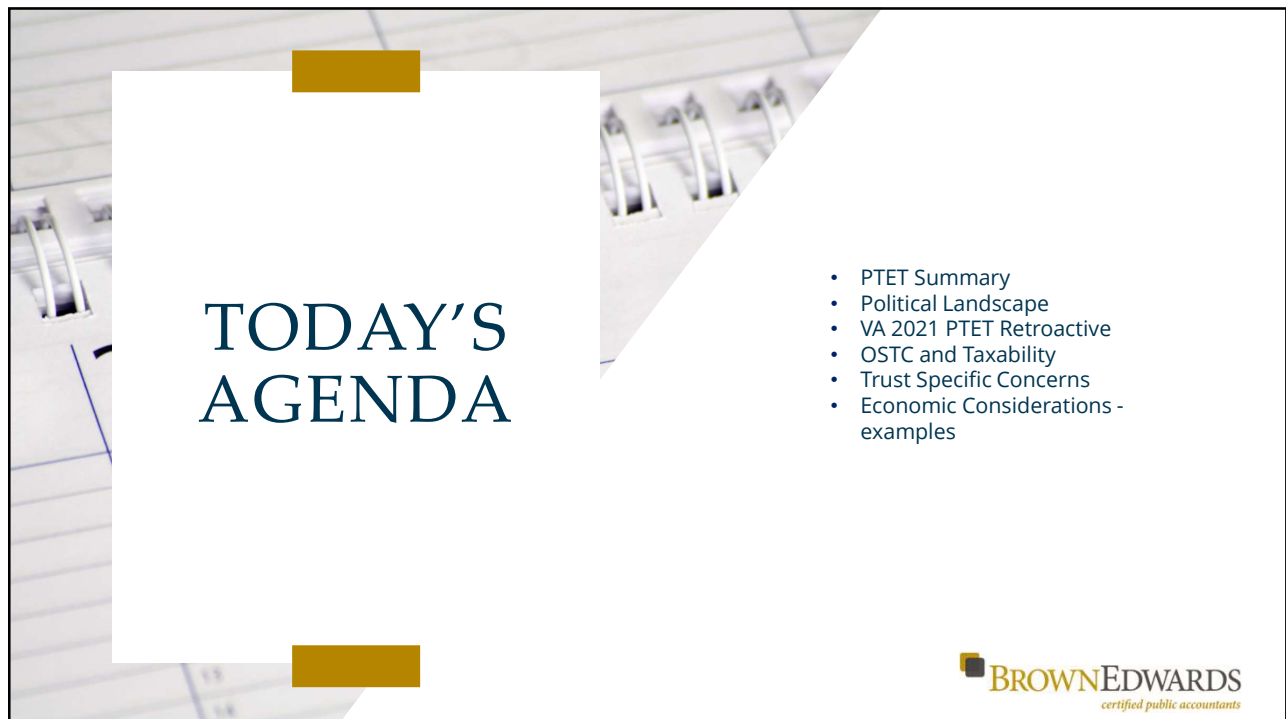




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# PTET

## Who, what, and why

- SALT deduction allows individuals to subtract state and local property, income, and/or sales taxes from federal taxable income via itemized deductions on Schedule A.
- Prior to TCJA SALT deductions were limited by AMT or the Pease limit.
- Post TCJA SALT deductions are limited by the \$10,000 SALT Cap
- PTET regimes were implemented to work around the \$10,000 SALT Cap, allowing pass through business owners full deduction of the state income taxes related to their pass-through income.

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## POLICY CONSIDERATIONS

- TCJA expiration – December 31, 2025
  - \$10,000 SALT Cap expires with this.
- Expiration of TCJA brings back the Pease limit (3% reduction for every dollar of AGI over threshold)
- State tax credits such as NAP become a little more valuable again.
- As of 9/18/24 Trump has stated he would like to eliminate the SALT Cap. Harris has not commented, specifically on this.

	Pre/Post TCJA	TCJA - No PTET	TCJA - PTET
Wages	200,000.00	200,000.00	200,000.00
Passthrough Entity Income	500,000.00	500,000.00	471,250.00
AGI	700,000.00	700,000.00	671,250.00
Schedule A			
SALT Total	40,250.00	40,250.00	11,500.00
Limit	-	(30,250.00)	(1,500.00)
Total SALT Deductible	40,250.00	10,000.00	10,000.00
Interest Expense	15,000.00	15,000.00	15,000.00
Charitable	30,000.00	30,000.00	30,000.00
Total Itemized before limitations	85,250.00	55,000.00	55,000.00
PEASE Limitation	11,460.00	N/A	N/A
Total Itemized Deduction	73,790.00	55,000.00	55,000.00
Total Income	626,210.00	645,000.00	616,250.00

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## VA 2021 RETROACTIVE PTET

- Time to file has passed ☺
- Report PTET Credit on 2023 original or amended owner returns.
- Is the refund of the 2021 Retroactive PTET credit on the 2023 owner return taxable?
- Has there been a substantial shift in economic benefit due to change in ownership or other factors?
- Reporting deduction in a year after business sold?

2021 Retroactive PTET Election			
Total VA Taxable Income		6,000,000.00	
PTET		345,000.00	
2021 Ownership and Allocation of Credit			
Jan	50%	172,500.00	
Dan	50%	172,500.00	
Stan	0%	-	
2024 Ownership and Allocation of Deduction			
Jan	50%	172,500.00	
Dan	0%	-	
Stan	50%	172,500.00	
2024 Net Cashflow Tax Effected			
Jan		51,232.50	
Dan		172,500.00	
Stan		(121,267.50)	

The money went out of the business and is no longer available to Stan. How do you make him whole?

