Indiana Department of Revenue

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Summary of Changes

Apart from nonsubstantive, technical changes, this bulletin has been revised to reflect that the revised computation of income subject to withholding and pass through entity tax (PTET) will be used for 2025 and later as opposed to 2024 and later. In addition, this bulletin has been revised to reflect that grantor trusts should treat PTET is flowing through to the grantor. This bulletin has also been updated to reflect that estimated tax penalties will not be imposed for 2023 and 2024. Finally, this bulletin has been updated to clarify that a safe harbor for payments will be determined based on the combined PTET and composite withholding tax due as opposed to just PTET.

Introduction

In 2023, Senate Enrolled Act ("SEA") 2 (2023) enacted a new pass through entity tax ("PTET"), which was retroactively effective for tax years beginning in 2022 and later. PTET is imposed on partnerships and S corporations ("qualifying entities"), who can voluntarily elect to pay the tax at the entity level based on each owner's total share of adjusted gross income.

In this bulletin, several examples have been presented to reflect the application of PTET. Additional examples will be provided at in.gov/dor/tax-forms/ptet/.

Entities Eligible to Elect to Be Subject to PTET

The only qualifying entities that can elect to be subject to PTET are entities that are treated as partnerships or S corporations for federal income tax purposes. These include limited liability

companies that are classified as partnerships for federal income tax purposes and those that elect to be treated as S corporations for federal income tax purposes.

Estates and trusts cannot make an election to be subject to PTET. However, estates and non-grantor trusts can elect to pass through PTET from another entity to their beneficiaries as PTET. Grantor trusts shall treat the PTET as flowing through directly to the grantor(s) of the trust.

In addition to estates and trusts, the following entities are not eligible to make a PTET election:

- C corporations, including nonprofit corporations
- Qualified subchapter S subsidiaries
- Single-member limited liability companies treated as disregarded entities
- Entities such as limited liability companies and partnerships that elect federal treatment as a C corporation
- Individuals

Eligible and Ineligible Owners

In general, any owner of a pass through entity is eligible to be subject to PTET. This includes nonprofit entities, other pass through entities, tax-exempt retirement plans, and residents of reverse-credit states (AZ, DC, and OR). However, the following entities are not eligible owners for PTET:

- Banks and trust companies, national banking associations, savings banks, building and loan associations, savings and loan associations exempt from adjusted gross income tax under IC 6-3-2-2.8(3). However, if one of these entities is taxed as a partnership, trust, or S corporation, that entity is considered to be an eligible owner.
- International banking facilities exempt from adjusted gross income tax under IC 6-3-2-2.8(5).

Beyond the list of entities listed above, the department will require any owner of an electing pass through entity to be subject to PTET.

For pass through entities that do not elect PTET but pass through PTET, the same definition of owner applies to that pass through entity. In the case of an estate or trust that cannot make a PTET election, an owner includes the beneficiaries of the trust and the same inclusion/exclusion rules apply.

Making a PTET Election and Election for Resident Pre-Apportionment/Post-Apportionment Treatment

For tax years beginning in 2022, a pass through entity making an election must file a Form IN-PTET to make an election. The Form IN-PTET must be signed by a person who has the authority to sign tax returns on behalf of the entity. The election must be filed with the department on or before Aug. 30, 2024. The election can be reflected on an amended return only if the pass through

entity filed its **original** return on or before April 18, 2023 and properly complete Form IN-PTET on or before filing the amended return. If the original return is filed after April 18, 2023, the election must be made on or before the due date of the return, including extensions.

In addition, the Form IN-PTET requires the designation of a specified computation code. For 2022 only, the department will permit a taxpayer to use a different computation code than that specified on Form IN-PTET if the different code is used on the first return filed by the taxpayer that reflects PTET.

For tax years beginning in 2023 or later, an election to be subject to PTET can be filed in one of two ways. First, the pass through entity can file a Form IN-PTET to make the election. If this method is chosen, file Form IN-PTET on or before the return due date, including extensions, or the date the original return is actually filed. This should be submitted electronically via INTIME or by mail to the address specified on Form IN-PTET. An election cannot be made after the original return is filed, even if the original return is filed before the due date, or if the return is filed after the due date.

