



MULTISTATE INCOME/FRANCHISE TAX

Utah enacts pass-through entity tax election Tax Alert

Overview

On March 23, 2022, Utah's Governor signed [House Bill 444](#) (H.B. 444) into law. Under the legislation, qualifying 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, but before December 31, 2025.

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

Pass-through entity tax election

- Effective for each taxable year that begins on or after January 1, 2022 but begins on or before December 31, 2025.
- A pass-through entity means a business entity that is classified as a partnership for federal income tax purposes, including a general partnership, a limited liability company, a limited liability partnership or a limited partnership, an S corporation, an estate or trust, or a similar business entity.
- The election is an annual election.
- Payment of the pass-through entity tax on or before the last day of the pass-through entity's taxable year is considered an irrevocable election to be subject to the tax for the taxable year.

Pass-through entity tax calculation

- The entity level tax is imposed on voluntary taxable income. Voluntary taxable income means the sum of a pass-through entity's income that is a) attributed to a final pass-through entity taxpayer who is a resident individual and b) business income and nonbusiness income that is derived from or connected with Utah sources that is attributed to a final pass-through entity taxpayer who is a nonresident individual.

- A final pass-through entity taxpayer means a partner, shareholder, owner, or beneficiary of a pass-through entity who is a resident or nonresident individual.
- The tax rate for the pass-through entity level tax is equal to the tax rate under the Utah Individual Income Tax Act, currently 4.85%.
- An electing pass-through entity must remit the entity level tax due on or before the last day of the pass-through entity's taxable year.

Pass-through entity tax credit

- A taxed pass-through entity taxpayer may claim a non-refundable tax credit against their Utah individual income tax. A taxed pass-through entity taxpayer includes a resident or nonresident individual who has income attributed to the individual from an electing pass-through entity.
- The tax credit is equal to the amount of the tax paid by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.
- The taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through entity's tax liability for a period that does not exceed the next five taxable years. A taxed pass-through entity taxpayer cannot carry back the amount of the tax credit that exceeds the taxed pass-through entity's tax liability for the taxable year.

Other considerations

- An electing pass-through entity is no longer required to remit withholding on behalf of nonresident partners, shareholders, or owners.
- Electing pass-through entities shall be subject to a penalty for failure to pay tax due under Section 59-1-401(3).

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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