Tax Update

BerryDunn Senior Living Event – 2023

BerryDunn

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Learning objectives

- After this presentation, you will have a better understanding of the:
  - Latest enacted tax law changes at both the federal and (various) state levels.
  - Employee benefits tax law changes and updates

Select tax rate changes and other information for 2022

- Auto depreciation—subject to section 280F limits:
  - 1st Year - $11,200 ($19,200 including bonus).
  - 2nd Year - $18,000.
  - 3rd Year - $10,800.
  - Remaining Years - $6,460.
  - Section 179 expense limitation for SUVs is $27,000.
- Section 179 expense—subject to T/B income limitation:
  - Acquisition limit - $2,700,000.
  - Overall limit - $1,080,000.

Select tax rate changes and other information for 2022 (cont.)

- Bonus depreciation—Section 168(k) under TCJA:
  - TY 2022 – Last year for 100% bonus depreciation.
  - TY 2023 – Drops to 80% for bonus depreciation.
    - Remember the rate is reduced 20% per year after:
      - TY 2024 – 60% for bonus depreciation.
      - TY 2025 – 40% for bonus depreciation.
      - TY 2026 – 20% for bonus depreciation.
      - TY 2027 – Zero unless Congress acts.
  - Recall qualifying new and used property placed in service during the year are eligible for bonus depreciation.

Select tax rate changes and other information for 2022 (cont.)

- Qualified business income deduction amounts:
  - MFJ - $340,100 (Threshold); $440,100 (Phase-In Range).
  - MFS - $170,050 (Threshold); $220,050 (Phase-In Range).
  - All Other Returns - $170,050 (Threshold); $220,050 (Phase-In Range).
- Business mileage—two rates for current year:
  - $0.585 per mile for January 1 – June 30.
  - $0.625 per mile for July 1 – December 31.
    - The last time a mid-year rate adjustment occurred was in 2011.

Select tax rate changes and other information for 2022 (cont.)

- Business meals deduction:
  - Last year for full expensing of meals (food and beverage) purchased from a restaurant. Otherwise, costs are limited to the usual 50%.
    - This includes purchases made for consumption on or off premises, i.e., carry-out and delivered meals qualify.
- Gift and estate tax exemptions:
  - Annual gift tax exclusion increased to $16,000 and $32,000 for gift splitting.
  - Unified credit amount increased to $12.06 million (per person).

Reporting Requirements - Schedules K-2 and K-3

Overview

- In 2021, the IRS introduced new return schedules applicable to partnerships, S corporations, and foreign partnerships (Form 8865 filers).
- **Purpose:** To standardize the reporting of items with international tax significance.
- Applicable entities may still have a reporting obligation, even if none of the following exist:
  - Foreign source income
  - Foreign income producing assets
  - Foreign tax expense (paid or accrued)
  - Foreign partners

The Inflation Reduction Act of 2022 (Public Law 117-168)

Investment Tax Credit (ITC)

- An ITC is available for certain solar energy projects placed in service under Section 48 of the Code
- The ITC is calculated as a percentage of the basis of eligible equipment used to generate electricity and placed in service
- Base and bonus structure:
  - Base of 6%
  - Increase to 5X (up to 30%) if prevailing wage and apprenticeship requirements are satisfied or an exception applies
- Bonus depreciation

The Inflation Reduction Act of 2022 (Public Law 117-168)

Overview – Clean energy initiatives

- The Act creates a multitude of new (or extends existing) clean energy initiatives and tax credits.
  - A new credit for the purchase of commercial clean vehicles (Sec. 45W) provides a tax credit for up to $7,500, subject to GVW and vehicle price limitations.
  - The clean vehicle credit (Sec. 30D) has been modified in various ways. It imposes certain requirements for sourcing critical materials used in the manufacture/assembly of the battery components, and final vehicle assembly in the US, among other things. The credit is capped at $7,500 per vehicle. The limitation on which vehicle manufacturers qualify for the credit has been removed.

Polling question

Has your company (or facility) given any thought to investing in solar panels in the past year?

