

# New Jersey's Pass-Through Business Alternative Income Tax (PTBAIT)

FTA Revenue Estimation and Tax Research Conference  
October 25, 2022



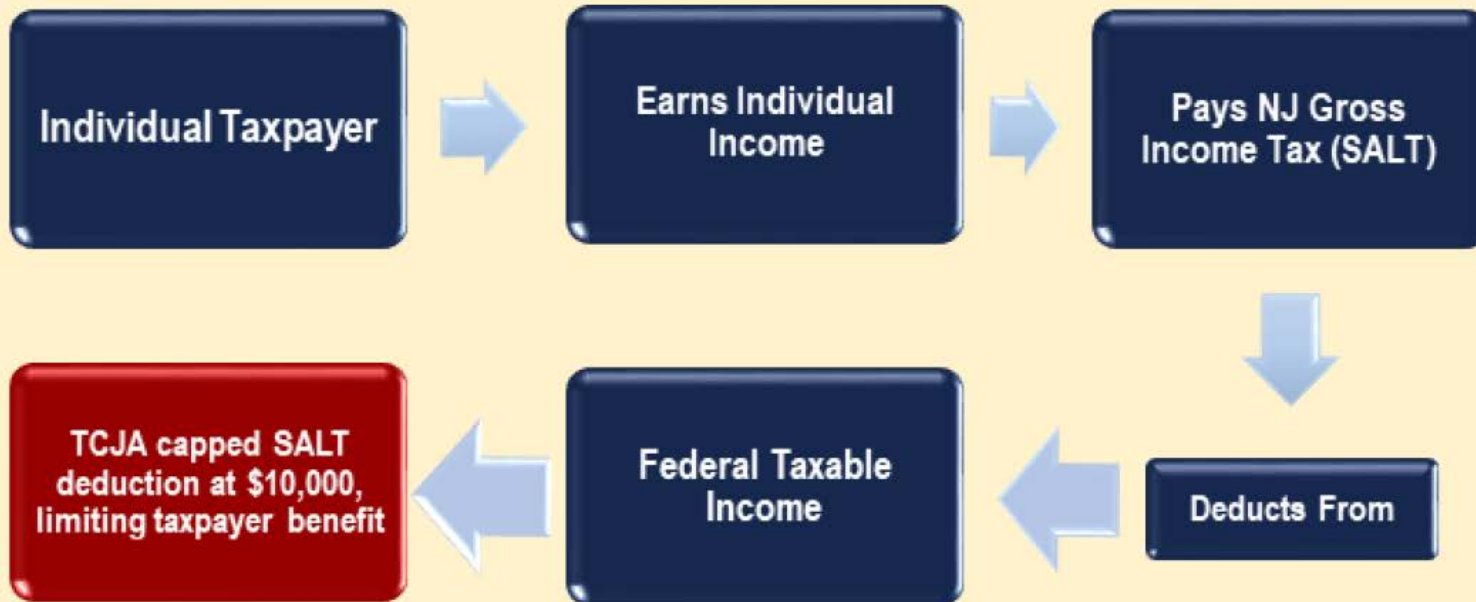
# PTBAIT Background

- Enacted in January 2020, P.L.2019, c.320 (N.J.S.A.54A:12-1 et al.)
- In effect for tax years starting in 2020
- Payment of PTBAIT is *optional*. Election (or revocation) must be made on or before the due date of the entity's return
- Tax is calibrated to be revenue neutral
- Individuals get a Gross Income Tax (GIT) or Corporation Business Tax (CBT) credit equal to their distributive share of the PTBAIT payment
- Estimated payments due April 15, June 15, September 15, January 15 for calendar year filers
- Final Payments due March 15 for calendar year filers

