Income/Franchise:
Louisiana DOR Explains New Law Providing Some Pass-Through Entity Tax Revisions

Revenue Information Bulletin No. 23-022, La. Dept. of Rev. (10/27/23). The Louisiana Department of Revenue (Department) issued guidance addressing recently enacted legislation [see H.B. 428 (2023) and previously issued Multistate Tax Alert for more details on this legislation] that revises aspects of Louisiana law permitting certain pass-through entities to elect to be taxed under the corporate rules at the entity level ("PTET Election") – specifically, provisions:
URL: https://revenue.louisiana.gov/LawsPolicies/RIB%2023-022%20Act%20450%20Changes%20to%20the%20PTE%20Election.pdf
URL: https://legis.la.gov/legis/BillInfo.aspx?s=23RS&b=HB428&sbi=y
URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-louisiana-enacts-changes-to-pass-through-entity-tax-election.pdf

1. Adding a prospective termination procedure for the PTET Election, and
2. Granting an income exclusion for trusts, estates, or partnerships that are a shareholders, members, or partners in an entity that made a PTET Election, which are effective for taxable periods beginning on or after January 1, 2023.

According to the guidance, prior to the recent law change, an entity seeking to terminate a PTET Election could only do so by obtaining written approval of at least 50% of the ownership interest of the entity and submitting a written request for termination to the Department, showing a material change in circumstance and with approval granted by the Department before the termination is effective. While the law change did not change the overall process, the Department explains that it did create an additional option for an "automatic prospective termination" of the PTET Election that requires written approval of at least 50% of the ownership interest of the entity wherein approval is automatic provided all requirements are timely satisfied. An interested entity must submit the termination application and all required documentation no later than November 1 prior to the close of the calendar year, or 60 days prior to the close of the taxable year for fiscal year filers, and the termination is "effective for the next taxable year and prohibits the entity or its successor from making another PTET Election for the next five taxable years." Moreover, the guidance explains how previous state law only granted a pass-through entity exclusion for individual shareholders, members, or partners on income that was taxed at the entity level, and new state law extends this exclusion to estates, trusts, and partnerships that are shareholders, partners, or members in an entity that made a PTET Election. Please contact us with any questions.

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