



Indiana's Pass-Through Entity Tax

Discussing the Pros Cons and Challenges

SEA 2- Taxation of pass-through entities

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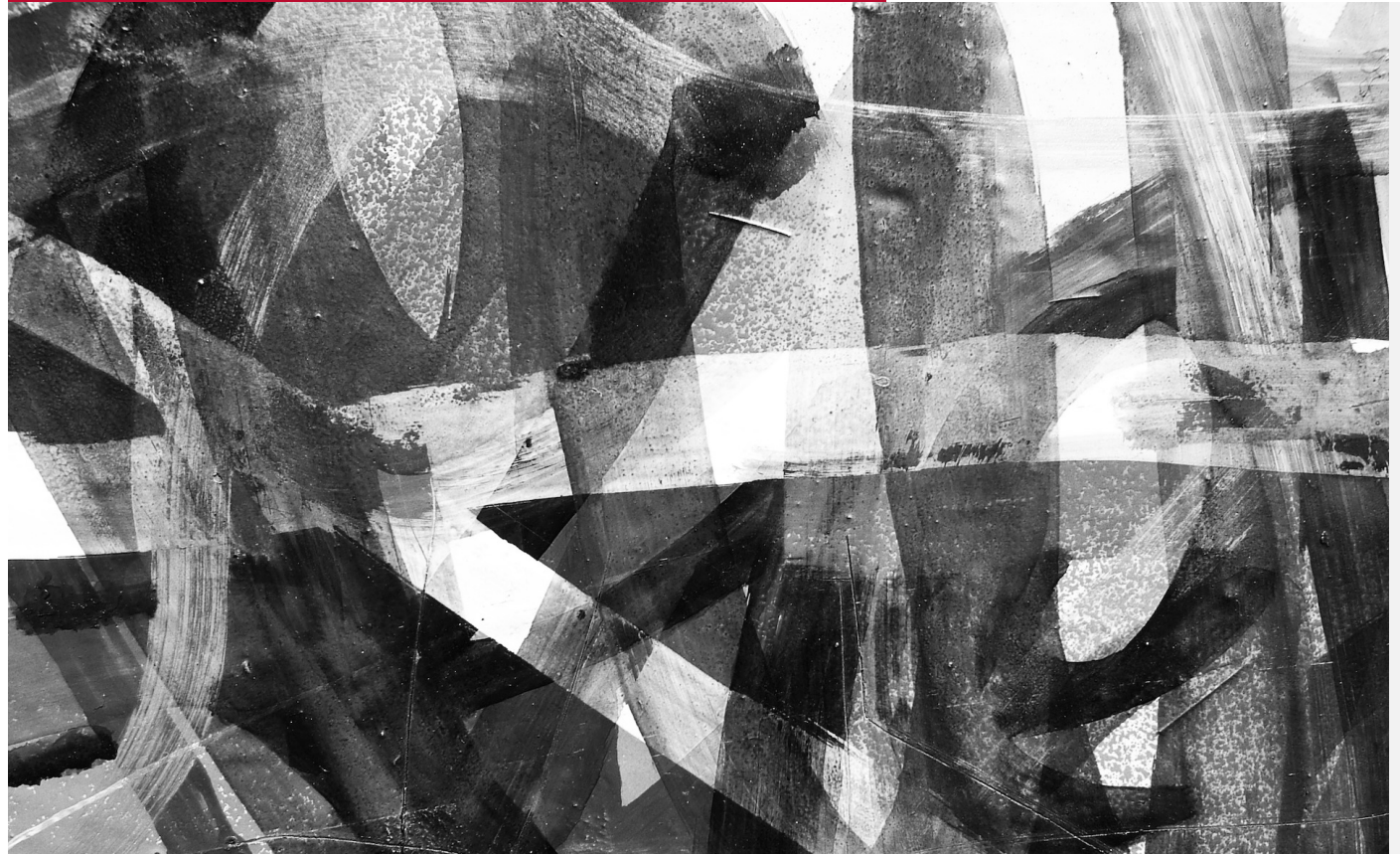
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PTET Across the Country

