

Arizona Small Business Income Tax and Passthrough Entity Tax: Update and Overview

Edward K. Zollars, CPA
THOMAS, ZOLLARS & LYNCH, LTD.

Key Topics for Today

- Basics of the Small Business Income Tax - a quick review
- Arizona Department of Revenue March/April Guidance
- Arizona Passthrough Entity Tax
 - Review of IRS Notice 2020-75's requirements
 - Arizona's law and its quirks
 - Department of Revenue delay in estimated tax payments (and why you will *want* to make up the first two payments even if ADOR says you can skip them)
 - Impact of *Arizona Free Enter. Club* decision and nonrefundable status

Key Court Decisions

- *Fann v. Arizona*, March 11, 2022, Superior Court, Maricopa County, CV2020-015495
 - On remand, found that Proposition 208 was unconstitutional as it raised too much money
 - Key issue - eliminated Voter Protection Act concerns that seemed to limit ADOR guidance on SBI
- *Arizona Free Enter. Club v. Hobbs*, April 21, 2022, Arizona Supreme Court, No. CV-21-03404-AP/EL
 - Barred referendum on portion of 2021's SB1828 from going to the ballot
 - Arizona's top rate for 2022 will be 2.98%, not 4.5%

Small Business Income Tax

SBI Tax History

- Created as a “not a modification” modification to Proposition 208 to avoid Voter Protection Act issues - results in a bunch of quirks
- Due to end of 2021 legislative session issues not integrated with the flat tax rates (in fact will likely be higher than those rates or equal to them in 2022 and later years)
- *Fann* and *Arizona Free Enter. Club* decisions likely renders this tax moot, even if not repealed, after 2021

SBI Terms

- Small business taxpayer (hint - may not have any ownership interest in a business)
- Arizona small business (hint - not necessarily a business)
- Arizona small business income (hint - may not have any business income in it)

Could Have Called It a Unicorn Income Tax (Just as Meaningful)...

THOMAS, ZOLLARS & LYNCH, LTD.



Photo by [Stephen Leonardi](#) on [Unsplash](#)

Arizona Small Business Income

- Based on what's on the following *federal* schedules
 - Schedule B, Interest and Ordinary Dividends
 - Schedule C, Profit or Loss from Business
 - Schedule E, Supplemental Income or Loss
 - Schedule F, Profit or Loss from Farming
 - Form 4797, Sale of Business Property
 - Form 4835, Farm Rental Income and Expenses

Arizona Small Business Income

- And some of what's on Schedule D
 - Gains/losses from the taxable disposition of an ownership interest other than in a publicly traded entity
 - Taxable disposition of capital assets used in connection with a trade or business
 - Law mentions goodwill and going concern values
 - ADOR has indicated that §1231 gains also count
 - Note it appears whatever actually goes into Schedule D is simply separated so that Form 140 and 140-SBI amounts combine back to equal Schedule D amounts - can create issues if have business gains and non-business capital losses

Arizona Small Business Taxable Income

- Arizona Small Business Income
 - Plus business Arizona additions found at ARS §43-1021
 - Less business Arizona subtractions found at ARS §43-1022
 - Form 140-SBI contains the list of what the Department of Revenue considers to be business related adds/subtracts
 - SB 1579, awaiting the Governor's signature as of Monday, will clarify any items that enter into the SBI calculation are removed from the regular tax calculation on Form 140

Election to Be Subject to SBI Tax

- Election made by subtracting SBI on Form 140 and filing Form 140-SBI with Form 140
- Must be elected on return filed by the original due date (including extensions) for the Arizona income tax return
- Late returns cannot make the election nor can it be elected on an amended return filed after the due date (including extensions)

SBI Tax

- Rate is 3.5% for 2021 (and too high in later years most likely)
- Estimated taxes did not apply for 2021 (and we'll see they got eliminated for 2022)
- Credit for taxes paid to another state will be claimed here if other state tax is imposed on Arizona Small Business Income (other items would be on Form 140)
- Credits - only business credits count here, but unused portion can be carried to Form 140 (though it doesn't go the other way)

