

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax

12 CSR 10-2.436 SALT Parity Act Implementation

PURPOSE: This rule explains how a partnership or an S corporation may elect to become an affected business entity under section 143.436, RSMo, the timing of affected business entity tax return filing, how to designate an affected business entity representative for a tax year, the estimated tax obligations and withholding obligations of an affected business entity, and an aspect of the tax credit under the SALT Parity Act.

(1) For tax years ending on or after December 31, 2022, a partnership or S corporation electing to become an affected business entity for a tax year shall make such election on its affected business entity tax return (Form MO-PTE). A separate election must be made for each tax year.

(2) An election to become an affected business entity for a tax year shall not be effective if the partnership or S corporation has not successfully designated a person as an affected business entity representative for that tax year at or before the time the partnership or S corporation attempts to make such election. For an election to be effective, the affected business entity tax return (Form MO-PTE) on which the election is made must include the signatures of either—

(A) Each member of the electing entity who is a member at the time the affected business entity tax return is filed;

(B) An officer, manager, or member of the electing entity who is authorized to make the election and who attests to having such authorization under penalty of perjury; or

(C) The designated affected business entity representative of the partnership or S corporation, including but not limited to an affected business entity representative who is re-designated as such on the same Form MO-PTE in the manner described in subsection (5)(D) of this rule.

(3) The deadline for making an election to become an affected business entity for a tax year is the filing deadline for the affected business entity tax return (Form MO-PTE). No election can be made after the deadline, including any approved extension.

(4) If an election to become an affected business entity has been made for a tax year, the election cannot be revoked for that tax year.

(5) At or before the time that a partnership or S corporation files its affected business entity tax return (Form MO-PTE) on which the election is made, the partnership or S corporation shall designate an affected business entity representative for that tax year. Only one (1) natural person may serve as an affected business entity representative for a tax year.

(A) To designate a person as an affected business entity representative, the partnership or S corporation must file with the department a Power of Attorney (Form 2827) or PassThrough

Entity Power of Attorney (Form 2827 PTE) designating that person as an appointed representative and giving that person the title of “Affected Business Entity Representative.” The designation must be signed by someone with authority to make such a designation on behalf of the partnership or S corporation.

(B) As necessary qualifications to be designated as an affected business entity representative for a tax year, a person must have a working email address, telephone number, and physical address at which to receive mail, all of which must be provided to the department.

(C) If a Power of Attorney (Form 2827) or Pass-Through Entity Power of Attorney (Form 2827 PTE) is filed as required above, and is executed by someone with authority to do so on behalf of the partnership or S corporation, but the filing lacks one (1) or more necessary items of information or the person who would otherwise serve as affected business entity representative lacks one (1) of the qualifications required above, that person shall nevertheless be considered an authorized representative of the partnership or S corporation for purposes of receiving and discussing the partnership or S corporation’s confidential tax information otherwise protected by section 32.057, RSMo. By way of example, the department may communicate with that person to share what items or qualifications were lacking in the attempt to make that person an affected business entity representative.

(D) If a person has already been designated as an affected business entity representative for an affected business entity’s prior tax year, in lieu of the other requirements of this section, that person may be re-designated as an affected business entity representative for a later tax year by the filing of that tax year’s affected business entity tax return (Form MO-PTE) and the checking of a box on that return indicating the affected business entity’s intent to re-designate that representative. The affected business entity representative for the prior tax year may check this box, re-designating himself or herself as an affected business entity representative, only if the affected business entity representative has been given authority, by the partnership or S corporation, to do so for the tax year for which the box is checked.

(6) An affected business entity representative may be removed from the role of affected business entity representative for a tax year if the partnership or S corporation designates a new affected business entity representative for that tax year. The removal of an affected business entity representative does not change the binding effect of any prior actions taken by that affected business entity representative.

(7) An affected business entity is not subject to an estimated income tax declaration filing requirement, or an estimated income tax payment requirement, with respect to the tax under section 143.436, RSMo. An affected business entity may choose to make an early payment of its anticipated tax liability for a tax year, even if the tax year is not yet complete.

(8) The election to become an affected business entity does not relieve a partnership or S corporation of its withholding obligations under section 143.411.5, RSMo, or section 143.471.6, RSMo, respectively.