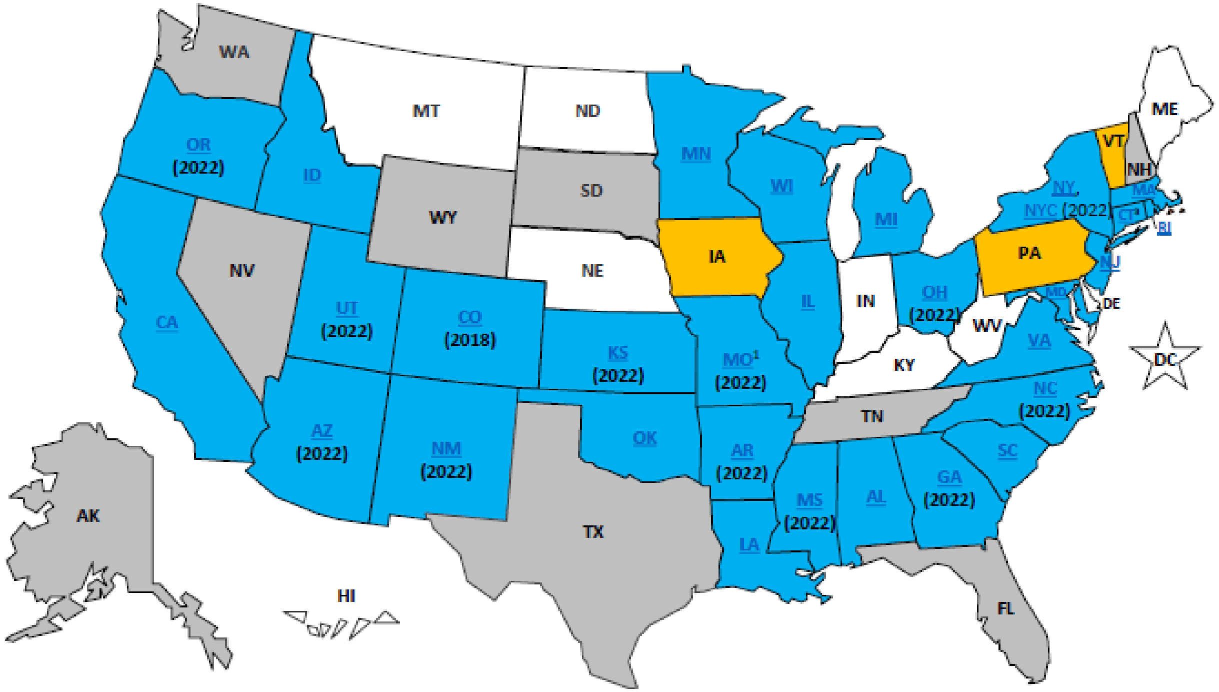
- Yes
- No

State Pass-Through Entity Level Tax Update

Overview

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of August 31, 2022



29 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

AL, AR[1], AZ[1], CA, CO[2], CT[3], GA[1], ID, IL, KS[1], LA, MA, MI, MD, MN, MO[1], MS[1], NC[1], NJ, NM[1], NY, OH[1], OK, OR[1], RI, SC, UT[1], VA, WI, and NYC[1]

[1] Effective in 2022 or later – on map (2022) or (2023)

[2] Retroactive to 2018

[3] Mandatory

3 states with proposed PTE tax bills:

IA - HF 2087, session over, not enacted

PA – HB 1709, in committee

VT - H 0527 , session over, not enacted

9 states with no owner-level personal income tax on PTE income:

AK, FL, NH, NV, SD, TN, TX, WA, WY

10 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:

DE, HI, IN, KY, ME, MT, NE, ND, VT, WV

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State Pass-Through Entity Level Tax Update

Overview (Continued)

- Each state has various nuances to its PTE tax rules that should be considered carefully before making the election.
  - **When is the election made?** It can be on or before the due date of the return, or in some cases it's due by the 15th day of the third month for the year it is to be effective.
  - **How is it made?** The election may be made with the annual return, filing an election form, or by making estimated payments.
  - For some states, the election is effective until revoked, while others require an annual election. In some cases, the election is irrevocable once made.

State Pass-Through Entity Level Tax Update

Overview (Continued)

- Each state has various nuances to its PTE tax rules that should be considered carefully before making the election.
  - **Who can make the election?** May be made by the Board, by greater than 50% voting control, by the entity itself, or individually by each owner of the entity.
  - States may still require withholding/composite estimates for some owners. Election to file composite returns may no longer be allowed.
  - Some states require nonresident owners of electing PTEs to continue filing personal tax returns.

Highlights of Select State Tax Code Changes

Massachusetts – Business and individual tax update

- New optional PTE excise tax (Chapter 63D, Section 7) goes into effect for electing entities for taxable years beginning on or before Jan. 1, 2022.
  - S-corporations, partnerships, and certain trusts can elect to pay 5% tax on the income allocable to its qualified owners.
    - Sole proprietorships, SMLLCs, and grantor trusts disregarded for federal tax purposes are ineligible. Upstream partnerships and S-corporation owner must make the election at their level.
  - No deduction for the excise tax paid by the entity is allowed.
  - The owners can claim a nontransferable, refundable credit on their personal returns equal to 90% of their share of the tax.
  - May other nuances exist. See TIR 22-6 for a detailed summary.

