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SUBJECT Federal Deduction of Business Taxes
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SUPPORT

The Business Council supports this legislation that will amend the state’s “pass through entity tax” (PTET) to make it applicable to all income of Sub-S corporations with only New York resident shareholders. It will provide significant tax relief to New York businesses, especially smaller businesses, with zero cost to New York State. We urge inclusion of this legislation in the final FY 2023 state budget.

We greatly appreciate last year’s approval of a “pass through entity tax” that provided a mechanism to restore federal deductibility of state taxes on business income paid under the personal income tax, such as for Sub-S corporations, partnerships and LLCs.

Due to technical concerns regarding the intersection of federal and state tax treatment of pass-through entities, last year’s PTET legislation included limitations on the treatment of sub-S corporation income. Specifically, for Sub-S corporations, it only allowed inclusion in the PTET that income sourced to New York State, a limitation not applied to other categories of taxpayers.

This legislation provides a compliance option for Sub-S corporations to include in their PTET calculate all income, including New York sourced income and income earned outside of New York State. This gives comparable treatment to Sub-S corporations as provided to other categories of business and makes New York’s PTET statute more comparable to that adopted by nineteen other states, providing a more level playing field.

Given that this legislation will provide federal tax relief to New York small businesses with no impact on the state budget, we believe it makes sense to adopt this amendment as part of the new state budget.