

5703-29-21

Pre-income tax trusts, explained with revocation procedures.

(A) (1) Subject to paragraph (D) of this rule, each pre-income tax trust that made a qualifying pre-income tax trust election pursuant to section 5747.01 of the Revised Code had to have registered for the commercial activity tax imposed under section 5751.02 of the Revised Code by April 17, 2007. For tax periods beginning prior to January 1, 2024, all such trusts had to file tax returns and pay at least a minimum tax of one hundred fifty dollars for each year, regardless of the trust's taxable gross receipts under division (E)(7) of section 5751.01 of the Revised Code.

(2) For tax periods beginning January 1, 2024, and thereafter, the annual minimum tax has been eliminated. For tax periods beginning January 1, 2024, any qualified pre-income tax trust or combined or consolidated elected taxpayer that includes such trust whose taxable gross receipts do not exceed the exclusion amount in a calendar year may cancel its commercial activity tax registration. The cancellation for this reason does not revoke the trust's election to be subject to the commercial activity tax. If at any time after cancellation of the registration, the trust's or the combined or consolidated elected taxpayer's taxable gross receipts exceed the exclusion amount in a calendar year, the trust or combined or consolidated elected taxpayer needs to reactivate its registration and resume filing and paying the commercial activity tax. For calendar year 2024, the exclusion amount is three million dollars. For calendar year 2025 and thereafter, the exclusion amount is six million dollars.

(B) As used in this rule, a "pre-income tax trust" has the same meaning as in section 5747.01 of the Revised Code.

(C) A "qualified pre-income tax trust" is a "pre-income tax trust" that made an election pursuant to section 5747.01 of the Revised Code prior to April 17, 2006. The deadline of April 15, 2006 specified in section 5747.01 of the Revised Code was extended pursuant to section 1.14 of the Revised Code that addresses due dates of certain documents filed with the state that fall on a weekend or legal holiday.

(D)

(1) If the trustee of a qualified pre-income tax trust wishes to revoke the trust's election, the trustee needs to do so prior to the tenth of May of the current calendar year. Such revocation is irrevocable and applies to the full taxable year for which the revocation is timely made.

(2) The trustee of a trust revoking its election needs to file a fiduciary income tax return for the trust for the taxable year for which the revocation is timely made and all applicable future taxable years and make all corresponding payments by the due date for such return in order to avoid the imposition of penalties.

- (3) The trustee of a trust revoking an election may receive a letter acknowledging the revocation. Such letter does not signify that the trust meets the definition of a pre-income tax trust for purposes of the commercial activity tax. Therefore, even though a trust revoked its election, it may remain subject to both the fiduciary income tax and the commercial activity tax if it is later found not to be a pre-income tax trust.
- (E) If a qualified pre-income tax trust would otherwise be the common owner of either a combined taxpayer group or a consolidated elected taxpayer group, and the trust has less than four thousand five hundred dollars in taxable gross receipts, such trust does not need to register for the commercial activity tax pursuant to paragraph (B)(2) of rule 5703-29-02 of the Administrative Code.

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