Second, a pass through entity can elect to be subject to PTET on its original return. The entity must check the box on the IT-20S or IT-65 return indicating that a Schedule PTET is included with the return. In addition, the entity must list a computation code 01 through 06 on the Schedule PTET included with the original return. Failure to check the box or failure to list an appropriate code will result in the PTET election being considered invalid.

For entities that are not making a PTET election but are passing through PTET paid by another entity, the designation of PTET to be passed through can be made on an amended return, provided that the appropriate designation (computation codes 07 through 12) is used.

If the entity has resident owners, regardless of the code used, the pass through entity must designate the treatment of resident owners as being taxed on a pre-apportionment or post-apportionment basis at the time the entity lists a computation code on the Schedule PTET. For 2023 and later, once that pre-apportionment/post-apportionment designation is made on a return, the designation is irrevocable. However, a pass through entity that uses a computation code reflecting no nonresident owners may make a one-time change to permit resident owners to be taxed on a pre-apportionment basis if the pass through entity discovers that a previously-listed nonresident is in fact a resident. The change must occur upon the discovery of the first nonresident owner mistakenly designated. Further, if an entity makes a pre-apportionment/post-apportionment designation, the entity can make the following changes:

- 01 to 04
- 02 to 05
- 03 to 06
- 07 to 10
- 08 to 11
- 09 to 12

A PTET election must be made at the pass through entity level and is binding on all owners. A pass through entity may not make an election covering only a portion of its eligible owners. In

addition, an owner may not choose different PTET treatment than that elected by the pass through entity.

A separate PTET election must be made for each taxable year. A PTET election from a previous taxable year does not carry over to future taxable years. Further, the treatment of resident owners as taxable pre-apportionment or post-apportionment does not carry over to future taxable years.

Income Inclusion for Pass Through Entity Tax and Withholding/Composite Tax

For 2022, the income computation provided in the IT-20S and IT-65 instruction booklets and Schedule IN K-1 shall be used.

Calculation for 2023 and 2024 and simplified calculation for 2025

For 2023, the income used for PTET will be the sum of Schedule IN K-1, Part 3, lines 1 through 11 minus lines 12, 13a, and 13b, plus any modifications required in Part 4. The modifications for Part 4 shall be listed in the instruction booklet. However, for individual owners, the amounts allowable on Part 3, lines 13a and 13b are the amounts allowable in determining federal adjusted gross income. If the computed amount of income is less than zero, the amount is zero.

If a nonresident individual owner is subject to a loss limitation (passive loss, at-risk loss, etc.), the owner must do one of the following:

1. File a Form IT-40PNR.
2. If no Form IT-40PNR for is filed, not claim any limited federal loss (other than losses limited by basis limitations) on future Indiana tax returns that otherwise would have been claimed on the IT-40PNR. Claiming a deduction in this situation will be considered an inconsistent reporting by the owner for purposes of IC 6-3-4.5.

For 2025 and later, if a pass through entity has actual knowledge that all (or substantially all) owners are not subject to federal passive or at-risk loss limitations, the income shall be computed in the same manner as the 2023 calculation with the following modifications:

1. If Part 3, line 8 and/or line 9 are less than zero, then line 8 plus line 9 cannot be less than zero unless the pass through entity has a net positive capital gain (without consideration of any Section 1231 gain or loss).
2. The Part 3, line 12 Section 179 modification shall be limited to the amount added back in Part 4 (prior to any depreciation computed as part of the Indiana modification).
3. For individual owners, the amounts allowable on Part 3, lines 13a and 13b are the amounts allowable in determining federal adjusted gross income. Amounts allowable as itemized deductions are not permitted.

Any required modifications for 2025 and later will be reflected either by a line on Part 1 and/or a modification in Part 4 of Schedule IN K-1.

Standard method for 2025 and later

For purposes of determining the income subject to PTET in 2025 and later, the following general rules will apply. Any references to line numbers are to the Schedule IN K-1.