Highlights of Select State Tax Code Changes

New Hampshire – Business and individual tax update

- New Business Tax Reporting Requirements:
  - The minimum gross income filing requirement for a business profit tax return (BPT) has increased to in excess of $92,000 (up from $50,000 for 2021).
  - The business enterprise tax (BET) gross receipts threshold has increased to $250,000 as has the enterprise value threshold (up from $220,000 and $111,000 respectively for 2021).
  - The BPT and BET rates are reduced to 7.6% and 0.55% respectively (down from 7.7% and 0.6% for 2021).
- The rules for calculating an NOL under the BPT now conform with the IRC.

Highlights of Select State Tax Code Changes

New Hampshire – Business and individual tax update (continued)

- Interest and Dividends Tax:
  - The tax will begin phasing over the next five years and is repealed for tax years beginning Jan. 1, 2027. The rate reduction schedule is as follows:
    - TY 2023 – I&D tax rate is 4%
    - TY 2024 – I&D tax rate is 3%
    - TY 2025 – I&D tax rate is 2%
    - TY 2026 – I&D tax rate is 1%
  - The I&D tax is levied on resident individuals, partnerships, and fiduciaries with interest and dividend income exceeding $2,400 ($4,800 MFJ).

Student loan repayment program

What is a student loan repayment program?

- Employer repayment of part of an employee’s student loan
- Prior to CAREs Act, taxable income to the employee
- Becoming more popular in order to attract/retain employees

How are contributions by the employer allocated/limited?

- Matching contributions
- Nonelective contributions
- Annual and lifetime maximums

CARES Act: Student-loan relief

Does your organization offer student loan repayment benefits?

CARES Act permits the following tax-free benefits:

- Up to $5,250 to be tax-free through 2025
- Must follow the rules for Sec 127 educational assistance

Other employer tax-free benefits – Sec 127 educational assistance

- Exclude up to $5,250 per employee annually
- Must have a written plan
- Graduate or undergraduate courses
- Must not discriminate in favor of highly compensated employees
- Not required to be job-related

Educational assistance benefits

Working condition fringe benefit

For job-related educational expense

- Cannot qualify employee for a new trade or business
- E.g., nurse to accountant
- Can qualify an employee for a new position or specialty within existing trade/business
- E.g., teacher to principal

Or expressly required by the employer

- E.g., work toward advanced degree to retain the job or pay level
- Must not be needed to meet minimum educational requirements for current job

Polling question

Does your organization offer any of the following benefits:

- After-tax student loan forgiveness
- Pre-tax student loan forgiveness
- Educational assistance
- Working condition fringe benefit educational assistance

Recent Legislation

Helping employees save for retirement

Securing a Strong Retirement Act

- AKA Secure Act 2.0
- Signed by President Biden on December 29, 2022
- Permits employer matching contributions to 401(k)/403(b) plan to be based on student loan repayments effective after 12/31/2023
- Automatic 401(k)/403(b) enrollment required for most new plans adopted by an employer effective after 12/31/2024
- Requires part-time employees to become eligible to participate in employer-sponsored retirement plan after two consecutive years of working 500 or more hours each year

State Tax Code Changes – Employee Benefits

Connecticut – Business tax update

- Expanded Employer Student Loan Payment Tax Credit:
  - The credit is equal to 50% of the payments made by the employer, for qualified education loan payments on behalf of the employee, up to a max of $2,625 per employee, per year.
  - Eligible loans are those issued by the Connecticut Higher Education Supplemental Loan Authority.
  - To qualify, the employee must be a Connecticut resident who:
    - Earned a bachelor's degree within the past five years
    - Is employed full-time at a state licensed corporation, insurer, or healthcare center (owners, members, partners and family members are not qualifying employees)
  - Small businesses with gross receipts less than $5 million that qualify can elect to have the credit issued as a refund (previously it could only be used against taxes owed under Ch. 207 and Ch. 208.

Paid Time Off Plan: Allowing employee to cash-in earned time

IRS guidelines

- Employees must make a written election before the end of December in the year prior to the year they will be earning and receiving the accrued earned time to be cashed out. This is an election to receive a cash payout of the earned time to be accrued in the following year.
- The election must be irrevocable.
- The payout can only happen once the employee has actually earned and accrued the earned time in the following year. Payouts are generally once or twice per year but may happen more frequently.
- Generally requires that the earned time being paid out be substantially less than the accrued earned time owed to the employee.

Paid Time Off Plan: Allowing employee to cash in earned time

Options for employees with significant balances of unused leave?

- Allow employee elections based on IRS guidelines
- Adopt employer-initiated cash-outs
  - Based on accrued balance
  - Fixed number of hours per employee
  - Fluctuating number of hours per levels of accrued balance hours
  - Based on inability to take scheduled leave due to staffing challenges

Questions?

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