

November 10, 2020

Notice 2020-75: The SALT Cap Does Not Apply to Income Tax Payments Made by Partnerships and S Corporations (in contrast to actual payments made by a partner or S corporation shareholder)

In Notice [2020-75](#), the Treasury/IRS announced that proposed regulations will be issued to provide certainty that income tax payments made by partnerships and S corporations (as opposed to flowing through the tax to, and with payment then made by, each actual partner or S corp shareholder) are deductible without being subject to the SALT cap that was imposed by the 2017 Tax Cuts and Jobs Act.

The Notice explicitly states that this is true regardless of (i) whether the state gives a full or partial tax credit to a corresponding partner or S corp shareholder and (ii) whether the state law to tax the actual partnership or S corporation applies mandatorily or by election.

The applicability date is for (i) income tax payments made on or after November 9, 2020 and (ii) also those made before then but for a taxable year ending after December 31, 2017, as long as the corresponding state law was enacted before November 9, 2020.