



TAX UPDATE

August 31, 2021

## New California SALT Cap Workaround Signed into Law

**Governor Gavin Newsom signed A.B. 150 on July 16, 2021, establishing a federal tax cap workaround for individual deductions allowed for state and local taxes (SALT). The option provided by A.B. 150 is available to qualifying S corporations, partnerships, and limited liability companies.**

### SALT Cap Workaround Explained

A.B. 150 offers a workaround of the \$10,000 federal cap on individuals' deductions for state and local taxes. The bill is part of the California state budget package for 2021 through 2022.

The workaround is available to the following pass-through companies doing business in California:

- S corporations
- Partnerships
- Limited liability companies

A pass-through can elect to pay a 9.3% tax on qualified net income on behalf of its owners, if it meets the following criteria:

- Its owners are corporations
- Its owners are individuals, fiduciaries, estates, or trusts subject to California income tax
- It is not part of a combined return or reporting group
- It is not a publicly traded partnership

Each consenting owner, in turn, will receive a nonrefundable credit on their personal income tax return equivalent to the amount of tax paid by the entity on the owner's behalf. A consenting owner can carry forward the amount of credit exceeding the net tax due to the following tax year, and the succeeding four years, until exhausted.

The IRS indicated in Notice 2020-75 that it would issue proposed regulations providing that a partnership or an S corporation computing non-separately stated taxable income or loss for federal income tax purposes could deduct state and local income taxes imposed on its income for the tax year at issue, with regard to the federal \$10,000 state and local tax deduction limitation. This entity-level tax will provide a federal tax benefit to pass-through entity owners in California.

For 2021, the tax is due on the due date of the original return without regard to any extension, or March 15, 2022, for calendar year entities.

A.B. 150 does not address a number of questions connected with the qualifications and application of this credit. The Franchise Tax Board is expected to adopt regulations that are necessary or appropriate to implement the credit.

This workaround is in effect for taxable years 2021 through 2025.

## Other Business-Related Changes in A.B. 150

A.B. 150 also includes additional funding for business tax credits:

- **California Competes credit:** designed for companies that expand and invest in California
- **Main Street Hiring credit:** designed for companies that rehire workers after the pandemic
- Additional credit for employers that hire homeless people

For more information, please contact your Seiler tax advisor at 650.365.4646.

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