



[CLICK HERE](#) to return to the home page

Okla. Stat. Title 68, Sections 2355.1P-1 to 2355.1P-4

§68-2355.1P-1. Short title - Pass-Through Entity Tax Equity Act of 2019.

Sections 1 through 9 of this act shall be known and may be cited as the "Pass-Through Entity Tax Equity Act of 2019".

§68-2355.1P-2. Definitions.

As used in this act:

1. "Distributive share" means a member's percentage share of Oklahoma net entity income or net entity loss;
Oklahoma Statutes - Title 68. Revenue and Taxation Page 677
2. "Electing pass-through entity" means any pass-through entity as defined in paragraph 6 of this section that has made an election pursuant to subsection F of Section 4 of this act to pay income tax as computed pursuant to Section 2358 of Title 68 of the Oklahoma Statutes;
3. "Indirect member" means, with respect to any particular electing pass-through entity, an individual, fiduciary, or entity that (i) owns an interest in a pass-through entity other than the electing pass-through entity and (ii) has been allocated items of Oklahoma income, gain, loss or deduction that the electing passthrough entity included in computing its tax pursuant to the provisions of the Pass-Through Entity Tax Equity Act of 2019;
4. "Member" means any individual, fiduciary, or entity holding an ownership interest in an electing pass-through entity;
5. "Oklahoma net entity income" or "Oklahoma net entity loss" means the positive or negative sum of an electing pass-through entity's items of Oklahoma income, gain, loss, and deduction determined under Section 2351 et seq. of Title 68 of the Oklahoma Statutes, regardless of whether any such items are required for federal income tax purposes to be separately stated; and
6. "Pass-through entity" means a general partnership, a limited partnership, a limited liability partnership, a limited liability limited partnership, a limited liability company, or a corporation, if any of the enumerated entity's items of income, gain, loss, and deduction, as applicable, are subject to being included on another person's return for federal income tax purposes under Subchapter K or Subchapter S of the Internal Revenue Code.

§68-2355.1P-3. Purpose - Apportionment.

A. It is hereby declared to be the purpose of the Pass-Through Entity Tax Equity Act of 2019 to establish a revenue-neutral mechanism to provide a more fair and simplified taxation of passthrough entities and their members in this state while maintaining revenue levels for support of general governmental functions of the State of Oklahoma.

B. All monies collected pursuant to the provisions of subsection A of Section 2358 of Title 68 of the Oklahoma Statutes shall be apportioned in the same manner as provided in paragraph 1 of Section 2352 of Title 68 of the Oklahoma Statutes if the tax is computed based upon a distribution made to one or more individuals, trusts and estates and shall be apportioned in the same manner as provided in paragraph 2 of Section 2352 of Title 68 of the Oklahoma Statutes if the tax is computed based upon a distribution to a corporation or to a pass-through entity as such term is defined in Section 2 of this act.

§68-2355.1P-4. Calculation of tax.

A. For tax years beginning on or after January 1, 2019, there is hereby levied on each electing pass-through entity the pass-through entity tax which shall be calculated as follows:

1. With regard to each member of an electing pass-through entity, the electing pass-through entity shall multiply such member's Oklahoma distributive share of the electing pass-through entity's Oklahoma net entity income for the tax year by:
 - a. the highest Oklahoma marginal income tax rate levied on the taxable income of natural persons pursuant to Section 2355 of Title 68 of the Oklahoma Statutes if the member is an individual, trust, or estate,
 - b. six percent (6%) if the member is classified as a corporation pursuant to the Internal Revenue Code, and is not classified as an S corporation,
 - c. six percent (6%) if the member is a pass-through entity,
 - d. six percent (6%) if the member is a financial institution subject to tax imposed pursuant to the provisions of Section 2370 of Title 68 of the Oklahoma Statutes, and
 - e. the highest Oklahoma marginal income tax rate that would be applicable to any item of the electing passthrough entity's income or gain without the election made pursuant to subsection F of this section, if the member is an organization described in Section 2359 of Title 68 of the Oklahoma Statutes; and
2. The electing pass-through entity shall aggregate the amounts determined with respect to all members pursuant to paragraph 1 of

this subsection and the pass-through entity tax for the applicable tax year shall be equal to such aggregated tax amount for the tax year with respect to which the election has been made.

B. Sections 2385.29, 2385.30 and 2385.31 of Title 68 of the Oklahoma Statutes shall not be applicable to an electing pass-through entity.

C. The pass-through entity tax shall be due and payable on the same date as provided for the filing of the electing pass-through entity's Oklahoma income tax return, and for tax years beginning on or after January 1, 2020, estimated tax payments shall be required as provided in Section 2385.9 of Title 68 of the Oklahoma Statutes.

D. If the pass-through entity election results in a net entity loss for Oklahoma income tax purposes in any tax year, the net entity loss may be carried back and carried forward by the electing passthrough entity for Oklahoma income tax purposes as set forth in subparagraph b of paragraph 3 of subsection A of Section 2358 of this title.

Oklahoma Statutes - Title 68. Revenue and Taxation Page 679

E. Notwithstanding paragraph 2 of subsection C of Section 2368 of Title 68 of the Oklahoma Statutes, a nonresident individual who is a member of an electing pass-through entity is not required to file an Oklahoma income tax return, if, for the taxable year, the only source of income allocable or apportionable to this state for the member, or, if a joint income tax return is filed, the member and his or her spouse, is from one or more electing pass-through entities, and each electing pass-through entity files and pays the taxes due under this section.

F. Any entity required to file an Oklahoma partnership income tax return or an Oklahoma S corporation income tax return may elect to become an electing pass-through entity. The election shall be made on such form and in such manner as the Oklahoma Tax Commission may prescribe, and any election under this subsection shall have priority over and revoke any election to file a composite Oklahoma partnership return or requirement of a Subchapter S corporation to report and pay tax on behalf of a nonresident shareholder for the same tax year.

G. Pursuant to procedures prescribed by the Tax Commission, if the amount of tax required to be paid by a pass-through entity pursuant to the provisions of this section is not paid when due, the Oklahoma Tax Commission may revoke the pass-through entity's election under subsection F of this section effective for the first year for which the tax is not paid.

H. The election authorized by the provisions of this section shall be made pursuant to procedures prescribed by the Tax Commission and shall be filed (i) within sixty (60) days of enactment and pursuant to procedures prescribed by the Oklahoma Tax Commission for any income tax year beginning on or after January 1, 2019, and prior to January 1, 2020, or (ii) for any income tax year beginning on or after January 1, 2020, at any time during the preceding tax year or

two (2) months and fifteen (15) days after the beginning of the tax year. Any such election shall be binding until revoked pursuant to procedures prescribed by the Tax Commission. The effective date of a revocation (i) made within two (2) months and fifteen (15) days of the electing pass-through entity's taxable year shall be the first day of such taxable year and (ii) made during the electing passthrough entity's taxable year but after such fifteenth day shall be effective on the first day of the following taxable year. No election made by a pass-through entity with respect to income tax to be paid by such entity using the calculations prescribed by this section shall be binding on any other pass-through entity, and each pass-through entity shall be able to make an election under the provisions of this act independently.