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Rhode Island Guidance on Pass-through Entities

<https://tax.ri.gov/tax-sections/corporate-tax/pass-through-entities> (visited 7/29/23)

Pass-through Entities

By statute, a pass-through entity is defined as a corporation that for the applicable tax year is treated as an S Corporation under IRC § 1362(a) [26 U.S.C. § 1362(a)], and a general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal tax purposes under the state's check-the-box regulation.

All of the entities described above are subject to a filing requirement reporting the entity level income.

All of these entities except for general partnerships are also subject to a tax or fee equal to a minimum tax imposed upon a corporation currently equal to \$400. Also, although C-Corporations are subject to single sales factor reporting, all pass-through entities are still subject to three factor apportionment.

Pass-through entities are also subject to R.I. Gen. Laws § 44-11-2.2 which requires income taxes to be withheld at the highest income tax rate (currently 5.99% for individuals or 7% for corporations) for income attributable to this state for non-resident members/shareholders/partners. This is accomplished through the RI-1096PT form and are also subject to estimated payment requirements.

A pass-through entity is not required to withhold tax for a nonresident member if:

The member has a pro rata or distributive share of income of the pass-through entity from doing business in, or deriving income from sources within, this state of less than \$1,000 per annual accounting period;

The tax administrator has determined by regulation, ruling, or instruction that the member's income is not subject to withholding;

The entity is a publicly traded partnership as defined by 26 U.S.C. § 7704(b) that is treated as a partnership for the purposes of the Internal Revenue Code and that has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the tax administrator of each unitholder with an income in the state in excess of \$500.

There are 2 elections that may be made which would relieve the entity of these withholding requirements as well:

A composite filing may be made at the election of non-resident members to pay the tax on the RI-1040C. See the instructions for this form for more details.

In July of 2019, RI legislature created a pass-through entity election to pay all taxes at the entity level for individuals. This is done through the RI-PTE and the instructions for this form should be consulted for more details.

A partnership shall report final federal adjustments pursuant to IRC section 6225(a)(2) arising from a partnership level audit or an administrative adjustment request and make payments by filing the applicable supplemental return as prescribed under R.I. Gen. Laws § 44-11-2.2(e)(1)(ii), and as required under § 44-11-19(b), in lieu of taxes owed by its direct and indirect partners. The form used for this filing would be the RI-1065PA.

Failure of the audited partnership or tiered partner to report final federal adjustments pursuant to IRC section 6225(a) and 6225(c) or pay does not prevent the tax administrator from assessing the audited partnership, direct partners, or indirect partners for taxes they owe, using the best information available, in the event that a partnership or tiered partner fails to timely make any report or payment required by R.I. Gen. Laws § 44-11-19(b) for any reason.

The tax administrator may promulgate rules and regulations, not inconsistent with law, to carry into effect the provisions of this chapter.

A pass-through entity may file a composite income tax return on behalf of electing nonresident members reporting and paying income tax at the state's highest marginal rate (currently 5.99%) on the members' pro rata or distributive shares of income of the pass-through entity from doing business in, or deriving income from sources within, this State.

A nonresident member whose only source of income within a state is from one or more pass-through entities may elect to be included in a composite return filed pursuant to this section.

A nonresident member that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the member's behalf by the pass-through entity.

Elections

For tax years beginning on or after January 1, 2019, a pass-through entity may elect to pay the state tax at the entity level at the rate of five and ninety-nine hundredths percent (5.99%).

If a pass-through entity elects to pay an entity tax under this subsection, the entity shall not have to comply with the provisions of § 44-11-2.2 regarding withholding on non-resident owners.

Reporting

The pass-through entity shall report the pro rata share of the state income taxes paid by the entity which sums will be allowed as a state tax credit for an owner on his or her personal income tax return.

The pass-through entity shall also report the pro rata share of the state income taxes paid by the entity as an income (addition) modification to be reported by an owner on his or her personal income tax returns.

State tax credit shall be the amount of tax paid by the pass-through entity, at the entity level, which is passed through to the owners, on a pro rata basis.

A similar type of tax imposed by another state on the owners' income paid at the state entity level shall be deemed to be allowed as a credit for taxes paid to another jurisdiction in accordance with the provisions of § 44-30-18.

"Combined reporting" as set forth in R.I. Gen. Laws § 44-11-4.1 shall not apply to reporting under this Section.

Resources

Statute: R.I. Gen. Laws § 44-11-2.2 (Pass-through entities)

Statute: R.I. Gen. Laws § 44-11-19 (Supplemental returns)

Statute: R.I. Gen. Laws § 44-11-4.1 (Combined reporting)

Publication: 2019-04 - FAQs on entity-level tax for pass-through entities

Contact Us

For questions on Federal Audit Regime contact the Corporate Tax Section

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For questions on Composite filings or the Pass-through Entity Election contact Personal Income Tax - Taxpayer Assistance

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