

## Income/Franchise:

### Colorado DOR Issues Updated Guidance on Pass-Through Entity Tax that Addresses Tiered Structures

*Income Tax Topics: SALT Parity Act*, Colo. Dept. of Rev. (rev. 4/25). The Colorado Department of Revenue issued updated administrative guidance addressing Colorado's elective pass-through entity tax (PTET), which pursuant to legislation enacted in 2022 and 2021, applies to tax years commencing on or after January 1, 2018, but prior to January 1, 2026 [see previously issued Multistate Tax Alert for more details on the legislation]. The guidance generally summarizes how to make a Colorado PTET election, underlying filing requirements and tax calculations, estimated payment requirements and other tax compliance-related matters. The updated version addresses tiered partners and explains that a Colorado PTET election made by a lower-tier partnership "has no effect on a tiered partner's return, except with respect to the Colorado K-1s the tiered partner issues to its partners or shareholders." The guidance also explains that a "tiered partner" is any partner that is either a partnership or an S corporation – and provides that each tiered partner may make a Colorado PTET election "regardless of whether an election is made by any lower-tier partnership in which the tiered partner is a partner." Furthermore, any such election made by a lower-tier partnership "does not obligate any of its tiered partners" to make a similar election.

URL: <https://tax.colorado.gov/income-tax-topics-salt-parity-act>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-colorado-enacts-changes-to-pass-through-entity-tax.pdf>

The guidance notes that a tiered partner cannot claim any credit or subtraction, or make any other adjustment on its return, based on a Colorado PTET election made by a lower-tier partnership. In particular, "an electing partnership or S corporation cannot claim any credit for any part of the tax paid by a lower-tier partnership" that also made a Colorado PTET election. It also explains that the credit resulting from a lower-tier partnership's Colorado PTET election "passes through to the tiered partner's partners or shareholders, who may each claim their share of the credit on their own return." Moreover, the tiered partner "must report on the appropriate line of each Colorado K-1 (DR 0106K) it issues to each partner or shareholder that partner's or shareholder's share of any tax paid by any lower-tier partnership" that also made a Colorado PTET election. Please contact us with any questions.

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