

For taxable year ending in

2022

Ohio IT 4738
Electing Pass-Through
Entity Income Tax Return
Instructions

Rev. 10/22

Ohio

Department of
Taxation

tax.Ohio.gov

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Online Resources

The Department of Taxation's website at tax.ohio.gov has many resources available to assist when filing the Ohio Pass-Through Entity & Fiduciary income tax returns:

- ✓ [FAQs](#) – Review answers to common questions on topics.
- ✓ [Forms](#) – Find all pass-through entity & fiduciary income tax forms (including related schedules and worksheets). Many forms have fill-in versions that you can complete online, print, and then submit to the Department.
- ✓ [Information Releases](#) – Research detailed explanations and legal analyses of certain tax topics.
- ✓ [Ohio Virtual Tax Academy](#) – View webinars designed and presented by Department staff on Ohio's state taxes.
- ✓ [Tax Alerts](#) – Sign up to receive tax updates and reminders from the Department via email.

Federal Privacy Act Notice

Because we require you to provide us with a Social Security number, the *Federal Privacy Act of 1974* requires us to inform you that providing us your Social Security number is mandatory. Ohio Revised Code 5703.05, 5703.057 and 5747.08 authorize us to request this information. We need your Social Security number in order to administer this tax.

Taxpayer Assistance

Need Help? – To help answer questions and ensure that tax returns are filed accurately, the Department of Taxation provides the following resources at tax.ohio.gov:



Additionally, the website has all Pass-Through Entity and Fiduciary income tax forms to download or print. If you cannot find the answer using the website, contact the Department using any of the following methods:

Email – Click 'Contact Us' at the top right on tax.ohio.gov and select 'Email Us' to access a secure email form, or email directly to Pass-ThroughEntity@tax.state.oh.us.

Call – Speak with an examiner at 1-888-405-4039 during the Department's normal business hours.

Normal business hours are from 8 a.m. to 5 p.m. Monday through Friday excluding holidays.

Write – Contact the Department by mail at:

Ohio Department of Taxation
Pass-Through Entity
P.O. Box 181140
Columbus, OH 43218-1140

Note: To overnight documents to the Department, please use the street address listed below.

4485 Northland Ridge Blvd.
Columbus, OH 43229-6596

Visit – The Department's visitor center is open, by appointment only, during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday). To make an appointment, please call 855-567-8292 during normal business hours or use the applicable email.

Form Requests: Visit tax.ohio.gov to easily download the forms. Request tax forms anytime by calling 1-800-282-1782.

For persons who use text telephones (TTYs) or adaptive telephone equipment only: Contact the Ohio Relay Service at 7-1-1 or 1-800-750-0750 and give the communication assistant the Ohio Department of Taxation phone number that you wish to contact.

These instructions contain law references for specific line items and requirements. To review Ohio Pass-Through Entity & Fiduciary income tax law, see [R.C. 5747](#) and [R.C. 5733](#) respectively.

Go Paperless and File Electronically!

The IT 4738 can be filed electronically through the federal e-file program overseen by the IRS (irs.gov/filing), or through a participating third-party tax preparation product. PTEs can verify their software is compatible with the MeF program by reviewing the list of approved software vendors at [PTE and Fiduciary Income Tax - Software Developers](#).

Highlights for 2022

NEW 2022 IT 4738

For taxable reporting periods beginning on or after January 1, 2022, pass-through entities (PTE's) can elect to file the IT 4738 Electing Pass-Through Entity Income Tax return, an entity level tax.

NEW 2022 Tax Rate

If the PTE taxable reporting period begins in 2022, the tax rate is 5%.

IT K-1

Each entity with Ohio income should prepare a separate IT K-1 for each investor or qualifying beneficiary to enclose with the investor's or beneficiary's return.

For more information, see the IT K-1 form and instructions on tax.ohio.gov in the searchable [Tax Forms](#) section.

Electronic Filing

The IT 4738 can be filed electronically through the federal e-file program overseen by the IRS (irs.gov/filing), or through a participating third-party tax preparation product. For a current list of approved software programs, please see the [Software Developers](#) page on the Ohio Department of Taxation website, and search for the most recent MeF Approval Status link.

A tax return preparer that prepares more than 11 original tax returns during any calendar year shall use electronic filing technology. This provision does not apply to a tax return preparer in any calendar year if, during the previous calendar year, the tax return preparer prepared not more than 10 original tax returns.

See RC 5747.082.

Should the PTE File the IT 4738?

A PTE must file an Ohio return to report and pay tax either at the entity level or on behalf of its nonresident individual, trust, estate and PTE investors. The PTE can elect to file either the IT 4738, IT 4708 or the IT 1140. A PTE that changes forms from year to year must ensure all periods of income are reported and all related tax is timely and fully paid.

NOTE: If a PTE elects to file the IT 4738, all owners must be included. Once the IT 4738 is filed for any given tax period, the PTE is not permitted to amend this return to change to an IT 1140 or IT 4708.

See RC 5747.38(C)

For more information regarding which form to file, see the following chart, or search the PTE FAQ's at tax.ohio.gov:

	The IT 4738 Income Tax Return	The IT 4708 Composite Return	The IT 1140 Withholding Return
Filing date	April 15th after the year in which the entity's taxable year ends	April 15th after the year in which the entity's taxable year ends	15th day of fourth month after close of fiscal year
Can the return include resident investors?	Yes *All investors (owners) must be included	Yes	No
Tax rate	5% (all) *For reporting periods that begin on or after 1/1/2022 *3% (all) *For reporting periods that begin on or after 1/1/2023	3.990% (all) *For reporting periods that begin on or after 1/1/2021.	5% (individuals) or 8.5% (entities)
Can the return claim credits?	No	Yes	No
Can the return claim payments from other PTEs?	No	Yes	No
Investor filings	May file Ohio return	May file Ohio return	Must file Ohio return

NOTE: Credits cannot be claimed on the IT 4738 or IT 1140. However, a PTE can claim credit for such amounts on the IT 4708.

