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## **New York State Budget Enacts An Elective NYC PASS -THROUGH ENTITY TAX (NYC PTET)**

On April 9, New York Governor Kathy Hochul signed tax legislation as part of the state's Fiscal Year 2023 budget. Of significant note for NY City (NYC) resident individuals, this new legislation creates tax law which provides for an elective NYC Pass-Through Entity Tax (NYC PTET) that is very similar to the New York State Pass-Through Entity Tax (NYS PTET). **The NYC PTET will be effective for tax years beginning on or after January 1, 2023.**

The annual NYC PTET election may be made by an "eligible NYC partnership" or an "eligible NYC resident S Corporation" (on or before March 15<sup>th</sup> of each year.) Once made it is irrevocable for the year of the election.

An "eligible NYC partnership" means a partnership for federal income tax purposes (disregarded entities and publicly traded partnerships are ineligible) that has a NYS partnership return requirement, where at least one partner or member is a NYC resident individual.

An "eligible NYC resident S Corporation" means any New York S Corporation that is subject to NY tax and has only NYC resident individual shareholders. This shareholder limitation may prevent many S Corporations from making a NYC PTET election.

Any eligible NYC partnership that makes the NYS PTET election may make the NYC PTET election for the same taxable year. Similarly, any eligible NYC resident S Corporation that makes the NYS PTET as an "electing resident S Corporation" may make the NYC PTET election for the same taxable year. The NYC PTET election must be made by the due date for, and in the same manner, as the NYS PTET election.

The NYC PTET is an entity level tax at a rate of 3.876% (the highest NYC personal income tax rate). All items of income, gain, loss or deduction to the extent they are included in the NYC taxable income of a partner or resident shareholder of the electing NYC taxpayer. The tax paid at the entity level on their behalf is available as a credit to resident partners or shareholders against their personal income tax equal to their direct share of the NYC PTET.

The NYC PTET for each year is due on or before March 15<sup>th</sup> of the following year. Additionally, entities meeting the above requirements are referred to as "Qualifying" and the electing partnership or S Corporation must certify it is a Qualifying partnership or S Corporation.

The NYC PTET is great news for eligible NY City taxpayers and certainly welcome in following the NYS PTET.

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