

For taxable year beginning in

2022

Ohio IT 1140
Pass-Through Entity
and Trust Withholding
Tax Return Instructions

Rev. 11/22

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 the 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 & Fiduciary income tax forms to download or print. If answers cannot be found on 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 8:00 a.m. to 5:00 p.m. Monday through Friday excluding holidays.

Write – Contact the Department by mail at:

Ohio Department of Taxation
Pass-Through Entity & Trust
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

Form Requests: Visit tax.ohio.gov to easily download our forms. You can also request tax forms anytime by calling 1-800-282-1782.

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.

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.

Go Paperless and File Electronically!

The IT 1140 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

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.

Credit Carryforward

Beginning with filing periods that start on or after January 1, 2020 the credit carryforward of overpayments has been reinstated, however for tax years 2017-2019 the Department did not permit credit carryforwards. A credit carryforward is only allowed on a timely-filed, original return; otherwise, any overpayment will be refunded.

Electronic Filing

The IT 1140 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 R.C. 5747.082

Should the PTE File the IT 1140?

A PTE must file an Ohio return to report and pay tax on behalf of its nonresident individual, trust, and PTE investors. The PTE can elect to file the IT 1140, IT 4708 or the IT 4738. 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: Once the IT 1140 is filed for any given tax period, the PTE is not permitted to amend this return to change to an IT 4708 or IT 4738.

For more information regarding which form to file, see the following chart, or search the PTE FAQ General Information category 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 year in which the entity's taxable year ends | April 15th after year in which 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 1140 and IT 4738. 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 on tax.ohio.gov to change the address.

Verify the IT 1140 and 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 1140 or UPC and write in a new one, as doing so will delay the processing of the IT 1140 or UPC. A PTE or trust that has a tax year starting during calendar year 2022 must file the 2022 IT 1140.

Maintain a Bank Account

The PTE or trust must maintain its bank account to ensure it can receive refunds after its closing date. 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 or trust.

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 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 return 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.

Report Estimated Payments on Correct Lines

Incorrect reporting of the payments may result in a denied/reduced refund or bill. If the entity receives an IT K-1 reporting a PTE tax payment or credit from another entity on its behalf, the credit is not permitted on the IT 1140 and should not be placed on a payment line. See Investor Information below for details on passing credits proportionately to investors.

Report estimated payments as follows:

- Line 3: Enter estimated payments made with an IT 1140 UPC or EFT payments made through the Ohio Treasurer of State for this tax year that the PTE or trust wants applied to this 1140;
- Line 3a: Enter the portion of estimated payments made with an IT 4708 UPC or an IT 4738 UPC for this tax year that the PTE or trust wants applied to this IT 1140;
- Line 3b: Enter either or both of the following:
 - Estimated payments made with an IT 1140 UPC for this tax year that the entity or trust wants applied to an IT 4708 filed for the same tax year; AND/OR
 - **[Amended Return ONLY]** Estimated payment amount from line 3b **plus** the refund amount from line 5 received from the original return filed for this tax year.

Provide Supporting Documentation:

Attach the appropriate documentation specified on the IT 1140 to validate the amounts reported, such as IT K-1s to verify income/withholding credits flowing from another PTE indirectly to the filer, and from the filer to an investor, and any other documents providing clarification.

Payment Options

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

If the PTE or trust 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 1140);
- **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):** Payments 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 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](#)

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

NOTE: The TOS no longer requires PTE and fiduciary filers to submit an EFT authorization form to register before making an IT 4708, IT 4738, IT 1140 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 **Forms Search** field by entering “UPC” in the Form Title or Number field.

The **IT 1140 UPC** is used by PTE’s and trusts to make either an estimated payment (IT 1140ES) or a payment submitted with the return (IT 1140P). When completing the UPC:

- Indicate the reporting period by providing the filing period start date and end date in the format mm-dd-yy;
- Specify the appropriate payment type (IT 1140ES or IT 1140P);
- Enter the 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 1140 UPC: This form must be included with each check or money order.

The image shows a sample of the Ohio Universal Payment Coupon (UPC) form for Pass-Through Entity/Fiduciary Income Tax. The form includes fields for Name, Address, City, State, ZIP code, Reporting Period (Annual Period Start and End Dates), FEIN (09), and Entity Type Code. The amount of payment is shown as \$ NO DECIMALS .00. The form also includes checkboxes for IT 1140P (844) and IT 1140ES (853). The form is payable to the Ohio Treasurer of State, Ohio Department of Taxation, P.O. Box 181140, Columbus, OH 43218-1140. The form number is 000 0 08 00000000000000 000000 0 555. Annotations include: 'Verify address is current.' pointing to the address field; 'Check one box: P=Return Payment, ES=Estimated Payment' pointing to the checkboxes; 'Entity Type Codes: 1=S corporation, 2=Limited Liability Co (LLC), 3=Partnership, 4=Trust' pointing to the Entity Type Code field; and 'Mail UPC and Check or Money Order to the address on the UPC.' pointing to the address field.

