
Bailey, Carr CPAs, P.C.

CERTIFIED PUBLIC ACCOUNTANTS



September 3, 2021

Optional Pass-Through Entity Tax

There is a new Pass-Through Entity Tax in NYS for S-Corporations and Partnerships. This tax is an optional tax that NYS S-corporations and partnerships may annually elect to pay on certain income for tax years beginning on or after January 1, 2021. The purpose of electing to pay this tax is to make the NYS tax payment a full deduction on the federal return if the shareholder/partner itemizes. It also avoids the \$10,000 limit on Schedule A for state and local income tax.

The tax is deductible on the entity's return. Therefore, the income that passes through to the shareholder/owner is already reduced by the tax paid. The shareholder/partner then takes a credit on their personal NYS return for the tax paid.

The tax is a flat 6.85% on all of the entity's income of \$2 million or less, with an offset for any losses or deductions that flow through. The tax must include the income of all NYS resident owners. For non-resident owners it is based on all income and losses that source to NYS. There is a separate table used to compute the credit if the net income is over \$2 million. If the election is made it must apply to all owners.

Normally the election must be made annually by March 15th of the year for which you're making the election. Once it is made, it is irrevocable for that year. For 2021, the election must be made by October 15, 2021.

The tax is paid by the electing entity on a quarterly basis and is due on or before March 15, June 15, September 15, and December 15. Each payment is based on 25% of the lesser of 90% of the current year PTET (Pass-Through Entity Tax) or 100% of the PTET for the preceding year. It is not a choice. It is the lesser of the two amounts that is to be paid. For 2021 all the PTET for the year must be paid by December 15, 2021.

Form IT-653 - Pass Through Entity Tax Credit must be filed by the individual owners with their personal NYS return. If the owner cannot use all of the credit and there is an overpayment, the owner can elect to credit it to the following year or have it refunded without interest.

There is an additional modification to income on the NYS return for the PTET.

Because this change is in effect for 2021 and many taxpayers have already paid estimates for the first 3 quarters of the year, a detailed analysis of the tax must be made to decide if it makes sense to make the election for 2021. Keep in mind even though there is only 1 payment of the PTET for 2021 it must be based on the lesser of 90% of the current year PTET (Pass-Through Entity Tax) or 100% of the PTET for the preceding year. This may result in doubling up on the 2021 payments for the first three quarters.

As with all tax issues, we are here to help assist you in determining if this is a good idea for your own facts and circumstances. Please do not hesitate to reach out if you have any questions or concerns.

*Best Regards,
Bailey, Carr CPAs, P.C.*

Disclaimer

Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Bailey, Carr CPAs would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

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Bailey, Carr CPAs, P.C.
Phone: (585) 272-9870 Fax: (585) 272-0041
2565 Brighton Henrietta Town Line Road
Rochester, New York 14623