Filing Tips

Provide a Current Address

The Department uses the most up-to-date address on file to send correspondence, billings, assessments, and refunds. If the address is not correct, refunds and notices will be mailed to the incorrect address. To update an address, check the box above the address line on the return **or** visit the [Business Address Update](#) page at tax.ohio.gov to change the address.

Verify the IT 4738 and Universal Payment Coupons (UPCs) are for the Correct Tax Year

The Department releases new forms and UPCs each tax year. Do NOT cross out the year at the top of the IT 4738 or UPC and write in a new one, as doing so will delay the processing of the IT 4738 or UPC. A PTE with tax year ending during calendar year 2022 must file the 2022 IT 4738.

Maintain a Bank Account

The Department cannot change the name on a refund check, or issue the check directly to an investor, due to the closing or termination of a business.

Reprint Corrected Software-Generated Paper Returns

If the printed software-generated return from a tax preparation program subsequently requires changes on the return, do not write in the changes. Instead, use the software to make the necessary changes, save, and reprint the return. The Department's system will not pick up handwritten changes on returns generated by tax preparation software.

Complete All Applicable Schedules on the Return

When filing via a software program, complete all relevant schedules and do not override any line items. Information from schedules on the IT 4738 flows to other lines that are used to calculate the tax liability. If the schedules are not completed, a value of zero will flow to the corresponding lines, which will override any amounts that may have been entered. The return will be recalculated accordingly, resulting in a potential billing notice or reduced refund.

Report Apportionment Ratio and Ownership Percentage

Enter percentages and ratios in decimal format (e.g., report 30.09% as .3009). Report 100% as 1.0000. Enter apportionment ratios in decimal format and carry to six decimal places. In addition, do not enter text (e.g., "null" or "zero") in numeric fields.

Enter Only UPC or Treasurer of State Payments on Lines 11, 12 and 13

Incorrect reporting of credits may result in a denied/reduced refund or bill. If the entity receives an IT K-1 reporting a PTE payment or credit from another entity on its behalf, do not report these as estimated payments. Credits are disallowed.

Provide Supporting Documents

Attach the appropriate documentation specified on the IT 4738 to validate the amounts reported, such as IT K-1s to verify income/withholding flowing from another PTE to the filer, and from the filer to an owner.

Payment Options

First-Time Filers: Submit PTE Registration Form Before First Estimated Payment

If the PTE is a first-time filer, submit the Pass-Through Entity and Fiduciary Income Tax Registration Form before submitting the first estimated payment. The form can be found on the tax.ohio.gov website in the [Tax Forms](#) search. **Failure to submit the registration form may result in a delay in processing the estimated payment(s), resulting in a billing notice or refund delay.**

Submit a Separate Check for Each Balance

A separate check is required for each tax return payment, estimated payment, billing/assessment payment, etc. The Department cannot apply a single check to multiple balances. The check or money order should be made payable to "Ohio Treasurer of State" with identifying information on the memo line, including:

- Federal employer identification number (FEIN),
- Tax form using the payment (IT 4738);
- Tax year end for the payment (mm-dd-yy).

Using Payment Coupons Created by Third-Party Software

Before submitting a payment coupon created by third party software, please verify the reporting period end date matches the software-generated Key ID numbers and the number string at the bottom of the payment coupon, in the format MMY. **If mismatched, the payment will be misdirected, causing a delay in processing the estimated payment(s), resulting in a billing notice or refund delay.** Please contact the third-party software company's support line to resolve.

Methods for Making PTE and Fiduciary Income Tax Payments

1. **Electronic Funds Transfer (EFT):** EPayments may be remitted by EFT (ACH credit) via the Ohio Treasurer of State (TOS). Any questions about the EFT payment process should be directed to the Ohio Treasurer of State by calling (877)338-6446.

This is an ACH credit option; the entity initiates the payment through its own bank. No online credit card payment or ACH debit option exists at this time either through the Ohio Treasurer of State (TOS) or the Ohio Department of Taxation.

Access the applicable tax form-specific link below for the information page with the TOS routing/account numbers and codes/format the financial institution must use to issue the ACH credit via the TOS payment option:

IT 4738 Electing Pass-Through Entity Income Tax Payments instructions unavailable, as of publishing. Use IT 1140 payment instructions.

[IT 4708 Pass-Through Entity Composite Income Tax Payments](#)

[IT 1140 Pass-Through Entity and Trust Withholding Tax Payments](#)

[IT 1041 Fiduciary Income Tax \(Trusts and Estates\) Payments](#)

NOTE: The TOS no longer requires PTE and fiduciary filers to submit an EFT authorization form to register before making an IT 4738, IT 4708, IT 1140 and/or IT 1041 payment via ACH credit (no ACH debit option).

2. **Check or Money Order:** Make check or money order payable to "Ohio Treasurer of State." A payment made by a check or money order must be submitted with the appropriate Ohio Universal Payment Coupon (UPC) based on the form filed. All UPCs can be found on the tax.ohio.gov website in the searchable [Tax Forms](#) section by entering "UPC" in the Form Title or Number field. Please mail the payment and UPC to the address on the UPC or hand deliver to our self-service walk-in center.
3. **Electronic Check:** When filing electronically through an approved software program, the PTE or fiduciary has the option to make a payment by electronic check in the form of an Electronic Funds Withdrawal, or direct debit. The direct debit option is only available for e-filed returns. For mailed returns created from an approved software program, the options for payment are 1) Electronic Funds Transfer (EFT), or 2) check or money order, as listed above.

For a current list of approved software programs, please see the [Software Developers](#) page on the Ohio Department of Taxation website, and search for the most recent "MeF Approval Status" link.

Please contact the software companies directly for their electronic payments support.

Payment Options Continued

Completing the Universal Payment Coupon (UPC)

Each payment made by check or money order must be submitted with the appropriate Ohio Universal Payment Coupon (UPC). Application of payments is driven by the UPC used and is based on which form is filed (i.e., IT 1041, IT 4708, IT 4738, or IT 1140). Each UPC allows the Taxpayer to make either an estimated payment ("ES" payment) or payment submitted with the tax return ("P" payment). **Only one type of payment can be made on each UPC submitted.**

All UPCs can be found in the [Tax Forms](#) field by entering "UPC" in the Form Title or Number field.