Include a Check or Money Order with each IT 1140 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 1140);
- **Tax year** end for the payment (mm-dd-yy).

2022 Ohio IT 1140 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 a Qualifying Pass-Through Entity?

A qualifying PTE is **any PTE** except:

- Entities described in IRC 501(c) such as pension plans and charities;
- Publicly traded partnerships; AND
- A REIT, RIC, or REMIC.

What is a Qualifying Trust?

A qualifying trust is any trust that meets the following three requirements during the trust’s taxable year:

- The trust is subject to filing the federal 1041 or the federal 1040NR (foreign trusts);
- The trust has at least one beneficiary who is a nonresident during any part of the taxable year; AND
- The trust makes a distribution of income to a nonresident beneficiary directly or indirectly from either real estate located in Ohio or to tangible personal property located in Ohio.

What is a Qualifying Investor?

A qualifying investor is a nonresident individual, an S Corporation, partnership, trust, estate or LLC treated as a partnership or S Corporation for federal income tax purposes.

A qualifying investor is NOT:

- Full-year Ohio resident individuals, estates and trusts
- Nonresident individuals and estates included on the IT 4708 for the taxable year;
- C corporations;
- A PTE whose only investors are C corporations and full-year Ohio resident individuals, estates, trusts ;
- A PTE that is a disregarded entity or qualifying sub-chapter S subsidiary and the PTE owner (parent) is excluded or exempt from filing with the Department;
- Dealers in intangibles as defined in R.C. 5725.01(B);
- REITS, RICs and REMICs;
- Publicly traded partnerships;
- Pension plans or charities;
- Ohio public utilities who pay Ohio gross receipts excise tax;
- Colleges or universities;
- Insurance companies who file with the Ohio superintendent of insurance;
- Fraternal organizations;
- Beneficiaries of a pension plan trust, profit-sharing trust; a stock bonus plan trust or similar retirement trust;
- Beneficiaries or new recipients of payments from a trust/fund that is a nuclear decommissioning reserve fund, a designated settlement fund or any other similar trust/fund established to resolve similar injury claims;
- Beneficiaries of a complex trust, but only if the trust irrevocably agrees in writing that:
 - For the taxable year during or for which the trust distributes any of its income to any of its beneficiaries who are individuals residing outside of Ohio, the trust will be withholding tax as required under R.C. 5747.41 through 5747.453.

For a complete list of nonqualifying investors, see R.C. 5733.40(I)

Who Should file the IT 1140?

A qualifying PTE is required to file an IT 1140 when it is subject to withholding or entity tax on distributive shares of income issued to qualifying investors. A qualifying entity is subject to withhold an entity tax when:

- The entity is doing business in Ohio or otherwise has nexus with Ohio; AND
- The adjusted qualifying amount exceeds \$1,000.

A qualifying trust is required to file an IT 1140 when it is subject to a withholding tax on distributions of certain types of income made to qualifying beneficiaries. A qualifying trust is subject to withholding tax when:

- The income distributed is gains or net income attributable to real and/or tangible personal property located in Ohio.
- The income is distributed to the trust’s beneficiaries who are nonresidents for any portion of the taxable year; AND
- The adjusted amount of the income distributed exceeds \$1,000.

Who is not required to file an Ohio IT 1140?

There is no requirement for a PTE to file the IT 1140 if any of the following is applicable for the entire taxable year:

- The PTE’s equity investors are limited to full-year Ohio resident individuals, estates, trusts, and C corporations;
- The PTE is filing the Ohio IT 4708 composite return on behalf of all its nonresident equity investors who are not full-year Ohio resident taxpayers;
- The PTE is filing the Ohio IT 4738 Electing Pass-Through Entity Income Tax Return, which includes all of its owners; OR
- The PTE is either a disregarded entity or a qualifying Subchapter S subsidiary, and the PTE’s owner is excluded or is exempt from filing with the Department.

There is no requirement for a trust to file the IT 1140 if any of the following is applicable for the entire taxable year:

- The entity is a trust whose beneficiaries are limited to full-year Ohio resident taxpayers;
- The entity is a trust that does not directly or indirectly own real estate or tangible personal property located in Ohio and owns NO direct or indirect equity investments in a PTE that has nexus with Ohio.

Note: Trusts may also be required to file the IT 1041 Fiduciary Income Tax return. See the PTE FAQs Fiduciary Return IT 1041 category at tax.ohio.gov.

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/or 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.

See R.C. 5747.01(B), 5747.01(C), and 5733.40(A)(7).

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 if 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).

Are Any Tax Credits available on the IT 1140 Return?

No. A PTE or trust is **not** entitled to claim any credit on the IT 1140.

A PTE or trust cannot claim a credit as an estimated payment for its taxable year. An IT 1140 filer must pass all credits equal to the investor/beneficiary's proportionate share of the lesser of either the tax due or the tax paid.

See R.C. 5747.98 and 5747.059

Can Tax Credits withheld on the IT 1140 be used on an Ohio Income Tax Return?

