

# Pass-through entity tax (PTET)

- Conclusion
  - 10% reduction in NYS PTET (Pass-through entity tax) credit would raise close to \$1.3 billion statewide at current levels
  - Share of this raised from MTA residents likely to be about 80% or possibly higher
  - NYC has a similar PTET credit; its 2022 value was \$1.6 billion. A similar 10% reduction could be applied to the NYC credit for ~\$160m annual revenue
  - Perhaps the biggest risk is that the IRS could undo their approval of a PTET SALT workaround administratively, undoing their 2020 administrative approval in Notice 2020-75. I think this is a much bigger risk than a federally legislated increase in the SALT cap which I think is likely to happen in some way but have lesser impact.
  - I have oodles of notes beyond what is in this document. I can provide them upon request.
- Option summary
  - 10% reduction in state credit
  - possibly 10% reduction in NYC credit
- Methodology
  - There are two challenges:
    - NYS has released almost no data on the PTET or the PTET credit
    - Available data suggest that the current PTET credit (estimated here at about \$13 billion) is substantially lower than PTET liability of about \$16.5 billion even though the intent of the tax is to provide a credit to partners equal in aggregate, for any given PTE, to the PTET liability

- My efforts to understand the reasons for this discrepancy have failed so far. I thought, erroneously, that the credit was added back to income in a way that raised PIT for New York residents but have learned this is not correct, and in any event that would raise revenue for the state outside of the PTET. I have talked to my own accountant, who does not know of reasons why the credit should be lower than PTET liability. I have reached out to several other people who do not know why this is so. Presumably the Department of Taxation and Finance could shed light on this.
- One possible explanation is that taxpayers are choosing to roll some credits forward to future years, which they are allowed to do, even though the credits are refundable. This is not unheard of in other realms - corporations have been known to pay more cash than they need to for long periods of time, perhaps to draw it down when needed. Their could be business management reasons that make this attractive.
- There could be other reasons, too. But I don't know the answer yet.
- I have taken the conservative, or perhaps just prudent, approach of assuming that the PTET credit will remain below PTET liability.
- The table below shows my effort to fit the pieces together.
  - Leftmost column is partnership-type income from the Tax Department (data.ny.gov) for all filers, residents + non residents, with values after the last datapoint (2023+) extrapolated based on DOB-published growth rates.
  - PTET liability column is based on DOB-published cash receipts. Obviously, this can't be very accurate in any given year, for timing reasons, but it should get the magnitude approximately correct.
  - Estimated PTET credit column is anchored by DTF tax expenditure estimates (green) with growth filled in. Also, I examined DTF data on total credits and they suggest \$12.5 to \$13 billion is about the right range for the PTET. That table follows the table immediately below.
  - The PTET credit in the rightmost column is the result of all this -- just shy of \$1.3 billion.

Estimating impact of PTET credit reduction								
All amounts are in \$ millions								
Tax year	Net Rent, Royalty, Partnership, and S corporation Income in AGI (\$ millions)	Partnership-type income growth rates		Estimated PTET liability (\$ millions)	PTET liability growth	Estimated PTET credit (\$ millions)	PTET credit growth	10% of PTET credit (\$ millions)
		Actual	DOB growth rates					
2020	103,978	5.3%						
2021	126,645	21.8%	29.1%	16,430		11,971		1,197
2022	124,548	-1.7%	-0.7%	14,944	-9.0%	11,887	-0.7%	1,189
2023	120,313		-3.4%	13,955	-6.6%	11,483	-3.4%	1,148
2024	129,337		7.5%	15,968	14.4%	12,562	9.4%	1,256
2025	135,933		5.1%	16,512	3.4%	13,203	5.1%	1,320
2026	133,486		-1.8%	16,500	-0.1%	12,965	-1.8%	1,297
<b>Sources:</b>								
	2015-2022 NYS DTF data.ny.gov	NYS DTF data.ny.gov				2021 & 2024 NYS DTF 2025 Tax Expenditure Report		
	2023-2026 DOB growth rates		2025-26 Executive Budget Economic & Revenue Outlook, p.95 text	2021-2025 DOB cash estimates (tax year = year FY starts; e.g., 2021 tax year=2021-22 fiscal year)				
				flatline assumption	calculated	2022, 2023, 2025, 2026 DOB Partnership etc. growth rates applied to DTF 2021 and 2024 respectively (yellow because these are not DOB numbers)	calculated based on partnership-type income growth, except where DTF credit is available	

- Total credits, from which we can infer (or estimate) PTET credits of high income taxpayers -- see the post 2020 spike for especially \$500k AGI and higher, with a little in the \$300-500k range.

## NY Personal income tax credits by tax year (\$ millions)

Includes taxable and non-taxable returns, residents and non-residents

							2019 minus 2018	2020 minus 2019	2021 minus 2020	2022 minus 2021
nyagirange	2017	2018	2019	2020	2021	2022				
< \$100,000	2,659	2,615	2,590	2,283	2,266	2,437	-25	-307	-17	171
\$ 100,000 - 149,999	318	352	360	337	375	395	7	-23	37	20
\$ 150,000 - 199,999	187	196	202	189	229	260	7	-13	40	31
\$ 200,000 - 249,999	135	143	147	135	184	216	4	-12	49	32
\$ 250,000 - 299,999	96	104	107	98	152	183	3	-9	54	31
\$ 300,000 - 499,999	246	260	273	252	481	603	13	-21	229	122
\$ 500,000 - 999,999	251	269	279	249	809	1,134	10	-30	560	325
\$ 1,000,000 - 1,999,999	232	251	253	246	1,105	1,602	2	-7	859	497
\$ 2,000,000 - 4,999,999	304	316	340	322	1,863	2,573	24	-17	1,541	710
\$ 5,000,000 - 9,999,999	181	212	240	227	1,788	2,012	28	-14	1,561	224
\$10,000,000 and Over	462	445	504	641	8,017	7,369	58	137	7,376	-648
All Income Ranges	5,071	5,162	5,295	4,980	17,268	18,784	133	-315	12,288	1,516