Income/Franchise:
Missouri: New Law Revises Some PTET Provisions Including Adding an Opt-Out Election

H.B. 1912, signed by gov. 7/12/24. Recently signed legislation revises several provisions under Missouri law allowing qualifying pass-through entities to make an annual election to pay an entity-level state income tax (PTET) [see H.B. 2400 (2022) and previously issued Multistate Tax Alert for more details on this PTET]. The legislation allows any member of an electing pass-through entity, including shareholders of S corporations and partners/members of a partnership/limited liability company, to make an "opt-out" election to exclude their allocable share of the pass-through entity's separately and non-separately stated items from the PTET. The opt-out election is considered timely filed for a tax year, and for all subsequent tax years, if the member files it before or in conjunction with its annual tax return. If a member does not file an opt-out election for a tax year, that member shall not be precluded from timely filing an opt-out election for subsequent years. An opt-out election by a nonresident member is effective only if the member agrees to file a Missouri income tax return and to make timely payments of all taxes imposed with respect to its share of the electing pass-through entity's income and accept the State's authority to collect those taxes and impose any interest and penalties, as applicable.
URL: https://house.mo.gov/Bill.aspx?bill=HB1912&year=2024&code=R
URL: https://house.mo.gov/Bill.aspx?bill=HB2400&year=2022&code=R
URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-missouri-enacts-pass-through-entity-tax-election.pdf

Some other provisions in the bill include modifying the tax base for the PTET by changing the deduction for qualified business income (QBI) under Internal Revenue Code section 199A to the business income deduction allowed under state law. The bill also updates the definition of "partnership" to exclude publicly traded partnerships, as well as provides that the maximum allowable credit for income taxes paid to other states applies to credits claimed by S corporation shareholders. Additionally, the bill allows a designated affected business entity representative to sign and effectuate a valid PTET election, and it requires electing pass-through entities to file an annual affected business entity tax return.

See forthcoming Multistate Tax Alert for more details on these recent PTET law changes, and please contact us with any questions in the meantime.

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