1. Ordinary income/loss from the pass through entity that is attributed to the owner shall be included.
2. Other items of positive federal income shall be included.
3. Guaranteed payments for partners shall be included.
4. Capital losses shall be deductible only to the extent that either:
    a. Capital losses do not exceed capital gains, or
    b. In the case of a nonresident, either:
        i. Federal capital losses for the partnership do not exceed federal capital gains from the partnership; or
        ii. Indiana-source capital losses do not exceed Indiana-source capital gains.
    c. A section 1231 loss shall not be considered a capital loss and a section 1231 gain shall not be considered a capital gain.
5. Loss items generally are permitted. However, if an entity has loss items that can be considered passive for federal income tax purposes (Schedule IN K-1, Part 3, lines 2, 3, 10, and 11), those losses are permitted as follows:
    a. First, determine if the pass through entity has positive federal adjusted gross income in aggregate for those lines. If yes, the losses are permitted in full.
    b. Second, if the pass through entity has negative federal adjusted gross income in aggregate for those lines, determine if the pass through entity has positive federal adjusted gross income for each line individually. If the federal adjusted gross income associated with the line, the loss for that line is permitted in full.
    c. Third, after applying (b), if ordinary income (Part 3, line 1) is positive, then the losses for those lines are permitted to the extent of:
        i. Line 1, plus
        ii. The greater of any net Indiana modifications directly associated with the loss reported on those lines for the taxable year or $0.
    d. Fourth, after applying (b), if ordinary income (Part 3, line 1) is zero or negative, then the losses for those lines are permitted to the extent of the greater of any net Indiana modifications directly associated with the losses reported on those lines for the taxable year or $0.
6. The amount allowable as a deduction for Section 179 expensing shall be limited to the Section 179 modification required to be listed in Part 4, prior to any allowance for depreciation.
7. For individuals, only deductions allowable in determining adjusted gross income will be allowed and are also subject to any federal limitations on deductions. The Indiana modifications to adjusted gross income that are permitted to both individual and corporate taxpayers under IC 6-3-1-3.5 (including any modifications under IC 6-3-2) are

permitted with the exception of modifications directly related to passive activities for which the entity has a loss and that, on net, would decrease adjusted gross income for the owner.

Any required modifications for 2025 and later will be reflected either by a line on Part 1 and/or a modification in Part 4 of Schedule IN K-1.

Determination of Income for Resident Owners and Nonresident Owners

For nonresident owners, the amount of income subject to tax is determined after apportionment. For resident owners, the amount of income subject to tax can be determined before apportionment (i.e., the owner is taxed on both Indiana and non-Indiana income) or after apportionment. The pass through entity must use the same method of computation for all resident owners.

In the case of a pass through entity that has an individual owner who was a resident for part of the taxable year and a nonresident for part of the taxable year, PTET is based on:

(1) the entire portion of the distributive share earned while an Indiana resident, with application of the pre-apportionment or post-apportionment calculation applied to that portion of the distributive share income, plus
(2) the share of distributive share income earned while a resident of another state or country, determined on a post-apportionment basis.

As a general rule, for a partnership or S corporation the share attributable to each portion of the year should be prorated by day. For an estate or a trust, the share attributable to each portion should be determined on the day a distribution is made or deemed to be made. However, if a pass through entity can establish a different attribution (e.g., a seasonal business), the pass through entity may use the different attribution.

In addition, if the pass through entity cannot divide the owner's income, the entity can treat the owner as a full-year nonresident.

If the adjusted gross income for a partner as determined above is zero or less, the adjusted gross income shall be treated as zero.

Tax Computation-General Rule

To determine the tax, determine the total shares of adjusted gross income for each owner and multiply the total share by the state individual adjusted gross income tax rate in effect on the last day of the taxable year. The following rates shall be used:

2022	3.23%

2023	3.15%
2024	3.05%
2025	3.00%
2026	2.95%
2027	2.90%

Tax Computation-Special Rules

In the case of a pass through entity that receives PTET from another pass through entity, the PTET can differ from the standard PTET calculation. In the case of PTET that is passed through, special rules apply. For purposes of discussion, assume PTE 1 elects PTET and passes that through to PTE 2.

