

Ohio's PTE SALT Cap Workaround for "Electing Pass-Through Entities" beginning in Tax Year 2022

Senate Bill 246 was recently passed by the General Assembly and signed by Governor DeWine. This bill added section R.C. 5747.38, which allows a qualifying pass-through entity (PTE) to "elect" to be subject to this new entity-level tax.

The Department has begun development of a new PTE tax form (IT 4738) for tax year 2022, instructions, FAQ's, and related information. We will share these items as they become available on our website.

Things you should know if the entity elects to file the IT 4738:

- The election is made by the entity and is binding on all owners of the entity.
- All owners' qualifying taxable income is required to be included if the entity makes this election.
- The election is irrevocable for the tax year.
- A disregarded entity may NOT make this election.
- Election is made known to the Department by filing the IT 4738.
- Tax rate is 5% for the taxable year beginning January 1, 2022, and for taxable years beginning January 1, 2023, the rate is equal to the tax rate imposed on taxable business income under RC 5747.02 (A)(4)(a) (currently 3%).
- No refundable or non-refundable credits can be claimed on the IT 4738.
- Due date is April 15th of the calendar year after the year in which entity's fiscal year ends. For tax year 2022, the due date will be April 18, 2023.
- Estimated payments are due on the same dates as the IT 1140 estimated payments (15th day of the month after the end of each quarter).
- Filing the IT 4738 meets Ohio filing requirements for the entity's non-resident & trust investors unless they have other Ohio sourced income.
- Owners who file an Ohio individual income tax return, IT 1040, must add back the tax amounts paid on the IT 4738 to the extent not included in computing federal or Ohio adjusted gross income using the Ohio Schedule of Adjustments, line 2.
- A refundable credit for the proportionate share of the tax paid on the IT 4738 is available for owners who file an IT 1040 using the Ohio Schedule of Credits, Pass-through entity credit line.

No estimated payment coupon (UPC) is currently available for the IT 4738. If you have made, or need to make, estimated payments, it is recommended that you use the IT 1140 UPC. When you file the IT 4738, there will be lines in Schedule I of the return for you to notify the Department to transfer payments from one of the other PTE form types (IT 1140 or IT 4708) to the IT 4738 for previously made payments.

For further updates, please continue to monitor our web site at tax.ohio.gov/electingPTE. To receive the latest information on Department updates, register to receive tax alerts at this [link](#).