



NYS PASS THROUGH ENTITY TAX

September 2021

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Clients and Friends,

As you know, the 2017 Tax Cuts and Jobs Act (TCJA) limited the deduction for real estate taxes and state and local income taxes to \$10,000 for personal income tax purposes. However, commencing with the 2021 tax year, New York State Tax Law now permits partners in a partnership and shareholders in a S corporation that have income taxed to them from these entities to elect to pay the New York State income tax on their business income at the entity level. This New York State income tax paid will reduce Federal taxable income and is treated as a credit on the partner's or S corporate owner's individual New York State tax return. This is referred to as the New York State Pass-Through Entity Tax.

Here is how it works. Assume a partner or S corporate shareholder has \$200,000 of taxable income from the entity. Assume the New York State tax on this income is \$13,700 (6.85%), the entity is allowed a qualified business income deduction of 20% and the partner/shareholder's Federal income tax rate is 37%. The Federal income tax is determined as follows:

	Before	
	<u>2020</u>	<u>2021</u>
Net Income from Entity	\$ 200,000	\$ 200,000
NYS Pass-Through Entity Tax	-0-	(13,700)
Federal Taxable Income from Entity	\$ 200,000	\$ 186,300
Qualified Business Income Deduction	(40,000)	(37,260)
Income taxed on Federal Tax Return	\$ 160,000	\$ 149,040
Federal Tax Rate	37%	37%
Federal Taxes	<u>\$ 59,200</u>	<u>\$ 55,145</u>
Tax Savings		<u>\$ 4,055</u>

The taxpayer, with these assumptions, would save \$4,055. In addition, for applicable partnerships, the reduction of Federal taxable income also reduces self-employment income and self-employment tax. Naturally, if the entity's income is higher than \$200,000 the tax savings will increase.

The amount of New York Pass-Through entity tax paid is still added back on the NYS Tax return but the tax paid by the entity counts as a credit on the individual's New York State personal income tax return. Therefore, the taxpayer's New York State income tax does not change but the entity's payment counts as New York State tax paid by the taxpayer. The entity must elect annually if it wishes to take advantage of the NYS Pass-through entity tax.

Please note for the 2021 tax year, the election is due by October 15, 2021.

New York State is planning to release regulations in late August with directions and forms to make the election and payment.

Please call us, at your convenience, to discuss further.

Sincerely,
Rynkar, Vail & Barrett, LLP

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