First FAQ Published on March 22

- FAQ Published by the Department of Revenue
- Answers some key questions about the Small Business Income Tax including
 - How to file for the SBI
 - What about overpayment on Form 140 and underpayment on Form 140-SBI?
 - Does Arizona recognize the superseded return concept here?
- Many of the answers likely influenced by removal of Voter Protection Act concerns due to *Fann* decision

Arizona Department of Revenue

Small Business Income Frequently Asked Questions

March 2022

www.azdor.gov



Q: What is the Arizona Small Business Income tax?

A: Arizona's small business income tax allows individual taxpayers to elect to have their Arizona small business gross income removed from their regular individual income tax return and taxed on a separate Arizona small business income tax return.

Q: What is small business income comprised of?

A: "Arizona small business gross income" of a resident taxpayer:

Means the sum of the amounts, whether positive or negative, that are included in a taxpayer's federal adjusted gross income for the taxable year, computed pursuant to the internal revenue code, and that are reported on the following schedules and forms or on equivalent successor schedules and forms designated by the internal revenue service:

in order to make the small business income election. A small business taxpayer means any individual taxpayer who reports on their federal income tax return any income that constitutes Arizona small business gross incomes as defined in A.R.S. § 43-1701.

Q: How does a taxpayer make the small business income tax election?

A: A taxpayer makes the small business income tax election by filing a timely Small Business Income Tax return along with their timely filed individual income tax form (Form 140, Form 140NR, or Form 140PY).

Q: When must the Small Business Income Tax election be made?

A: The small business income tax election must be made on a timely filed return including valid extensions. Elections

Revisions to FAQ Posted on April 15

- Removed question on SBI estimated taxes, and eliminated need to file SBI estimated tax payments in 2022 (combined the two)
- *Arizona Free Enter. Club* decision would effectively render the matter moot absent additional legislative active

Arizona Department of Revenue

Small Business Income Frequently Asked Questions

April 2022

www.azdor.gov



Q: What is the Arizona Small Business Income tax?

A: Arizona's small business income tax allows individual taxpayers to elect to have their Arizona small business gross income removed from their regular individual income tax return and taxed on a separate Arizona small business income tax return.

Q: What is small business income comprised of?

A: "Arizona small business gross income" of a resident taxpayer:

Means the sum of the amounts, whether positive or negative, that are included in a taxpayer's federal adjusted gross income for the taxable year, computed pursuant to the internal revenue code, and that are reported on the following

in order to make the small business income election. A small business taxpayer means any individual taxpayer who reports on their federal income tax return any income that constitutes Arizona small business gross incomes as defined in A.R.S. § 43-1701.

Q: How does a taxpayer make the small business income tax election?

A: A taxpayer makes the small business income tax election by filing a timely Small Business Income Tax return along with their timely filed individual income tax form (Form 140, Form 140NR, or Form 140PY).

Q: When must the Small Business Income Tax election be made?

Key SBI FAQ Guidance

- Do not need a business of any sort to make the SBI election
- Election must be made with a *timely filed* (including extensions) Arizona income tax return
- Only business related *Arizona* additions and subtractions are used in computing Arizona SBI
- Federal deductions not listed on the specified schedules (such as SEP contributions, SE health insurance, etc.) are not part of SBI

Key SBI FAQ Guidance

- Only business credits listed on Form 301-SBI can be applied against SBI tax
 - If have unused business credits, then carry them to Form 140
 - However, this does not apply in the opposite direction so most Arizona individual tax credits do not reduce the SBI tax
- Can only add a Form 140-SBI to previously filed Form 140 if time to file the original return (including valid extensions) has not expired, but can revoke via an amended return as long as the statute is open and both forms are appropriately amended