The **IT 4738 UPC** is used by PTE to make either an estimated payment (IT 4738ES) or a payment submitted with the return (IT 4738P). When completing the UPC:

- Enter the filing period start date and end date in the format mm-dd-yy;
- Select either the IT 4738ES or IT 4738P;
- Enter the correct entity type code in the box above the payment amount (*see codes on instructions page above UPC);
- Enter the amount of payment as a whole number without a decimal, as the UPC features a preprinted ".00."

Sample IT 4738 UPC: This form must be included with each check or money order.

Do **NOT** fold check or coupon.

Ohio Universal Payment Coupon (UPC) Rev. 6/22 Clear Form

Pass-Through Entity/Fiduciary Income Tax

• Do **NOT** staple or paper clip. • Do **NOT** send cash.

Name


Address

City, State, ZIP code

Reporting Period (Annual Period Start Date)

Reporting Period (Annual Period End Date)

FEIN (08)



Entity Type Code(see instructions)

Check One Only:

☐ **IT 4738P (856)**

☐ **IT 4738ES (859)**

• **Make payment payable to:** Ohio Treasurer of State
 • **Mail this coupon and payment to:** Ohio Department of Taxation
 P.O. Box 181140
 Columbus, OH 43218-1140

Amount of Payment → \$.00

000 0 08 3 0000000000000000 000000 0 555

Include a Check or Money Order with each IT 4738 UPC

Payable to "Ohio Treasurer of State" with identifying information on the memo line, including:

- Federal employer identification number (**FEIN**);
- **Tax form** using the payment (IT 4738);
- **Tax year** end for the payment (mm-dd-yy).

2022 Ohio IT 4738

General Instructions

Note: Ensure tax return pages are in numerical order. Include any attachments after the return. The return and supporting schedules are on the [Tax Forms](#) page tax.ohio.gov.

What is a Pass-Through Entity (PTE)?

A "pass-through entity" is an S corporation, partnership, or limited liability company (LLC). A PTE is also any other person, except an individual, trust, or estate, that is not classified as a C corporation for federal tax purposes. See R.C. 5747.01(K) and 5733.04(O).

What is an Electing Pass-Through Entity (EPTE)?

An "electing pass-through entity" is a qualifying pass-through entity that elects to be subject to the tax levied under R.C. 5747.38 for a taxable year. See R.C. 5747.38(A)(1).

What is an Owner?

An "owner" is a person that is a partner, member, shareholder, or investor in an electing pass-through entity for any portion of the taxable year. See R.C. 5747.38(A)(2).

Who Should File Form IT 4738?

The IT 4738 is an entity level income tax return a PTE elects to file that includes the income of all owners. It is filed in lieu of the IT 1140 (the PTE withholding return). Similar to the IT 1140, an EPTE cannot use the IT 4738 to claim credits or payments made on its behalf by other PTEs. The election to file the IT 4738 applies only for one tax year and once made, is binding and irrevocable.

Note: A trust, estate, disregarded entity or C corporation **cannot** file the IT 4738. See R.C. 5747.38(C), 5747.01(K), and 5733.04(O).

Which Owners Should Be Included on Form IT 4738?

An EPTE must include the income of all owners.

Note: If a nonresident or trust owner's only Ohio adjusted gross income or modified Ohio taxable income is from an EPTE, there is no requirement to file an Ohio income tax return for the taxable year. However, the nonresident or trust owner may choose to file an income tax return (e.g. form IT 1040 or IT 1041) and claim a refundable credit for taxes paid by the EPTE on the IT 4738. See R.C. 5747.08(L) and 5747.39.

How Does Ohio Law Define Business and Nonbusiness Income?

"Business income" is income, including gain/loss arising from any of the following:

- Transactions, activities, and sources in the regular course of a trade or business operation;
- Real, tangible, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation;
- A partial or complete liquidation of a business, including gain or loss from the sale or other disposition of goodwill;
- A sale of an equity or ownership interest in a business if the sale is treated for federal income tax purposes as the sale of assets and the seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years.
- Compensation and guaranteed payments paid by a pass-through entity, or a professional employer organization on its behalf, to an investor who directly or indirectly owns 20% or more of the entity.

Nonbusiness income is any income other than business income.

How Does an Entity Determine What Income is Business Income?

Business income can be determined by using either of two tests:

- Transactional Test: Looks to the nature, frequency and regularity of the transaction;
- Functional Test: Looks to whether the property was integral

to the trade or business, or if it generated business income in the past.

Generally, all income from a PTE is presumed to be business income.

See R.C. 5747.01(B).

Can an EPTE Claim a Net Operating Loss (NOL) on the IT 4738?

EPTEs are not permitted to claim an NOL deduction on the IT 4738. Instead, owners who want to utilize an NOL deduction must file the IT 1040.

How Does a EPTE Determine its Ohio Taxable Year?

An EPTE's taxable year for Ohio income tax purposes is the same as its taxable year for federal income tax purposes.

However, when filing the IT 4738 return the PTE must file a single return that includes all tax periods and aggregates all income and expenses for the investor(s). An IT 4738 **cannot** be filed for "short periods". See R.C. 5747.08.

When is the Return Due?

An EPTE with a taxable year end during calendar year 2022 must file its 2022 IT 4738, including copies of its IT K-1s, by April 18, 2023.

Filing Extensions

The extension due date for filing the IT 4738 is September 15, 2023, provided the EPTE qualifies for an IRS extension of time to file. Ohio does not have an extension request form but honors the IRS extension. Include a copy of the IRS extension or IRS acknowledgement, and/or the extension confirmation number if electronically filed. However, if the EPTE has a fiscal year end, it may have a different extension due date. See table below.

An extension of time to file does not extend the time for payment of the tax due. The PTE must make extension payments by April 18, 2023 with the required IT 4738 UPC by searching for UPC in the Form Title or Number field on the [Tax Forms](#) page at [tax.ohio.gov](#). Interest will accrue on any tax not paid by April 18, 2023, and penalties may also apply.

