

## Income/Franchise:

### Kansas DOR Addresses Newly Enacted Revisions to Elective Pass-Through Entity Tax

*Notice 24-15*, Kan. Dept. of Rev. (8/20/24). A new notice released by the Kansas Department of Revenue (Department) addresses recently enacted legislation [see S.B. 410, signed by gov. 4/24/24, and *State Tax Matters*, Issue 2024-18, for more details about this legislation] that retroactively revises aspects of Kansas' elective pass-through entity tax ("PTET") [see previously issued Multistate Tax Alert for more details on Kansas' pass-through entity tax election] for taxable years beginning on or after January 1, 2022, such as:

URL: <https://www.ksrevenue.gov/taxnotices/notice24-15.pdf>

URL: [https://www.kslegislature.org/li/b2023\\_24/measures/sb410/](https://www.kslegislature.org/li/b2023_24/measures/sb410/)

URL: [https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240503\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240503_5.html)

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-alert-kansas-enacts-pass-through-entity-tax-election.pdf>

- Specifying that the tax rate for electing entities is the highest tax rate imposed by the Kansas individual income tax (rather than fixed at 5.7%); and
- Modifying the calculation of taxable income for the PTET election to the sum of each nonresident electing pass-through entity owner's pro rata or distributive share of the electing pass-through entity's income attributable to the State and each resident electing pass-through entity owner's pro rata or distributive share of the electing pass-through entity's income calculated as either the sum of income attributable to the State and income not attributable to the State; or income attributable to the State.

The notice states that because new Kansas law "makes significant changes concerning the recognition of credits, modifications, and expensing deduction," many pass-through entity owners (*i.e.*, partners and shareholders) may consider amending their 2022 and 2023 Kansas individual income tax returns. To this end, the notice explains that while the filing of amended returns may be warranted in certain circumstances – such as if modifications or the expensing deduction were not claimed on both the electing pass-through entity's return and each electing pass-through entity owner's return – "many of the individual returns have already received the benefit of credits, via the various interim solutions allowed by the Department in the previous tax years." Accordingly, the Department suggests that prior to filing amended Kansas returns to claim credits for tax years 2022 and 2023, "taxpayers are advised to review such returns to ensure the benefits of such credits were not realized in a previous filing." Please contact us with any questions.

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