Key SBI FAQ Guidance

- Items that extended the Form 140 (Form 4868, Form 204) served to extend the Form 140-SBI
- Payment issues and netting of 140/140-SBI taxes due/refund
 - ADOR suggests paying online but, interestingly, does not mention having it go in with tax software
 - If overpayment on one return (almost certainly the Form 140) will pay entire balance due on other (again, likely the Form 140-SBI) no payment need be made
 - Have a number of issues if you try and get tax software to handle automatic payments

Arizona Form AZ-8879 SBI	E-file Signature Authorization - Small Business Income Tax Return (Forms 140-SBI, 140NR-SBI and 140PY-SBI)		2021
------------------------------------	---	--	-------------

Do not mail this form to the Arizona Department of Revenue. The ERO must retain this document a minimum of four years.

Your First Name and Initial	Last Name	Enter your SSN(s).	Your Social Security Number*
Your Spouse's First Name and Initial (if filed joint)	Last Name		Spouse's Social Security No.*

PART 1 – PURPOSE (If you complete this form, you must also complete Form AZ-8879)

***Do Not Truncate**

- To certify the truthfulness, correctness, and completeness of the taxpayer's electronic Small Business Income Tax return.
- To authorize the Electronic Return Originator (ERO) to affirm that the taxpayer wishes to use the taxpayer's electronic signature to the taxpayer's federal individual income tax return as the taxpayer's signature to the taxpayer's electronic Arizona Small Business Income tax return.

PART 2 – TAX RETURN INFORMATION

1 Arizona Small Business Taxable Income	<input type="text"/> 00
2 Balance of Tax	<input type="text"/> 00
Check box 3 or box 4:	
4 <input type="checkbox"/> REFUND: Enter the amount of refund	<input type="text"/> 00
5 <input type="checkbox"/> AMOUNT YOU OWE: Enter the amount owed	<input type="text"/> 00

PART 3 – FINANCIAL INSTITUTION INFORMATION

Must be present when requesting direct debit or deposit.	
<input type="checkbox"/>	Foreign Account Deposit/Debit: See instructions below.
TYPE OF ACCOUNT	
<input type="checkbox"/> Checking	<input type="checkbox"/> Savings
ROUTING NUMBER	
<input type="text"/>	
ACCOUNT NUMBER	
<input type="text"/>	
DIRECT DEBIT REQUEST DATE	
\$ <input type="text"/> .00	
DIRECT DEBIT PAYMENT AMOUNT	

Tax Software - What to Do?

- Carefully study exactly what your software does and, most importantly, doesn't do with regard to the SBI tax
- Does not appear any software is automatically netting as of now
- Also does not appear any software has an optimization calculation for the SBI
- May want to remove bank information from return to prevent unwanted surprise (the SBI balance being withdrawn without offset from Form 140 refund)

Federal Adjusted Gross Income SBI Items

Schedule B - Interest	\$ 9,500
Schedule B - Dividends	22,500
Schedule C	0
Schedule E	16,800
Schedule F	0
Form 4797	0
Applicable Capital Gains	0

Example from Manual Beginning on Page 14

		Form 140		Form 140 SBI
		No SBI Election	SBI Election	
12	Federal Adjusted Gross Income	350,000	350,000	48,800
13	Small Business Income Tax Subtraction	0	48,800	
14	Modified federal adjusted gross income	350,000	301,200	48,800
15	Non-Arizona Municipal Interest	12,000	0	12,000
16	Partnership income adjustment		0	0
17	Total federal depreciation		0	0
18	Other Additions to Income		0	
19	Subtotal	362,000	301,200	60,800
20	Total net capital gain or (loss)		0	
21	Total net-short term capital gain or (loss)		0	
22	Total net long-term capital gain or (loss)	0	0	0
24	Multiply line 23 by 25%	0	0	0
25	Net capital gain derived from investment in qualified small business		0	0
26	Recalculated Arizona depreciation		0	0
27	Partnership income adjustment		0	0
28	Interest on U.S. obligations	5,000	0	5,000
29a	Exclusion for federal, Arizona state or local pensions		0	0
29b	Exclusion for military retirement benefits		0	0
30	Social Security	32,500	32,500	0
31	Wages of Native Americans		0	0
32	Pay received for active duty pay in armed services		0	0
33	Net operating loss adjustment		0	0
34	Contributions to 529 or ABLE Accounts	7,500	7,500	0
35	Subtract lines 24 through 34 from line 19	317,000	261,200	55,800
36	Other Subtractions	0	0	