TY 2022 Due Dates and Extended Due Dates				
Fiscal Year Ends	IRS Due Date	Ohio Due Date	IRS Ext. Date	Ohio Ext. Date
1/31/22	4/18/22	4/18/23	10/17/22	4/18/23
2/28/22	5/16/22	4/18/23	11/15/22	4/18/23
3/31/22	6/15/22	4/18/23	12/15/22	4/18/23
4/30/22	7/15/22	4/18/23	1/17/23	4/18/23
5/31/22	8/15/22	4/18/23	2/15/23	4/18/23
6/30/22	9/15/22	4/18/23	3/15/23	4/18/23
7/31/22	10/17/22	4/18/23	4/18/23	4/18/23
8/31/22	11/15/22	4/18/23	5/15/23	5/15/23
9/30/22	12/15/22	4/18/23	6/15/23	6/15/23
10/31/22	1/17/23	4/18/23	7/17/23	7/17/23
11/30/22	2/15/23	4/18/23	8/15/23	8/15/23
12/31/22	3/15/23	4/18/23	9/15/23	9/15/23

Note: Only a 12/31/22 fiscal year end can include a 12 month filer as the IT 4738 is only applicable for beginning periods that start on or after 1/1/2022. See R.C. 5747.42(A)(2) and Ohio Admin Code 5703-7-05.

Estimated Tax Payments

The EPTE must make estimated tax payments with the IT 4738ES Universal Payment Coupon (UPC) for the entity's taxable year if the EPTE's estimated sum of its qualifying taxable income exceeds \$10,000.

Due Dates for Estimated Tax Payments

If any filing due date set forth below falls on a weekend or on a holiday, then the due date becomes the first business day thereafter.

Due Date for Estimated Payments	% Cumulative Estimated Payments Made
On or before the 15th day of the month following the last day of the 1st quarter.	22.5% of the current year tax liability
On or before the 15th day of the month following the last day of the 2nd quarter.	45% of the current year tax liability
On or before the 15th day of the month following the last day of the 3rd quarter.	67.5% of the current year tax liability
On or before the 15th day of the month following the last day of the 4th quarter.	90% of the current year tax liability

For more information, see the Payment Tips on page 3.

Does Ohio Follow the Alternative Preparer Signature Procedures?

The Department follows federal Notice 2004-54. However, the paid preparer **must** print (not sign) his/her name if the PTE authorizes the preparer to discuss the return with the Department. Preparers with a Preparer Tax Identification Number (PTIN) must provide it on all returns.

See R.C. 5703.262(B).

Can the EPTE's Tax Preparer Contact the Department About the IT 4738?

The EPTE can check the box above the tax preparer's name on page 2 of the return to authorize the preparer to:

- Contact the Department about the status of the EPTE return, payments, or refund;
- Provide the Department with information missing from the EPTE's return; AND
- Respond to inquiries or notices from the Department related to the return.

How Does a EPTE Determine its Ohio Method of Accounting?

A EPTE's method of accounting on its Ohio return is the same method it used for federal income tax purposes.

See R.C. 5747.45(B).

When Should the EPTE Complete the IT K-1?

The IT K-1 allows the EPTE to report its income, adjustments, credits, and apportionment information to its owners. The information is used by the EPTE's owners when completing the IT 1040, IT 1041, IT 4708, IT 4738 or IT 1140.

The EPTE must complete two copies of the IT K-1 for each owner whose income is included on the IT 4738. One copy of the IT K-1 must be included when filing the IT 4738. The other copy should be provided to the owner.

The IT K-1 is available in the searchable [Tax Forms](#) section at [tax.ohio.gov](#). For additional information, please see the IT K-1 category in the PTE FAQs at [tax.ohio.gov](#).

Amended Returns**When to Amend**

The EPTE can file an amended IT 4738 to report changes to the originally filed return(s). An amended return can result in either a tax due or a refund based on the changes. Under certain circumstances, an amended return may be required. To amend the IT 4738 the EPTE should file a new return showing the original amounts for any item that remains unchanged and reflecting all proposed changes; indicate that it is amended by checking the box at the top of page 1.

Please include a copy of the following with the amended return:

- Any canceled checks used as payment on the originally filed return; AND
- Supporting documentation that reflects the reason(s) for filing the amended return.

Note: Amended return processing may take at least 180 days from the date of receipt.

For additional information, see [tax.ohio.gov](#) for [FAQs](#).

When Not to Amend Your Return

Some common mistakes may not require an amended return. Some examples include:

- Math errors;
- Missing pages or schedules;
- Demographic errors;
- Missing income statements (W-2, 1099, K-1)

Requesting a Refund

The EPTE may want to amend the return to request an additional credit, deduction or payment. Such changes may result in a refund. The EPTE has four years from the date of the payment to request a refund. The EPTE must include supporting documentation to substantiate the changes reported on the amended return. Some common required documentation includes:

- The federal return, including applicable schedules and attachments;
- Copies of the income statements (W-2, 1099, etc.);
- IT K-1s

Reporting Additional Tax Due

The EPTE should amend the return to report additional income or reduce a previously claimed deduction. Such changes may result in additional tax due. Payment should be included with the amended return using an IT 4738 UPC payment coupon.

Changes to the Federal Return

If the IRS makes changes to the federal return, either based on an audit or an amended return, and those changes affect the Ohio return, the EPTE is required to file an amended IT 4738. **DO NOT** file your amended Ohio return until the IRS has finalized the changes to the federal return. Once the changes are finalized, please include a copy of all the following:

- The federal amended 1065 OR 1120S; AND
- The IRS acceptance letter.

Note: Instead of including a copy of these documents, the EPTE may submit a copy of the IRS Tax Account Transcript reflecting the updated federal return information.

The amended IT 4738 should be filed no later than 90 days after the IRS completes its review of the federal return. Failure to file the return within this time period may result in an assessment or a denial of the refund claim.

The 90 days begins to run when:

- The period for the federal appeal has expired, or
- The date a federal settlement agreement is signed.

See R.C. 5747.10.

