Schedule OR-PTE-FY Instructions

OREGON DEPARTMENT OF REVENUE

2020

Qualifying business income reduced tax rate for Oregon full-year residents

General information

If you have qualifying income from a sole proprietorship, partnership, or an S corporation, you may elect to use a reduced tax rate for that income. The reduced tax rate can be claimed for qualifying income up to $5 million. Use Schedule OR-PTE-FY to claim this reduced tax rate if you're an full-year resident.

Important: The qualified business income reduced tax rate is an irrevocable election that must be made each year on an original return. You can't amend to revoke or make the election after your original return is filed **unless** you file an amended return on or before the original due date of **April 15, 2021,** or if filing on extension, **October 15, 2021.** See the "Amending" section for more information. The annual election is made by completing Schedule OR-PTE-FY and checking box 20c on the Oregon Form OR-40.

Qualifying income may only be modified for depreciation before applying the reduced tax rate. No other additions, subtractions, or deductions are allowed in the calculation of the tax on qualifying income.

Schedule OR-PTE-FY is for Oregon full-year residents only. If you are an Oregon part-year resident, use Schedule OR-PTE-PY. If you are an Oregon nonresident, use Schedule OR-PTE-NR.

Qualifications

To be eligible for the reduced tax rate:

- You or your spouse must have qualifying income from a sole proprietorship, partnership, or S corporation;
- You or your spouse must have materially participated in the business; and
- The business must have employed at least one qualifying employee in Oregon.

Qualifying income. For your income to qualify for the reduced tax rate, it must be nonpassive income from a sole proprietorship, partnership, or S corporation. Income from trusts or estates doesn't qualify for the reduced tax rate.

"Nonpassive income" is income other than that from passive activities as defined in Section 469 of the Internal Revenue Code (IRC). This includes, but isn't limited to, nonpassive income reported on federal Schedules C (line 31), E [line 28, column (k)], and F (line 34); IRC Section 1231 gains treated as ordinary income; guaranteed payments; and royalties. Nonpassive income **doesn't** include wages, interest, dividends, or capital gains for the purpose of the reduced tax rate.

Tiered entities. If you received nonpassive income that passed-through an upper-tier entity to you from a qualifying lower-tier entity, that income qualifies for the reduced tax rate if the lower-tier entity also meets the employee requirement.

Example 1: Bryant is the sole shareholder of an S corporation. Marcus is the sole shareholder of an S corporation. The two S corporations each have a 50 percent ownership in a partnership. Bryant and Marcus both materially participate in the partnership and the partnership employs ten full-time employees in Oregon. Bryant and Marcus receive a distributive share of nonpassive income from the partnership that passes through their respective S corporations. They also receive a salary as reasonable compensation for the work performed for the partnership. The distributive share of nonpassive income they receive from the partnership (as passed through to them from their respective S corporations) qualifies for the reduced tax rate since the partnership also meets the employee requirement. However, the salary received from the partnership doesn't qualify for the reduced tax rate.

Material participation. Material participation has the same meaning as defined for federal purposes under IRC Section 469. A taxpayer materially participates in an activity if he or she works on a regular, continuous, and substantial basis in operations, and must meet any one of the seven material participation tests in Treasury Regulation Section 1.469-5T(a).

Grouping activities. You may group trade, business, or rental activities into a single activity if they form an appropriate economic unit for the purpose of meeting the material participation test under Treasury Regulation Section 1.469-4(c). This treatment is also allowed for the purposes the qualified business income reduced tax rate and the material participation requirement.

Employee requirement. The sole proprietorship, partnership, or S corporation must have employed at least one employee who wasn't an owner, member, or limited partner for an aggregate of at least 1,200 hours during the tax year **in Oregon.** Only the hours worked in a week in which an employee worked at least 30 hours in Oregon can be counted. Hours worked by an employee that is a spouse or other family member that isn't an owner, member, or limited partner can be used to meet the hour requirements. Independent contractors can't be used to meet the employee requirement.

Example 2: A sole proprietorship had one employee that worked a total of 1,440 hours during the year in Oregon. The employee worked 32 hours per week for 30 weeks and worked 24 hours per week for 20 weeks. The total qualifying hours is 960 (32 hours x 30 weeks) since you can't count hours worked less than 30 hours in a week. Because the total qualifying hours worked in Oregon is less than 1,200, the nonpassive income from the sole proprietorship doesn't qualify for the reduced tax rate.

