



HB 149 S-Corp election to fund Georgia tax liability at the entity level

What is HB 149?

HB 149 was recently passed in the State legislature as a work-around for S-Corp electing Pass-through entities to help minimize the negative impact of the SALT cap restriction. It also provided a means for S-Corps who elect to fund their Georgia tax liability through the entity to participate in the Apogee tax credit program as if they were a C-Corp, allowing the S-Corp to contribute up to 75% of its Georgia tax liability to Apogee.

When does this go into effect?

January 1, 2022

How does electing to fund my GA tax liability through my entity impact my personal tax return?

By electing to fund the Georgia tax liability generated by the profits of the entity rather than through the personal tax return, the entity absorbs the full balance of the Georgia tax liability burden. This, in turn, not only reduces the amount of GA tax liability owed to the State on the personal return, it also reduces the Federal taxable income being passed down to the shareholders of the business, resulting in an overall Federal tax savings at the personal level for each shareholder.

How does this impact my Apogee contribution?

If electing to fund the Georgia tax liability at the entity level, the entity itself has the opportunity to participate as if it is a C-Corp in the tax credit program which results in potentially an increase in the maximum amount that can be contributed. The entity can contribute up to 75% of its Georgia tax liability and receive a dollar-for-dollar Georgia tax credit against the Georgia tax liability generated from the entity's taxable income. Additionally, the reduction in the Federal adjusted gross income from making the Entity tax payment election, creates a significant tax benefit for the shareholder(s).

Words are great but how does this work from a number standpoint?

	S-Corp electing to fund GA tax liability	Election not made
GA taxable income	\$1,000,000	\$1,000,000
GA tax rate	5.75%	5.75%
GA tax liability	\$57,500	\$57,500
Fed tax income	\$1,000,000	\$1,000,000
Apogee credit (75% max)	\$43,125	\$0
GA tax deduction	\$14,375	\$0
Fed taxable income after deduction	\$942,500	\$1,000,000
Shareholder Assumed Fed tax rate	37%	37%
Shareholder Fed tax liability	\$348,725	\$370,000
Shareholder Net tax savings	\$21,275	\$0
Shareholder GA tax liability	\$0	\$57,500

Please consult your tax advisor for further clarity