



# Oregon

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## Revenue issues determination for the treatment of the PTE-E addition

There have been questions about the Department of Revenue's position regarding treatment of the Oregon PTE elective (PTE-E) taxes paid and deducted on the federal PTE return. This tax program is currently in effect for two tax years, 2022 and 2023, and was constructed to be revenue neutral for Oregon. Compounding legislation from 2021 and 2022 have required thoughtful review and clarification of the treatment of the PTE-E addition.

Interested parties believe the PTE-E taxes paid and deducted on the PTE's federal return should be added back to distributive income to determine the Oregon PTE-E tax due.

The department's position is that the addition is conducted on the PTE member's individual tax return, not the PTE-E return.

Current statute reads:

(3)(a) In determining the sum of distributive proceeds and computing the tax under this section, **a member** of a pass-through entity shall add back any amount of Oregon tax imposed under this chapter and deducted by the pass-through entity at the entity level for federal income tax purposes under section 164 of the Internal Revenue Code. **[emphasis added]** Oregon Laws 2022, Chapter 82, Section 3. ([Senate Bill 1524\(2022\)](#))

Statute previously read:

(3) In determining the sum of distributive proceeds and computing the tax under this section, **a pass-through entity** shall add back any amount of Oregon tax imposed under this chapter and deducted by the pass-through entity at the entity level for federal income tax purposes under section 164 of the Internal Revenue Code. **[emphasis added]** Oregon Laws 2021, Chapter 589, Section 3. ([Senate Bill 727\(2021\)](#))

Interested parties also point to Oregon Laws 2022, Chapter 82, Section 3 (7) (Senate Bill 1524(2022)) would allow the add back while calculating the PTE-E tax. Statute notes the amount of pass-through business alternative income tax due from a pass-through entity in a tax year shall be exclusive of any amount of tax due and paid by the pass-through entity under this chapter, except as otherwise provided in sections 2 to 6 of this 2021 Act (Senate Bill 727(2021)).

The department requested review of the position on this issue from the Oregon Department of Justice (DOJ). DOJ agreed that the individual, not the PTE, adds back the PTE elective tax to the income on the individual's own personal income tax return.

DOJ also agreed with DOR that Oregon Laws 2022, Chapter 82, Section 3 (7) (Senate Bill 1524(2022)) states that if the PTE elects to pay the PTE-E tax, it is separate from all other taxes. This means that the filing of the PTE-E tax does not alleviate the business from filing other tax returns that may be due.

The department is aware that the addition of the PTE-E tax paid as an expense at the entity level is not added back when computing the PTE-E tax for the year could negatively impact the benefit of this program for some taxpayers. However, the language in the statute, and advice from the DOJ, supports the department's position.