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TAX HIGHLIGHTS OF THE NEW YORK STATE BUDGET FOR FISCAL YEAR 2021-2022

On April 19, 2021, the Governor signed into law the New York State (“NYS”) Budget which has many new tax provisions. Several of the more pertinent provisions follow:

1) For tax years beginning January 1, 2021, through December 31, 2027, the top state personal income tax rates increase as follows:

9.65% for income over \$2,155,350 (married filing joint) up to \$5 million;
10.3% for income over \$5 million up to \$25 million (applicable to all filing statuses);
10.9% for income over \$25 million (applicable to all filing statuses).

2) Also, effective January 1, 2021, the income taxes rates will decrease from:

6.09% to 5.97% for married taxpayers filing jointly with income between \$43,000-\$161,550;
6.41% to 6.33% for married taxpayers filing jointly with income between \$161,550-\$323,200.

Starting in 2022 the income tax rates will decrease to 5.85% and 6.25%, respectively, for each of the above brackets.

3) The budget takes advantage of the IRS approved State and Local Tax (“SALT”) work around by creating an elective pass-through entity (PTE) tax. An entity electing to be subject to the tax would permit partners, members and shareholders of the electing entity to indirectly deduct state and local taxes paid, effectively mitigating the impact of the \$10,000 federal cap for the deduction of state and local taxes paid. To be effective for the 2021 tax year, an election must be made by October 15, 2021. In subsequent years the election will need to be made by March 15th.

4) Effective January 1, 2021, the capital gain exclusion for investing in qualified opportunity zones (“OZ”) will be taxable for NYS purposes. Any tax benefits related to OZ investments made prior to 2021 are and will continue to be effective for NYS purposes.

5) Effective January 1, 2021, for corporations that have a business income tax base greater than \$5 million, the tax rate will increase from 6.5% to 7.25%. Also, the tax rate based on capital will be reinstated for non-manufacturing corporations at a rate of .1875%. This reinstatement terminates after the 2023 tax year.

6) The following impactful proposals are among those that did not make their way into the final budget:

- a) an increase in the NYS Estate tax rate;
- b) a tax on nonprimary residences owned in NYC;
- c) a tax on the gain from property located in NYS exchanged for property located outside NYS that otherwise qualifies for Sec. 1031 treatment.

Please call our office if you have any questions regarding these tax law changes or if you need assistance analyzing their effect on you.
