

# Instructions for Form PW-1

## General Instructions

### Purpose of Form PW-1

Pursuant to sec. 71.775, Wis. Stats., a pass-through entity is required to withhold income or franchise tax on Wisconsin income that is allocable to a nonresident partner, member, shareholder, or beneficiary. Use Form PW-1 to compute the withholding amount due for the taxable year.

### Definitions

**Nonresident** – An individual who is not domiciled in Wisconsin; a partnership, limited liability company, or corporation whose commercial domicile is outside the state; and an estate or trust that is a nonresident under sec. 71.14(1) to (3m), Wis. Stats.

**Pass-Through Entity** – A partnership, a limited liability company, a tax-option (S) corporation, an estate, or a trust that is treated as a pass-through entity for federal income tax purposes.

### Who Must File

Every pass-through entity (as defined above) that does business in Wisconsin or derives income from property located in Wisconsin, and that has one or more nonresident partners, members, shareholders, or beneficiaries, must file Form PW-1 except as indicated below.

#### Exceptions:

The following pass-through entities are not required to file Form PW-1:

- A pass-through entity whose withholding amount on Form PW-1, Part 1, line 2, computes to \$0. **Exception:** If a pass-through entity (an “upper-tier” entity) is a member of another pass-through entity (a “lower-tier” entity), the upper-tier entity must file Form PW-1 even if, after the credit for tax withheld by the lower-tier entity, the withholding amount is \$0.
- A joint venture that has elected not to be treated as a partnership under section 761 of the Internal Revenue Code.
- A publicly traded partnership, as defined under section 7704(b) of the Internal Revenue Code, if the entity files with the Department of Revenue an information return that reports the name, address, taxpayer identification number, and any other information requested by the department for each unit holder with more than \$500 of Wisconsin taxable income from the entity. Wisconsin Schedules 3K-1 filed with the Wisconsin Form 3 are sufficient information returns for purposes of this exception.

## Period Covered by Return

The return must cover the same period as the pass-through entity’s Wisconsin income or franchise tax return. File a 2006 Form PW-1 for calendar year 2006 or for a fiscal year that begins in 2006.

## Filing Deadlines

Form PW-1 is due with payment on the unextended due date of the pass-through entity’s income or franchise tax return. For tax-option (S) corporations, the filing deadline is the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the close of the entity’s taxable year. For partnerships, limited liability companies treated as partnerships, trusts, and estates, the filing deadline is the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the entity’s taxable year.

## Methods of Filing

Unless a pass-through entity has obtained a waiver from the Wisconsin Department of Revenue (as explained below), **Form PW-1 must be filed electronically and the withholding payment must be made by electronic funds transfer (EFT)**. The department offers two free electronic filing programs for Form PW-1. These programs are 1) Online E-Filing and 2) E-File Transmission. Both programs enable a pass-through entity to file Form PW-1 over the Internet and make an EFT payment **without having to pre-register for EFT**.

### Instructions for Online E-Filing

On the Internet, go to [www.revenue.wi.gov/eserv/pw/index.html](http://www.revenue.wi.gov/eserv/pw/index.html). If you are already in the Department of Revenue web site, go to the “E-Services” link, and then click the link for pass-through entity withholding under the “Business” header. From this page, click the “On-line E-Filing” link. A software application will then guide you through the fields of Form PW-1 that must be entered. **Note:** If you are reporting withholding for more than 200 nonresidents, you cannot use Online E-Filing. Use the E-File Transmission method described below.

Based on the information you enter, the software will compute the total amount of withholding due, and will administer the EFT payment transaction. All you need for the EFT payment transaction is a bank account. The software will allow you to print a copy of your filed return.

### Instructions for E-File Transmission

Pass-through entities with a very large number of nonresident owners may prefer this option. An Excel spreadsheet that creates an XML file of Form PW-1 is available on the Department of Revenue web site. To find further instructions and to file using this method, go to [www.revenue.wi.gov/eserv/pw/index.html](http://www.revenue.wi.gov/eserv/pw/index.html) and click the “E-File Transmission” link.

### *Electronic Filing/Electronic Payment Waiver*

If electronic filing or electronic payment using either of these methods presents an undue hardship, the pass-through entity may request a waiver from the department to submit a paper return. Pass-through entities with \$25,000 or less of total Wisconsin income passed through to all partners, members, shareholders, or beneficiaries (as computed in Form PW-1, Part 1, line 1) are not required to obtain a waiver.

To receive a waiver, provide a written explanation stating why electronic filing or electronic payment presents an undue hardship. Send the waiver request to:

Secretary's Office  
Wisconsin Department of Revenue  
Mail Stop 3-258  
P.O. Box 8903  
Madison, WI 53708-8903

You will receive the waiver within a few business days. Then, complete Form PW-1, enclose a check for the appropriate amount, and mail to the address shown on the form.