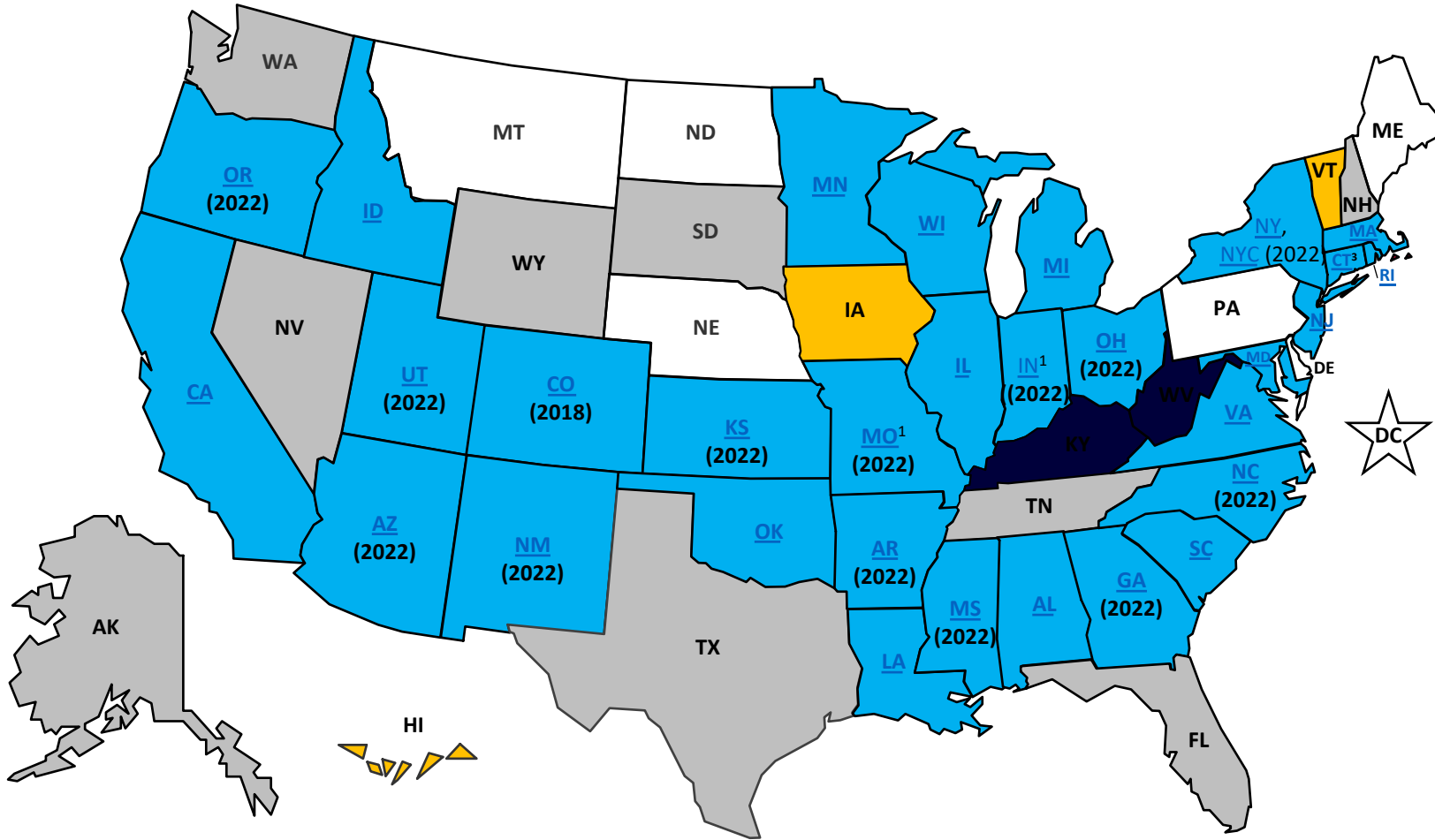
30 states, now including Indiana, and 1 municipality have passed PTET related legislation as a workaround to the federal \$10,000 cap on individual SALT deductions.