The IT 1041, IT 4708, and IT 1040 are all Ohio income tax returns. Qualifying investors, including PTEs and trusts, can claim an income tax credit based on their proportionate share of the IT 1140 withholding or entity tax that was paid on an IT 1140 when filing their own Ohio income tax return.

See R.C. 5747.059.

What are the Tax Rates for the IT 1140 return?

The tax is calculated based on the entity's adjusted qualifying amount multiplied by the following applicable tax rate:

- 5% for the portion of a PTE's adjusted qualifying amount for nonresident individual investors;
- 5% for the portion of a trust's adjusted qualifying amount for nonresident beneficiaries;
- 8.5% for the portion of a PTE's adjusted qualifying amount for all qualifying investors other than nonresident individuals.

When is the IT 1140 Return Due?

The IT 1140 and payment of the tax are due on the 15th day of the fourth month following the end of the qualifying PTE's or qualifying trust's taxable year. 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.

Filing Extensions

A PTE or trust with a calendar year end of 12/31/22 can extend the due date for filing the IT 1140 to September 15, 2023, provided it 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. See table below.

An extension of time to file does not extend the time for payment of the tax due.

The PTE or trust must make extension payments per the "Due Dates for Estimated Tax Payments" table below with the required IT 1140 UPC, available at tax.ohio.gov by searching for "UPC" in the Form Title or Number field. Interest will accrue on any tax not paid by the due date, and penalties may also apply.

| TY 2022 Due Dates and Extended Due Dates | | | | |
|--|--------------|---------------|-------------------|--------------------|
| Fiscal Year Ends | IRS Due Date | Ohio Due Date | IRS Ext. Due Date | Ohio Ext. Due Date |
| 12/31/22 | 3/15/23 | 4/18/23 | 9/15/23 | 9/15/23 |
| 1/31/23 | 4/18/23 | 5/15/23 | 10/16/23 | 10/16/23 |
| 2/28/23 | 5/15/23 | 6/15/23 | 11/15/23 | 11/15/23 |
| 3/31/23 | 6/15/23 | 7/17/23 | 12/15/23 | 12/15/23 |
| 4/30/23 | 7/17/23 | 8/15/23 | 1/16/24 | 1/16/24 |
| 5/31/23 | 8/15/23 | 9/15/23 | 2/15/24 | 2/15/24 |
| 6/30/23 | 9/15/23 | 10/16/23 | 3/15/24 | 3/15/24 |
| 7/31/23 | 10/16/23 | 11/15/23 | 4/15/24 | 4/15/24 |
| 8/31/23 | 11/15/23 | 12/15/23 | 5/15/24 | 5/15/24 |
| 9/30/23 | 12/15/23 | 1/16/24 | 6/17/24 | 6/17/24 |
| 10/31/23 | 1/16/24 | 2/15/24 | 7/15/24 | 7/15/24 |
| 11/30/23 | 2/15/24 | 3/15/24 | 8/15/24 | 8/15/24 |

See R.C. 5747.42 and Ohio Admin Code 5703-07-05. The fiscal year ends referenced in the above table may or may not reflect a 12-month filing period.

Estimated Tax Payments

The PTE or trust must make estimated tax payments with the IT 1140ES Universal Payment Coupon (UPC) for the entity's taxable year if the PTE or trust's estimated sum of the adjusted qualifying amounts exceeds \$10,000. The interest penalty applies to estimated payments not timely made. For more information, see page 9.

Due Dates for Estimated Tax Payments

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

| | % 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 |

Can Investors and Beneficiaries Be Held Personally Liable for the Tax Liability of the PTE or Trust?

Certain beneficiaries, investors, employees, trustees, officers, members, or managers of the qualifying entity can be held personally liable for the entity's failure to file the IT 1140 and pay the appropriate tax due.

See R.C. 5747.453.

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) and 5747.08(F).

Can the PTE or Trust's Tax Preparer Contact the Department About the IT 1140?

The PTE or trust 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 entity's return, payments, or refund;
- Provide the Department with information missing from the entity's return; AND
- Respond to inquiries or notices from the Department related to the return.

See R.C. 5747.08(J).

How does a PTE or Trust determine its Ohio Method of Accounting?

A PTE's or trust's method of accounting on its Ohio IT 1140 return is the same method it used for federal income tax purposes.

See R.C. 5747.45(B).

When Should the PTE or Trust Complete the IT K-1?

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

The entity must complete two copies of the IT K-1 for each investor or beneficiary whose income is included on the IT 1140. One copy

of the IT K-1 must be included when filing the IT 1140. The other copy should be provided to the investor or beneficiary.

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.

Investment Pass-Through Entities

Investment PTE Definition. An investment PTE is a PTE with at least 90% of its assets represented by intangible assets and at least 90% of its gross income from one or more of the following sources:

- Transaction fees earned in connection with the acquisition, ownership or disposition of intangible property
- Loan fees
- Financing fees
- Consent fees
- Waiver fees
- Application fees
- Net management fees (management fees received, reduced by management fees incurred or paid) as long as the net does not exceed 5% of the pass-through entity's profit
- Dividend income
- Interest income
- Net capital gains from the sale or exchange of intangible property
- Distributive shares of income and gain from other PTEs

The percentages are based upon quarterly averages calculated during the pass-through entity's taxable year. For purposes of determining if a PTE is an investment PTE, intangible assets include investments in other PTEs. See R.C. 5733.401.

