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## Pass-through entity tax (PTET)

### Extended election period for 2022 PTET

The deadline to opt in to the New York State PTET has been extended to September 15, 2022. The online application to opt in is now available and you **must** make an estimated payment with the eligible entity's election.

Note: Legislation amending the New York City pass-through entity tax (NYC PTET) has passed both houses of the NYS Legislature. If this legislation is enacted into law and you want to opt in to the NYC PTET for 2022, you must first have opted in to the New York State PTET by the September 15, 2022, election deadline.

The PTET is an **optional** tax that partnerships or New York S corporations may annually elect to pay on certain income for tax years beginning on or after January 1, 2021.

If an eligible partnership or eligible New York S corporation (*electing entity*) elects to pay the PTET, its partners, members, or shareholders subject to tax under Article 22 (personal income tax) may be eligible for a PTET credit on their New York State income tax returns.

The tax is imposed under Tax Law Article 24-A, which was enacted in 2021.

## Information

### Election Updated

#### Who can make the election

Only an authorized person may make this election on behalf of an eligible partnership or eligible S corporation. Tax professionals may **not** make this election on behalf of their clients.

The following types of businesses are **not** eligible to opt in:

- single-member LLCs (unless they elect to be treated as an S corporation for New York purposes)
- sole proprietorships
- trusts
- non-profit corporations
- corporations that are not New York S corporations

### When to make the election Updated

For 2022 only, the due date to opt in to PTET has been extended until September 15, 2022. If an eligible entity makes its election after March 15, 2022, it is required to make an estimated payment with its election. See [Estimated payments](#) .

An S corporation intending to file as a [resident S corporation](#) for 2022 must certify, when it files its annual PTET return or extension, that all its shareholders are residents of New York for purposes of Article 22.

For PTET taxable years 2023 and later, the eligible entity may opt in on or after January 1 but no later than March 15.

The election to opt in to the PTET must be made online on an annual basis and is irrevocable after the due date of its first PTET estimated payment.

### What is the election period

An electing entity that is a calendar-year taxpayer for federal purposes must use a calendar-year basis to elect, file, and pay the PTET. An electing entity that is a fiscal-year taxpayer must elect, file, and pay the PTET for the calendar year in which its fiscal year ends.

**Example:** *A partnership's fiscal year is March 1, 2021, through February 28, 2022. The partnership can make the election on January 1, 2022, for the 2022 PTET taxable year because the partnership's fiscal year ended during the 2022 calendar year.*

If an electing entity has more than one tax year within a calendar year, it can make **only one election** during each calendar year.

### How to make the election

An authorized person can opt in to the PTET on behalf of an eligible entity through the entity's Business Online Services account. If the entity does not have a Business Online Services account, the authorized person will need to create one.

To opt in to the PTET:

1. [Log in](#) to (or create) the eligible entity's Business Online Services account.
2. Select the ≡ *Services* menu in the upper-left corner of the *Account Summary* homepage.
3. Select *Corporation tax* or *Partnership tax*, then choose *PTET web file* from the expanded menu.
4. On the *Form Selection* page, choose *Pass-through entity tax (PTET) annual election*.

**Important:** The authorized person must electronically sign and attest to having the electing entity's authorization.

**LOG IN TO OPT IN** or

**CREATE BUSINESS ACCOUNT**

## Calculations

The calculation of PTE taxable income differs between electing partnerships and electing New York S corporations.

For calculations related to the PTET, see [Calculating the PTE taxable income, the PTET, and the credit](#).

## Estimated payments Updated

Both authorized persons and tax professionals may make estimated PTET payments on behalf of the entity.

To make an estimated PTET payment:

1. [Log in](#) to the entity's Business Online Services account.
2. Select the ☰ *Services* menu in the upper-left corner of the business' *Account Summary* homepage.
3. Choose *PTET web file* from the *Corporation tax* or *Partnership tax* expanded menu, then select *Pass-through entity tax (PTET) estimated payment*.

**LOG IN TO PAY**

Entities **must** use our online Web File application and pay by ACH debit when making PTET payments. They cannot pay by check or other methods. To ensure ACH debit payments are successful, see [ACH debit block information](#).

An electing entity must use the online application to pay estimated tax on the amount of the PTET calculated for the current taxable year. Estimated payments are due on or before March 15, June 15, September 15, and December 15 in the calendar year prior to the year in which the due date of the return falls. If the due date of the estimated payment falls on a Saturday, Sunday, or [legal holiday](#), the payment is due on the next business day.

