



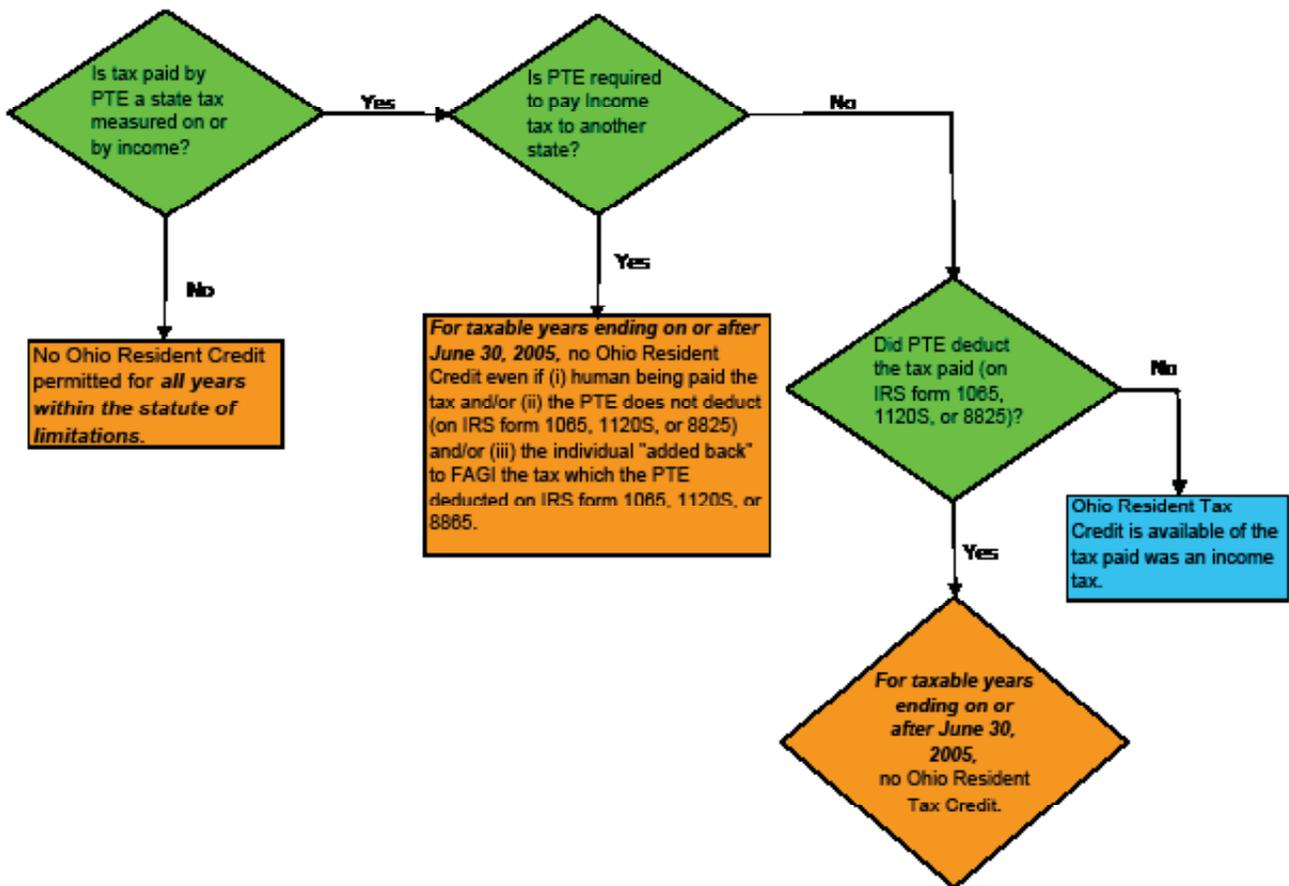
Ohio Resident Credit Income Tax Grace Period

by Gary M. Harden and Sarah C. Dobrzykowski

In August 2008, the Ohio Department of Taxation announced that it intends to begin mailing out assessments, including tax, penalties and interest, to taxpayers who claimed an Ohio resident credit for certain taxes paid by either the individual or pass-through entity to other states. The Department recently offered to waive penalties, though, if tax and interest is remitted before December 1, 2008. According to Information Release IT 2008-01, in certain instances assessment notices will be limited to taxable years ending on or after June 30, 2005.

Ohio does not impose an income tax on disregarded entities, S corporations, limited liability companies and other entities taxed as partnerships at the federal level. However, some other states do. Examples include certain taxes imposed by our neighboring states of Kentucky (for years 2005 and 2006 only), Michigan and Indiana. We have asked for a list of the states and taxes the Department has reviewed and will be disallowing for this purpose, but so far no such list has been made available. We hope to be able to provide this list in the future. The Ohio Department of Taxation has announced that under Ohio Revised Code section 5747.05(B)(4), amounts paid by pass-through entities which reduce the owners' federal adjusted gross income are not allowable in determining the Ohio resident credit.

The Ohio Department of Taxation has provided us with a draft of its internal flow chart to determine where the Ohio Resident Credit will be allowed and disallowed, and if disallowed, the tax years covered. A copy is reproduced below.



If you own an interest in an S corporation or limited liability company, you should verify whether you claimed an Ohio resident credit on any tax paid by the entity to another state. You may find it worth your while to take the Department of Taxation up on its offer of no penalty.

Mr. Harden, a member of the Firm, focuses his practice on federal taxation, benefits and general business law. He is peer reviewed AV by Martindale Hubbell, has been listed each year since 1995 in The Best Lawyers in America, and each year in Ohio Super Lawyers since its inception. 2021 Update: Mr. Harden is now employed by Harden Law, a firm with whom Eastman & Smith has a strategic alliance.



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