

## State Tax Observations

# The 2022 New York State Pass-Through Entity Tax Election

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The New York State Department of Taxation and Finance (Taxation) issued Technical Memorandum TSB-M-21(1)C, (1) August 25, 2021. It addresses several unresolved issues regarding New York's new Pass-Through Entity Tax (PTET). A link to our article containing an overview of the TSB-M may be found [here](#). Since that time, many taxpayers have elected into the PTET tax regime for the 2021 calendar year. It is now time to consider making your 2022 election.

### 2022 Election

The optional annual election is due by March 15<sup>th</sup> of the year for which the election is to be effective. Therefore, in order to be effective for 2022, an election must be made online through the entity's Business Online Services account no later than March 15, 2022. Only an authorized person can opt into the PTET regime on behalf of an eligible entity.

Taxpayers that have made an election in 2021 should have received a reminder email for the 2022 tax year. Please remember the election is irrevocable for the tax year that it is made.

### 2022 Estimated Tax Payments

In 2021, taxpayers that elected into the PTET regime were not required to make any estimated tax payments throughout the tax year. That is **not** the case for 2022. Quarterly estimates are due March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup> and December 15<sup>th</sup> and **must** be made online. Each quarterly payment should be equal to at least 25% of the required annual payment for the taxable year. The required annual payment is the lesser of:

- 90% of the PTET shown on the return of the electing entity for the taxable year; or
- 100% of the PTET shown on the return of the electing entity for the preceding taxable year.

If the entity did not opt into the PTET for the preceding year, the required annual payment is 90% of the tax reported on the PTET return for the taxable year. In determining the required annual payment, taxpayers may annualize their pass-through entity income.

### 2022 PTE Overpayments

To the extent that the total PTET estimates exceed that year's actual PTET, current guidance states that such overpayment be refunded. However, we have asked Taxation whether the overpayment can be applied to the subsequent year's PTET rather than being refunded. We are waiting for their response to this question.

### Contact Us

For questions concerning New York's PTET, or if you have state tax questions generally, contact your client service team or:

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