(9) The affected business entity's tax under section 143.436, RSMo, is due by the fifteenth day of the fourth month following the end of the partnership or S corporation's tax year. By this same date, the affected business entity shall file an affected business entity tax return (Form MO-PTE) unless a filing extension is approved by the department. If an affected business entity is approved for a filing extension of the affected business entity tax return (Form MO-PTE), the affected business entity is likewise granted an equal extension of time for the payment of the tax due under section 143.436, RSMo. Pursuant to section 143.731.2, RSMo, interest on this tax will continue to accrue regardless of any extension of time for payment.

(10) If a partnership or S corporation has received a federal extension for filing its annual partnership or S corporation federal return, that partnership or S corporation is hereby granted an equal extension of time for filing its affected business entity tax return (Form MO-PTE) for the same tax year, except that this extension will be no longer than six (6) months. The partnership or S corporation must attach a copy of the approved federal extension to its affected business entity tax return (Form MO-PTE).

(11) The tax credits granted to a member of an affected business entity by sections 143.436.8 and 143.436.10, RSMo, shall be computed based on the member's direct and indirect pro rata share of the tax actually paid pursuant to section 143.436, RSMo, by any affected business entity of which such member is directly or indirectly a member. If an affected business entity reduces its tax liability under section 143.436, RSMo, by use of tax credits, other than a credit for payment or overpayment of this tax, the affected business entity's tax actually paid will generally be reduced.

(12) Any member of an affected business entity may elect not to have tax imposed on the affected business entity under section 143.436, RSMo, with respect to the affected business entity's separately and nonseparately computed items, otherwise subject to tax under section 143.436, RSMo, to the extent such items are allocable to that member. This election is referred to as an "opt-out election," and a member who has timely made this election is referred to as an "opt-out member."

(A) If a member wishes to make an opt-out election for a tax year, the opt-out election shall be filed with the department by the earlier of the original (unextended) due date of the Form MO-PTE for that tax year, or the actual filing date of the Form MO-PTE for that tax year. The opt-out member shall also furnish the opt-out election to the partnership or S corporation. The opt-out election must specify the partnership or S corporation to which the opt-out election applies.

(B) Once an opt-out election is filed, it applies to the tax year for which it was first timely filed and for all subsequent tax years. However, an opt-out member may revoke that member's opt-out election. To be effective for a tax year, the revocation must be filed with the department by the filing due date of an opt-out election for that tax year. The member shall also furnish the opt-out election revocation to the partnership or S corporation. The revocation of an opt-out election applies to the tax year for which the revocation was first timely filed, and for all subsequent tax years, until a new opt-out election is filed.

(C) For any tax year to which the opt-out election applies, with respect to the partnership or S corporation to which the opt-out election applies, the opt-out member is ineligible for the tax credits that would otherwise be granted by sections 143.436.8 and 143.436.10, RSMo. In determining the pro rata shares of tax paid under section 143.436, RSMo, for purposes of computing the tax credits allowed by sections 143.436.8 and 143.436.10, RSMo, the pro rata share percentage that would otherwise be attributed to an opt-out member shall be redistributed proportionally among the members who are not opt-out members. For example, if an S corporation has opt-out members with a share percentage of thirty percent (30%), and a non-opt-out member of an S corporation has a share percentage of ten percent (10%), then that non-opt-out member's new credit percentage is ten percent (10%) divided by seventy percent (70%), that is, fourteen percent (14%). This subsection shall not be construed to affect an opt-out member's authorization to carry forward and redeem outstanding tax credits that were initially allowed for a tax year to which the opt-out election did not apply.

(D) For any tax year to which the opt-out election applies, with respect to the partnership or S corporation to which the opt-out election applies, such partnership or S corporation shall, when computing the tax under section 143.436, RSMo, remove all opt-out members' allocable items such as income, deductions, or any other relevant items. Addition and subtraction modifications must be determined as though the income, deductions, and other relevant items allocable to the opt-out members did not exist.

*AUTHORITY: sections 32.057.2, 136.120, and 143.961, RSMo 2016, and section 143.436, RSMo Supp. 2024. * Emergency rule filed Dec. 27, 2022, effective Jan. 11, 2023, expired July 9, 2023. Original rule filed Dec. 27, 2022, effective June 30, 2023. Amended: Filed March 31, 2025, effective Sept. 30, 2025.*

**Original authority: 32.057, RSMo 1979, amended 1980, 1983, 1993, 1994, 1996, 2003, 2004, 2008, 2014; 136.120, RSMo 1945; 143.436, RSMo 2022, amended 2024; and 143.961, RSMo 1972.*