Investors in an investment PTE are "deemed investors" in any other PTE in which the investment PTE is a direct investor. The operating PTE may withhold on the deemed investors at the applicable tax rate (5% or 8.5%) if a timely notice by the investment PTE is provided to the operating PTE and includes the name, address and SSN for each deemed investor.

If timely notice is provided, the investment PTE is ignored for the purposes of PTE withholding, and the operating PTE can withhold on behalf of the deemed investors. Otherwise, the operating PTE must withhold the 8.5% entity tax on the distributive share of income and gain of the investment PTE. See R.C. 5747.401.

Using the Filing on Behalf of Deemed Investors. There are special benefits for an investment PTE; they may use the deemed investor rule to eliminate filing a return. While the operating PTE is required to file and withhold on behalf of an investment PTE, the investment PTE is NOT required to file in order to distribute the income and credits. The question of how to flow the income and credit information to investors is addressed in APPENDIX A at the end of the instructions.

Amended Returns

When to Amend. The entity can file an amended IT 1140 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 1140, the entity 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 the Return

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

- Math errors;
- Missing pages or schedules;
- Demographic errors;
- Missing any supporting documentation.

In these situations, the department will either make the corrections to the return or contact the entity to request the needed documentation.

Requesting a Refund

The entity may want to amend the return to request an additional deduction or payment. Such changes may result in a refund. The entity has four years from the date of the payment to request a refund. The entity 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;
- IT K-1.

Reporting Additional Tax Due

The entity 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 1140 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(s), the entity is required to file an amended IT 1140. Do not file the amended Ohio return(s) 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, 1120S OR 1041; AND
- The IRS acceptance letter.

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

The amended IT 1140 shall be filed not later than one year after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

See R.C. 5733.031(C)

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 PTE or fiduciary 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 |
|----------|----------|---|
| 2018 | 4/15/19 | 4/18/23 |
| 2019 | 7/15/20 | 7/15/24 |
| 2020 | 5/17/21 | 5/15/25 |
| 2021 | 4/18/22 | 4/15/26 |
| 2022 | 4/18/23 | 4/15/27 |

Schedule I – Reconciliation Tax and Payments

Line 1 – Tax Liability for Each Column

The amounts on this line are from Schedule II, line 20, Columns A and B for PTE's, or line 30 for Trusts. A difference will delay processing of the return and may result in a billing or a reduced refund.

Line 2 – Interest Penalty

A PTE or trust that does not make timely, sufficient estimated payments may be subject to the 2210 interest penalty. A PTE or trust filing the IT 1140 should use pages 1 and 3 of the Ohio IT/SD 2210 to determine if an interest penalty is due, and if so the interest penalty amount. This form is available on the searchable [Tax Forms](#) page at tax.ohio.gov.

Note: A PTE may be subject to the interest penalty even if it is due a refund when filing its return.

See R.C. 5747.43(C), (D), and (E).

Line 3 - Estimated UPC Payments / 2021 Overpayments Credited to 2022

Enter estimated payments made with an IT 1140 UPC or EFT payments made through the Ohio Treasurer of State for this tax year to be applied to this IT 1140. Enter 2021 over-payments credited to 2022. If both are made, combine the totals in column A.

Line 3a - IT 4708 / IT 4738 Estimated Payments & Prior Year IT 4708 Overpayment Claimed on IT 1140

Enter the portion of estimated payments made with an IT 4708 UPC or IT 4738 for this tax year to be applied to this IT 1140. **This will result in a delay in processing the return.** Amounts listed on this line cannot be claimed on an IT 4708.

Do **not** include any payments made by another PTE on this line.

Line 3b - IT 1140 Estimated Payments Claimed on IT 4708

- For an original IT 1140 return, enter the portion of any IT 1140 estimated payments made for the tax year on a IT 1140 UPC (reported on line 3) that the taxpayer wants the Department to apply to a IT 4708 being filed for the same tax year; OR
- If an amended IT 1140 is being filed and the original IT 1140 reported an overpayment, enter the portion of the IT 1140 estimated payments transferred to the IT 4708 as originally reported on line 3b of the return PLUS any refund received on the originally filed return.

Line 5a - Amount of Line 5 to be Credited to Year 2023

Beginning with filing periods that start on or after January 1, 2020 the credit carryforward of overpayments has been reinstated, however for tax years 2017-2019 the Department did not permit credit carryforwards. A credit carryforward is only allowed on a timely filed, original return; otherwise, any overpayment will be refunded.

Line 5b –Amount of Line 5 to be Refunded

Interest on Overpayments. Once the return has been verified, if the refund exceeds one dollar it will be refunded. Refund interest is paid from the latest of the following dates until the date of the refund:

- The payment date;
- The 90th day after the due date of the return; OR
- The 90th day after 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)(2).