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## OSTC AND TAXABILITY CONSIDERATIONS

- VA does allow the OSTC for most all other state PTET regimes.
- Other credits are considered against tax before PTET:
  - OSTC
  - NAP, LPC, etc.
- Apportionment to other states can quickly create taxable refunds due to OSTC.
  - In VA, residents are taxed on 100% of the distributive share of income
  - If the apportionment in VA is low and PTET is elected the OSTC will negate a lot of the benefit.

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# TAXABILITY EXAMPLE

## OSCT Creates Tax

Total Prior Year Tax	Virginia 35,000.00
<b>Less</b>	
Credits that are structural in nature and are considered to be a reduction in tax liability.	
Credit for taxes paid to other states	11,500.00
Credits that do not have a statutory carryforward or refundable feature.	
Credit	
Credit carryforwards to the taxable year, in the order of those carryforwards which are scheduled to expire first	
Neighborhood Assistance Act Credit	
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Current year nonrefundable credits	
Neighborhood Assistance Act Credit	3,000.00
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Net Tax before refundable credits	20,500.00
Prior Year PTET Payment Credit	24,000.00
Withholding	10,700.00
Estimates	
Extension	
Total Due/Overpayment	(14,200.00)
Taxable PTET Refund	3,500.00

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## LPC Creates Tax

Total Prior Year Tax	Virginia 35,000.00
<b>Less</b>	
Credits that are structural in nature and are considered to be a reduction in tax liability.	
Credit for taxes paid to other states	-
Credits that do not have a statutory carryforward or refundable feature.	
Credit	
Credit carryforwards to the taxable year, in the order of those carryforwards which are scheduled to expire first	
Neighborhood Assistance Act Credit	
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Current year nonrefundable credits	
Neighborhood Assistance Act Credit	20,000.00
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Net Tax before refundable credits	15,000.00
Prior Year PTET Payment Credit	24,000.00
Withholding	10,700.00
Estimates	
Extension	
Total Due/Overpayment	(19,700.00)
Taxable PTET Refund	9,000.00

## No Tax Created

Total Prior Year Tax	Virginia 35,000.00
<b>Less</b>	
Credits that are structural in nature and are considered to be a reduction in tax liability.	
Credit for taxes paid to other states	-
Credits that do not have a statutory carryforward or refundable feature.	
Credit	
Credit carryforwards to the taxable year, in the order of those carryforwards which are scheduled to expire first	
Neighborhood Assistance Act Credit	
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Current year nonrefundable credits	
Neighborhood Assistance Act Credit	
Land Preservation Credit	
Education Improvement Scholarships Credit	
Historic Rehabilitation Tax Credit	
Net Tax before refundable credits	35,000.00
Prior Year PTET Payment Credit	24,000.00
Withholding	15,000.00
Estimates	
Extension	
Total Due/Overpayment	(4,000.00)
Taxable PTET Refund	-

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## TRUST SPECIFIC CONCERNS

- VA specifically does not allow the PTET credit to pass through to beneficiaries.
  - Other states do allow the credit to pass through.
  - Grantor trust issues and workarounds
- When all income is distributed to the beneficiary is the refund of the credit at the trust level considered accounting income?
  - Is the benefit negated?

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## HAVE YOU CONSIDERED THE ECONOMICS?

- Does the partnership agreement allow for special allocations?
- Non-resident and apportionment issues.
- Guaranteed Payments
- Have you specially allocated the deduction?

Partner	Ownership	VA Taxable Income	GP	Apport %/ % Taxed	Credit based on guidance	With no Special Allocation of Deduction	Difference*	Estimated Federal Benefit**	Net benefit/ (detriment) w/out true-up***
Jan	45%	900,000	150,000	35.000000%	21,131	47,028	(25,897)	13,967	(11,930)
Dan	45%	900,000	150,000	100.000000%	60,375	47,028	13,347	2,312	15,659
Stan	10%	200,000	200,000	100.000000%	23,000	10,450	12,550	3,104	15,654
Total	100%	2,000,000	500,000		104,506	104,506	-	19,383	19,383

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## EXAMPLES

### Partnership without Special Allocation

Partner	Ownership	VA Taxable Income	GP	Apport %/ % Taxed	Credit based on guidance	With no Special Allocation of Deduction	Difference*	Estimated Federal Benefit**	Net benefit/ (detriment) w/out true-up***
Jan	45%	900,000	-	35.000000%	18,113	49,551	(31,438)	14,717	(16,721)
Dan	45%	900,000	-	100.000000%	51,750	49,551	2,199	4,726	6,925
Stan	10%	200,000	500,000	100.000000%	40,250	11,011	29,239	3,270	32,509
Total	100%	2,000,000	500,000		110,113	110,113	-	22,713	22,713

### Partnership with Special Allocation

Partner	Ownership	VA Taxable Income	GP	Apport %/ % Taxed	Credit based on guidance	With Special Allocation of Deduction	Difference*	Estimated Federal Benefit**	Net benefit/ (detriment) w/out true-up***
Jan	45%	900,000	-	35.000000%	18,113	18,113	-	5,380	5,380
Dan	45%	900,000	-	100.000000%	51,750	51,750	-	5,379	5,379
Stan	10%	200,000	500,000	100.000000%	40,250	40,250	-	11,954	11,954
Total	100%	2,000,000	500,000		110,113	110,113	-	22,713	22,713

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 S Corporation Concerns

- No ability to make special allocations as done in the previous example.
- Issue arises when there is apportionment to other states and a mix of resident and non-resident shareholders.
- VA does allow for a special election to treat all shareholders as nonresidents, which negates most of this concern.
- Have you planned for ownership changes and potential for mismatch of credit and deduction?

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**ANY QUESTIONS?**

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