Example from Manual Beginning on Page 14

		Form 140		Form 140 SBI
		No SBI Election	SBI Election	
37	Subtract line 36 from line 35. Enter the difference	317,000	261,200	55,800
38	Age 65 or over		0	
39	Blind		0	
40	Other exemptions		0	
41	Qualifying parent or grandparent		0	
42	Arizona Adjusted Gross Income	317,000	261,200	55,800
43	Itemized or standard deduction	42,500	42,500	
44	Non-itemizers charitable		0	
45	Arizona taxable income	274,500	218,700	55,800
	Tax	10,106	7,779	1,953
49	Dependent tax credit		0	
50	Family tax credit		0	
51	Nonrefundable credits		0	0
52	Balance of tax	10,106	7,779	1,953
	Total with SBI election			9,732
	Tax savings (cost) with election			374
	Payments and withholding	10,200	10,200	2,421
	Tax due (refund)	(94)	(2,421)	(468)
	Actual Refund	(94)		(468)

Second Example from Manual Beginning on Page 17

Income	
Schedule C	380,000
Interest	9,500
Dividends	22,500
Schedule E	16,800
Social Security	32,500
Total income	461,300
Adjustments to income	
SEP	(55,000)
Self-employment tax	(13,942)
SE health insurance	(11,000)
Total adjustments	(79,942)
Adjusted gross income	381,358

Federal Adjusted Gross Income SBI Items

Schedule B - Interest	\$ 9,500
Schedule B - Dividends	22,500
Schedule C	380,000
Schedule E	16,800
Schedule F	0
Form 4797	0
Applicable Capital Gains	0
Total SBI in Federal AGI	428,800

Second Example from Manual Beginning on Page 17

THOMAS, ZOLLARS & LYNCH, LTD.

		Form 140		Form 140 SBI
		No SBI Election	SBI Election	
12	Federal Adjusted Gross Income	381,358	381,358	428,800
13	Small Business Income Tax Subtraction	0	428,800	
14	Modified federal adjusted gross income	381,358	(47,442)	428,800
15	Non-Arizona Municipal Interest	12,000	0	12,000
16	Partnership income adjustment		0	0
17	Total federal depreciation		0	0
18	Other Additions to Income		0	
19	Subtotal	393,358	(47,442)	440,800
20	Total net capital gain or (loss)		0	
21	Total net-short term capital gain or (loss)		0	
22	Total net long-term capital gain or (loss)	0	0	0
24	Multiply line 23 by 25%	0	0	0
25	Net capital gain derived from investment in qualified small business		0	0
26	Recalculated Arizona depreciation		0	0
27	Partnership income adjustment		0	0
28	Interest on U.S. obligations	5,000	0	5,000
29a	Exclusion for federal, Arizona state or local pensions		0	0
29b	Exclusion for military retirement benefits		0	0
30	Social Security	32,500	32,500	0

Second Example from Manual Beginning on Page 17

THOMAS, ZOLLARS & LYNCH, LTD.

