

Bodman PLC

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### Michigan Enacts Elective Flow-Through Entity Tax as “SALT Cap Workaround”

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On Monday, December 20, 2021, Michigan Governor Gretchen Whitmer signed House Bill (H.B.) 5376 into law. H.B. 5376, also referred to as Michigan’s “SALT Cap Workaround,” amends the Michigan Income Tax Act to allow flow-through entities taxed as partnerships or S-corporations for federal income tax purposes to elect to calculate and pay Michigan income taxes at the entity level.

For tax years beginning in 2021, flow-through entities have until April 15, 2022 to make this election, which will be irrevocable for the next two tax years. The flow-through entity tax will be imposed on the entity’s allocated or apportioned positive business income tax base at the same rate as the individual income tax (currently 4.25%). When the flow-through entity’s non-corporate partners or members file their own Michigan income tax returns, they will be permitted to claim a tax credit equal to their allocated share of the tax paid by the flow-through entity. A link to the full text of Enrolled H.B. 5376 is [here](#).

The passage of this bill is a response to the “SALT cap” imposed by the Tax Cuts and Jobs Act of 2017, which limited the federal deduction for state and local taxes paid by individual taxpayers to \$10,000. With the passage of Enrolled H.B. 5376, Michigan joins a growing number of states that have enacted similar legislation designed to provide a federal tax benefit to individual taxpayers with interests in flow-through entities by permitting a portion of their state taxes to be paid at the entity level, where those taxes will be deductible for federal income tax purposes without regard to the \$10,000 limitation. To respond properly to this legislation, flow-through entities and flow-through entity members should undertake a prompt evaluation of their respective tax situations.

If you would like assistance in this analysis or have questions regarding H.B. 5376, please don’t hesitate to contact your Bodman Tax attorney or Steve Cole, Wayne Roberts or Erin Haney of [Bodman’s Tax Group](#). Bodman may not be able to respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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