Line 7 - 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. Generally, the PTE or trust does not owe interest if it is due a refund. 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. 5747.08(G).

Line 8 - Total Amount Due - Payment Options

Make payments by:

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

For questions regarding the EFT payment program, see the Business Tax - Pay Online page at tax.ohio.gov, or use the link below [Electronic Funds Transfer Via Ohio Treasurer of State \(TOS\) at Business Tax](#).

Schedule II
Qualifying Pass-Through Entities – Tax Due

Line 9 - Qualifying Investors' Distributive Shares of Income, Gain, Expense and Loss

Enter only qualifying investors' distributive share of all income, gain, expenses and losses.

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 when property is distributed or when a partnership interest is transferred.
- §743(b) – 743(b) provides in case of the sale or exchange of partnership interest in which §754 is in place, the basis of partnership property is adjusted.

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 of Adjustments.
- Itemized deductions from federal Schedule A such as:
 - Interest paid on loan proceeds to purchase investments.
 - Any expense incurred to generate investment income.
 - Research and experimental expenditures.
 - Amounts paid for medical insurance and long term care.

Note: For more information, see [FAQs](#) at tax.ohio.gov.

Line 10 – IRC §168(k) Bonus Depreciation & §179 Expense / Ohio Authorized Federal Conformity Add-back

Check the box for the appropriate add-back ratio. Add 5/6 of Internal Revenue Code (IRC) §168(k) bonus depreciation allowed under the IRC Code. 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.
- 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 §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 a PTE, and the investor owns **less than 5%** of the PTE. This is true even if the PTE performed the add-back on its Ohio filing (i.e., the IT 1140, IT 4708 or 4738); OR
- A PTE who increases their 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: PTE A has total of \$180,000 subject to add-back for the current tax year; \$100,000 of qualifying §179 depreciation expense from PTE A's business operations, and \$80,000 of §168(k) depreciation from its distributive share from PTE B.

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

Example 2: PTE A owns 100% of PTE B. PTE A has \$180,000 subject to add-back for the current tax year, as outlined above. PTE B increased its Ohio employer withholding for its employees by at least 10% over the previous tax year. PTE 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 |
| PTE A - operations | \$100,000 | | 5/6 | \$83,333 |
| PTE B - distributive share | | \$80,000 | 2/3 | \$53,333 |
| Total add-back for tax year: | \$100,000 | \$80,000 | | \$136,666 |

Example 3: PTE A has \$180,000 subject to add-back for the current tax year, but its federal taxable income is (\$100,000) (i.e. PTE A has a federal NOL). PTE 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 |
| PTE A - operations | \$100,000 | | 6/6 | \$100,00 |
| PTE B - distributive share | | \$80,000 | 6/6 | \$80,000 |
| Total add-back for tax year: | \$100,000 | \$80,000 | | \$180,000 |

Enter the total year add-back amount on line 31 of Schedule V.

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

Federal Conformity

This line is for federal conformity adjustments. For updates on Ohio Conformity, see [Ohio Conformity Updates](#) located on our website at tax.ohio.gov and R.C. 5701.11.

Line 11 - IRC §168(k) Bonus Depreciation & §179 Expense Deductions / Ohio Authorized Federal Conformity Deductions / Amounts Not Subject to a Tax for Investors

Ohio Depreciation Deductions

Use the table on line 32 to calculate the current deductions from 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 expense add-backs on a prior year's IT 1140 or IT 4708.

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

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 PTE would have to amend the prior years' return 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).

Federal Conformity Adjustments. This line is also for federal conformity adjustments. For more information see [Ohio Conformity Updates](#) at tax.ohio.gov

See R.C 5701.11.

Amounts Not Subject to a Tax on or Measured by Net Income. Distributive shares of income from qualifying PTEs and distributions from qualifying trusts shall be reduced by any amount that is not subject to a tax on or measured by net income. See R.C. 5733.40 (A)(2).

This income includes but is not limited to the following:

- Federal interest income that under federal law is exempt from state tax measured on or by net income;
- All income that the qualifying PTE earns if the qualifying PTE claims an exemption under U.S. Public Law 86-272;
- An ITPE's items of income previously listed;
- Interest income from Ohio public obligations and Ohio purchase obligations and gains from the sale or other disposition of Ohio public obligations.

Note: An ITPE can find additional filing resources on our FAQ page under the heading Investment Pass-Through Entities (ITPE).

See R.C. 5733.401, 5709.76 and IT 1992-01 – Exempt Federal Interest Income, at tax.ohio.gov.

Line 13 - Related Members Add-Back

All 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 PTE;
- Any individual investor, or the investor's spouse, child, grandchild, or parent if combined they own at least 50% of the PTE;
- An investor that is a partnership, estate, trust, or corporation, or the investor's partnership, estate, trust, or corporation if combined they own at least 50% of the PTE; 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 PTE owns at least 50% of the corporation.

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

- Direct – Investor owns a PTE with no other owners in between.
- Indirect – Investor owns a PTE that owns another PTE.
- Constructive – Person is not an investor but is deemed to own the PTE through attribution because of their relationship to one of the PTE's investors.
- 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.