If you need to obtain a form, you may:

- Download it from the Department's Internet web site at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Use your fax telephone to call the Department's Fax-A-Form Retrieval System at (608) 261-6229
- Request it online at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Call (608) 266-1961
- Write to the Forms Request Office, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office

### **How to Obtain Assistance**

For the best possible service, please choose the appropriate contact carefully:

#### ***For customer service questions regarding:***

- Getting started with Online E-Filing
- The computation of withholding
- Information to be entered into Form PW-1
- Electronic payment options and waivers
- Name and address changes

**Contact:** (608) 261-6261  
sales10@dor.state.wi.us

Or write to:

Customer Service and Education Bureau  
Wisconsin Department of Revenue  
P.O. Box 8949  
Madison, WI 53708-8949

#### ***For customer service questions regarding:***

- Problems encountered while using Online E-Filing
- Creating an XML file for E-File Transmission

**Contact:** (608) 266-8653  
dorhelpd@dor.state.wi.us

#### **Withholding Exemptions for Nonresident Partners, Members, Shareholders, or Beneficiaries**

Certain nonresident partners, members, shareholders, or beneficiaries may not be subject to withholding. Withholding is not required if one of the following applies:

##### *Nonresident Is Otherwise Not Subject to Income or Franchise Tax*

Withholding is not required on behalf of a partner, member, shareholder, or beneficiary who is not otherwise subject to income or franchise tax (such as a 501(c)(3) organization with no unrelated business taxable income). To claim this exemption, obtain a written statement from the nonresident which states why the nonresident is exempt. Attach this written statement to the income or franchise tax return (Form 5S, 3, or 2) that the pass-through entity files for the year.

##### *Nonresident's Share of Pass-Through Income Less Than \$1,000*

Withholding is not required on behalf of a partner, member, shareholder, or beneficiary who has no Wisconsin income other than his or her share of Wisconsin income from the pass-through entity and that share of such income is less than \$1,000.

The pass-through entity may presume that a nonresident partner, member, shareholder, or beneficiary has no Wisconsin income other than the amount passed through the entity. *The nonresident is not required to notify the pass-through entity of other sources of Wisconsin income.*

For purposes of this exemption, the \$1,000 threshold is computed as the Wisconsin taxable income of the pass-through entity reportable to that partner, member, shareholder, or beneficiary for the taxable year, without regard to carryforwards of prior year losses.

#### **Line-by-Line Instructions**

**Taxable Year** – Enter the beginning and ending dates of the pass-through entity's taxable year.

**Amended Return** – Check the box if you are amending a Form PW-1 that you previously filed for the taxable year you entered.

## **Part 1: Pass-Through Entity Information**

**Name, Federal Employer ID Number, Decedent's Social Security Number** – Enter the pass-through entity's name and federal employer identification number (FEIN). If the pass-through entity is an estate, also enter the decedent's Social Security number.

**Address** – Enter the pass-through entity's address, including five-digit ZIP code.

**Person to Contact and Telephone Number** – Enter the name and telephone number of a person whom the department may contact regarding the information reported on Form PW-1.

**Income or Franchise Tax Form Number** – Check the box corresponding to the income or franchise tax form that the pass-through entity will file for the taxable year.

*Tax-option (S) corporations:* Check Form 5S

*Partnerships and limited liability companies treated as partnerships:* Check Form 3

*Estates and trusts:* Check Form 2

**Line 1: Total Pass-Through Income Under Wisconsin Law** – Enter the total amount of taxable income under Wisconsin law that will pass through the entity, computed as follows:

**Step 1:** Compute net income that the pass-through entity derives from all income sources that are part of its unitary business activities. In this computation, include all separately stated items of income, expenses, gains, and losses.

If you have not yet computed the pass-through entity's taxable income because you are filing Form 5S, Form 3, or Form 2 under extension, use estimates.

*Tax-option (S) corporations:* Do not include interest income taxed at the corporate level.

*Partnerships, estates, and trusts:* Do not subtract income that is sourced outside of Wisconsin for nonresidents that are individuals, estates, or trusts. Examples of income sourced outside of Wisconsin for nonresident individuals, estates, and trusts are gains and losses resulting from sales of stocks, bonds, or other intangibles, and, in general, interest and dividends. This non-Wisconsin income may be subtracted at the partner's or beneficiary's level in Part 2, column E.

**Step 2:** *For partnerships only:* Subtract guaranteed payments made to partners. Guaranteed payments sourced to Wisconsin must be added at the partner's level in Part 2, column E.

