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California guidance on pass-through entity (PTE) elective tax

<https://www.ftb.ca.gov/file/business/credits/pass-through-entity-elective-tax/index.html>

(visited 7/29/23)

For taxable years beginning on or after January 1, 2021, and before January 1, 2026, qualifying pass-through entities (PTEs) may annually elect to pay an entity level state tax on income. Qualified taxpayers receive a credit for their share of the entity level tax, reducing their California personal income tax.

Do you qualify?

A qualifying PTE is an entity taxed as a partnership or S corporation.

Who does not qualify?

A qualified PTE **does not** include:

- Publicly traded partnerships
- An entity permitted or required to be in a combined reporting group

Who is a qualified taxpayer?

A qualified taxpayer is a partner, member, or shareholder of an electing qualified entity that is:

- An individual, fiduciary, estate, or trust subject to California personal income tax
- A disregarded single member LLC that is owned by an individual, fiduciary, estate, or trust subject to California personal income tax

To be qualified, a taxpayer must consent to have their pro rata or distributive share and guaranteed payments included in the qualified net income of the electing qualified PTE.

A qualified taxpayer **is not** a:

- Disregarded business entity and its partners and members
 - Except for a disregarded single member LLC that is owned by an individual, fiduciary, estate, or trust subject to California personal income tax
- Corporation
- Partnership

PTE election

An annual election is made on an original, timely filed tax return. Once the election is made, it is irrevocable for that year and is binding on all partners, shareholders, and members of the PTE.

How to make the election

2021 taxable year

The election must be made on a timely-filed tax return.

2022 to 2025 taxable years

Beginning on or after January 1, 2022, and before January 1, 2026, the election must be made when the tax return for the taxable year is filed and the PTE must make an initial payment by June 15.

For taxable years beginning on or after January 1, 2022, and before January 1, 2026, the PTE may not make an election if the initial payment is not made by June 15.

When to pay the elective tax

The payment date must be within the following time frames:

2021 taxable year

Pay the elective tax on or before the due date of the original tax return.

2022 to 2025 taxable years

Use the following table:

Payment dates	
Due	Payment
On or before June 15th during the taxable year of the election	Payment 1 Pay \$1,000 or 50% of the elective tax paid for the prior taxable year, whichever is greater.
On or before the due date of the original return without regard to extensions	Payment 2 Pay the remaining amount.

How to pay the 1st and 2nd PTE elective tax payments

Business entities must make all PTE elective tax payments either by using the free [Web Pay](#) application accessed through FTB's website or by using the [Pass-Through Entity Elective Tax Payment Voucher \(FTB 3893\)](#). This includes elective tax payments made with the entity's return. The elective tax payment cannot be combined with the entity's other tax payments. To pay by voucher, print the FTB 3893 Voucher from FTB's website and mail it to the FTB, along with the payment, to "Franchise Tax Board, P.O. Box 942857, Sacramento, CA 94257-0531." Once made, the payments will remain as PTE elective tax payments on the entity's account until the tax return is filed.

PTE elective tax calculation

The elective tax is 9.3% of the entity's qualified net income, which is the sum of the pro rata or distributive share and guaranteed payments of each qualified taxpayers' income subject to California personal income tax.

Tax credit

[Qualified taxpayers](#) are eligible to claim a nonrefundable credit for the amount of tax paid on the qualified taxpayers' pro rata or distributive share and guaranteed payments included in the qualified entity's qualified net income. Unused credits can be carried over for up to 5 years.

For taxable years beginning on or after January 1, 2022, and before January 1, 2026, to calculate the other state tax credit (OSTC) taxpayers must increase the "net tax payable" by the amount of PTE credit that reduced net tax, before application of the OSTC, in the same taxable year.

How to claim your tax credit

Qualified taxpayers can claim the credit on their personal income tax return.

What form to file

We developed the following tax forms for qualified entities to make the tax year 2022 PTE elective tax payments and calculate the 2022 PTE elective tax and for qualified taxpayers to claim the 2022 PTE elective tax credit:

- [2022 Pass-Through Entity Elective Tax Payment Voucher \(FTB 3893\)](#)
- [2022 Pass-Through Entity Elective Tax Payment \(FTB 3893\) Instructions](#)
- [2022 Pass-Through Entity Elective Tax Calculation \(FTB 3804\) Form Instruction](#)
- [2022 Pass-Through Entity Elective Tax Credit \(FTB 3804-CR\) Form Instruction](#)

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Last updated: 06/02/2023