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Indiana Guidance on Pass Through Entity Tax

https://www.in.gov/dor/tax-forms/ptet/faq/#How_do_I_request_an_extension_to_file_Form_IT_20S_or_IT_65_ (visited 7/29/23)

- Must the entity make an election to pay Pass Through Entity Tax each year?

  Yes. The entity must make an election to pay the Pass Through Entity Tax each year. An election for one year **does not** carry over to the next.

- Who is authorized to make the election on behalf of the Pass Through Entity Tax?

  The election must be made by an authorized person from the eligible electing entity. An authorized person is any individual with the authority from the electing entity to bind the electing entity or sign returns on its behalf.

- Can a shareholder or partner of an entity make an election to pay Pass Through Entity Tax even if the entity does not make an election?

  No. The election is made by the entity, and any owners of the entity are bound by the election.

- Can a shareholder or partner of an entity make an election to not pay Pass Through Entity Tax even if the entity makes an election?

  No. The election is made by the entity, and any owners of the entity are bound by the election. However, certain owners of a pass-through entity (banks and international banking facilities) are not subject to the Pass Through Entity Tax.

- When is a pass-through entity required to make an election?

  For tax year 2022, the election may be made after March 31, 2023, and before Aug. 31, 2024. If the 2022 return is filed by April 18, 2023, a pass-through entity can amend their return and make the election. If the 2022 return is filed after April 18, 2023, the election must be made on the original return.

For 2023 and tax years thereafter, the election may be made at any time during the taxable year or the entity's timely filed return, including extensions.

- What is the tax rate?

The tax rate would be the same as the individual income tax rate for the tax year. The tax rate for a tax year is determined on the last day of the pass-through entity's tax year. In other words, a pass-through entity whose year ends on Dec. 31, 2022, would use the 2022 tax rate, while an entity whose tax year ends on Jan. 31, 2023, would use the 2023 tax rate.

For tax year 2022, the individual income tax rate is 3.23%. For tax year 2023, the individual income tax rate is 3.15%.

- What entities may elect to pay the Pass Through Entity Tax?

Pass-through entities that qualify to make the Pass Through Entity election include partnerships, S corporations, and LLCs taxed as an S corporation or partnership.

The election is not available to C Corporations, trusts, sole proprietorships, or limited liability companies taxed as C corporations for federal income tax purposes. In addition, the election is not available to single-member LLCs that are disregarded for federal tax purposes and qualified subchapter S subsidiaries.

Note: For the purposes of the PTET election, the terms "partnership" and "S corporation" include LLCs taxed as a partnership or S corporation, and "partner" and "shareholder" refer to a member if the entity is an LLC.

- What owners qualify to receive the Pass Through Entity Tax Credit?

A qualifying owner must be either the direct or indirect owners of a qualifying entity, or the beneficiary of an estate or trust. An owner shall not include banks and trust companies, national banking associations, savings banks, building and loan associations, savings and loan associations, and international banking facilities.

Note: In the case of a beneficiary of an estate or trust or the owner of a qualifying entity if the entity does not make a PTET election, the credit is limited to the credit passed through from an entity that makes an election. In other words, if a trust owns an interest in a partnership, the beneficiaries can only claim the credit of PTET paid by the partnership and only to the extent the trust passes through the PTET.

- How does paying the Indiana state income tax affect an owner's federal adjusted gross income?

Payment of an Indiana state income tax at the entity level is a deductible expense for the entity, which reduces the amount of federal adjusted gross income flowing through to the owners. Accordingly, the Schedule K-1 issued to the owners will reflect less income than would otherwise be reported. This results in a lower federal income tax for the owners.

- Can nonresident partners and shareholders residing in reverse credit states be included on the composite schedule?

Nonresident partners and shareholders residing in reverse credit states should be included on the composite schedule. Their post-apportionment distributive share of the pass-through entity's Indiana-source income included in the PTET tax calculation. If a nonresident partner or shareholder residing in a reverse credit state is included in the pass-through entity's PTET calculation and is unable to claim a credit for the PTET in their state of residence, the partner or shareholder may file an IT-40PNR to claim a refund of the PTET credit.

- Can the PTET credit be utilized as withholding credit for purposes of the IT-2210?

Yes, PTET should be included as a withholding credit on line 1 of Schedule 5 of the IT-40 or Schedule F of IT-40PNR, which is then included as a withholding tax credit on line 5 of IT-2210.

- Are composite tax payments still required for an entity that has made or will make a PTET election?

PTET supplants composite tax requirements up to the amount of PTET owed. Thus, the PTET provisions regarding estimated and extension payments supersede the composite tax requirements for nonresident individual owners since the PTET and composite tax rates are the same for nonresident individuals.

PTET does not have to be elected prior to the due date for a composite tax payment in order for the PTET requirements to control as long as the PTET election is made prior to or concurrent with the filing of the pass-through entity's return.

The composite tax rate for C corporations is generally higher than the composite tax rate for such owners; therefore, the composite tax requirements still apply to that portion of composite tax that exceeds the PTET.

For instance, a pass-through entity would be required to pay composite tax equal to 4.9% of a nonresident corporate partner's or shareholder's distributive share of the pass-through entity's Indiana-sourced income but will only owe PTET equal to 3.15% of the nonresident owner's distributive share of the pass-through entity's Indiana-sourced income.

The pass-through entity will be required to pay composite tax equal to at least 80% of 1.75% of the nonresident corporate owner's distributive share of the pass-through entity's Indiana-sourced income by the original due date of the entity's return. Any remaining amounts due of the 4.9% must be paid at the time the return is actually filed.

- How do I request an extension to file Form IT-20S or IT-65?

There is no need to file an Indiana extension if a federal extension is filed. A copy of the federal extension must be included with the Indiana return when it is filed.

If a federal extension is not being filed, an Indiana extension request can be filed directly with DOR. The extension request should include the following:

- Taxpayer Name
- Taxpayer FEIN or TID
- Taxpayer Address
- Applicable Tax Year
- Statement that an extension to file the applicable return is being requested

Visit INTIME to file an extension or via mail:

Indiana Department of Revenue
Corporate Income Tax
Tax Administration
P.O. Box 7206
Indianapolis, IN 46207-7206

See more on extensions to file.