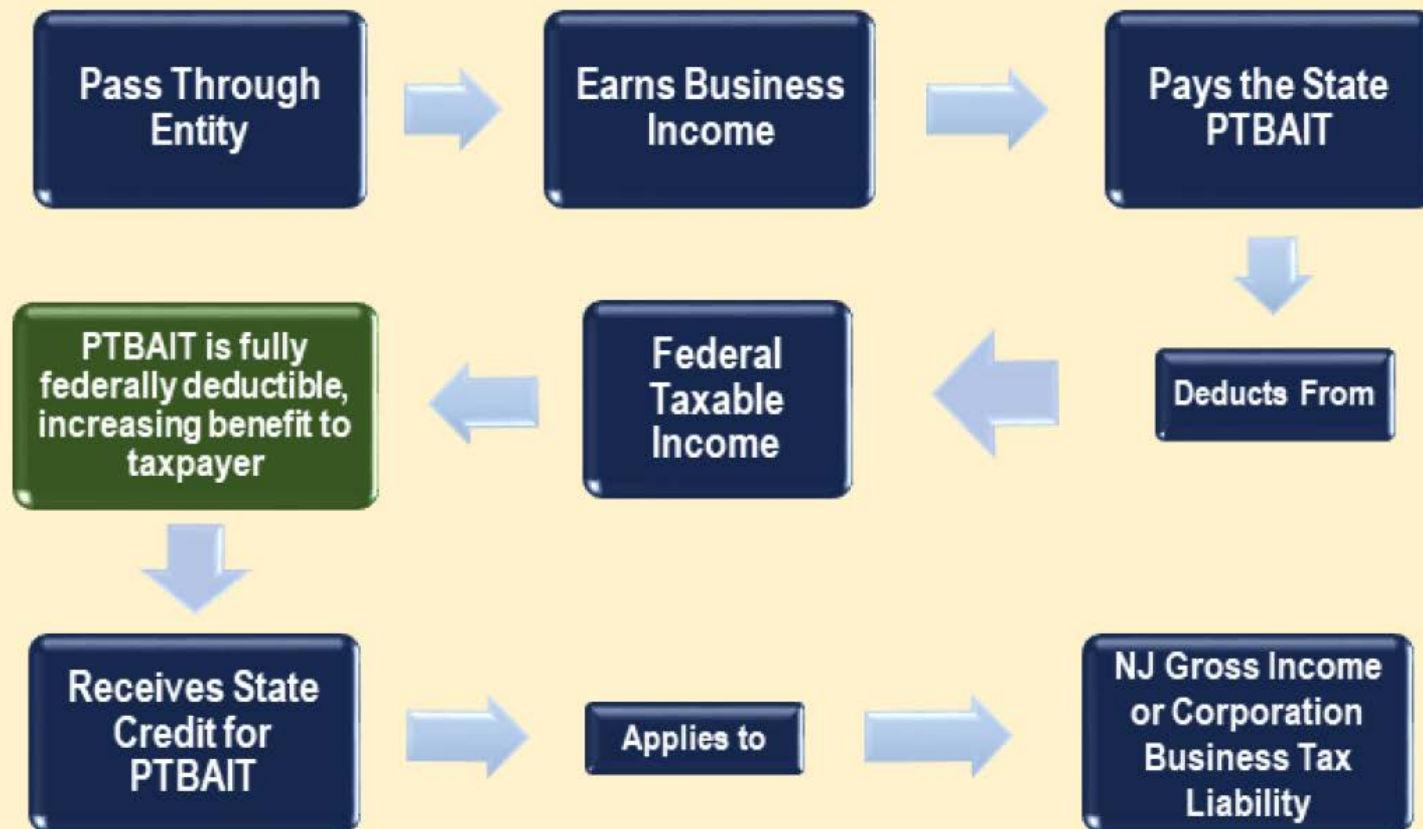


## How the Benefit Works for New Jerseyans

The Issue: Individuals were once allowed to deduct all of their SALT payments from their taxable federal income. The TCJA capped that amount at \$10,000.



**The Solution:** Because TCJA did not cap the deductibility of business taxes, PTBAIT allows members of pass-through entities to continue deducting their state income taxes from their federal taxable income.



# PTBAIT Tax Rates

PTBAIT Tax Rates		
Sum of Each Member's Share of <u>Distributive Proceeds</u>		
Over	But not over	Rate
\$0	\$250,000	5.675%
\$250,000	\$1,000,000	6.52%
Over \$1,000,000		10.9%

Income Tax Rates for Single Filers		
<u>Taxable Income</u>		
Over	But not over	Rate
\$0	\$20,000	1.40%
\$20,000	\$35,000	1.75%
\$35,000	\$40,000	3.50%
\$40,000	\$75,000	5.525%
\$75,000	\$500,000	6.37%
\$500,000	\$1,000,000	8.97%
Over \$1,000,000		10.75%



# Forecasting Challenges

- PTBAIT Revenues – no prior information at the outset
- PTBAIT Refunds/Revocations
- GIT/CBT Credits – difficult to predict the split; difficult to track early on due to extended filings
- No requirement to make quarterly payments in first year of participation (safe harbor)
- Election to be made by time of filing deadline (March 15)
- Postponed payment deadlines at end of FY 2021 and FY 2022
- Possible impact on GIT estimated payments