In the case of a pass through entity (PTE 2) that elects to be subject to PTET and is a recipient of PTET from another entity (PTE 1), PTE 2 shall apply the PTET in the following order:

- First, PTE 2 must apply the passed-through PTET against its own computed PTET liability.
- Second, if there is an excess of passed-through PTET, then PTE 2 may treat the excess passed-through tax from PTE 1 as PTET, provided that the effect is that the PTET for any owner does not exceed the greater of the owner's pro rata PTET from PTE 1 or the PTET on the income passed through from PTE 2.
- Third, PTE 2 shall treat any amount of PTET remaining after the first two applications as a credit against any nonresident withholding/composite tax.
- Fourth, any amount remaining shall be refunded to PTE 2.

In the case of a pass through entity (PTE 2) that does not elect to be subject to PTET and is a recipient of PTET from another entity (PTE 1), PTE 2 shall apply the PTET in the following order:

- First, PTE 2 may apply the passed-through PTET as PTET, provided that the effect is that the PTET for any owner does not exceed the greater of the PTET computed on the income from PTE 2 or the PTET on the income passed through from PTE 1.
- Second, PTE 2 shall treat any amount of PTET remaining after the first application as a credit against any nonresident withholding/composite tax.
- Third, any amount remaining shall be applied to PTE' 2s separate entity liability (e.g., a trust or estate that has its own Indiana tax liability).
- Fourth, any balance shall be refunded to PTE 2.

Example #1: Partnership A makes an election to be subject to PTET for 2023 and elects to tax Indiana resident partners on a pre-apportionment basis. Partnership A has five partners:

Partnership B, a Michigan-domiciled Partnership

Corporation C, an Indiana-domiciled S corporation

Individual D, an Ohio resident

Individual E, an Indiana resident

Corporation F, a Kentucky-domiciled C corporation.

Each partner owns 20% of Partnership A. Partnership A has $10 million of adjusted gross income (after Indiana modifications) and 60% of the income is apportioned to Indiana. The adjusted gross income and tax attributed to each partner is as follows:

Owner	**Income**	**Tax**
B	$1,200,000	$37,800
C	$2,000,000	$63,000
D	$1,200,000	$37,800
E	$2,000,000	$63,000
F	$1,200,000	$37,800

B, D, and F each have $2 million in income (20% of $10 million0) multiplied by A's the 60% apportionment factor. C and E use $2 million as the pre-apportioned share of income. In addition, F will have a composite withholding tax liability of $21,000 ($1.2 million*4.9% corporate tax rate minus $37,800 PTET).

Example #2: Same facts as *Example #1* except that D is entitled to a $15 million guaranteed payment. B, C, D, E, and F are attributed a share of a $5 million loss. Since a partner reporting an overall loss is deemed to have zero income, B, C, E, and F have no income and therefore no PTET is in this example. D has $14 million of attributed income ($15 million guaranteed payment minus $1 million loss), multiplied by the 60% apportionment factor of Partnership A, for $8.4 million of Indiana-source income and $264,600 in PTET.

Example #3: Same facts as *Example #1*. Corporation C has two equal partners, D and E. Corporation C has $1 million of its own income and elects to be subject to PTET. All of Corporation C's income passes through to D and E. Corporation C elects to treat its resident partner as being taxed pre-apportionment. Corporation C has a 40% Indiana apportionment factor and the $2 million it receives is combined to produce an overall apportionable income of $3 million. Corporation C's PTET is $67,150, determined as follows:

Owner	**Income**	**Tax**
D	$600,000	$18,900
E	$1,500,000	$47,250

D's share of Corporation C's income is $1.5 million, which in turn is multiplied by Corporation C's 40% apportionment factor to result in $600,000 Indiana source income. Because Corporation C's PTET is greater than the $63,000 credited from Partnership A, Corporation C will compute PTET separately and use the $63,000 as a prepayment of PTET.

Example #4: Same facts as *Example #3* except that Corporation C elects to treat E as taxable on a post-apportionment basis. E's share of Corporation C's income is $600,000 in this case ($3 million*50% ownership*40% apportionment). Evaluating Corporation C on its own, the PTET is $37,800, determined as follows:

Owner	Income	Tax
D	$600,000	$18,900
E	$600,000	$18,900

Because Corporation C has a greater amount of PTET from Partnership A ($63,000) than its own PTET liability ($37,800), Corporation C may treat the PTET passed through from Partnership A as passing through to D and E. However, in this case, Corporation C may not treat more than $31,500 as PTET passing through to D and E. For D and E, this amount is Partnership A's PTET ($63,000) times their respective shares of income (50% each). Thus, their respective shares of PTET can be between $18,900 and $31,500.