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 investor's family members or other entities;
- Expense sharing, or "common paymaster" arrangements.

For more information, see [FAQs](#) at tax.ohio.gov and tax alert "Personal Income & Pass-Through Entity Tax: [Meaning of 'Indirect Ownership'](#)".

Line 14 and 15 – Guaranteed Payments and Compensation Add-Back

Compensation and guaranteed payments paid by a PTE, or by a PEO (professional employer organization) on the PTE's behalf, to any qualifying investor with at least 20% direct or indirect ownership is reclassified as business 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 investor **must** be included on this line.

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

Example 2: Karen is an Indiana resident who owns 19% of PTE A. Karen receives wages from PTE A. However, since Karen does not own at least 20% of PTE 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 16 – Sum of lines 12 through 15

This line must equal the sum of lines 12 through 15. A difference will delay processing of the return and may result in a billing or reduced refund.

Line 20 – Tax Due

This line must be the product of line 18 (adjusted qualifying amount) times line 19 (tax rate). A difference will delay processing of the return and may result in a billing or reduced refund.

Schedule III – Qualifying Pass-Through Entities – Tax Apportionment Worksheet

Instructions and a worksheet for a financial institution pass-through entity are available at the end of this booklet.

The PTE must include in its apportionment ratio its proportionate share of each lower-tiered Pass-Through Entity's property, payroll and sales. See R.C. 5747.231.

The three 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%.

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

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. 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; AND
- 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 Property.

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)(a) and 5709.65.

Line 21a - 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 21b - 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 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. 5747.21(B) and 5733.05(B)(2)(b) and 5709.65.

Line 22 - 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 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 any of the following:

- 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. R.C. 5747.21 and 5733.05.

Line 23 - 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 IV – Trusts – Tax Due

A qualifying trust is required to file an IT 1140 to report and withhold tax on distributions of certain types of income to its qualifying beneficiaries. A qualifying trust is subject to Ohio’s withholding tax when:

- It distributes gains or net income attributable to real and/or tangible personal property located in Ohio;
- The income is distributed to the trust’s beneficiaries who are nonresidents of Ohio; AND
- The adjusted qualifying amount of the income distributed exceeds \$1,000.

Line 25 – Sum of All Distributions of Income or Gain Attributable to Tangible Personal Property Located in Ohio or Real Property Located in Ohio

Enter gains or net income attributable to real and/or tangible personal property located in Ohio if:

- The income is distributed to the trust’s qualifying beneficiaries; AND
- The trust’s total adjusted qualifying amount exceeds \$1,000.

The proportionate share of credits, received by the trust from an IT K-1 or 1099R on a distribution of income, must forward to the beneficiaries of the trust. Report distributed credits on the IT K-1, line 4, as indirect credits. Include on line 4 the FEIN of the source entity.

IRC §168(k) Bonus Depreciation and §179 Expense Add-Back and Federal Conformity Adjustments

Enter the investor’s/beneficiary’s proportionate or distributive share of the current year IRC §168K bonus depreciation and §179 expense add-back. See Schedule V worksheet.

See R.C. 5733.40(A)(5), 5747.01(A)(17) and 5701.11.

Line 26a - Depreciation Add-back Fractions

Check box one of the following add back ratios:

- 6/6 if the PTE or fiduciary had a federal net operating loss (NOL) resulting from the deduction of §168K bonus depreciation and §179 expense; OR
- 2/3 if the PTE, in the year of the depreciation expense, increased its Ohio employer withholding by at least 10% over the previous year; OR
- 5/6 if the above scenarios do not apply.

Federal Conformity

Add Federal Conformity Adjustments.

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

For updates on Ohio Conformity, see [Ohio Conformity Updates](http://tax.ohio.gov) at tax.ohio.gov.

Line 27 – IRC §168(k) bonus depreciation and §179 expense deductions from Schedule V and Ohio authorized federal conformity deductions

Use the table on line 32 to calculate the current deductions from the prior year add-back amounts. Complete worksheet in schedule V and 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 IRC § 168(k) bonus depreciation and §179 expense add-backs on a prior year’s IT 4708 or IT 1140.

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

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 trust 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).

Federal Conformity Deductions

This line is 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 updates on Ohio Conformity, see [Ohio Conformity Updates](#) at tax.ohio.gov.

See R.C 5701.11.

IRC §168(k) Bonus Depreciation and §179 Expense Add-Back Schedule

Prior tax year add-back amount and add-back ratio.

Line 31 - Total Current Year §168(k) Bonus Depreciation and §179 Expense Add-Back

Use this line to report current year add-back from line 10.

Use schedule below to calculate multiple add-backs.

| ADD-BACK CALCULATION TABLE | | | | |
|-------------------------------------|----------------------|----------------|--------------------------------|-----------------|
| 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 32 - 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 11.

| §168(k) Bonus Depreciation and §179 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 | | | | | |
| 2016 | | | | | |

Column B: Enter your depreciation expense add-back.

Column C: Enter the ratio used (5/6, 2/3, or 6/6) to calculate your 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 your "annual depreciation deduction amount" for the deduction period. Report the amount on line 11.

