ARKANSAS ELECTIVE PASS-THROUGH ENTITY TAX

Act 362 of 2021

Act 362 of 2021 was passed and signed into law to allow Arkansas businesses to reduce their Federal Tax burden by electing Entity-level taxation.

The SALT Deduction

The Tax Cuts and Jobs Act of 2017 imposed a cap on the State and Local Tax deductions (SALT deduction) for tax years 2018 through 2025.

However, business level taxes paid by a Partnership or an S Corporation to a state to satisfy a liability for income taxes are not subject to the cap on the SALT deduction.

Act 362 of 2021

Act 362 of 2021 creates a voluntary tax that pass-through entities would pay if owners of more than 50% of the voting rights of a pass-through entity elect to do so. Income of a member that is subject to the pass-through entity tax would be excluded from Arkansas income tax. While this may increase the Arkansas income tax liability of a taxpayer it will also decrease the SALT deduction that exceeds the federal $10,000 limit for Federal income tax purposes and thus reduce their Federal tax liability.

Act 362 of 2021

Arkansas Act 362 of 2021 allows owners of Arkansas Businesses to reduce their Federal Tax Burden by Electing Entity-Level Taxation in Arkansas.

- Act 362 of 2021 amended Arkansas Code §26-51-404(b) to add an exemption for a person that is subject to the tax imposed by the Elective Pass-through Act so that the income is not subject to tax on both the business entity and its member(s). Income subject to a similar tax in another state or the District of Columbia would be exempt from Arkansas income tax.
- Non-resident members of an entity subject to the pass-through entity tax are not required to file an Arkansas income tax return if all pass-through entities the member has an ownership interest in pay the pass-through entity tax or composite tax.
- Act 362 of 2021 is effective for tax years beginning on or after January 1, 2022.