

S.F. No. 3590 – Modifications to PTE tax (as proposed to be amended by the A-3 amendment)

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This bill modifies provisions enacted in the 2021 omnibus tax bill that allowed pass-through entities (PTEs) to elect to file returns and pay taxes on an entity basis. Effective retroactively to tax year 2021.

Section 1. Pass-through entity tax. Modifies the definition of “income” for purposes of allocating income to Minnesota for resident and nonresident qualifying owners of PTEs. The income of a resident qualifying owner of a partnership would not be subject to allocation outside Minnesota. The income of a nonresident qualifying owner or the income of a qualifying owner of an S-corp would be allocated and assigned to Minnesota under the provisions of current law.

Modifies the definition of “qualifying entity” for purposes of entities eligible to make the PTE tax election to include LLCs taxed as a partnership or S-corp. Modifies the limitations on the definition of “qualifying entity” to allow a partnership, LLC, or corporation that has a corporation as a partner, member, or shareholder to make the PTE tax election provided that the partner, member, or shareholder is excluded from the qualifying entity’s tax return and is not a publicly traded partnership.

Modifies the definition of “qualifying owner” to include a residential or nonresidential trust that is a partner, member, or shareholder of a qualifying entity; an entity taxed as a partnership; or a disregarded entity that has a qualifying owner as its single owner.

Strikes language referring to the section of the Internal Revenue Code that limits the SALT deduction so that if the SALT deduction is no longer limited, the PTE tax election would still be allowed.

Section 2. Reporting and payment requirements for partnerships and tiered partners. Adds a requirement for partnerships that were subject to federal audit and adjustment. The audited partnership must file an amended PTE report for all direct partners included in the PTE tax return in the reviewed year and pay any additional amount due had federal adjustments been reported properly.