File Prior to Out of Statute

Ohio's pass-through entity and fiduciary income taxes generally have a four-year statute of limitations. The Department has four years to issue an assessment from the later of when the return was due or filed. The EPTE has four years from the date of the payment to request a refund. Please see the table below for details

Tax Year	Due Date	Timely Payment or Withholding Out-of-Statute Date
2022	4/18/23	4/15/27

**Schedule I – Taxable Income, Tax, Payments
and Net Amount Due Calculations**

Generally, all income from an EPTE is presumed to be business income.

Note: Amounts reflected in Schedule I are the combined amounts of income and adjustments of ALL owners.

Line 1 – Total Business Income (loss) from Schedule II, line 33

This line must equal line 34 (the sum of lines 23 through 32); a difference will delay processing of the return and may result in a billing or reduced refund.

Line 2 – Total Business Deductions from Schedule III, line 39

This line must equal line 39 (the sum of lines 34 through 38); a difference will delay processing of the return and may result in a billing or reduced refund.

Line 6 – Net Nonbusiness Income Allocated to Ohio

Generally, income earned by an EPTE is apportionable business income. If income is shown on this line, the EPTE must provide a narrative and schedule explaining the types of income included on this line and why they are nonbusiness income.

Failure to include this information will delay processing of the return and may result in a billing or reduced refund.
See R.C. 5747.20, 5733.40(A) and 5733.05;

Line 7 – Net Nonbusiness Loss Allocated to Ohio

Generally, income earned by an EPTE is apportionable business income. If income is shown on this line, the EPTE must provide a narrative and schedule explaining the types of income included on this line and why they are nonbusiness income.

Failure to include this information will delay processing of the return and may result in a billing or reduced refund.

See R.C. 5747.20, 5733.40(A) and 5733.05;

Line 9 – Tax Liability

For reporting period beginning on or after January 1, 2022, the tax rate is 5%. For reporting period beginning January 1, 2023 or after, the tax rate is 3%.

Note: The 2022 IT 4738 is not for reporting periods beginning January 1, 2023 or after.

Line 10 – Interest Penalty on Underpayment of Estimated Tax

The Department **will not** impose the 2210 interest penalty on any entities that elect to file the 2022 IT 4738 for failure to make, or paid late, estimated payments.

From tax years starting 1/1/23, entities that elect to file the IT 4738 will be subject to the 2210 interest penalty for failure to make timely estimated payments.

Line 11 – Ohio IT 4738 UPC/Electronic Payments

Enter estimated payments made with an IT 4738 UPC or EFT payments made through the Ohio Treasurer of State for this tax year applied to this return.

Line 12 – Ohio IT 1140 and IT 4708 Estimated (UPC/Electronic) Payments Claimed on This Return

Enter the portion of estimated payments made with an IT 1140 or IT 4708 UPC or EFT and prior year credit carryforwards for this tax year to be applied to this IT 4738. This will result in a delay in processing the return. These amounts cannot also be claimed on an IT 1140 or IT 4708.

Line 13 – Refunds Previously Issued on the Original IT 4738

Enter the amount of the refund previously issued on the Original IT 4738.

Note: This line should be used for amended returns only.

Line 18 – Amount of Line 17 to be Credited to Year 2023 Tax Liability

A credit carryforward is only allowed on a timely-filed, original return; otherwise, an overpayment will be refunded.

Line 19 – Amount of Line 17 to be Refunded

Interest on Overpayments. Once the return has been verified, if the refund exceeds one dollar it will be refunded to the EPTE. The EPTE will receive interest on the refund from the date of payment until the date of the refund if the amount is not refunded within 90 days of the later of the return's due date, or the date the return was filed.

During calendar year 2023, interest accrues on overpayments at an annual rate of 5%.

See R.C. 5747.11(B) and (C)(1).

Line 21 – Interest Due on Late Payment of Tax

Interest is due on any unpaid tax exceeding one dollar from the unextended due date until the date the tax is paid. An extension of time to file does not extend the payment due date. The interest rate for calendar year 2023 is 5%.

See R.C. 5747.42, 5703.75 and Ohio Admin Code 5703-7-05.

Line 22 – Total Amount Due

Make payments by:

- Electronic check through an approved software program when filing electronically,
- Electronic funds transfer (EFT) through the Ohio Treasurer of State; OR
- Sending a personal check / money order with the Ohio UPC.

For questions regarding the EFT payment program, see the Electronic Funds Transfer Via Ohio Treasurer of State (TOS) at [Business Tax - Pay Online](https://tax.ohio.gov/BusinessTax-PayOnline) at tax.ohio.gov.

Schedule II – Income and Adjustments

Note: Amounts reflected on Schedule II are the combined amounts of income and adjustments of ALL owners. The amounts included are those which, pursuant to the Constitution of the United States, the Constitution of Ohio, or any other Ohio or federal law, are subject to a tax measured by net income.

Generally, all income from an EPTE is presumed to be business income. See R.C. 5747.01(B).

Line 24 – Related Member Adjustments

All electing pass-through entities are required to add back expenses or losses paid or incurred with respect to transactions involving related members. A "related member" is:

- Any person described in IRC §1563(e) that owns at least 40% of the EPTE;
- Any individual owner, or the owner's spouse, child, grandchild, or parent if combined they own at least 50% of the EPTE;
- An owner that is a partnership, estate, trust, or corporation, or the owner's partnership, estate, trust, or corporation if combined they own at least 50% of the EPTE; OR
- A corporation, or a party related to the corporation that would require an attribution of stock from the corporation to the party or from the party to the corporation if the EPTE owns at least 50% of the corporation.

Ownership includes: direct, indirect, constructive, and beneficial.

- **Direct** – Investor owns an EPTE with no other owners in between.
- **Indirect** – Investor owns an EPTE that owns another EPTE.
- **Constructive** – Person is not an investor but is deemed to own the EPTE through attribution because of their relationship to one of the EPTE's owners.
- **Beneficial** – Person is a beneficiary of a trust or estate, and thus is treated as an "owner" of the asset.

Note: The attribution rules in IRC §318 apply for purposes of evaluating the ownership requirements. See the EPTE FAQs at tax.ohio.gov for additional examples.

Common expenses and losses subject to add back when paid to a related member include:

- Management fees;
- Interest expenses;
- Rents and royalties;
- Compensation paid to an individual owner's family members or other entities;
- Expense sharing, or "common paymaster" arrangements.

