



MULTISTATE INCOME/FRANCHISE TAX

Alabama proposes rule requiring pass-through entity level tax for financial institutions

Tax Alert

Overview

On Tuesday August 31, 2021 the Alabama Department of Revenue (“Department”) proposed a new [rule](#) addressing Alabama’s financial institution excise tax (FIET) that would significantly change long-standing administrative practice with regard to the entity classification and filing obligations of certain pass-through entities (PTEs). The proposed rule would require separate entity level filings for subchapter K entities and trusts that fall within the FIET’s definition of financial institution.

This Tax Alert includes some considerations for this proposed rule.

Considerations

The proposed rule’s separate entity treatment of PTEs that qualify as financial institutions under the FIET may come as a surprise to practitioners and taxpayers who have assumed PTEs were not directly subject to the FIET. This rule is the first FIET guidance from the Department specifying separate entity treatment for PTEs and raises significant questions around the need to:

- Comply with the proposed rule for 2020 FIET returns that may be on extension
- Amend prior period FIET returns of financial institution corporate partners that included their distributive share of PTE income/loss and apportionment data
- Make prior period FIET return filings and payments for financial institution PTEs that have not previously filed
- Make initial or adjusted 2021 FIET estimated payments

These proposed rule changes will be discussed on October 5, 2021 during a public hearing scheduled by the Department.

Get in touch

[Joe Garrett](#)

[Christopher Snider](#)

[John Paek](#)

[Meredith Harper](#)



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30 Rockefeller Plaza
New York, NY 10112-0015
United States

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