Each quarterly payment should be an amount equal to at least 25% of the required annual payment for the taxable year. The required annual payment is the lesser of:

- 90% of the PTET shown on the return of the electing entity for the taxable year; or
- 100% of the PTET shown on the return of the electing entity for the preceding taxable year.

If the entity did not opt in to the PTET for the preceding year, the required annual payment is 90% of the tax reported on the PTET return for the taxable year.

**Note:** An electing entity **cannot** make estimated tax payments after filing a return.

## Entities opting into PTET after March 15, 2022 New

For 2022 only, if an eligible entity makes its election after March 15, 2022, it is required to make an estimated payment with its election. The amount due is based upon its election date:

- An entity making an election after March 15, 2022, and before June 15, 2022, must pay 25% of the required annual payment.
- An entity making an election on or after June 15, 2022, and before September 15, 2022, must pay 50% of the required annual payment.
- All entities, regardless of election date, must have made payments equal to 75% of the required annual payment by September 15, 2022.

Regardless of when the entity makes its election, once an entity elects in to PTET, regular quarterly estimated payments must be made by the required due dates.

**Example:** *A partnership elects in to PTET on June 14, 2022. The partnership must make a payment equal to at least 25% of its required annual payment. In addition, on or before June 15, 2022, the partnership must make additional payments totaling another 25% of the required annual payment.*

### Resident S corporations opting into PTET after March 15, 2022 New

A resident S corporation electing into PTET must make its March 15 and June 15 estimated payments equal to 25% of the required annual payment as if they were a standard S corporation. However, as of September 15, 2022, a resident S corporation must have made payments totaling 75% of the required annual payment for resident S corporations.

### PTET payments are only for the PTET liabilities

An electing entity may apply its PTET estimated payments **only** to its PTET liability, not to any other taxes. In addition, it cannot transfer payments between related entities or individuals.

**Example:** *Partnership P opts in to the PTET for 2022. P makes estimated tax payments of \$500,000 through June of 2022. In July 2022, P determines the partnership will incur a loss for the year and will not owe any PTET. P would like to transfer the estimated payments to the estimated tax accounts of its partners, B and C. However, P is not allowed to transfer funds from the partnership's PTET account to its partners. P must file a PTET return by the filing due date and claim a refund of all overpaid tax amounts. Partners B and C may not claim any of P's payments as their own estimated tax payments. B and C must independently make estimated tax payments sufficient to cover their own tax liabilities for 2022.*

If an electing entity fails to pay on time or pays less than it owes, it is subject to penalty and interest charges, based on the rules in Article 22.

### Annual return

On or before March 15, an electing entity must file an annual PTET return using the online return application to report the information required under Article 24-A for the PTET taxable year. All PTET tax returns are filed on a calendar-year basis. A fiscal-year taxpayer does not recompute its income on a calendar-year basis. Instead, its PTE taxable income must be computed for the fiscal year that ends within the PTET calendar year. The PTET return for an electing entity with a fiscal year is due on or before March 15 following the close of the calendar year in which its fiscal year ends.

**Example:** *A partnership's fiscal year is March 1, 2021, through February 28, 2022. Although the partnership reports its income for Article 22 purposes on a 2021 IT-204, Partnership Return, the*

partnership will make its PTET election for the 2022 PTET taxable year by its due date, and file its PTET return by March 15, 2023.

If the due date of the return falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day. An electing entity may make an online request by March 15 for a six-month extension of time to file its annual PTET return. An electing entity may not amend an annual PTET return for any reason once that return has been filed.

Penalties and interest will apply for late filing of the return or late payments based on the rules under Article 22. An electing entity, and certain responsible persons, will be liable for any unpaid tax due under Article 24-A [see Tax Law § 866(c)].

The PTET entity must file the return online through the entity's Business Online Services account. To file a PTET annual return:

1. Log in to the eligible entity's Business Online Services account.
2. Select the ≡ *Services* menu in the upper-left corner of the *Account Summary* homepage.
3. Select *Corporation tax* or *Partnership tax*, then choose *PTET web file* from the expanded menu.
4. On the *Form Selection* page, choose *Pass-through entity tax (PTET) annual return*.

**LOG IN TO FILE**

The PTET entity must identify all the entity's Article 22 partners, members, or shareholders eligible to claim PTET credits on its annual PTET return.

