

Kentucky's Pass-Through Entity Tax (PTET)

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Pass-Through Entity Tax

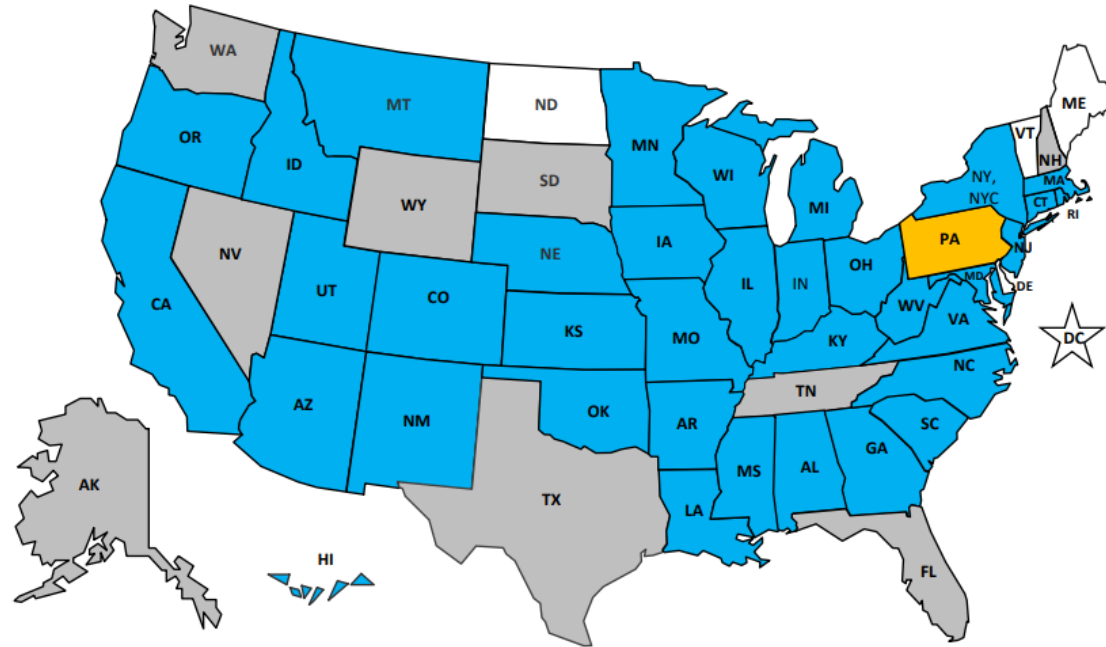
- Enacted in 2023 (HB360/HB5)
- A voluntary tax option for business owners that allows them to *reduce* their **federal income tax liability** and supports parity between federal tax treatment of corporate businesses and non-corporate businesses
- Approved practice by the Internal Revenue Service



PTET Keeps Kentucky Economically Competitive With Other States

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of May 14, 2024



- 36 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:
[AL](#), [AR¹](#), [AZ¹](#), [CA](#), [CO³](#), [CT⁴](#), [HI²](#), [GA¹](#), [IA¹](#), [ID](#), [IL](#), [IN¹](#), [KS²](#), [KY¹](#) (& [KY](#)), [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO¹](#), [MS¹](#), [MT²](#), [NC¹](#), [NE³](#), [NJ](#), [NM¹](#), [NY](#), [OH¹](#), [OK](#), [OR¹](#), [RI](#), [SC](#), [UT¹](#), [VA](#), [WI](#), [WV¹](#), and [NYC¹](#)
 - ¹ Effective in 2022
 - ² Effective in 2023 or later
 - ³ Retroactive to 2018
 - ⁴ Mandatory 2018-2023, elective starting 2024
- 1 state with active proposed PTE tax bills:
 PA – [SB 659](#) in Senate committee; [HR 1584](#) in House committee
- 9 states with no owner-level personal income tax on PTE income:
 AK, FL, NH, NV, SD, TN, TX, WA, WY
- 4 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
 DC, DE, ME, and ND



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PTET Background

The Tax Cut and Jobs Act of 2018

Limited the state and local tax deduction at the individual level to \$10,000; includes state and local taxes paid, property taxes, etc.

Low Cap and Standard Deduction

Between the relatively low cap and increased standard deduction, there is very little to no Federal benefit to state taxes paid by the individual

State Work-Arounds

States began to pass work-arounds to the limit, allowing the entity to pay the tax for the resident (and nonresident) shareholder as there is no SALT limit for entities

IRS Notice 2020-75

IRS “approved” the practice with Notice 2020-75



PTET Example

- Kentucky Resident Partner/S-Corp Shareholder has \$100,000 in taxable income from their business.
 - Pre-PTET Law:
 - Resident pays \$4,000 in KY tax individually to Kentucky. Likely no Federal deduction allowed due to SALT limits
 - Post-PTET Law:
 - Resident's business pays \$4,000 in KY tax directly to Kentucky. Businesses can take Federal deduction of \$4,000, resulting in Federal tax savings of approximately \$800.
 - In both scenarios, Kentucky receives \$4,000
 - This is a favorable law for residents and business owners in Kentucky.



Additional Chamber Feedback on PTET

- Critical for economic competitiveness since the tax benefit is available in all surrounding states (minus TN)
- Appreciation of the law's similarities to surrounding states (esp. IN and OH)
- Appreciation of the law's flexibility and a fully refundable credit structure
- Support for a collaborative approach to guidance and clarifications on details from the Department



The Future of PTET and SALT Cap?

- \$10,000 SALT Cap expires December 31, 2025
- Will it be extended, increased, reduced, or reformed?
- Will Congress address state PTETs?
- Will the next administration address state PTETs?

