOME/FRANCHISE TAX

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

### Overview

On April 11, 2022, Virginia's Governor approved [House Bill 1121/Senate Bill 692](#) (H.B. 1121/S.B. 692). Under the 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, 2021, but before January 1, 2026.

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

### Pass-through entity tax election

- Effective for taxable years beginning on and after January 1, 2021, 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, in the case of a Subchapter S corporation, 100 % owned by natural persons or other persons 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.
- For taxable years beginning on and after January 1, 2021, but before January 1, 2022, the election shall be made on or before a date to be determined by the Department, which shall be set no earlier than one year after the extended due date for filing the applicable return. No interest shall accrue on underpayments or overpayments solely attributable to such election.
- For taxable years beginning on and after January 1, 2022, but before January 1, 2026, 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.

## 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, provided that the electing pass-through entity's taxable income is adjusted to eliminate any federal deduction for state and local income taxes.

## Pass-through entity tax credit

- A corresponding income tax credit is available to owners of qualifying pass-through entities. The credit shall be in an amount equal to the owner's pro rata share of the tax paid by the electing pass-through entity.

## 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.

## 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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