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. You 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 VI – Investor Information

Provide information for all investors in the PTE. First list investors whose income is included on the return, in order from highest to lowest ownership percentage. Then list the remaining investors from highest to lowest ownership percentage. Indicate investors included on the return by checking the appropriate box.

Complete investor information must be provided on both of the following:

- Schedule VI (attach additional sheets if necessary); AND
- IT K-1s, which the PTE will include with its return and issue to each investor.

Appendix A - Investment Pass-Through Entities (IPTEs) - Deemed Investor

The following example shows how a PTE can benefit from the “deemed investor” rule. The ‘deemed investor” rule will allow a pass-through entity the option to “look through” one of their select IPTe investors that has individual investors and pay at 5% tax withholding rate instead of 8.5% tax withholding rate for that select PTE investor.

PTE A has operating income. PTE B is an IPTe that owns 100% of PTE A. PTE B is owned by Jane (40%), Dave (40%) and PTE C (20%).

Normally, PTE A would withhold for PTE B on its income at a rate of 8.5%. However, since PTE B is an IPTe, PTE A can withhold for PTE B on behalf of Dave and Jane at the individual rate of 5%, and withhold for PTE C at the entity rate of 8.5%.

How the deemed investor rule works:

PTE B:

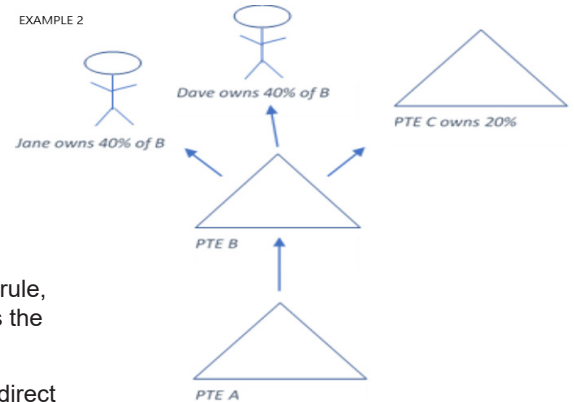
- Must timely notify PTE A of this election and provide the name, address, and SSN for both Dave and Jane to support the deemed investor provision.;

PTE A:

- Will withhold at the 5% (individual) rate for the proportionate share of income for Jane and Dave passing through PTE B; AND
- Will withhold at the 8.5% (entity) rate for the proportionate share of income for PTE C passing through PTE B.

When PTE A has both individuals and PTEs and files using the Deemed Investor rule, PTE A should provide a statement when it files the IT 1140 return, which explains the Deemed Investor income and credits to PTE B.

The Department recommends that PTE B file an Ohio PTE return reporting the indirect income included on the IT K-1s it issues to its investors.



Appendix B - Filing an Ohio IT 1140 for an IPTe

The Department reviews and verifies PTE credits claimed by a taxpayer on a tax return. Credits are verified back to the initial source, the operating PTE. When the IPTe has several layers of investors, the inability to verify where the credit originated could result in:

- Billing for non-payment
- Reduced refunds
- Requesting information for a full review by a Tax Examiner

Every entity must document all credits and income being claimed and passed through to another entity or individual. Documentation can include any of the following:

- IT K-1s issued to the PTE listing all investment sources along with the initial source of income and credits (the operating entity);
- An organization chart, including FEINs of all PTEs in the organization; include the initial source of income and credits (the operating entity); AND
- A narrative outlining the flow of income and credits.

Although not required, an IPTe may elect to file an IT 1140 to provide more clear and precise information to the Department for verifying the flow of income and credits.

To file the IT 1140 as an IPTe:

1. Include on line 9 of the IT 1140, the combined total of all qualifying investor’s distributive shares of income, gain, expenses, and losses
2. Include on line 10 IRC §168(k) bonus depreciation and §179 expense add-back for the current reporting period
3. Include on line 11:
 - a. IRC §168(k) bonus depreciation and §179 expense incurred for the current reporting period
 - b. Applicable federal conformity adjustments for the IPTe.
 - c. The non-qualifying amount from the underlying IPTes or operating companies.
4. Subtract line 11 from line 9 and report on line 12. This will determine the amount of taxable income to be apportioned. If the sole source of income to the IPTe is distributive shares of income from other PTEs, then the net result is no adjusted qualifying amount, resulting in zero income to be taxed.
5. The IPTe should include the proportionate share of all indirect income and credits on the IT K-1s issued to its investors.

NOTE: IT K-1s issued to the PTE cannot be used as a credit or payment on the IT 1140 and should list all investment sources along with the initial source of income and credits (the operating entity). The entire amount of the indirect credit must be distributed to the qualifying investors by their proportionate share showing on the IT K-1 line 4.

Include the federal return, and all IT K-1s it received from other PTEs in which it holds an ownership interest, showing the income and credits flowing to it.

Clear representation of the chain of ownership reduces the occurrence of Department notices and inquiries.

See R.C. 5733.401.

For more IPTe information see the FAQ section at tax.ohio.gov.

