

**TESTIMONY OF  
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation  
Hearing Date: *April 16, 2025*

LD 191 – *“An Act to Support Maine Businesses by Establishing a Pass-through  
Entity Tax and Tax Credit”*

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Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good morning, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Neither For Nor Against LD 191, *“An Act to Support Maine Businesses by Establishing a Pass-through Entity Tax and Tax Credit.”*

This bill is nearly identical to Part A of LD 1891 presented during the 131<sup>st</sup> Legislature. LD 1891, as amended, was enacted as a Resolve to Require the Office of Tax Policy to Study the Adoption of a Pass-through Entity Income Tax (Resolves 2023, c. 170) – the study presented earlier today.

In 2017, Congress enacted a \$10,000 itemized deduction limit on state and local taxes (the SALT deduction limitation). In recent years, 36 states have enacted pass-through entity taxes in response to the limitation (so called “SALT cap workarounds”). Most states that have enacted these taxes also allow a credit to each owner for all or some portion of that owner’s share of the tax paid by the entity. The combination of entity tax and owner credit is structured to shift the deduction for SALT taxes to the entity, thereby avoiding the SALT deduction limits for federal tax purposes.

The SALT deduction limitation is scheduled to expire at the end of 2025, which would largely address the issues this bill seeks to address. However, whether it will be allowed to expire at the end of 2025 is an open question. Possibilities under serious discussion include expiration, extension, or extension and increase of the limitation, as well as outright disallowance of state workarounds. The future workings of the SALT deduction limitation are highly uncertain.

Due to the complexity of the SALT cap workarounds and the shifting federal landscape on which they are based, the Administration recommends only enacting a pass-through entity tax if it addresses a long-term issue facing the State. To achieve this end, the Administration recommends waiting until after the federal uncertainty is resolved – a timeline that could be as short as a few months or stretch into 2026. If the Legislature decides to move forward this Session with a pass-through entity tax and SALT cap workaround and enacts legislation prior to federal action, the Administration recommends delaying the effect of the Legislation until January 1st, 2026. Such an approach would provide time for a smooth implementation of the workaround and allow an opportunity for the Legislature to react to expected changes at the federal level.

The Administration notes that, as written, the bill has significant technical issues that require clarification. While this testimony is Neither For Nor Against, the Administration recommends deferring moving forward with enactment of any PTET, but in addition does not support LD 191 as currently drafted. Instead, the LD 1891 report outlines a preferable approach that would achieve similar ends as this bill. That outline appears at the very end of the PTET report and is titled “Pass-Through Entity Income Tax: Legislation Design Criteria.” The building blocks – and needed policy decisions – for constructing an effective PTET are set out there with a short description. Key elements that would need to be determined include

PTET tax rate, PTE tax credit calculation, exclusions, elections, and nonresident filing obligation.

With limited exceptions, pass-through entities, such as partnerships and S corporations, are not subject to federal or Maine income tax. Instead, income of the entity passes through to each owner of the entity, and each owner is taxed on its share of the entity income.

This bill establishes an elective entity level income tax on pass-through entities treated as partnerships or subchapter S corporations under the Internal Revenue Code – the tax combined with a corresponding individual income tax credit creates a so called “SALT cap workaround.” An entity that makes the election is subject to tax at Maine’s highest marginal personal income tax rate multiplied by the sum of each owner’s distributable share of the Maine taxable income of the entity. Each owner receives a refundable credit equal to 90% of that owner’s distributive share of the tax paid by the entity, against that owner’s Maine tax liability for the tax year. Any owner who claims the credit may not take a deduction for Maine income taxes paid with respect to that owner’s distributive share of income from the electing pass-through entity. A resident or part-year resident individual who is a owner of a pass-through entity subject to a similar entity level tax in another state may also claim a nonrefundable credit for that owner’s share of the tax paid to the other state by the entity. The election does not apply to publicly traded partnerships. A separate election must be made for each tax year. An entity that makes the election must report certain information to its owners and to Maine Revenue Services regarding each owner’s share of Maine tax paid by the entity and other information necessary for purposes of reporting or administering the tax.

The estimated revenue impact of the bill is not currently available and will depend on the Committee deciding on key pieces of the PTET, including of course the tax rate and credit amount.

The preliminary estimated administrative costs are \$403,750 in fiscal year 2025-2026 for computer programming and related system testing costs required to implement the new tax. The changes require an update to the Modernized eFile Schemas and coordination with various external vendors and third-party software providers. Depending on the number of affected taxpayers, ongoing personnel costs related to additional staffing required to process and audit a portion of the tax returns may apply.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.