Example #5: Same facts as *Example #3* except Corporation C's stand-alone income is $500,000. Thus, Corporation C's aggregate income is $2.5 million, which gives D $500,000 ($1.25 million times 40% apportionment) and E $1.25 million in income. The PTET on that income is as follows:

Owner	Income	Tax
D	$500,000	$15,750
E	$1,250,000	$39,375

Of the share of income from Partnership A, 28.57% ($500,000 divided by $1.75 million) is attributable to D and 71.43% is attributable to E. Thus, Corporation C can treat D has having up to $18,000 ($2 million times 28.57% share times 3.15% rate) and E has having up to $45,000 ($2 million times 71.43% times 3.15% rate). In other words, the PTET attributable D can be between $15,750 and $18,000, and the PTET attributable to E can be between $39,375 and $45,000. Any balance remaining after attribution of PTET to D and E first will be treated as composite withholding tax to the extent there is tax remaining, and then any remaining balance refunded to Corporation C.

Example #6: Same facts as *Example #5* except Corporation C does not make a PTET election. The amount of PTET from Partnership A that Corporation C can attribute to D and E is limited to $18,000 for D and $45,000 for E (i.e., their pro rata share of $63,000 PTET passed through based on their respective shares of income). Any balance remaining after attribution of PTET to D and E first will be treated as composite withholding tax to the extent there is tax remaining, and then any remaining balance will be refunded to Corporation C.

Example #7: Partnership B has two equal partners, D and E. Partnership B has $1 million of its own income and has a 40% Indiana apportionment percentage. Partnership B attributes its income from Partnership A apart from Partnership B's own income (in other words, Partnership

A's income is treated as allocable to Partnership B). Partnership B elects to be subject to PTET and elects to treat E as taxable pre-apportionment

D's income from the two partnerships is $800,000 ($1 million income*50% ownership*40% apportionment from Partnership B plus $2 million*50% ownership*60% apportionment allocated from Partnership A). E's income from the two partnerships is $1.5 million ($1 million income * 50% ownership from Partnership B plus $2 million * 50% ownership allocated from Partnership A). The PTET attributable to D is $25,200 ($800,000 * 3.15% rate) and the PTET attributable to E is $47,250 ($1.5 million *3.15% rate). The combined PTET is $72,450, which is greater than the $37,800 credited to Partnership A. Partnership B's PTET is $72,450 with a credit of $37,800 from Partnership A.

Example #8: Same facts as *Example #7* except that Partnership B has a $2,100,000 loss. D's income from the two partnerships is $180,000 (minus $2.1 million income*50% ownership*40% apportionment from Partnership B plus $2 million*50% ownership*60% apportionment allocated from Partnership A). E's income from the two partnerships is minus $50,000 (minus $2.1 million income * 50% ownership from Partnership A plus $2 million*50% ownership allocated from Partnership A). The PTET directly attributable to D is $5,670 ($180,000*3.15% rate) and the PTET attributable to E is $0 ($0*3.15% rate).

However, because Partnership A remitted $37,800 on behalf of Partnership B, Partnership A can attribute the $37,800 between D and E. D's share of the income from Partnership A is 37.5% and E's share is 62.5%. Partnership B can attribute between $5,670 and $14,175 ($37,800*37.5%) to D and between $0 and $23,625 to E.

Example #9: Same facts as *Example #1* except that instead of Corporation C, one of the partners is Trust G, an Indiana resident trust. Partnership A makes a distribution of $2 million to Trust G and remits $63,000 of PTET on behalf of Trust G. Trust G also has $2 million of income, $1.6 million attributable to Indiana and $400,000 attributable outside Indiana. Trust G distributes $3 million equally to beneficiaries D and E. Trust G is precluded from making a PTET election but elects to treat the beneficiaries. For purposes of this example, assume that any income is distributed pro rata from each source.

