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Georgia's New Pass-Through Entity (PTE) Election

A high-level summary and discussion

Key Considerations

- Weigh the benefits of shifting tax to PTE against any loss of deductions for the PTE's income taxed in another state and loss of credits for income tax paid to other states.
- Certain personal income tax credits may not be utilized. (i.e., R&D, Jobs Tax Credits, etc.)
- Timing of deductibility of state income tax paid by PTE.



7 Key Takeaways

- PTE with corporate owners cannot make election.
- PTE election is an annual election due by extended due date.
- There is penalty relief for estimate payments, if payments made by Owners and not PTE, when PTE election is made.
- Owners **cannot** transfer estimated payments to PTE. PTE **cannot** transfer estimated payments to Owners. PTE **can** transfer estimated payments to composite/NRWH accounts if PTE election is not made.
- PTE cannot deduct any income taxes paid by PTE to other states.
- **Owners** do not get credit for taxes paid by PTE to GA or other states.
- **Generated and Transferred Credits** can be allocated from the PTE to the owners. They cannot be allocated/transferred from the owners to the PTE.



Other Reporting Rules

- Tax attributes for an electing PTE will be treated similar to a C corporation.
- Tax attributes (credits and NOLs) from tax years when an election was not made remain with the owners and are not eligible to be transferred to the PTE.
- Tax attributes (credits and NOLs) from tax years when an election is made remain with the electing PTE and do not pass through to the owners if the PTE election is not made in a later year.
- Owners of electing PTE will not recognize their share of the income or loss allocated/apportioned to Georgia on their personal Georgia income tax return.
- If a nonresident owner's only source of GA income is the income taxed at the PTE level, they do not need to file a GA return.
- If the PTE has exempt owners, the PTE should exclude the income that is exempt in arriving at GA taxable income.



Example at PTE Level

	NO ELECTION	GA PTE ELECTION
Federal Taxable Income	1,000,000	1,000,000
Less: GA tax deduction (5.75% tax on FTI)	-	(57,500)
Federal Taxable Income	1,000,000	942,500
Georgia Taxable Income	1,000,000	942,500
Georgia Tax Rate	-	5.75%
Georgia Tax	-	54,194

Example at Member Level (assumed Individual)

	NO ELECTION	GA PTE ELECTION
Federal Taxable Income	1,000,000	942,500
Less: State Tax Deduction	(10,000)	-
Federal Taxable Income	990,000	942,500
Federal Tax Rate	37.00%	37.00%
Federal Tax	366,300	348,725
Federal AGI	990,000	942,500
Less: Income taxed at PTE level by Georgia	-	(942,500)
Georgia AGI	990,000	-
Georgia Tax Rate	5.75%	5.75%
Georgia Tax	56,925	-

Total Cash Flow

	NO ELECTION	GA PTE ELECTION
Georgia PTE Tax	-	54,194
Federal Tax	366,300	348,725
Georgia Individual Tax	56,925	-
Total Federal and Georgia Tax	423,225	402,919
Cash Savings with PTE Election	-	20,306
Film Credits Purchased (\$0.90 per \$1.00)	51,233	48,775
Cash Savings with PTE and Film Credits	5,692	25,725

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