Example 3: A partnership employed six employees during the year in Oregon. One employee worked 32 hours a week for 30 weeks and the other five employees each worked 20 hours per week for 40 weeks in a job share position. Only the hours worked by the employee that worked 32 hours per week can be used toward the 1,200 hour requirement. Since the total hours (30 weeks x 32 hours per week = 960 total hours) worked by that employee don't exceed the 1,200 hour requirement, the nonpassive income from the partnership doesn't qualify for the reduced tax rate.

Example 4: An S corporation employed three employees during the year in Oregon. One employee worked 32 hours a week for 20 weeks and the other two employees each worked 40 hours per week during the same 20 weeks. The hours for each employee qualify since each employee worked at least 30 hours a week. Therefore, the total qualifying hours in this example is 2,240 hours.

Temporary or "leased" employees. If a qualifying business contracts with a professional employer organization to employ temporary or "leased" employees, those employees can be used to qualify a business for the reduced tax rate if the employees meet the hour requirements.

Amending

You can't amend to revoke or make the election after your original return is filed **unless** you file an amended return on or before the original due date of **April 15, 2021,** or if filing on extension, **October 15, 2021.**

Example 5: Liam filed his original return on March 3, 2021, and didn't elect the reduced tax rate or file an extension. He files an amended return on April 13, 2021, and makes the election. His amended return will be accepted allowing the reduced tax rate and his amended return will be treated as the original return.

Example 6: Maggie filed her original return on March 12, 2021, and didn't elect the reduced tax rate or file an extension. She files an amended return on May 4, 2021, and elects the reduced tax rate. The reduced tax rate will be denied since the amended return was filed after the original due date of April 15, 2021, and she did not file an extension.

Example 7: Sam filed his original return on a timely filed extension on May 12, 2021, and elects the reduced tax rate. The reduced tax rate election will be allowed because it was made on his original return.

Example 8: Allen filed his original return on a timely filed extension on May 3, 2021, and didn't elect the reduced tax rate. He files an amended return on July 1, 2021 and makes the election. His amended return will be accepted allowing the reduced tax rate and his amended return will be treated as the original return for the reduced tax rate election.

If you claimed the reduced tax rate on your original return, you must amend Schedule OR-PTE-FY if:

- An IRS audit (or other state audit) resulted in a change that affects your Oregon return;
- You amended your federal (or other state) return and the changes you made affect your Oregon return;
- You have a net operating loss (NOL); or
- You need to correct income or deductions you originally reported.

Note: If you amend after the due date for the return of April 15, 2021 (or October 15, 2021, if filing on extension), you must use the tax on line 12a of the Tax worksheet even if line 13a is less.

Schedule instructions

Use the following instructions to complete Schedule OR-PTE-FY. Complete the entire schedule and include it with your Oregon Form OR-40.

Section A instructions

Complete a line for each qualifying sole proprietorship, partnership, or S corporation. Only list businesses that qualify. Use additional schedules if necessary and put the total from all schedules on line 6 of the first page.

Note: You must list **all** nonpassive income (or loss) from qualifying sole proprietorships, partnerships, and S corporations for each individual making the election. **You can't selectively choose which qualifying income (or losses) to include in Section A.**

For each qualifying business, enter the business name, federal employer identification number (FEIN), number of qualifying employees, business code number, and entity type.

Business code number. Enter the business code number (or North American Industry Classification System code) as reported on line c of the federal Form 1065, line b of federal Form 1120S, or line b of federal Schedules C or F.

Entity type. Enter the appropriate code for how the business files for tax purposes: **SP** for a sole proprietorship, **SC** for an S corporation, or **P** for a partnership. **Don't** enter LLC or anything other than the codes listed.

Column (a). Enter nonpassive losses attributable to the qualifying sole proprietorship, partnership, or S corporation. Include qualifying nonpassive losses such as IRC Section 1231 losses treated as ordinary losses.

Column (b). For partnerships and S corporations only. Enter Section 179 expense deduction you reported in Part II, Section 28, column (i) of your federal Schedule E attributable to the qualifying partnership or S corporation. **Don't** complete this column for sole proprietorships.

Column (c). Enter nonpassive income attributable to the qualifying sole proprietorship, partnership, or S corporation. Also include qualifying nonpassive income such as royalties, guaranteed payments, and IRC Section 1231 gains treated as ordinary income. **Don't** include passive income, capital gains, interest income, wages, or dividends.

