

Income/Franchise:

Oregon DOR Issues FAQs on New Pass-Through Entity-Level Business Alternative Income Tax

Frequently Asked Questions, Business Alternative Income Tax, Or. Dept. of Rev. (11/1/21). The Oregon Department of Revenue (Department) issued frequently asked questions (FAQs) guidance regarding new Oregon law establishing an elective pass-through entity (PTE) level business alternative income tax (BAIT) based on the amount of an eligible PTE's distributive proceeds [see S.B. 727 (2021) and previously issued Multistate Tax Alert for more details on this new law]. A qualifying PTE electing the BAIT is subject to tax at a rate of 9% on the first \$250,000 of distributive proceeds and a rate of 9.9% on distributive proceeds in excess of \$250,000, where the distributive proceeds consist of the PTE's net income, dividends, royalties, interest, rents, guaranteed payments, and gains derived from or connected to Oregon sources. The Department explains that a fiscal year PTE may make the election for taxable years beginning on or after January 1, 2022. Additionally, the Department provides a FAQ that explains that a PTE may elect to pay the BAIT if all of the member/owners are individuals, or are entities that are PTE-owned entirely by individuals subject to the personal income tax imposed under Or. Rev. Stat., Chapter 316, and that sole proprietorships and single-member limited liability companies electing to be treated as sole proprietorships may *not* elect to pay the BAIT. Moreover, the Department explains that an entity must elect to pay the BAIT each year, and such election will be considered made when the return is filed. Finally, the Department FAQs clarify that the BAIT is separate and apart from composite tax returns filed on behalf of individuals. Please contact us with any questions.

URL: <https://www.oregon.gov/DOR/FAQ/Pages/default.aspx>

URL: <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB727>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-oregon-enacts-temporary-elective-pass-through-entity-business-alternative-income-tax.pdf>

— Scott Schiefelbein (Portland)
Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Sara Clear (Minneapolis)
Manager
Deloitte Tax LLP
sclear@deloitte.com

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