The filing application allows the PTET entity to manually enter information for up to 100 eligible credit claimants. If the entity has more than 100 eligible credit claimants, it must upload a data file containing the information. The data file must be in a comma delimited format with a .txt or .csv extension.

The PTET entity must include the following information for each eligible credit claimant:

- the claimant's name and identification number;
- whether the claimant is claiming the credit through a direct partner who is a disregarded entity and if so, the name and identification number of the disregarded entity;
- the type of taxpayer claiming the PTET credit, such as an individual, estate, or trust;
- the claimant's ownership percentage in the PTET entity;
- the claimant's share of the PTET credit; and
- the residency status of the partner or member of a partnership as classified for PTET purposes (note: for PTET purposes all S corporation shareholders are treated as if they are nonresidents).

The filing application will allow a filer to save their work without filing and come back later to complete the return. It is important for the PTET entity to report this information correctly. The entity may **not** amend any of the reported information once the return has been submitted. If the entity omits any information for an owner or submits incorrect information, some or all credit claimants may not be allowed to claim their PTET credits.

Overpayments cannot be carried forward to future years and will automatically be reviewed and processed as a refund. A physical check will be issued for the refund amount and sent to the PTET entity's address on record.

## Reporting information to partners, members, and shareholders

Each electing PTET entity must provide sufficient information to its eligible partners, members, and shareholders to allow them to claim and support the PTET credit on their personal income tax returns. If the information is insufficient, otherwise eligible credit claimants may not be able to determine the proper amount of credit on their personal income tax returns.

S corporations must provide a statement to each shareholder that includes the shareholder's direct share of PTET credit to be claimed by the shareholder.

Partnerships must include on Form IT-204-IP, *New York Partner's Schedule K-1*, which is required to be provided to the partner, the following information:

- the partner's classification as a resident or nonresident for purposes of calculating the PTE taxable income and PTET credit; and
- the partner's direct share of PTET credit to be claimed by the partner.

## Extension

The PTET annual return is generally due on March 15 after the close of the PTET taxable year. However, the electing entity can request a six-month extension of time to file through its Business Online Services account.

The extension is an extension of time to file the annual return; it is not an extension of time to pay any tax due. The electing entity **must** pay all the PTET by the original due date of the return, or penalties for failure to pay taxes due are applicable.

The PTET entity must file the extension online through the entity's Business Online Services account. To file a PTET annual return:

1. [Log in](#) to the eligible entity's Business Online Services account.
2. Select the ☰ *Services* menu in the upper-left corner of the *Account Summary* homepage.
3. Select *Corporation tax* or *Partnership tax*, then choose *PTET web file* from the expanded menu.
4. On the *Form Selection* page, choose *Request for six-month extension to file the pass-through entity tax*.

**LOG IN TO REQUEST EXTENSION**

## PTET credit

### Who can claim the PTET credit

Eligible credit claimants that receive a PTET credit from an electing entity may claim the credit on their personal income tax returns. If the eligible credit claimant is a trust, other than a trust that is disregarded for tax

purposes, it is allowed a PTET credit on the trust's fiduciary income tax return, but it is not permitted to distribute any PTET credit it receives to its beneficiaries.

### **Who cannot claim the PTET credit**

A partner, member, or shareholder that is not subject to tax under Article 22, including but not limited to a corporate partner, is **not** eligible for the PTET credit. Additionally, a partner that is itself a partnership is **not** eligible for the PTET credit.

### **How much is the PTET credit**

Each eligible credit claimant's PTET credit is equal to its direct share of PTET that was reported by the electing entity on the entity's PTET annual return. If the claimant receives more than one PTET credit, the credits are aggregated. If the amount of the PTET credit allowable for any taxable year exceeds the tax due for the year, the excess is treated as an overpayment, to be credited or refunded without interest.

Reference: Tax Law § 606(kkk)

### **How to claim the PTET credit**

Eligible credit claimants must file an individual personal income tax return and attach Form IT-653, Pass-Through Entity Tax Credit, to claim the PTET credit. The PTET credit may not be claimed on Form IT-203-GR, *Group Return for Nonresident Partners*, or Form IT-203-S, *Group Return for Nonresident Shareholders of New York S Corporations*.

### **Addition modification to income for the PTET credit claimed**

An addition modification to federal adjusted gross income or federal taxable income must be made on the eligible credit claimant's New York State personal income tax return for an amount equal to the amount of the PTET credit claimed. See Form IT-225-I, Instructions for Form IT-225, New York State Modifications, for more information.