Line 6. Report the totals for columns (a), (b), and (c). If more than one page is used, report the total of all pages.

Line 9. If line 9 is 0 or less, you can't use the reduced tax rate. Return to line 20 and complete the rest of Form OR-40. If line 9 is more than 0, enter the amount on line 2b of Section B.

Section B instructions

The tax worksheet in Section B will help you calculate which tax rate is more beneficial to you. Complete each line to determine your tax.

Lines 4 and 7. Report only the depreciation modification attributable to the qualifying sole proprietorships, partnerships, or S corporations listed in Section A.

Example 9: Liam reports an addition for depreciation attributable to a qualifying sole proprietorship he owns on line 8 of his Form OR-40. He also reports a subtraction for depreciation attributable to a qualifying partnership on line 13 of his Form OR-40. In Section B, Liam will report the addition on line 4 and report the subtraction on line 7.

Line 10a. Use **Tax rate chart A** below for the taxable income reported on 8a. Report the tax on line 10a. **Note:** If you have other income that qualifies for an alternative tax rate, such as a farm liquidation long-term capital gains or farm income averaging, you'll need to use the appropriate worksheet or schedule, 2020 Worksheet FCG or 2020 Schedule OR-FIA-40, to calculate the tax on line 10a. **Don't** include the nonpassive income listed on line 8a in the calculation.

Line 11b. Use **Tax rate chart B** below for the taxable income reported on line 9b and report the tax on line 11b.

Line 13a. Use **Tax rate chart A** below for the taxable income reported on line 1a. Report the tax on line 13a. **Note:** If you have other income that qualifies for an alternative tax rate, such as a farm liquidation long-term capital gains or farm income averaging, you'll need to use the appropriate worksheet or schedule, 2020 Worksheet FCG or 2020 Schedule OR-FIA-40, to calculate the tax on line 1a.

Line 14a. Enter the lesser of line 12a or 13a. If line 12a is less than 13a, enter the amount on line 14a on line 20 of Form OR-40 and check box 20c. If line 13a is less than 12a, it isn't more beneficial for you to use the pass-through entity reduced tax rate. Enter the amount from line 13a on line 20 of Form OR-40 and complete the rest of the return.

Do you have questions or need help?

www.oregon.gov/dor
503-378-4988 or 800-356-4222
questions.dor@oregon.gov

Contact us for ADA accommodations or assistance in other languages.

2020 Tax rate chart A

2020 tax rate chart—Use this chart only for income reported on lines 1a and 8a of Section B. Report the tax on Section B, lines 10a and 13a.

Chart S: For persons filing single or married filing separately:
If your taxable income isn't over $3,600 .... your tax is 4.75% of taxable income
If your taxable income is over $3,600 but not over $9,050 .... your tax is $171 plus 6.75% of excess over $3,600
If your taxable income is over $9,050 but not over $125,000 .... your tax is $539 plus 8.75% of excess over $9,050
If your taxable income is over $125,000 .... your tax is $10,685 plus 9.9% of excess over $125,000

Chart J: For persons filing jointly, head of household, or qualifying widow(er) with dependent child:
If your taxable income isn't over $7,200 .... your tax is 4.75% of taxable income
If your taxable income is over $7,200 but not over $18,100 .... your tax is $342 plus 6.75% of excess over $7,200
If your taxable income is over $18,100 but not over $250,000 .... your tax is $1,078 plus 8.75% of excess over $18,100
If your taxable income is over $250,000 .... your tax is $21,369 plus 9.9% of excess over $250,000

2020 Tax rate chart B

2020 reduced tax rate chart—Use this chart only for qualifying income reported on line 9b of Section B. Report the tax on Section B, line 11b.

If your taxable income isn't over $250,000 .... your tax is 7% of qualifying income
If your taxable income is over $250,000 but not over $500,000 .... your tax is $17,500 plus 7.2% of excess over $250,000
If your taxable income is over $500,000 but not over $1 million .... your tax is $35,500 plus 7.6% of excess over $500,000
If your taxable income is over $1 million but not over $2.5 million .... your tax is $73,500 plus 8% of excess over $1 million
If your taxable income is over $2.5 million but not over $5 million .... your tax is $193,500 plus 9% of excess over $2.5 million
If your taxable income is over $5 million .... your tax is $418,500 plus 9.9% of excess over $5 million