



Deductibility of SALT Payments Made by Pass-Through Entities

Effective for tax years beginning on or after January 1, 2020, New Jersey's Pass-Through Business Alternative Income Tax Act (the "Act") allows certain entities to elect to pay at the entity level the gross income tax ("GIT") on the owners' distributive shares of the entity's income. If the entity elects to make such payments, its owners receive a refundable GIT credit for their respective shares of the tax paid. The eligible entities are partnerships, S corporations, and limited liability companies treated as partnerships for income tax purposes.

A detailed explanation of the application of the Act is contained in the "Pass-Through Business Alternative Income Tax Act-FAQ" published on the website of the New Jersey Division of Taxation.

The purpose of the Act was to avoid the \$10,000 limitation on deductibility of state and local taxes for federal income tax purposes imposed by the Tax Cuts and Jobs Act. On November 9, 2020, the Internal Revenue Service issued Notice 2020-75 (the "Notice") in which it announced that it will issue proposed regulations to clarify that state and local income taxes paid by pass-through entities on their income generally will be deductible at the entity level, thereby reducing net income allocable to the entity's owners. According to the Notice, the proposed regulations would be applicable to any such payments made on or after November 9, 2020.

The Act and the Notice provide welcome relief to individual taxpayers resident in New Jersey. However, additional guidance is required to resolve a significant number of federal and state issues on the application of these provisions.

This summary is not intended to be relied upon as legal advice, and it does not create an attorney-client relationship with those to whom it is sent or who otherwise gain access to it. Instead, it has been prepared for general informational purposes only, and it is not a substitute for a legal consultation. If you would like to discuss how these provisions affect your situation, please contact Eugenia Yudanin at ey@olss.com.