# PTBAIT and Estimated GIT Payments

**If a pass-through entity elects to pay the PTBAIT, should its resident members with a Gross Income Tax filing obligation cease making their NJ-1040-ES estimated tax payments to avoid a double payment of their New Jersey Income Tax?**

For Tax Years 2020 and 2021, the PTBAIT is only calculated on income derived from or connected with sources from New Jersey. For tax years beginning on or after January 1, 2022, the PTBAIT for pass-through entities taxed as a partnership is calculated on all income, not just New Jersey-sourced income, if the owner is a New Jersey resident individual, estate, or trust. The PTBAIT for pass-through entities taxed as an S corporation will continue to be based solely on New Jersey-sourced income.

For Tax Years 2020 and 2021, if the resident member has income from jurisdictions that do not have an Income Tax, they may be underpaid if they cease making their NJ-1040-ES estimated tax payments. For tax years beginning on or after January 1, 2022, a resident member of a pass-through entity taxed as an S corporation may also be underpaid. In addition, pass-through entity owners may still need to make NJ-1040-ES estimated tax payments to cover the tax on other income they receive, aside from pass-through entity income, such as personal investment income or retirement distribution income. Finally, depending on the facts, tax rate disparities may occur between the PTBAIT rate and the gross income tax rate applicable at the individual level.

