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Missouri Guidance on Pass-Through Entity Tax

<https://dor.mo.gov/faq/taxation/business/entity-tax.html> (visited 7/29/23)

The below FAQs are for informational purposes only, are not intended to state a policy of DOR, and do not themselves establish any taxpayer requirements. DOR continues to work on the implementation of the SALT Parity Act (Section 143.436, RSMo). In the future, these FAQs will be updated with further information.

About the Missouri pass-through entity tax:

Beginning with tax years ending on or after December 31, 2022, a S corporation or partnership (pass-through entity) can annually elect to become an affected business entity required to pay the pass-through entity tax. Qualifying members of an electing pass-through entity are eligible for a credit equal to the member's pro rata share of the pass-through entity tax paid. (Section 143.436, RSMo)

Who is allowed to file a Form MO-PTE and become subject to the pass-through entity tax?

Only a partnership or an S corporation, as defined in [Section 143.436, RSMo](#), may elect to become subject to the pass-through entity tax. See below.

Partnership: The same meaning as provided in 26 U.S.C. Section 7701(a). The term "partnership" shall include a limited liability company that is treated as a partnership for federal income tax purposes.

S corporation: A corporation or limited liability company that is treated as an S corporation for federal income tax purposes

How do I elect to become an affected business entity that is subject to the pass-through entity tax?

The S corporation or partnership will elect to become an affected business entity by making a selection on a timely filed [Form MO-PTE](#).

Will an election to become an affected business entity be revocable?

No. If an election to become an affected business entity has been made for a tax year, the election will be irrevocable for that tax year.

How will I file a pass-through entity return?

The [Form MO-PTE](#) will be used to report the S corporation or partnership's income subject to the pass-through entity tax.

If a partnership or S corporation elects to file a MO-PTE return, should it still file a MO-1065 or MO-1120S?

The filing of the MO-PTE does not substitute for a partnership filing its MO-1065 or an S corporation filing its MO-1120S. A partnership that has a partner that is a Missouri resident, or that has any

income derived from Missouri sources, generally must file a Form MO-1065, regardless of whether it files a Form MO-PTE. The Department generally directs S corporations that have a shareholder that is a Missouri resident, or any income derived from Missouri sources to file a Form MO-1120S, regardless of whether it files a Form MO-PTE.

The election of a partnership or S corporation to become subject to the pass-through entity tax does not relieve a partner or shareholder from making his, her, or its applicable partnership or S corporation adjustments, including any applicable addition modification due to state and local income taxes deducted on federal Form 1065 or Form 1120S.

When will the MO-PTE return be due?

The [MO-PTE](#) return will be due by the fifteenth day of the fourth month following the end of the S corporation's or partnership's tax year, unless a filing extension is approved.

What is the tax rate for pass-through entity tax?

For the tax year ending December 31, 2022, the tax rate is 5.3%. The pass-through entity tax rate is equal to the highest rate used to determine individual income tax liability.

How will members claim their share of the tax credit paid by the pass-through entity?

The member will attach [Form MO-TC](#) to their Missouri return. The member will include a copy of all reports provided to the member by any pass-through entity for that tax year under [Section 143.436.7, RSMo](#).

Is a pass-through entity required to make estimated tax payments?

No. A pass-through entity is not required to make estimated tax payments of the pass-through entity tax.

How can a pass-through entity make anticipated pass-through entity tax payments?

A pass-through entity is not required to make estimated tax payments of the pass-through entity tax. If the pass-through entity would prefer to make an early payment of its anticipated tax liability, it can submit its payment on the Form [MO-PTEAP](#).

Can I submit my payment electronically?

No. You must submit your payment with Form [MO-PTEV](#) or [MO-PTEAP](#) with a check, money order, or cashier's check to PO Box 3080, Jefferson City, MO 65105-3080.

Can an out-of-state partnership or S corporation that does business in Missouri elect to become an affected business entity that will be required to pay the pass-through entity tax?

Yes.

I am a nonresident individual who is a member of a pass-through entity electing to become an affected business entity for the tax year. The only income I received from Missouri for that tax year is from this pass-through entity. Will I be required to file a Missouri income tax return for that tax year?

No. (See [Section 143.436.6, RSMo](#))

I am a resident individual who is a member of a partnership or S corporation that derived income from another state. The partnership or S corporation paid a pass-through entity tax to the other state on that income. That other state's pass-through entity tax is substantially similar to Missouri's pass-through entity tax. Will I receive a credit for my pro rata share of the pass-through entity tax paid to the other state?

Yes. Under Missouri statute ([Section 143.436.9, RSMo](#)) the member is allowed a credit for the pro rata share of such a tax paid to another state as long as the tax in the other state is substantially similar to Missouri's pass-through entity tax. This credit is subject to the same limit as the Missouri resident credit. The member will attach [Form MO-CR](#) to their Missouri individual income tax return.

If a pass-through entity uses a cash basis accounting method for federal tax purposes, and the pass-through entity makes an anticipated payment of Missouri pass-through entity tax on or before the end of the pass-through entity's tax year 2022, may the pass-through entity deduct this anticipated payment of Missouri pass-through entity tax on its federal return for tax year 2022? What if the pass-through entity instead uses an accrual basis accounting method for federal tax purposes?

These questions are in regards to when an item is deductible for federal income tax purposes, which is better directed to the [Internal Revenue Service](#). Taxpayers interested in requesting an Internal Revenue Service private letter ruling may wish to consult IRS Revenue Procedure 2022-1.

Please be aware that, for Missouri tax purposes, the partnership or S corporation's liability for the pass-through entity tax does not arise and is not fixed until at least the pass-through entity has made a valid election to become an affected business entity for the pass-through entity's tax year and that tax year has closed.

How will an affected business entity report its income or loss if it is a member of another affected business entity?

The member of an affected business entity, when calculating its net income or loss on the [Form MO-PTE](#), will either subtract its distributive share of income or add its distributive share of loss to the extent that income or loss was derived from or connected with Missouri. See [Section 143.436.5, RSMo](#).

Can a pass-through entity claim a miscellaneous tax credit?

Yes. However, miscellaneous tax credits generally reduce the tax liability rather than constituting tax paid, and therefore generally do not qualify as payments for purposes of calculating the PTE Credit.

The tax credit will be reported on [Form MO-TC](#) and will be attached to [Form MO-PTE](#) along with the applicable tax credit certificate.

Can a pass-through entity electing to file and pay a MO-PTE return be allowed a qualified business income deduction under 26 U.S.C. Section 199A?

Yes. The pass-through entity will calculate the IRC § 199A deduction as though it (the pass-through entity) was allowed to take the deduction on the federal level. For example, the income figures (e.g. the net capital gain, the taxable income as that term is used in IRC § 199A) of the partnership or S corporation itself are used in preparing the pro forma federal Form 8995 or 8995-A to be attached to the Form MO-PTE. Generally, the same limitations found in 26 U.S.C. Section 199A that apply when computing the federal qualified business income deduction for individuals will also apply to the affected business entity. When determining threshold amount(s) based on filing status, the single threshold is used, not the joint threshold. The filing status of the shareholders, partners, or members is not used or referenced for this purpose.

I am an S-Corporation that files the Form INT-2, Bank Franchise Tax Return, and that paid the pass-through entity tax during the relevant income period. Can I claim the pass-through entity tax as income taxes paid on the Form INT-2?

When completing the INT-2, Section 148.031, RSMo, generally requires that the S corp be treated as a C corp when determining what other federal and state taxes were due. C corps can't be subject to the pass-through entity tax. Therefore, S corps can't claim pass-through entity tax as a credit on the INT-2.