		Form 140		Form 140 SBI
		No SBI Election	SBI Election	
31	Wages of Native Americans			0
32	Pay received for active duty pay in armed services			0
33	Net operating loss adjustment			0
34	Contributions to 529 or ABLE Accounts	7,500	7,500	0
35	Subtract lines 24 through 34 from line 19	348,358	(87,442)	435,800
36	Other Subtractions	0	0	
37	Subtract line 36 from line 35. Enter the difference	348,358	(87,442)	435,800
38	Age 65 or over			0
39	Blind			0
40	Other exemptions			0
41	Qualifying parent or grandparent			0
42	Arizona Adjusted Gross Income	348,358	(87,442)	435,800
43	Itemized or standard deduction	42,500	42,500	
44	Non-itemizers charitable			0
45	Arizona taxable income	305,858	(129,942)	435,800
	Tax	11,414	0	15,253
49	Dependent tax credit			0
50	Family tax credit			0
51	Nonrefundable credits			0
52	Balance of tax	11,414	0	15,253
	Total with SBI election			15,253
	Tax savings (cost) with election			(3,839)
	Payments and withholding	10,200	10,200	10,200
	Tax due (refund)	1,214	(10,200)	5,053
	Actual (Refund) Tax Due	1,214		5,053

Second Example from Manual Beginning on Page 17

THOMAS, ZOLLARS & LYNCH, LTD.

		Form 140		Form 140 SBI
		No SBI Election	SBI Election	
31	Wages of Native Americans		0	0
32	Pay received for active duty pay in armed services		0	0
33	Net operating loss adjustment		0	0
34	Contributions to 529 or ABLE Accounts	7,500	7,500	0
35	Subtract lines 24 through 34 from line 19	348,358	(87,442)	435,800
36	Other Subtractions	0	0	
37	Subtract line 36 from line 35. Enter the difference	348,358	(87,442)	435,800

Tax on \$129,942 at 3.5% is \$4,548

42	Arizona Adjusted Gross Income	348,358	(87,442)	435,800
43	Itemized or standard deduction	42,500	42,500	
44	Non-itemizers charitable		0	
45	Arizona taxable income	305,858	(129,942)	435,800
	Tax	11,414	0	15,253
49	Dependent tax credit		0	
50	Family tax credit		0	
51	Nonrefundable credits		0	0
52	Balance of tax	11,414	0	15,253
	Total with SBI election			15,253
	Tax savings (cost) with election			(3,839)
	Payments and withholding	10,200	10,200	10,200
	Tax due (refund)	1,214	(10,200)	5,053
	Actual (Refund) Tax Due	1,214		5,053

Impact of Arizona Free Enter. Club on SBI

- Top rate for Arizona tax in 2022 will be 2.98% for a graduated tax with numerous deductions
- Flat rate for SBI is 3.0% with very limited deduction and restrictions on using credits
- No reason exists to elect to file Form 140-SBI for 2022 unless the taxpayer just wants to pay more in taxes

Arizona Passthrough Entity Tax

Biggest Adviser Passthrough Entity Mistake Made Every Time a State Has Adopted One

- This is a federal not a state tax planning tool, even though it requires state law to work
- The point is to get a full deduction for state taxes above the line and completely avoid the \$10,000 cap
- Make sure you first meet all federal requirements for the benefit and only, understanding those constraints, look at what you might do for Arizona
- I've seen this fouled up at least once in discussion threads in every state I've tracked

Key Rule to Avoid a Major Foul Up

All taxes must be paid by December 31, 2022 to get a 2022 tax benefit from this tax. Do not be fooled or distracted by the fact ADOR will allow you to delay paying 75% of the tax until after December 31, 2022 and you will still get the 2022 credit on the Arizona return.

IRS Notice 2020-75

- Issued in November of 2020
- IRS surrendered on SALT workarounds with passthrough tax originally enacted in Connecticut
- *If you want the actual benefit of the PTET you have to be sure you pay attention to this ruling - especially for the timing of making the PTET payments*

IRS Notice 2020-75

- Allows a deduction in computing non-separately stated income for *specified income tax payments*
 - Only works for S corporations and tax partnerships
 - Must be a *direct imposition of income tax on the entity* - so it's not a state tax withholding or payment of the equity holder
 - For partnerships - consider modifying partnership agreement to provide for special allocation to deal with this tax
 - S corporations - "Houston, we have a problem" if not all S shareholders subject to tax or subject to tax on same amount of income

