

Professional Employer Organizations

Recently, House Bill 334 and Senate Bill 186 have been introduced in the Ohio General Assembly, proposing to amend section 5733.40 of the Revised Code to provide that compensation and guaranteed payments paid by a professional employer organization (PEO) to the owner of a pass-through entity that has contracted with the organization will legally constitute a distributive share to the owner. Pending the outcome of these two bills, which propose a significant change in the law, the Department of Taxation's Audit Division has suspended audit activities related to individuals who received compensation from a PEO that they do not own, and who claimed a small business/business income deduction. All existing audit cases that have not reached an assessed status will be placed on hold and thus not progress to any further stages of the billing cycle. If the legislation passes, the Department will work with taxpayers to resolve the existing audits and billings related to the issue under current law. If the legislation fails to pass, the Audit Division will continue to apply the current law.