



MULTISTATE INCOME/FRANCHISE TAX

Ohio enacts pass-through entity tax election Tax Alert

Overview

On June 14, 2022, the Ohio governor signed [Senate Bill 246](#) (S.B. 246) into law. Under the legislation, qualifying pass-through entities may make an annual election to pay an entity level state tax for taxable years beginning on or after January 1, 2022.

This Tax Alert summarizes some of the provisions of the Ohio pass-through entity tax election.

Pass-through entity tax election

- Effective for taxable years beginning on or after January 1, 2022.
- Qualifying pass-through entities include S corporations, partnerships, and limited liability companies that are not disregarded entities.
- The election is an annual election made on a form prescribed by the tax commissioner and shall be made on or before the deadline to file the electing pass-through entity's Ohio tax return, which is the 15th day of April following the end of the entity's taxable year that ends in the preceding calendar year.
- The election applies only to the taxable year for which it is made and, once made, is irrevocable for that year.

Pass-through entity tax calculation

- The entity level tax is imposed on the electing pass-through entity's qualifying taxable income which is the sum of the portion of an electing pass-through entity's income that is business income apportioned to Ohio and the portion of income that is nonbusiness income allocated to Ohio.
- The tax rate for the pass-through entity level tax is 5% for the taxable year beginning in 2022. For taxable years beginning in 2023 and thereafter, the tax rate is equal to the Ohio individual business income

deduction tax rate applicable for that taxable year, which is currently 3%.

- The entity level tax is calculated without regard to any deductions or credits otherwise permitted to be claimed by the owners of the electing pass-through entity in computing the owner's Ohio income tax liability.

Pass-through entity tax credit

- Owners of an electing pass-through entity are allowed to claim a refundable credit against the owner's Ohio income tax liability equal to the owner's proportionate share of the entity level tax paid by the electing pass-through entity.
- A nonresident individual or trust whose only source of income from Ohio is income from one or more electing pass-through entities is not required to file an annual Ohio income tax return.

Credit for taxes paid to other states

- The legislation does not impact the resident credit available for income taxes paid to another state under Ohio Revised Code section 5747.05(B). Resident owners of pass-through entities cannot claim a credit for pass-through entity taxes paid to another state imposed on the pass-through entity's income.

Other considerations

- Electing pass-through entities are required to make quarterly estimated tax payments.
- The withholding tax under Ohio Revised Code section 5747.41 and entity tax under Ohio Revised Code section 5733.41 do not apply to electing pass-through entities.
- If an electing pass-through entity fails to make payments by the dates prescribed, a penalty may be imposed, not exceeding the sum of 10% of the payment due plus twice the applicable interest due.

Get in touch

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Have a question relating to this or any other pass-through entity tax regime? Reach out to one of our national multistate pass-through entity tax specialists.

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