Description	Mary	Wayne	Dean	Wallace	Total
Resident?	Yes	Yes	No	No	
Total Share of Income	100,000	100,000	100,000	100,000	400,000
Share of Arizona Source Income	50,000	50,000	50,000	50,000	200,000
Amount Subject to PTET	100,000	100,000	50,000	50,000	300,000
PTET Tax Paid by Entity					13,500
Federal K-1	Mary	Wayne	Dean	Wallace	Total
Income Before PTET	100,000	100,000	100,000	100,000	400,000
PTET Deduction	(3,375)	(3,375)	(3,375)	(3,375)	(13,500)
Income to Schedule E Form 1040	96,625	96,625	96,625	96,625	386,500
Arizona PTET Credit per Shareholder	4,500	4,500	2,250	2,250	13,500
Benefit in excess of (less than) reduction	1,125	1,125	(1,125)	(1,125)	0

IRS Notice 2020-75

- Not taken into account for the TCJA SALT limitation
- Only allow for amounts *paid* during the tax year on this tax (so can't claim a deduction for accrued taxes not paid by year end)
 - True even though will still get the credit on the 2022 Arizona income tax return
 - Remember the deduction we are after is governed by federal law, not Arizona law

Arizona Passthrough Entity Tax (PTET)

- Effective for tax year 2022 and is elective
- Applies at 4.5% to taxable income applicable to covered partners/shareholders (residents all income, nonresidents Arizona source)
- Individuals receive tax credit against SBI and regular tax for amount allocable to their taxable income of the entity
- Credit is nonrefundable and can be carried forward for 5 years (if not used by then, it's lost) (*California has the same rule, but other states generally do not*)

PTET Election

- Partners or shareholders must consent to be taxed at the entity level and
- Election must be made on or before the due date of partnership/S corporation return including extensions
 - Can't elect this on an amended return filed after the due date (including extensions) of the original return
 - However, seems likely ADOR will allow it to be made on a superseded return (that is, an amendment filed before the due date, including extensions actually received)

PTET Election

- Election does not apply to:
 - Owners who aren't individuals, estate or trusts and
 - Other owners who opt out of the election (reverse of California's *opt in* rule)

Opt Out Provisions

- Entity must notify eligible owners of their right to opt-out of the planned election
- Must allow 60 days for owners to make this election
 - Note that this means a decision must be made more than 60 days before the due date (including extensions) on going down this path
 - So mid-January is the deadline for a return not going on extension, and mid-July is the “drop dead” date for sending out notices
- Major drafting error in original bill - fix for this is also in SB 1579 - a waiver of opt-out would be an opt-out (yep, that big of a drafting error)

Add Back and Other States PTETs

- Must add back owner's share of PTET on Form 140
- Other states' PTET equivalents
 - Will get a credit for taxes paid to the other state for these amounts but
 - Must add the amount back to income
 - Not clear what Arizona will do about "Wisconsin-like" states that provide a subtraction from income but not a credit - is that a similar tax?

Impact of the *Fann* Decision on PTET

- PTET rate is more than 150% of top marginal tax rate in Arizona
- Fact it is not refundable means a real risk someone will pay *more* Arizona tax with this election unless they have substantial non-PTET income

Example PTET - Benefits and Burdens

	Total	Partner's Share
Taxable income before PTET	\$ 200,000	\$ 100,000
PTET (4.5%)	9,000	4,500
Income reported on Schedule E	191,000	95,500
Potential federal tax savings (37%)		1,665

Example PTET - Benefits and Burdens

THOMAS, ZOLLARS & LYNCH, LTD.