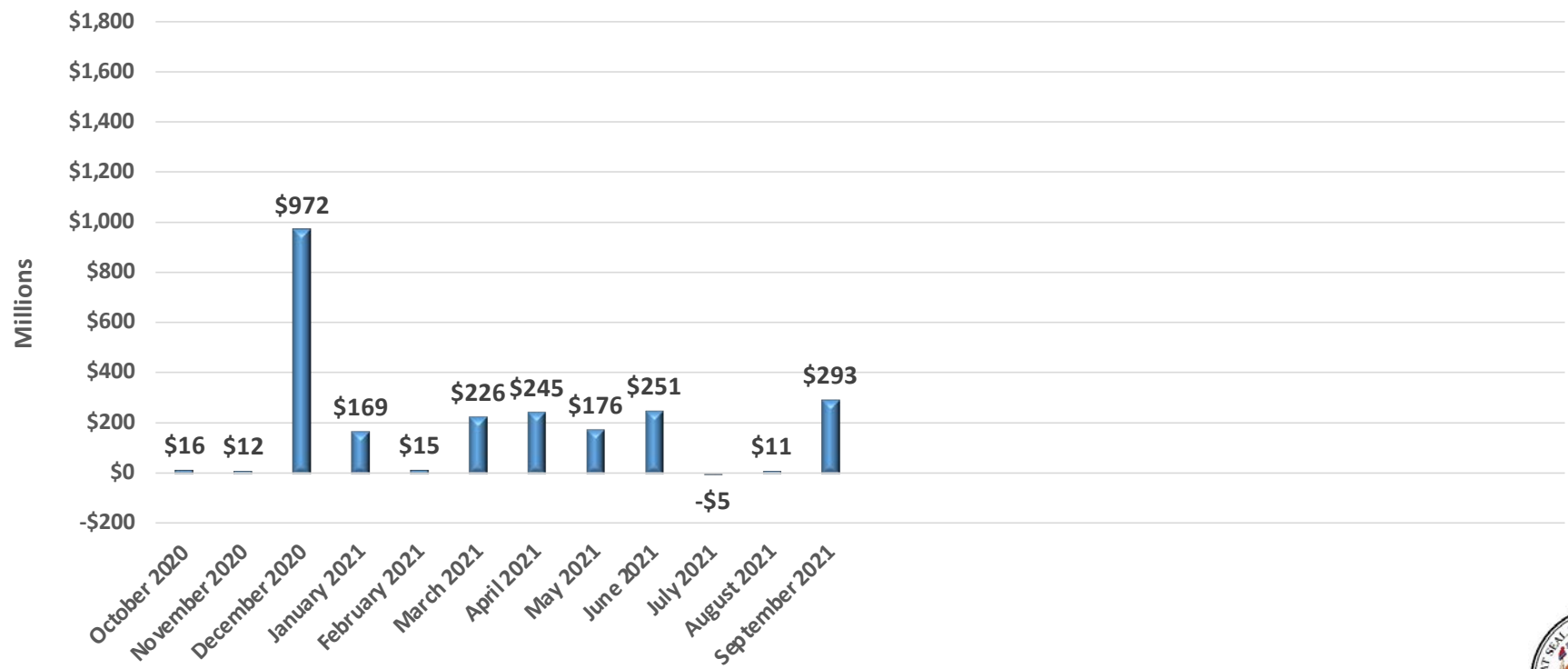
*Source: NJ Division of Taxation.*

# PTBAIT Collections History

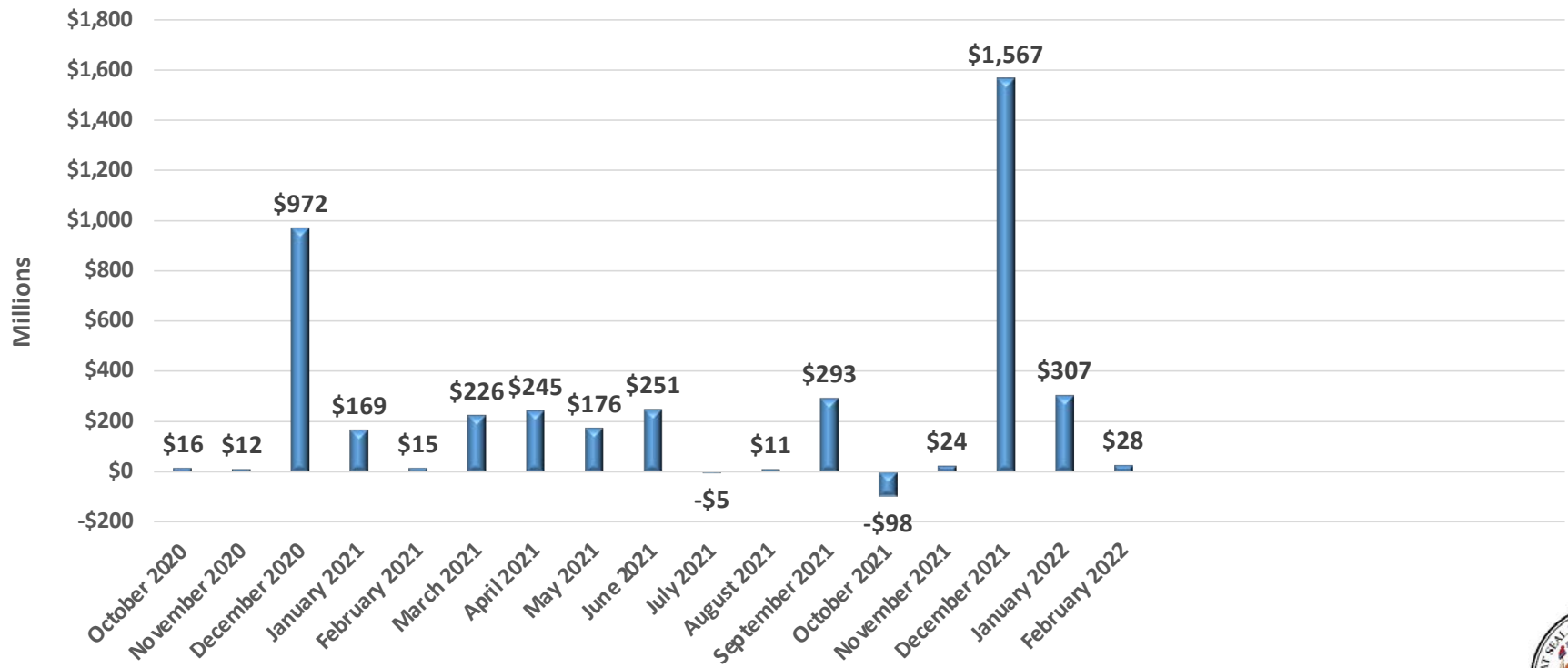




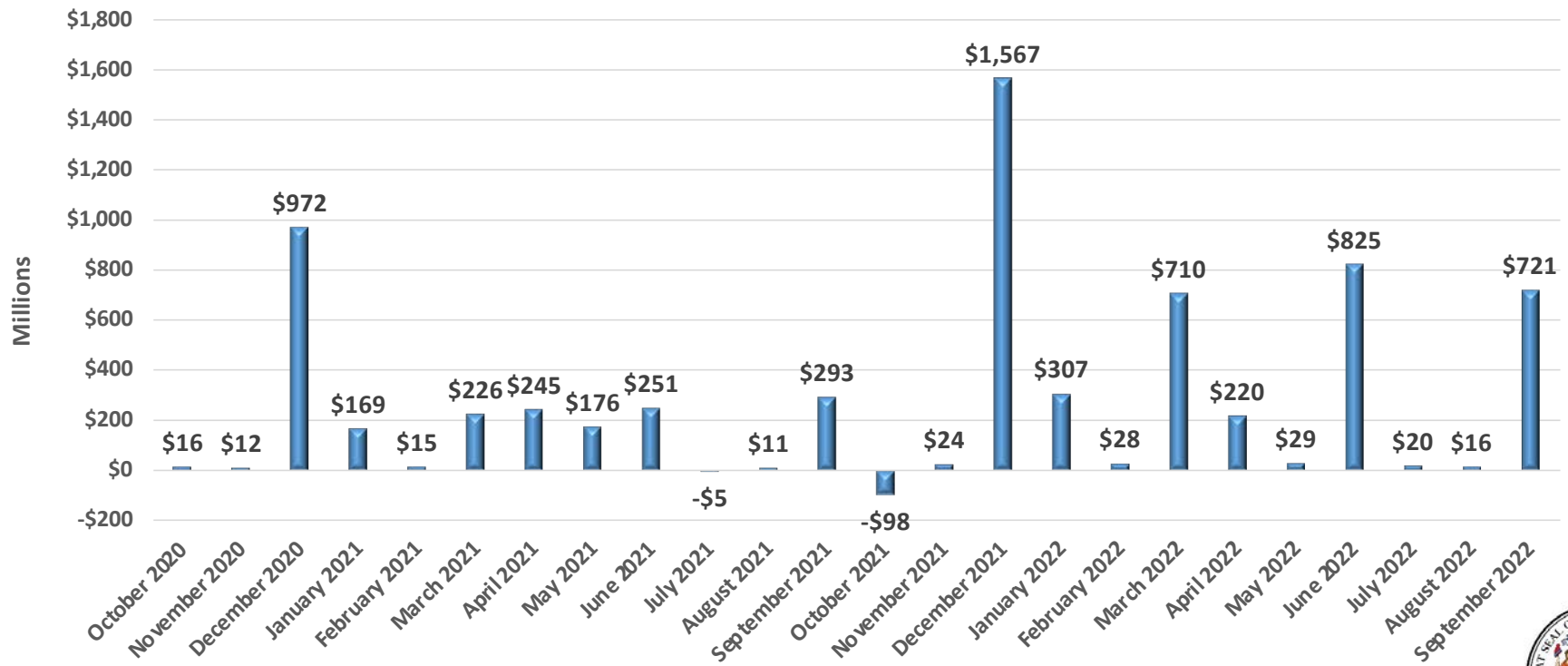
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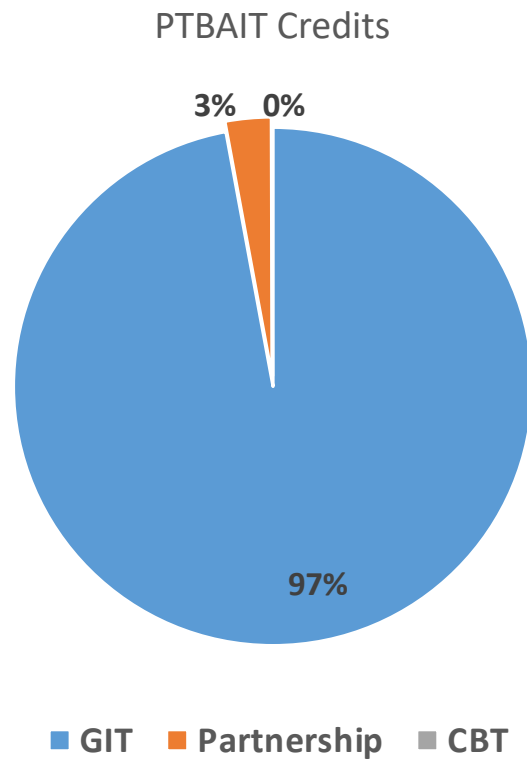


# PTBAIT Elections, Payments and Credit Claims

Tax Year	# of elections	PTBAIT Reported Liability (PTE-100)	PTBAIT Payments	Refunds and Other Adjustments ***	# of GIT/CBT credits	\$ of GIT/CBT credits
TY 2020	24,679	\$1.4 billion	\$1.8 billion	\$383 million	28,782	\$1.4 billion
TY 2021*	34,834	\$2.9 billion	\$3.8 billion	\$619 million	32,915	\$1.4 billion
TY 2022**	24,409	N/A	\$3.0 billion	N/A	N/A	N/A
<p>* TY 2021 PTBAIT payment and credit totals to date. Extended filer returns and credit activity pending in October 2022.</p> <p>** TY 2022 estimated payments to date.</p> <p>*** Other adjustments include dishonored checks, credits forward and payments moved to other accounts.</p>						