Partnership A paid $10,000 of out-of-state withholding and PTET on $200,000 of Trust G's income to State X. In addition, Trust G paid $2,200 on $100,000 to State Y as Trust G's direct tax liability. Trust G is permitted to claim these as they are its own liability.

Trust G has a tax liability of $31,500 prior to credits. Trust G has a credit of $6,300 with regard to State X ($200,000 * 3.15% or $10,000, whichever is less). Trust G also has a credit of $2,200 with regard to State Y ($100,000 * 3.15% or $2,000, whichever is less). Thus, Trust H has a liability of $23,000 ($31,500 minus credits of $6,300 and $2,200).

Of the income distributed from Trust G, D's income is $750,000 from Partnership A and $750,000 from Trust G's own activities. D's Indiana income is $450,000 from Partnership A and $600,000 directly from Trust G. E has Indiana income from each source of $750,000, for a total of $1.5 million.

The PTET that would have been attributed to D if Trust G was eligible for PTET would have been $14,175 ($450,000*3.15%) and $23,625 ($750,000 * 3.15%) attributed to E. Since the total PTET ($37,800) was greater than the PTET passed through ($63,000), the $63,000 can be attributed to D and E based on their pro rata share of income from Partnership A. D's share of income passed through from Partnership A is 37.5% ($45,000/$120,000) and E's share of income passed through is 62.5% ($75,000/$120,000). Thus, Trust G can attribute PTET up to $23,625 to D and $39,375 to E. Any unattributed balance would be applied to composite withholding tax. Any balance remaining after attribution to passed-through PTET and composite withholding will be applied to Trust G's $23,000 liability and then refunded to Trust G.

Use of Tax Credits Against PTET

Other than estimated or withholding payments of PTET by the pass through entity, the only credits allowable against PTET are PTET paid by another entity or tax withheld on behalf of the pass through entity. Any other tax credits are not allowable against PTET. These may be claimed against the pass through entity's withholding tax for nonresident owners as provided below but otherwise must be passed through to the owners of the pass through entity. For purposes of the examples below, the rules apply regardless of whether the pass through entity owes PTET, the pass through entity is passing through PTET from another entity, or a combination of the two.

Example #10: Partnership A has $20,000 of PTET for 2023. Partnership A also has a $15,000 research expense credit for 2023. Partnership A cannot reduce its PTET by the research expense credit. Instead, any research expense credit must be passed through to the partners.

Example #11: Partnership A has $20,000 of PTET for 2023. Partnership A also has a $35,000 refundable EDGE credit for 2023. Partnership A cannot reduce its PTET by the EDGE credit. In addition, Partnership A cannot claim any refundable portion of the credit. Instead, the EDGE credit must be passed through to the partners.

Pass Through Entity Reporting of PTET by the Paying or Reporting Entity

For 2022, PTET must be reported using Schedule Composite and Schedule Composite-COR. The pass through entity must list one owner as having the name "PTET" and list a computation code (01-12) in Column C of Schedule Composite. If the entity is filing Schedule Composite-COR, it must also list "PTET" and the computation code in the dollar amount column. The tax for each owner will be reported as part of the state tax required for withholding.

For 2023 and later, PTET will be reported using a new Schedule PTET. Schedule PTET will list the required computation code and provide a listing of all owners subject to PTET along with the amount of PTET available to the owners.

Pass Through Entity Reporting of PTET on IN K-1

For 2022, PTET is reported as state withholding tax. To the extent PTET for 2022 is paid on behalf of an owner, the pass through entity paying or reporting PTET should provide the owner with a separate statement designating the amount of PTET and amount of composite/withholding tax.

For 2023 going forward, PTET will be reported on a separate K-1 line designated for PTET. Any state/county withholding will be reported on separate lines. If an estate or trust is reporting PTET for 2023 passing through from another entity, the estate or trust must file the 2023 return on paper. Any penalties for filing excess paper K-1s for estates and trusts will be waived in this circumstance.

Reporting PTET Credits on Recipients' Tax Returns

PTET is a refundable credit for individuals and entities that are credited with PTET. If PTET exceeds the individual's or entity's tax liability after other credits are considered, the excess can be refunded or carried forward in the same manner as any other overpayment.

