Clear form

2017 Schedule OR-PTE-NR

 Oregon Department of Revenue

18141701010000

Office use only

Pass-through Entity Income Reduced Tax Rate Schedule for Oregon Nonresidents

Submit original form—do not submit photocopy

First name and initial	Last name	Social Security number (SSN)
Spouse's first name and initial if joint return	Spouse's last name if joint return	Spouse's SSN if joint return

To qualify for the reduced tax rate for qualifying income, you must complete both sections and submit this form with your Oregon Form OR-40-N. **Important: The pass-through entity (PTE) reduced tax rate is an irrevocable election that must be made each year on an original return or amended return filed before the due date, excluding extensions.**

Section A—Partnership and S corporation information

List each qualifying partnership or S corporation along with the business code number, number of qualifying employees, nonpassive income (or loss), and Section 179 expenses attributable to each PTE. **Only** list PTEs that qualify. See instructions for more information.

1. PTE name | PTE FEIN | Business code no. | No. of qualifying employees

a. Nonpassive loss .00 | **b. Section 179 expense** .00 | **c. Nonpassive income** .00

2. PTE name | PTE FEIN | Business code no. | No. of qualifying employees

a. Nonpassive loss .00 | **b. Section 179 expense** .00 | **c. Nonpassive income** .00

3. PTE name | PTE FEIN | Business code no. | No. of qualifying employees

a. Nonpassive loss .00 | **b. Section 179 expense** .00 | **c. Nonpassive income** .00

4. PTE name | PTE FEIN | Business code no. | No. of qualifying employees

a. Nonpassive loss .00 | **b. Section 179 expense** .00 | **c. Nonpassive income** .00

5. PTE name | PTE FEIN | Business code no. | No. of qualifying employees

a. Nonpassive loss .00 | **b. Section 179 expense** .00 | **c. Nonpassive income** .00

6. Total for each column (a), (b), and (c): **a. Nonpassive loss total** .00 | **b. Section 179 expense total** .00 | **c. Nonpassive income total** .00

7. Enter the amount from line 6c .... 7. .00

8. Add lines 6a and 6b .... 8. .00

9. Line 7 minus line 8.. 9. .00

If line 9 is -0- or less, you can't use the reduced tax rate. Return to the Form OR-40-N, line 48, and complete the rest of the form. If line 9 is more than -0-, enter this amount on line 2b of the Tax worksheet in Section B on page 2.

—You must include this schedule with your Oregon Form OR-40-N—

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Use the following worksheet to calculate your tax. See the instructions for information on completing the worksheet. The tax rate charts are in the instructions on page 5.

Section B—Tax worksheet

Complete each applicable line to determine your tax.

1. Enter Oregon taxable income from Form OR-40-N, line 47 .... 1a. .00
2. Enter the total qualifying income from line 9 of Section A............ 2b. .00
3. Line 1a minus line 2b. Don't enter less than -0-................................. 3a. .00
4. Enter the amount of the depreciation addition from Form OR-40-N, line 30S, that is attributable to qualifying PTEs on lines 4a and 4b ..... 4a. .00 4b. .00
5. Line 3a minus line 4a. Don't enter less than -0- .... 5a. .00
6. Line 2b plus line 4b.......... 6b. .00
7. Enter the amount of the depreciation subtraction from Form OR-40-N, line 33S, that is attributable to qualifying PTEs on lines 7a and 7b .... 7a. .00 7b. .00
8. Line 5a plus line 7a............ 8a. .00
9. Line 6b minus line 7b. Don't enter less than -0-............ 9b. .00
10. Tax for income on line 8a using **tax rate chart A** in the instructions. This is your tax on nonqualifying income. .... 10a. .00
11. Tax for income on line 9b using **tax rate chart B** in the instructions. This is your tax on qualifying income .... 11b. .00
12. Line 10a plus line 11b. This is your **total tax** with the reduced rate for qualifying income..... 12a. .00
13. Tax for income on line 1a using **tax rate chart A** in the instructions 13a. .00
14. Enter the lesser of line 12a or line 13a.. 14a. .00

If line 12a is less than 13a, enter the amount from line 14a on line 48 of Form OR-40-N and check box 48c. 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 48 of Form OR-40-N and complete the rest of the return. **Note:** If you claimed the reduced tax rate on your original return and you're amending after the original due date, you must use the tax on line 12a even if line 13a is less. The election is irrevocable and can't be changed after filing of your original return.

—You must include this schedule with your Oregon Form OR-40-N—

Instructions for Schedule OR-PTE-NR

Pass-through entity income reduced tax rate for Oregon nonresidents

General information

If you have qualifying income earned in Oregon by a 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.

Important: The PTE reduced tax rate is an irrevocable election that must be made each year on an original return or amended return filed before the due date, excluding extensions. The annual election is made by completing Schedule OR-PTE-NR and checking box 48C on the Oregon Form OR-40-N.

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

Qualifications

To be eligible for the reduced tax rate:

- You or your spouse must have qualifying income earned in Oregon by a partnership or S corporation;
- You or your spouse must have materially participated in the business; and
- The partnership or S corporation 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 earned in Oregon by a partnership or S corporation. Income from trusts, estates, sole proprietorships, qualified joint ventures, and disregarded entities treated as sole proprietorships 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 in Part II, Section 28, column (j) of your federal Schedule E; 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 a PTE to you from another qualifying PTE, that income qualifies for the reduced tax rate if the lower-tier PTE meets the employee requirement.