For more information, see [FAQs](#) at tax.ohio.gov and the Information Release [Meaning of "Indirect" Ownership](#).

See R.C. 5733.40(A)(3) and (4) and R.C. 5733.40(P), IRC §1563(e), and IRC §318.

Line 26 and 27 – Guaranteed Payments and Compensation

Enter compensation or guaranteed payments the EPTE paid, or a professional employer organization (PEO) paid on behalf of the EPTE, to an owner who directly or indirectly owns at least 20% of the profits or capital of the EPTE at any point during the tax year. These amounts are reclassified from guaranteed payments/compensation to a distributive share of income.

Note: Agreements that Ohio has with Kentucky, West Virginia, Pennsylvania, Michigan, and Indiana relating to the taxation of compensation do not apply. Compensation paid to a 20% or more owner must be included on this line.

Example 1: Jim is a Kentucky resident who owns 30% of EPTE A. He provides services for EPTE A in Kentucky and is paid a wage for his services. Since Jim owns at least 20% of EPTE A, his wages are reclassified as a distributive share of income. Thus, the wages are required to be included on EPTE A's return as a related member add-back, even though Jim is a Kentucky resident.

Example 2: Karen is an Iowa resident who owns 19% of EPTE A. Karen receives wages from EPTE A. However, since Karen does not own at least 20% of EPTE A, her wages are not reclassified as a distributive share of income or added back onto the return as a related member add-back.

See R.C. 5733.40(A)(7).

Line 28 - Portfolio Income(loss) a. - e.

List the amount of each type of portfolio income (or loss) on each line.

NOTE: If the sum of lines 28d and 28e (capital gains/losses) is an overall loss, the amount on line 24e is limited to \$3,000 per participating owner.

Line 30 – IRC §168(k) Bonus Depreciation and §179 Expense Add-Back and Schedule VI, Line 39

Check the box for the appropriate add-back ratio.

Add 5/6 of IRC §168(k) bonus depreciation allowed under the IRC. Also, add 5/6 of any qualifying §179 depreciation expense.

However:

- Replace "5/6" with "2/3" for employers who increase their Ohio income taxes withholding by an amount equal to or greater than 10 percent over the previous year; OR
- Replace "5/6" with "6/6" for taxpayers who incur a net operating loss (NOL) for federal income tax purposes if the loss was a direct/indirect result of the §168(k) and/or §179 depreciation expenses.

If the amount of qualifying IRC §179 depreciation expense is greater than \$200,000, the \$25,000 deduction is reduced dollar for dollar by any amount over \$200,000, per the IRC as it existed as of December 31, 2002.

Using the following lines from federal form 4562, the add-back formula is (line 12 - \$25,000) + line 14 + line 25. The sum of these lines is multiplied by the appropriate ratio.

Additionally, there is **no** requirement to make Ohio's depreciation add-back in **either** of the following circumstances:

- The depreciation is from an EPTE, and the owner owns **less than 5%** of the EPTE. This is true even if the EPTE performed the add-back on its Ohio filing (i.e. the IT 1140 or IT 4738); OR
- An EPTE that increases its Ohio income taxes withheld over the previous year's by an amount **greater than or equal to** the sum of §168(k) and/or §179 depreciation amounts.

Example 1: EPTE A has total of \$180,000 subject to add-back for the current tax year. The \$100,000 of §179 depreciation is from EPTE A's business operations. The \$80,000 of §168(k) depreciation is from its distributive share of bonus expense from EPTE B.

Source of Depreciation	Add-back Amount (\$179-\$25,000)	§168(k)	Add-back Ratio	Add-back Amount
EPTE A - operations	\$100,000	\$0	5/6	\$83,333
EPTE B - distributive share/ bonus expense		\$80,000	5/6	\$66,667
Total add-back for tax year:	\$100,000	\$80,000		\$150,000

Example 2: EPTE A owns 100% of EPTE B. EPTE A has \$180,000 subject to add-back for the current tax year. EPTE B increased its Ohio employer withholding for its employees by at least 10% over the previous tax year. EPTE A must use a different add-back ratio for each source of depreciation, and calculates its depreciation add-back as follows:

Add-Back - Combined add-back				
Source of Depreciation	Add-back Amount (\$179-\$25,000)	§168(k)	Add-back Ratio	Add-back Amount
EPTE A - operations	\$100,000	\$0	5/6	\$83,333
EPTE B - distributive share/ bonus expense	\$0	\$80,000	2/3	\$53,333
Total add-back for tax year:	\$100,000	\$80,000		\$136,666

Example 3: EPTE A still has \$180,000 subject to add-back for the current tax year, but its federal taxable income is (\$100,000) (i.e. EPTE A has a federal NOL). EPTE A would calculate its depreciation add-back as follows:

Add-Back - NOL				
Source of Depreciation	Add-back Amount (\$179-\$25,000)	§168(k)	Add-back Ratio	Add-back Amount
EPTE A - operations	\$100,000	\$0	6/6	\$100,000
EPTE B - distributive share/ bonus expense	\$0	\$80,000	6/6	\$80,000
Total add-back for tax year:	\$100,000	\$80,000		\$180,000

Put the total year add-back amount on line 44 of Schedule VI.

For additional information, please see the FAQs and R.C. 5733.40(A)(5) and 5747.01(A)(17)(a)(i-v).

Line 31 – Other Income or Deduction and Federal Conformity Additions

Enter income or deductions not otherwise reported on Schedule II that are part of an investor's distributive share from the EPTE. Include a supporting schedule detailing each amount reported on this line, as well as an explanation of why each amount is included on this line. Failure to provide this information may delay the processing of the return.

The following generally **can be included** on this line:

- Section 59(e)(2) – depletion amortized on federal Schedule E; include federal form 4562.
- Deductions allocable to royalties appearing on federal Schedule E.
- §754 election – § 754 election is made to adjust the basis of partnership property in the event of a sale or exchange of partnership interest, a partner's death, or certain distributions to partners.
- §743(b) – 743(b) provides certain adjustments in the case of a sale or exchange of a partnership interest in which a §754 election is in place.