12	Federal Adjusted Gross Income	190,000
13	Small Business Income Tax Subtraction	0
14	Modified federal adjusted gross income	190,000
15	Non-Arizona Municipal Interest	
16	Partnership income adjustment	
17	Total federal depreciation	
18	PTET paid at entity level	4,500
19	Subtotal	194,500
20	Total net capital gain or (loss)	
21	Total net-short term capital gain or (loss)	
22	Total net long-term capital gain or (loss)	0
24	Multiply line 23 by 25%	0
25	Net capital gain derived from investment in qualified small business	
26	Recalculated Arizona depreciation	
27	Partnership income adjustment	
28	Interest on U.S. obligations	

Example PTET - Benefits and Burdens

29a	Exclusion for federal, Arizona state or local pensions	
29b	Exclusion for military retirement benefits	
30	Social Security	
31	Wages of Native Americans	
32	Pay received for active duty pay in armed services	
33	Net operating loss adjustment	
34	Contributions to 529 or ABLE Accounts	
35	Subtract lines 24 through 34 from line 19	194,500
36	Other Subtractions	
37	Subtract line 36 from line 35. Enter the difference	194,500
38	Age 65 or over	
39	Blind	
40	Other exemptions	
41	Qualifying parent or grandparent	
42	Arizona Adjusted Gross Income	194,500

Example PTET - Benefits and Burdens

43	Itemized or standard deduction	58,000
44	Non-itemizers charitable	
45	Arizona taxable income	136,500
	Tax	3,833
49	Dependent tax credit	
50	Family tax credit	
	PTET Credit	3,833
51	Nonrefundable credits	
52	Balance of tax	0
	Payments and withholding	3,900
	Tax due (refund)	(3,900)
	PTET credit available for carryover	667

Example PTET - Benefits and Burdens

43	Itemized or standard deduction	58,000
44	Non-itemizers charitable	
45	Arizona taxable income	136,500
	Tax	3,833
49	Dependent tax credit	
50	Family tax credit	
	PTET Credit	3,833
51	Nonrefundable credits	
52	Balance of tax	0
	Payments and withholding	3,900
	Tax due (refund)	(3,900)
	PTET credit available for carryover	667

Problem: What if the client wants to maximize the various Arizona charitable credits?

Estimated Taxes and ADOR Guidance

- Estimated tax payments are required for the PTET (even though election decision may be made as late as the latter half of 2023)
- Arizona Department of Revenue announced on March 2, 2022 that no estimates will be required until September (“Arizona Estimated Tax Notice for Partnerships and S Corporations Making the Pass-Through Entity Tax Election,” *Arizona Department of Revenue website*, March 2, 2022)
- ADOR not ready to accept estimates and needs time to issue guidance on the tax

Other State Credit Problems

- California problem
 - Backwards credits don't work well with these credits (credit may wipe out benefit of reduced rate provided by getting credit for Arizona taxes paid on the income)
 - Especially true when credit is nonrefundable - a major problem if this is a one-time income event
 - Arizona is a similar problem for California residents
- Not all states will give a credit for Arizona's PTET
- Will need to carefully consider Arizona's opt-out (same for California's opt-in)

Legislative Changes to SBI and PTET?

Problems and Quirks

- SBI rates are greater than maximum regular tax rates until eventually becoming the same
 - But still have very limited deductions
 - We have a tax “bridge to nowhere” in Arizona law that can only cost money for anyone dumb enough to elect to use it
- PTET Issues
 - Rate is well above maximum rate and not scheduled to come down
 - Lack of refundability means you can have time value of money issues arise (at least)
 - Limited carryover periods means you may end up paying more tax to Arizona (a voluntary tax increase)

The Legislature

- Legislature is aware of the issues
- However, with focus on getting the budget passed, it seems unlikely we'll see any change for 2022 returns (but unlikely doesn't mean it won't happen)
- Possible changes in 2023 (or maybe 2022 if we get lucky)
 - Repeal of SBI (doesn't seem they really want a lower rate for this odd basket of income, that was just an accident of events that occurred at the end of the 2021 session)
 - Lower the rate on the PTET to be in line with top Arizona rate

Questions?