For 2022, individuals must report PTET as part of the state tax withheld. Partnerships and S corporations should report PTET paid by another entity as state tax withheld. Other entities should report the tax as part of other payments.

For 2023 and later, individuals should report PTET on the separate line designated for PTET. All other entities will report PTET on the lines designated for IN K-1 withholding by other entities (IT-20S and IT-65) or as other payments (FIT-20, IT-20NP, IT-20, IT-41).

In addition to reporting of the PTET, you must include a copy of any Schedule IN K-1 reporting the credit to substantiate the credit. Failure to include a Schedule IN K-1 reporting PTET paid will result in denial of the credit for that portion of the PTET paid.

PTET paid to a state other than Indiana is permitted as a nonrefundable credit for individuals, estates, and trusts. However, the person claiming the credit must provide evidence of the credit. That evidence is:

- The other state's income tax return if one is filed by the person.
- A K-1 or such other information required to be provided to the person by the pass through entity, if no return is filed.
- Other information (e.g., a multistate summary provided by the pass through entity) will be considered on a case-by-case basis. However, such information must be provided by the entity paying the taxes and signed under penalties of perjury.

Payment of PTET

For taxable years ending in 2022, PTET was due on the 15th day of the fourth month after the end of the taxable year. However, no penalty or interest will be assessed for late payment of PTET if

the PTET is paid by Aug. 30, 2024. However, if PTET not paid fully by Aug. 31, 2024, and after are subject to interest and penalty, with interest beginning on Aug. 31, 2024.

For taxable years ending from Jan. 1, 2023, to June 30, 2023, PTET is due on the 15th day of the fourth month after the end of the taxable year. PTET for this period is not subject to penalty and interest waiver. No estimated payments are required.

For taxable years ending from July 1, 2023, to Dec. 31, 2024, a single estimated PTET payment is required on or before the end of the taxable year. Any prior year tax is disregarded for these purposes. The estimated payment must equal or exceed 50% of the tax liability for the taxable year. If the estimated payment does not meet this amount, the pass through entity is subject to a 10% penalty on the underpayment. Any balance of PTET is due on the 15th day of the fourth month after the end of the taxable year. For taxable years 2023 and 2024, the penalty for failure to make estimated payments will not be imposed.

For taxable years ending in 2025 and later, estimated PTET payments are due on the same dates as corporate estimated tax payments under IC 6-3-4-4.1. The dates are April 20, June 20, Sept. 20, and Dec. 20 for calendar year filers. Fiscal year filers will have estimated payments due on the 20th day of the fourth, sixth, ninth, and 12th months of their fiscal years. No penalty will be imposed if the estimated payments exceed 80% of the current year PTET or 100% of the previous year's PTET, whichever is less. Any balance of PTET is due on the 15th day of the fourth month after the end of the taxable year.

Payments of PTET should be remitted with Form IT-6WTH. Multiple payments and IT-6WTH vouchers may be filed throughout the tax year or during the extension period. If additional payments are necessary, remit using the department's online e-services portal, the Indiana Taxpayer Information Management Engine (INTIME), which can be accessed at intime.dor.in.gov.

Composite Withholding Tax with PTET

If you have both PTET and composite withholding for a nonresident owner, PTET reduces the state composite withholding tax dollar-for-dollar. However, if the PTET is more than the state composite withholding tax, the composite withholding tax will be zero. Further, if composite withholding tax is due for local income tax, PTET will not reduce local income tax due.

Example #12: Partnership A credits $3,000 of PTET to Individual B. Partnership A's state composite withholding tax liability for Individual B is $3,500 prior to consideration of PTET or other credits. Individual B's share of Partnership A's research expense credit is $900. The composite withholding tax liability for Individual B is $2,600 after taking the research expense credit into account.

PTET reduces the composite withholding tax to zero. However, the $400 excess ($3,000 PTET - $2,600 composite withholding tax) cannot be applied to reduce PTET. The $400 excess must be claimed as part of any REC claimed on Individual B's return(s).

Example #13: Partnership A credits $3,000 of PTET to Individual B. Partnership A's state composite withholding tax liability for Individual B is $2,600 prior to consideration of PTET or other credits. Partnership A also has a $1,000 local income tax composite liability.