### **Resident tax credit**

For tax years beginning on or after January 1, 2021, resident partners, members, or shareholders will be allowed a resident tax credit against their New York State personal income tax for any pass-through entity tax imposed by another state, local government, or the District of Columbia, that is substantially similar to the PTET imposed under Article 24-A. The pass-through entity tax must be paid by a partnership or New York S corporation to another jurisdiction on income derived from that jurisdiction and subject to tax under Article 22. This includes any taxes paid by an LLC treated as a partnership or S corporation for New York tax purposes. In the case of taxes paid by an S corporation, the S corporation must be treated as a New York S corporation. An ineligible S corporation will be deemed to have met this requirement to the extent it is treated as a New York S corporation for purposes of computing the New York adjusted gross income of the resident shareholder.

Reference: Tax Law § 620(b)

### **Jurisdictions qualifying as substantially similar**

For a list of jurisdictions with a tax that qualifies as substantially similar to New York's PTET, see [States with a tax substantially similar to PTET](#).

## **Addition modification to income when claiming the resident tax credit**

Resident partners, members, or shareholders must make an addition modification to federal adjusted gross income or federal taxable income on their New York State personal income tax returns equal to the amount of pass-through entity tax paid to another state, local government, or the District of Columbia on their behalf and that is the basis for computing the resident tax credit. See [Form IT-225-I, Instructions for Form IT-225, New York State Modifications](#), for more information.

## **For tax years beginning prior to January 1, 2021**

A shareholder of a subchapter S corporation or a partner in a partnership is not allowed a resident tax credit for any tax imposed upon or payable by the S corporation or partnership to another state, local government, or the District of Columbia, even if the tax is substantially similar to New York's PTET. However, a shareholder or partner may be allowed a resident tax credit if the taxes are calculated on the income of the S corporation or partnership, but are imposed upon and payable by the shareholder or partner.

## **Definitions Updated**

**Authorized person:** An individual who is eligible to make the election into the PTET on behalf of an [eligible partnership](#) or [eligible S corporation](#). For partnerships, authorized person includes any member, partner, owner, or other individual with authority to bind the entity and sign returns under Tax Law § 653. For New York S corporations, authorized person includes any officer, manager, or shareholder of the New York S corporation who is authorized under the law of the state where the corporation is incorporated or under the S corporation's organizational documents to make the election, and who represents to having that authorization under penalty of perjury.

**Direct partner, member, or shareholder:** Any member, partner, or shareholder that is issued a federal Schedule K-1 by the electing entity based on the member's, partner's, or shareholder's direct ownership interest in the electing entity. A federal Schedule K-1 issued to an entity that is disregarded for tax purposes, such as a single-member limited liability company, is treated as if issued directly to the individuals or entities that include the disregarded entity's activity on their income tax returns.

**Electing resident S corporation:** For tax year 2022, an electing resident S corporation is an electing S corporation that certifies at the time of its return that all of its shareholders are residents of New York State under Article 22. **New**

**Electing standard S corporation:** An electing S corporation that is not an electing resident S corporation. **New**

**Eligible credit claimant:** An individual, trust, or estate that:

- is a [direct partner, member, or shareholder](#) of a PTET entity;
- is taxable under Article 22 (personal income tax); and
- receives a PTET credit from the electing PTET entity.



**Eligible partnership:** Any partnership [including a limited liability company (LLC) treated as a partnership for federal income tax purposes] that has a filing requirement under Tax Law § 658(c)(1) and is not a publicly traded partnership. A partnership is eligible to make the election even if it has partners that are not eligible for the PTET credit, including, but not limited to, corporate partners.

**Eligible S corporation:** Any New York S corporation (including an LLC treated as an S corporation for New York and federal income tax purposes) as defined by Tax Law § 208.1-A that is subject to the fixed dollar minimum tax under Tax Law § 209.

A federal S corporation that does not have nexus to New York is considered an *ineligible corporation* under Tax Law 620(b)(3)(B). These corporations are **not** eligible to opt in to the PTET.

## Resources

[Subscribe](#) to receive emails with tax tips, news, and the latest guidance for the PTET.

For more guidance:

- see [TSB-M-21\(1\)C,\(1\), \*Pass-Through Entity Tax\*](#)
- [Frequently asked questions about the pass-through entity tax \(PTET\)](#)
- see [Online Services](#)
- [ask a question about the PTET](#)

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