All of these are effective in 2022 or earlier.



States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of March 1, 2023



● 30 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

[AL](#), [AR¹](#), [AZ¹](#), [CA](#), [CO²](#), [CT³](#), [GA¹](#), [ID](#), [IL](#), [IN¹](#), [KS¹](#), [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO¹](#), [MS¹](#), [NC¹](#), [NJ](#), [NM¹](#), [NY](#), [OH¹](#), [OK](#), [OR¹](#), [RI](#), [SC](#), [UT¹](#), [VA](#), [WI](#), and [NYC¹](#)

¹ Effective in 2022 or later – on map (2022) or (2023)

² Retroactive to 2018

³ Mandatory

● 5 states with proposed PTE tax bills:
 HI – [HB1362](#), [SB 1437](#), in committee
 IA - [HF 352](#), ([HSB 69](#)) in committee
 KY - [HB 37](#), in committee

VT – ([HB 153 other bill](#)) [HB61/SB45](#) passed Senate, in House

WV - [HB 2608/SB 151](#), ([HB 2934/SB 496](#), [HB 3245/SB 442](#)) passed Senate

● 9 states with no owner-level personal income tax on PTE income:
 AK, FL, NH, NV, SD, TN, TX, WA, WY

○ 7 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
 DC, DE, ME, MT, NE, ND, and PA

SEA 2: Key Provisions

Retroactive to 1/1/ 2022

Election is not mandatory

Safe Harbors

State safe harbor provisions to waive penalties for 2022 and 1st year of election

Irrevocable

Election is irrevocable once made for tax year

Taxes paid to other states

Allows credit for PTE income related taxes paid to other states

SEA 2: Key Provisions

Retroactive to 1/1/ 2022

Annual Election

Election is made annually but once made it is irrevocable.

Timing of Election

2022 election made after March 31, 2023 and before August 31, 2024

Future Elections

Election can be made any time during the taxable year but ...

TY 2023 and beyond

By due date of entity return or
By date electing entity files return
Whichever is earliest

SEA 2: Key Provisions

Retroactive to 1/1/ 2022

Tax Rate

IC 6-3-2-1(b)

In the form...

For 2022 elections the composite schedule will allow residents to be included using Code 15

Non Residents

Residents

Non-Code Provision

- Specifically says the 2022 PTET will be paid and filed in conjunction with and consistent with COMP tax returns
- No 2022 estimated payments are due for PTET;
 - However, COMP payment due dates have not changed
- No P&I related to 2022 PTET if paid by 8/30/24

Timing of Elections

- Hold returns for DOR guidance, file timely by 4/15/23
- File return at 4/15/23 without the 2022 PTET election; amend later
 - Have through 8/30/24 to do this
- Extend return and elect later in 2023; have to elect by the extended due date.

IN Department of Revenue

- Legislative and policy staff involved in every step of the development of the legislation
- Provided input regarding timing, implementation, processes
- Assured legislators it could be implemented retroactively
- Working on guidance documents and practitioner communications
- INCPAS requested a designated staff person(s) to direct member questions to or specific training of CSRs to handle complex questions.

What to do or not to do...

- Assessing clients-creating a plan
- Getting staff on board
- Communicating with clients
- Determining which clients will benefit most and offer options
- Communicating with clients, again

INCPAS Next Steps

- Society will continue to update the member PTET Resource Hub
- <https://www.incpas.org/home/advocacy/government-relations/indiana-sea-2-ptet-resource-hub>
- Webinar with John Lawrence after DOR issues guidance
- Help build our FAQs Click on Submit your questions in FAQ section of hub page
- Sharing DOR's guidance as soon as available
- Recording available 3/1 (No CPE)