Example 1—Bryant and Marcus are each the sole shareholders of an S corporation. The S corporations are each 50 percent owners 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 and also receive a salary for the work performed for the partnership. The distributive share of nonpassive income they receive from the partnership 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 related entities. Under Treasury Regulation Section 1.469-5T(a)(1), you may group related business entities into a single activity in order to meet the 500 hour test for material participation for federal purposes. For the PTE reduced tax rate, nonpassive income from S corporations and/or partnerships that are grouped for the purpose of meeting the material participation test would qualify for the reduced tax rate.

Employee requirement. The 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 the 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 cannot be used for the employee requirement.

Example 2—Partnership A 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 Partnership A doesn't qualify for the reduced tax rate.

Example 3—Partnership B 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 income from Partnership B doesn't qualify for the reduced tax rate.

Example 4—Partnership C 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 PTE contracts with a professional employer organization to employ temporary or "leased" employees, those employees can be used to qualify the PTE 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 the amended return is filed on or before the original due date of **April 17, 2018.**

Example 5—Liam filed his original return on March 1, 2018, and didn't elect the PTE reduced tax rate. He files an amended return on April 12, 2018, and elects the PTE reduced tax rate. His amended return will be accepted allowing the PTE reduced tax rate because it was filed before the original due date.

Example 6—Maggie filed her original return on March 12, 2018, and didn't elect the PTE reduced tax rate. She files an amended return on May 2, 2018, and elects the PTE reduced tax rate. The PTE reduced tax rate will be denied since the amended return was filed after the original due date of April 17, 2018.

Example 7—Sam filed his original return on a timely filed extension on May 3, 2018, and elects the PTE reduced tax rate. The PTE 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 1, 2018, and didn't elect the PTE reduced tax rate. He files an amended return on July 1, 2018 and makes the election. The PTE reduced tax rate will be denied since the election wasn't made on the original return and the return was filed after the original due date.

If you claimed the reduced tax rate on your original return, you must amend Schedule OR-PTE-NR 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, you must use the tax on line 12a of the Tax worksheet even if line 13a is less. The election is irrevocable and can't be changed after filing your original return.

Schedule instructions

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

Section A instructions

Complete a line for each qualifying partnership or S corporation. Only list partnerships or S corporations 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 partnerships or S corporations. **You can't selectively choose which qualifying income (or losses) to list.**

For each qualifying PTE, enter the partnership or S corporation name, federal employer identification number (FEIN), number of qualifying employees, and business code number. Provide the business code number as reported on line c of the federal Form 1065 or Form 1065-B, or line b of the federal Form 1120S.

Column (a)—Enter Oregon-source nonpassive losses you reported in Part II, Section 28, column (h) of your federal Schedule E attributable the qualifying partnership or S corporation. Include qualifying nonpassive losses such as IRC Section 1231 losses treated as ordinary losses.

Column (b)—Enter Oregon-source Section 179 expense deductions you reported in Part II, Section 28, column (i) of your federal Schedule E attributable to the qualifying partnership or S corporation.

Column (c)—Enter Oregon-source nonpassive income you reported in Part II, Section 28, column (j) of your federal Schedule E attributable to the qualifying partnership or S corporation. Include qualifying nonpassive income such as royalties 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, list the total of all pages on the first page.

Line 9—If line 9 is -0- or less, you can't use the reduced tax rate. Return to line 48 and complete the rest of Form OR-40-N. If line 9 is more than -0-, enter the amount on line 2b of Section B, the Tax worksheet.

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 partnerships or S corporation listed in Section A.

Example 9—Liam reports an addition for depreciation attributable to a sole proprietorship he owns on line 30S of his Form OR-40-N. He also reports a subtraction for depreciation attributable to a qualifying partnership on line 33S of his Form OR-40-N. Liam won't report the addition on line 4 of the Tax worksheet because it isn't attributable to a qualifying partnership or S corporation. Liam will report the subtraction on line 7 of the Tax worksheet because it's attributable to a qualifying partnership listed in Section A.

Line 10a—Use **Tax rate chart A** below for the taxable income reported on 8a. Report the tax on line 10a.

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.

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 48 of Form OR-40-N and check box 48c. 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 48 of Form OR-40-N 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.

2017 Tax rate chart A

2017 tax rate chart—Use this chart only for income reported on lines 1a and 8a of Section B, the Tax worksheet. Report the tax on lines 10a and 13a of the worksheet.

Chart S: For persons filing single or married filing separately:
If your taxable income isn't over $3,400 ..... your tax is 5% of taxable income
If your taxable income is over $3,400 but not over $8,500 ..... your tax is $170 plus 7% of excess over $3,400
If your taxable income is over $8,500 but not over $125,000 ..... your tax is $527 plus 9% of excess over $8,500
If your taxable income is over $125,000 ..... your tax is $11,012 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 $6,800 ..... your tax is 5% of taxable income
If your taxable income is over $6,800 but not over $17,000 ..... your tax is $340 plus 7% of excess over $6,800
If your taxable income is over $17,000 but not over $250,000 ..... your tax is $1,054 plus 9% of excess over $17,000
If your taxable income is over $250,000 ..... your tax is $22,024 plus 9.9% of excess over $250,000

2017 Tax rate chart B

2017 pass-through entity reduced tax rate chart—Use this chart only for qualifying income reported on line 9b of Section B, the Tax worksheet. Report the tax on line 11b on the worksheet.

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