

Idaho State Tax Commission

More **SALT** guidance

Governor Little signed House Bill 317 into law on April 15, 2021. This new law allows certain pass-through entities to annually elect and pay an elective tax in the amount of 6.5% of the pro-rata or distributive share of the entity's partners, shareholders, or members. The partners, shareholders, and members then receive a tax credit equal to that amount. The law is effective for taxable years beginning on or after January 1, 2021.

The pass-through entities that can elect to pay this tax are:

- S corporations
- General partnerships
- Limited liability companies taxed as partnerships
- Limited liability partnerships
- Limited partnerships

The election to pay the tax must be made on the entity's original, timely-filed return and is irrevocable for the taxable year.

Partners, members, and shareholders are allowed a credit for their pro-rata share of the tax paid on their personal Idaho income tax return. If the credit exceeds the tax due, any unused credit will be refunded.

Example: If an affected business entity pays \$10,000 in tax to Idaho, a 25% owner of the partnership can claim a credit of \$2,500 on their Idaho tax return.

To make a payment before the end of 2021, use the Tax Commission's [Quick Pay](#) option using "business income tax" as the account type and "estimated payment" as the payment type. Entities also can use [Idaho Form 41ES](#) to make the payment. If your payment is for \$100,000 or more, you must pay electronically.

Breaking down HB 317 – Idaho Code section 63-3026B

1. If an entity wants to elect to pay tax at the entity level, they do so by informing the Tax Commission of their election with their timely-filed original return. See 63-3026B(2)(c).
2. The election must be signed by all members of the entity or by an officer, manager, or member who's been authorized to make the election on behalf of all the members. See 63-3026B(2)(d).
3. An entity that makes the election is labeled an "affected business entity." See 63-3026B(1)(a). The statute refers to the "affected business entity" throughout the various subsections.
4. The affected business entity must pay the tax (the Idaho corporate tax rate applies) by the 15th day of the fourth month after the close of the taxable year. See 63-3026B(3). Note: Timing of the payment matters for the deduction. If an affected business entity (which happens to be a calendar-year filer) wants to be able to deduct the tax payment from their 2021 income, they need to make the payment by December 31, 2021. If they wait and make the payment with their tax return and the election on April 15, 2022, then they'll deduct the tax payment from their 2022 taxable income.
5. Members still report on their federal and state tax returns their share of the income that passes through to them from the entity. But they can claim a credit for the tax paid by the entity equal to the amount of their share of ownership in the entity multiplied by the tax paid by the affected business entity. The credit is available to individual and corporate members of the affected business entity. See 63-3026B(8)&(9).
6. If a member of the affected business entity is a nonresident individual and has no other Idaho source income besides the income from the affected business entity, then they're not required to file an Idaho return. See 63-3026B(6). There's no requirement in this scenario for them to file an Idaho return and claim the credit for the tax paid.

7. If the credit exceeds the member's Idaho tax liability, the excess is refunded. See 63-3026B(8)(a)&(9).

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