Appendix C – PTE with IT K-1 Income

The PTE credit received from the underlying PTE must not be applied as a credit or payment on the IT 1140 return. The entire amount of credit must be distributed to the qualifying investors based on ownership percentage / distributive share in the PTE. This share of the credit is reported on the investors' IT K-1, line 4.

NOTE: If all investors are not included on the IT 1140, use only the portion of income and credits of the investors who are included on the return.

To calculate Ohio taxable income for a PTE that received an IT K-1:

1. Include on line 9 of the IT 1140, the combined total of all qualifying investor's distributive shares of income, gain, expense, and loss
2. Include on line 10 IRC §168(k) bonus depreciation and §179 expense add-back for the current reporting period
3. Include on line 11:
 - a. IRC §168(k) bonus depreciation and §179 expense deduction incurred for the current reporting period
 - b. Applicable federal conformity adjustments for the IPTE.
4. Add lines 9 and 10 and subtract line 11. Report on line 12.
5. Include on lines 13-15 – Related member, guaranteed payments or compensation add-backs.
6. Add lines 12-15 - This will determine the amount of taxable income to be apportioned.
7. Combine all apportionment ratios from all PTEs, to arrive at the aggregate amount of apportionment.
8. Calculate tax due:
 - a. Line 16 multiplied by the aggregate apportionment ratio.
 2. This tax will be owed by the PTE that received the IT K-1 from the underlying entity.
3. Report the calculated tax on the IT K1s as a direct credit on line 3.
4. Calculate the total indirect credits from the underlying PTEs and report on the IT K-1s as indirect on line 4.

For more IPTE information see the FAQ section at tax.ohio.gov.

Apportionment Formula for Financial Institution Pass-Through Entities

For a pass-through entity that is a financial institution, the apportionment formula should be calculated in accordance with Ohio Revised Code (R.C.) 5733.056. Use worksheet to calculate the apportionment formula for a pass-through entity that is a financial institution.

Note: All ratios are to be carried to six decimal places.

| Apportionment Ratio | (1) Ohio | (2) Everywhere | (3) Ratio |
|--|-------------|-------------------|--------------|
| Sales Factor – R.C. 5733.056(F) | | | |
| 1. Receipts from the lease, sublease or rental of real property..... | _____ | _____ | |
| 2. Receipts from the lease or rental of tangible personal property..... | _____ | _____ | |
| 3. Interest from loans secured by real property..... | _____ | _____ | |
| 4. Interest from loans not secured by real property..... | _____ | _____ | |
| 5. Net gains from the sale of loans secured by real property..... | _____ | _____ | |
| 6. Net gains from the sale of loans not secured by real property..... | _____ | _____ | |
| 7. Interest and fees charged to credit card holders..... | _____ | _____ | |
| 8. Net gains from the sale of credit card receivables..... | _____ | _____ | |
| 9. Credit card issuer's reimbursement fees..... | _____ | _____ | |
| 10. Receipts from merchant discount..... | _____ | _____ | |
| 11. Loan-servicing fees from loans secured by real property..... | _____ | _____ | |
| 12. Loan-servicing fees from loans not secured by real property..... | _____ | _____ | |
| 13. Loan-servicing fees for servicing the loans of others..... | _____ | _____ | |
| 14. Receipts from services not otherwise apportioned..... | _____ | _____ | |
| 15. Interest, dividends, net gains and other income from both investment assets and activities and trading assets and activities..... | _____ | _____ | |
| Check method: <input type="checkbox"/> Avg. value method <input type="checkbox"/> Gross income method | | | |
| 16. Certain other receipts..... | _____ | _____ | |
| 17. Total. Enter ratio here and on Summary, line 1, below..... | _____ | ÷ | = |
| | | | _____ |
| | Ohio | Everywhere | |
| Property Factor – R.C. 5733.056(D) | | | |
| 18. Average cost of real property and tangible personal property owned..... | _____ | _____ | |
| 19. Gross rents payable on real and tangible personal property x 8..... | _____ | _____ | |
| 20. Loans and credit card receivables..... | _____ | _____ | |
| 21. Total. Enter ratio here and on Summary, line 2, below..... | _____ | ÷ | = |
| | | | _____ |
| | Ohio | Everywhere | |
| Payroll Factor – R.C. 5733.056(E) | | | |
| 22. Compensation paid to employees. Enter ratio here and on Summary, line 3, below..... | _____ | _____ | = |
| | | | _____ |

| Apportionment Ratio Summary | (1) Factor | ÷ | (2) Weight | = | (3) Weighted Factor |
|--|---------------|---|---------------|---|------------------------|
| 1. Sales (line 17)..... | _____ | x | .70 | = | _____ |
| 2. Property (line 21)..... | _____ | x | .15 | = | _____ |
| 3. Payroll (line 22)..... | _____ | x | .15 | = | _____ |
| 4. Total weighted apportionment ratio..... | | | | | _____ |

If the denominator of any factor is zero, the weight given to the other factors must be proportionately increased so that the total weight given to the combined factors used is 100%.