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West Virginia Information About the Pass-Through Entity Tax (SB 151)

<https://tax.wv.gov/Business/PassThroughEntity/Pages/PassThroughEntityElectiveTax.aspx> (visited 7/29/23)

Is there a new tax on pass-through entities for Tax Year 2022 and thereafter?

[SB 151](#) (2023 Regular Legislative Session) creates an elective pass-through entity tax retroactive to Tax Year 2022. This new pass-through entity tax is meant to comply with the provisions of [IRS Notice 2020-75](#).

What is the difference between this elective pass-through entity tax and the tax I already pay on my PTE-100?

The elective pass-through entity tax is a tax imposed directly upon the income of the entity, defined as the resident pass-through entity owners' income plus the apportioned nonresident pass-through entity owners' income. The pass-through entity tax is filed and paid instead of the nonresident withholding due with [PTE-100](#). **Any entity that elects to pay the pass-through entity tax will no longer be obligated to file the [PTE-100](#).**

What is the due date for the election?

For calendar year taxpayers, the election is due on or before March 15th. Under [Administrative Notice 2023-01](#), a special rule applies to Tax Year 2022 that requires the election be made between June 8 and September 15, 2023.

What is the due date for the return?

For calendar year taxpayers, the return is due on or before March 15th and any allowable extension is through September 15th. Under [Administrative Notice 2023-01](#), a special rule applies to Tax Year 2022 that requires the return be filed between June 8 and September 15, 2023.

When is payment due for Tax Year 2022?

An extension of time has been granted until April 18, 2023 to pay the entity level tax due as a nonresident withholding payment. However, this extension requires that the pass-through entity receives agreement from the partners to later apply the nonresident withholding tax payments as entity level tax payments and certifies the same upon the filing of the entity level tax return. Payment can be made on our web portal at [MyTaxes.WVTax.Gov](https://www.mytaxes.wvtax.gov).

If a nonresident withholding payment is not made by April 18, 2023 by agreement of all partners, a conditional extension of time has been granted until September 15, 2023. This conditional extension of time **requires that all pass-through entity owners have paid**

their income tax due by April 18, 2023 without regard to the expected tax credit for the entity level tax.

When are estimated payments due?

For calendar year taxpayers, estimated payments are due under the following schedule:

- For Tax Year 2022
 - No estimated payments are due provided the liability is paid in full by either the individual pass-through entity owners or the pass-through entity by April 18th 2023.
- For Tax Year 2023
 - First three quarters: September 15th
 - Final Quarter: December 15th
- For Tax Year 2024 and beyond:
 - First Quarter: April 15th
 - Second Quarter: June 15th
 - Third Quarter: September 15th
 - Fourth Quarter: December 15th

When will forms be available?

Forms to make the election will be available as soon as possible following the June 8, 2023 effective date of [SB 151](#). Forms to file the elective entity level return will also be made available as soon as possible after June 8, 2023.

It is anticipated that forms for Tax Year 2022 will be available [online only](#) through our filing portal at [MyTaxes.WVTax.Gov](#).

Do I need to make an election prior to filing the Entity Pass through return?

Yes. You will need to complete the [EPT-100ELF](#). This is the election form to file the new Entity Pass Through return. This form will allow us to establish a new account for the entity to file the tax return. It will also allow us to move payments as needed to the new account.

What if my question is not answered here?

The Tax Division is currently evaluating [SB 151](#) and the rules that will be associated with accounting for the appropriate income tax due. We have set up an [email](#) box to specifically deal with questions relating to this bill at [TaxWVForms@WV.Gov](#).

As more information is gathered and additional Frequently Asked Questions are formulated, they will be shared on this page.