PTET reduces the state composite withholding tax to zero. However, the $400 excess ($3,000 PTET - $2,600 state composite withholding tax) cannot be applied to reduce the local income tax composite liability. Thus, Partnership A owes $1,000 in local income tax composite withholding.

For tax years beginning in 2023 and later, if PTET reduces composite withholding tax for all owners that are required to be listed on Schedule Composite, Schedule Composite will not be required to be filed. The composite withholding tax must be determined prior to the application of any exception codes. If a nonresident owner would be subject to composite withholding tax except for the application of an exception code, Schedule Composite must be completed in the normal manner otherwise required. The allowance for not filing a composite schedule also applies to Schedule Composite-COR. The allowances for not filing Schedule Composite and Schedule Composite-COR are determined separately.

Treatment of PTET for Estimated Tax Purposes

PTET will be treated as a withholding payment on behalf of an individual and as an estimated payment on behalf of a corporation for purposes of determining any penalties under IC 6-3-4-4.1 and IC 6-5.5-7-1. PTET will be presumed to be treated as paid in equal quarterly amounts throughout the individual's or corporation's taxable year. However, this presumption may be overcome if the individual or corporation can reasonably demonstrate that the PTET or income should be attributed in a different manner, such as in the manner provided in Treas. Reg. 1.6654-2(d)(2).

Safe Harbor Provision for Payments by Deadline

A partnership or S corporation will not be penalized for failure to pay the full amount of PTET shown on the return or to pay the deficiency of the PTET due if the partnership or S corporation pays the department at least 80% of the combined PTET and composite withholding tax due for the current year or 100% of the combined PTET and composite withholding tax due for the preceding year before the 15th day of the fourth month after the end of the partnership or S corporation's taxable year. However, if the remaining unpaid tax and interest is not remitted by the extended due date for the partnership or S corporation return, late payment penalties may be assessed on the unpaid balance.

A partnership or S corporation permitted an extension of time to file its income tax return under IC 6-8.1-6-1 will be granted the same extension for PTET. In order to qualify for penalty relief, the partnership or S corporation is required:

(1) to meet the safe harbor provision set forth in this section or otherwise pay 90% of the combined PTET and composite withholding tax reasonably expected to be due by the due date of the pass through entity return prior to any extension; and
(2) to remit any unpaid tax and interest by the extended due date.

An extension does not relieve the pass through entity for interest on any unpaid tax or penalty except as specifically provided by law.

Special Note for Income Tax Addback

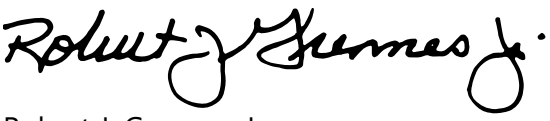
PTET is a state tax based on or measured by income for purposes of IC 6-3-1-3.5 and IC 6-5.5-1-2. If a taxpayer deducts PTET for federal adjusted gross income tax purposes, the federal deduction must be added back to adjusted gross income in the year in which the taxpayer claims the federal deduction. This year may be different than the year to which the taxpayer claims the credit on their Indiana tax return.

In addition, if the taxpayer is later refunded PTET, the refund is to be reported as a negative income tax addback for the year in which the refund is included in the taxpayer's federal adjusted gross income. Individuals will report the refund as a negative income tax addback (Schedule 1 of Form IT-40 or Schedule B of Form IT-40PNR) as opposed to a state tax refund on Schedule 2 of Form IT-40 or Schedule C of Form IT-40PNR.

Special Rules for Related to PTET Adjustments

Partnerships electing to be subject to PTET and partners in those partnerships are also subject to the rules related to partnership audit changes and reporting under IC 6-3-4.5. In addition, S corporations that elect to be subject to PTET and their shareholders are subject to the provisions of IC 6-3-4.5 with regard to any adjustments to PTET. IC 6-3-4.5 does not apply to S corporations with regard to nonresident withholding tax under IC 6-3-4-13 nor to any other issues related to the S corporation's tax attributes. Refer to Income Tax Information Bulletin #72A for further information on how partnership adjustments are treated, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

If you have any questions concerning this bulletin, contact the Tax Policy Division at taxpolicy@dor.in.gov.



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