The following generally **cannot be included** on this line:

- Charitable contributions.
- Any state or federal credit amount, including the research and development tax credit and the work opportunity credit.
- Wage expenses not deducted on the federal return related to work opportunity credit from Ohio Schedule A.
- Itemized deductions from federal Schedule A such as:
 - Interest paid on loan proceeds to purchase investments that is only deductible for individuals who itemize on federal Schedule A.
 - Any expense incurred to generate investment income that is only deductible for individuals who itemize on federal Schedule A.
 - Research and experimental expenditures.
 - Amounts paid for medical insurance and long term care.

Federal Conformity

This line is also for federal conformity adjustments. For updates on Ohio Conformity, see [Ohio Conformity Updates](https://tax.ohio.gov/ohio-conformity-updates) at tax.ohio.gov and R.C. 5701.11.

For more information, see [FAQs](https://tax.ohio.gov/faqs) at tax.ohio.gov.

Line 33 – Total Income(loss)

This line **must** equal the sum of line 23 through line 32. A difference will delay processing of the return and may result in a billing or reduced refund.

Schedule III – Deductions

Lines 34-39 are allowable deductions for all owners. Do not include deductions that have already been used to reduce income items included on Schedule II.



DO NOT include deductions solely because they are available to an individual on the federal 1040 or the Ohio IT 1040.

Line 35 – IRC §168(k) Bonus Depreciation and §179 Expense Deduction

Use the table on line 45 to calculate the current deductions from the prior year add-back amounts. Deduct:

- 1/5 of prior year 5/6 add-backs;
 - 1/2 of prior year 2/3 add-backs; AND/OR
 - 1/6 of prior year 6/6 add-backs;
- of applicable §168(k) and §179 depreciation add-backs on a prior year's IT 4708 or IT 1140.

NOTE: Deduct only amounts that were added back by the EPTE on a prior year's IT 1140 or IT 4708. This deduction is available even if the asset is no longer owned by the EPTE.

The deduction must be taken in equal increments in consecutive tax years. If the deduction is missed in a taxable year, any unused portion from any given tax year is not eligible to be carried forward. Instead, the EPTE would have to amend the prior returns to claim the deduction.

If there is an NOL, the deduction cannot be claimed for that year and will be carried forward to the next year without an NOL.

For additional information, see the PTE FAQs in the Bonus Depreciation category at tax.ohio.gov.

See R.C. 5733.40(A)(5) and 5747.01(A)(18).

Line 36 – Net Federal Interest and Dividends Exempt from State Taxation & Federal Conformity Adjustments

Enter interest and dividend income from obligations issued by the United States government or its possessions/territories that are exempt from Ohio tax under federal law.

A comprehensive list of deductible interest and dividends can be found in [Information Release IT 1992-01 – Exempt Federal Interest Income](https://tax.ohio.gov/information-release-it-1992-01-exempt-federal-interest-income).

Examples of interest income that are not deductible:

- Interest paid by the IRS on a federal income tax refund.
- Interest income from Fannie Maes or Ginnie Maes.

See R.C. 5747.01(A)(3).

Federal Conformity Deductions

This line is also for federal conformity deductions.

Note: Do not enter any federal adjustments solely because the deduction is available to an individual on the federal 1040 or the Ohio IT 1040.

For more information, see [Ohio Conformity Updates](https://tax.ohio.gov/ohio-conformity-updates) at tax.ohio.gov.

See R.C. 5701.11.

Line 37 – Exempt Gains from the Sale of Ohio State or Local Government Bonds

If included in federal income:

- **Deduct** interest income and gains from the sale or disposition of Ohio public obligations and Ohio purchase obligations and income from a certain transfer agreement or an enterprise transferred under that agreement.
- **Add** any loss from the sale or disposition of Ohio obligations.

See R.C. 5747.01(A)(8).

Line 39 – Total

This line **must** equal the sum of line 34 through line 38. A difference will delay processing of the return and may result in a billing or reduced refund.

Schedule IV – Apportionment Formula

The three apportionment factors are property and payroll, each weighted at 20%, and sales, weighted at 60%, for a total of 100%. However, if any factor's "total everywhere" is zero, the weights of the remaining factors must be proportionately increased so that the total remains 100%. You must show the reweighted factors by crossing out the listed weights and replacing them with the correct weights.

Example: ABC LLC is a single-member LLC with no employee payroll. In calculating its Ohio apportionment ratio, ABC LLC must reweight its property factor to 25% and its sales factor to 75%.

If an EPTE owns an interest in other PTEs, when calculating its apportionment ratio, the EPTE **must** include its proportionate share of other PTEs "Within Ohio" portion and the "Total Everywhere" portion of property, payroll and sales. These amounts will be reported by the other PTEs in the "Entity Apportionment Percentage" section of the Ohio IT K-1 issued to the EPTE-owner.

Note: An EPTE may request, in writing an alternative form of apportionment instead of the method listed above. Such request is only valid if approved by the Department.

See R.C. 5747.231, 5747.38(A)(4)(a), and 5733.05(B)(2).

Property Factor

The Property Factor is the ratio of:

$$\frac{\text{Average value of property in Ohio}}{\text{Average value of property everywhere}}$$

"Property" includes any real and tangible personal property that is owned, rented, subrented, leased and/or subleased in the course of a trade or business by the EPTE or other PTEs owned by the EPTE. Property does not include any of the following:

- Construction in progress;
- Property not used in a trade or business;
- Property for which Ohio has issued an air, noise, or industrial water pollution control certificate;
- Property used exclusively during the tax year for qualified research.

Note: The original cost of qualifying improvements to property in an enterprise zone, for which Ohio has issued a Tax Incentive Qualification Certificate, should only be included in Total Everywhere.

The "average value" of business property is calculated by averaging the total value of all applicable property owned or rented at the beginning and end of the tax year.

See R.C. 5747.21(B) and 5733.05(B)(2).

Line 40a - Property Owned

Within Ohio: Enter the average value of all Ohio property owned by the business during the tax year.

Total Everywhere: Enter the average value of all property owned by the business during the tax year.

