

Professional Employer Organizations- UPDATE

Below is an update to the [Professional Employer Organizations tax alert](#) issued by the Department on September 7, 2017.

On December 22, 2017, Senate Bill 8 was signed into law by Governor John R. Kasich. As a result, section 5733.40 of the Revised Code was amended to provide that compensation and guaranteed payments paid by either a pass-through entity, or a professional employer organization (PEO) on the pass-through entity's behalf, to the owner of the pass-through entity will legally constitute a distributive share of income. This change is retroactively applied to any tax year beginning on or after January 1, 2013.

Please note, the ownership requirements of R.C. 5733.40(A)(7) have not been changed. The investor must still directly or indirectly own at least 20% of the entity 1) making the payment or 2) utilizing a PEO to make the payment on its behalf.

Those impacted by this amendment may take one of the following steps pursuant to their situation:

- File an original or amended return to apply for a refund,
- File an application for a refund if an erroneous payment was previously made, or
- File a petition for re-assessment if an assessment was previously issued by the Department