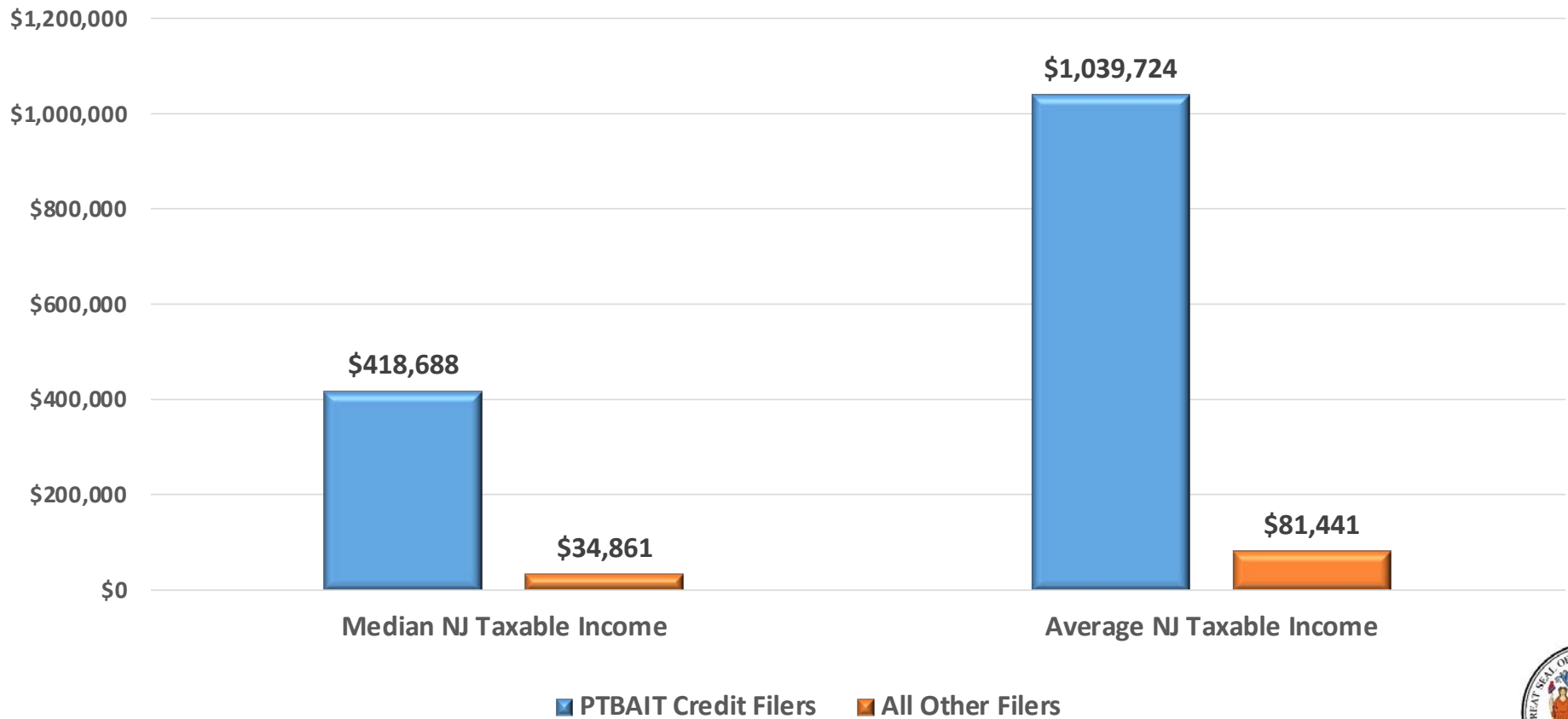
# PTBAIT Credit Utilization by Tax



**TY 2020: \$1.4 billion**



## NJ Taxable Income of GIT Filers, TY 2020 PTBAIT Credit Filers vs. All Other Filers



# Recent Changes/Future Questions

- Non-NJ-source income now includable for partnerships (but not S-Corps)
- PTBAIT does not have to be paid on behalf of non-residents that expect to receive a full refund due to the PTBAIT credit
- What happens when the SALT cap expires?
  - NJ currently has no sunset provision for PTBAIT