Property owned by the business is valued at its original cost.

Line 40b - Property Rented

Within Ohio: Enter the average value of all Ohio property rented by the business during the tax year.

Total Everywhere: Enter the average value of all property rented by the business during the tax year.

Property rented by the business is valued at eight times the net annual rental rate (annual rental expense less subrental receipts).

Payroll Factor

The payroll factor is the ratio of:

$$\frac{\text{Total compensation in Ohio}}{\text{Total compensation everywhere}}$$

"Compensation" means any form of remuneration paid by the EPTE, or other PTEs owned by the EPTE, to an employee for personal services. Compensation does not include any of the following:

- Amounts paid to employees for services unrelated to a trade or business;
- Amounts reclassified as a distributive share of income from a PTE under R.C. 5733.40(A)(7); AND
- Amounts paid to employees who are primarily engaged in qualified research.

Note: Compensation paid to certain employees at an urban job and enterprise zone facility, for which Ohio has issued a Tax Incentive Qualification Certificate, should be included only in total compensation everywhere.

See R.C. 5709.65, 5747.38, and 5733.05(B)(2)(b).

Line 41 - Payroll

Within Ohio: Enter the total compensation paid in Ohio during the tax year. Compensation is paid in Ohio if:

- The employee's job is entirely in Ohio;
- The employee's job is primarily in Ohio with only incidental work outside Ohio;
- The employee performs services in Ohio and either the headquarters, or, if no headquarters exists, the place from which the service is directed or controlled, is in Ohio; OR
- The employee is a resident of and performs some services in Ohio, and the headquarters or the place from which the service is directed or controlled is not in any state in which some part of the service is performed.

Compensation paid to any employee of a common or contract motor carrier who performs regularly assigned duties in more than one state should be assigned to Ohio by the ratio of mileage traveled by the employee in Ohio to the total mileage traveled by the employee everywhere during the taxable year.

Total Everywhere: Enter the total compensation paid everywhere during the tax year.

Sales Factor

The sales factor is the ratio of:

$$\frac{\text{Sales in Ohio}}{\text{Sales Everywhere}}$$

"Sales" includes gross business receipts earned by the EPTE or other PTEs owned by the EPTE, such as:

- Receipts from the sale of real property, tangible personal property, or services;
- Receipts from rents and royalties from real and tangible personal property; OR
- Receipts from the transfer of or the right to use intellectual property such as trademarks, trade names, patents, and copyrights.

"Sales" does not include:

- Interest and dividends;
- Receipts from the transfer of intangible property other than trademarks, trade names, patents, copyrights or other similar intellectual property;
- Receipts from the transfer of real or tangible personal property that is either a capital asset or an Internal Revenue Code section 1231 asset; AND
- Receipts from sales to certain public utilities, insurance companies, and financial institutions described in R.C. 5733.05(B)(2)(c).

Note: Income amounts excluded from the sales factor may still be considered business income under Ohio law.

See R.C. 5747.38 and 5733.05(B)(2)(c).

Line 42 - Sales

Within Ohio: Enter gross receipts from sales within Ohio during the tax year. Sales within Ohio include all the following:

- Receipts from sales of tangible personal property, less returns and allowances, to the extent the property was received by the purchaser in Ohio;
- Receipts from services to the extent the purchaser ultimately used or received the benefit of the services in Ohio;

- Rents and royalties from tangible personal property to the extent the property was used in Ohio;
- Receipts from the transfer of certain intellectual property to the extent the property was used in Ohio;
- Receipts from the right to use certain intellectual property to the extent the receipts are based on the right to use the property in Ohio;
- Receipts from the sale of real property located in Ohio; AND
- Rents and royalties from real property located in Ohio.

Note: For tangible personal property, where the property is “received by the purchaser” is not the same as where the purchaser takes physical or legal possession. Instead, it is considered “received” where it is ultimately used by the purchaser.
See R.C. 5733.05(B)(2)(c)(i) and (ii).

Total Everywhere: Enter the gross receipts from sales everywhere during the tax year.

Schedule V – IRC §168K Bonus Depreciation and §179 Expense Add-back Schedule

Prior tax year IRC §168K bonus depreciation and §179 expense add-back amount and ratio.

Line 44 – Total Current Year IRC §168K Bonus Depreciation and §179 Expense Add-Back

Total current year IRC §168K bonus depreciation and §179 expense add-back from line 30.

ADD-BACK				
Source of Depreciation	§179 Add-back Amount	§168(k) Amount	Add-back Ratio (2/3, 5/6, 6/6)	Add-back Amount
Total add-back for tax year:				

Line 45 – Prior Years Add-Back Amount and Applicable Add-Back Ratio

Use this table to calculate the current deductions from prior year add-back amounts and applicable ratios and report on line 35.

§168(k) and §179 Depreciation Expense Deduction Worksheet					
Tax Year	A Source of Depreciation	B Depreciation Add-back Amount	C Add-back Ratio (2/3, 5/6, 6/6)	D Deduction Period	E Annual Depreciation Deduction Amount
2021					
2020					
2019					
2018					
2017					

Column B: Enter the depreciation expense add-back.

Column C: Enter the ratio used (5/6, 2/3, or 6/6) to calculate the depreciation expense add-back.

Column D: Enter the deduction period based on the following chart:

Add-back Ratio	Deduction Period
5/6	5 Years
2/3	2 Years
6/6	6 Years

Column E: Divide the amount in Column B by Column D. This is the “annual depreciation deduction amount” for the deduction period. Report the amount on line 35.

Note: In a given tax year, the PTE may need to report a mixture of add-back ratios on Schedule VI, due to investment in multiple PTEs. In this scenario, check the 5/6 box and provide an explanation of the ratio. The PTE may wish to attach this explanation to future years’ returns.

Follow the same procedure for the investors of the PTE on the IT K-1 under Depreciation Information and fill out the Supplemental Information portion.

Schedule VII – Owner Information

Provide information for all owners in the PTE. List all owners in order from highest to lowest ownership percentage.

Complete owner information must be on both of the following

- Schedule VII and additional sheet(s), if necessary; AND
- A copy of IT K-1s, which the PTE will issue to each investor