**Step 3:** *For multistate entities only:* Multiply the amount computed through steps 1 and 2 by the Wisconsin apportionment percentage computed at the pass-through entity level. This is the percentage reported on the pass-through entity's Form 4B. To the resulting amount, add any nonapportionable income sourced to Wisconsin.

**After completing line 1, complete Part 2 of Form PW-1. See instructions for Part 2 on this same page, beginning with Column A.**

**Line 2: Total Tax Withheld** – Enter the total tax withheld from line 8 of Part 2. **Caution:** This amount should not be less than zero. If there is excess withholding, the appropriate nonresident shareholders, partners, members, or beneficiaries will receive a credit or refund directly. See the explanation for Part 2, column H.

**Line 3: Interest Due** – Fill in the amount of interest due, if applicable. Interest applies if the pass-through entity files Form PW-1 later than the unextended due date of its income or franchise tax return.

*Tax-option (S) corporations:* Interest is due if the entity files Form PW-1 later than the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the close of the tax-option (S) corporation's taxable year.

*Partnerships, limited liability companies treated as partnerships, estates, and trusts:* Interest is due if the entity files Form PW-1 later than the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the partnership's, estate's, or trust's taxable year.

To compute the amount of interest due, use the interest computation schedules found on page 6.

**Line 4: Total Amount Due** – Add lines 2 and 3. Enter the total on line 4.

**Additional Information Required for Tiered Entities** – Fill in this portion if the entity filing Form PW-1 is a member of another pass-through entity, and that "lower-tier" pass-through entity already withheld Wisconsin tax on income passed through to this entity. Enter the name and FEIN of each lower-tier entity which already withheld Wisconsin tax. You may claim credit for this withholding in Part 2, column G.

**Signature and Date** – Sign and date the form. When you are filing this form electronically, the signature you click with the mouse has the same validity as a handwritten signature. If the person preparing Form PW-1 is not the taxpayer, the preparer may electronically sign the form on behalf of the taxpayer only if the preparer obtains a signed statement from the taxpayer authorizing the electronic signature.

## **Part 2: Nonresident Shareholder, Partner, Member, or Beneficiary Information**

**Column A: Nonresident's Name and Address** – Enter each nonresident's name and address as it will appear on the Schedule 5K-1, 3K-1, or 2K-1.

**Column B: Nonresident's FEIN or SSN** – Enter each nonresident's federal employer identification number or, for nonresident individuals, the Social Security number. For an estate, please enter both the federal employer identification number (if applicable) and the Social Security number of the decedent.

**Column C: Tax Form** – Select the code for the tax form the nonresident will use to file his, her, or its income or franchise tax return. From the list below, enter the tax form code that corresponds with the type of taxpayer the nonresident is:

**Type of Taxpayer the Nonresident Is Tax Form Code**

Individual not included in composite return	1NPR
Individual <i>shareholder</i> in composite return	1CNS
Individual <i>partner</i> in composite return	1CNP
Estate or trust – nonexempt	2
Trust – exempt	4T (T)
Partnership	3
Tax-option (S) corporation	5S
C corporation – nonexempt	4
Corporation – exempt	4T (C)

**Column D: Ownership or Profit/Loss Percentage** – Enter the percentage that will be used on the Schedule 5K-1, 3K-1, or 2K-1 to determine the amount of income allocable to the nonresident.

**Column E: Share of Wisconsin Taxable Income** – Enter the total amount of Wisconsin taxable income, including all separately stated income, expenses, gains, and losses, as well as guaranteed payments, that is allocable to each nonresident. For each type of entity filing Form PW-1, this amount is computed as explained below. **Note:** For nonresidents who are individuals, you may subtract 60% of the nonresident's portion of Wisconsin-sourced, long-term capital gains otherwise reportable in column E.

**Tax-Option (S) Corporations:**

The amount in column E for each nonresident shareholder will be the amount you entered in Part 1, line 1, multiplied by the percentage you entered in column D.

**Partnerships:**

Except as provided below, the amount in column E for each nonresident partner or member will be the amount you entered in Part 1, line 1, multiplied by the percentage you entered in column D, plus any guaranteed payments made to the nonresident (after applying the Wisconsin apportionment percentage to those guaranteed payments).

**Exception 1:** For nonresident partners or members who are individuals, estates, and trusts, the amount in column E will be the amount you entered in Part 1, line 1, times the percentage you entered in column D (except as described in Exception 2 below), minus the nonresident partner's or member's share of intangible income sourced outside of Wisconsin (after applying the Wisconsin apportionment percentage to that intangible income), plus guaranteed payments made to the nonresident (after applying

the Wisconsin apportionment percentage to those guaranteed payments).

**Exception 2:** If the stated ownership or profit/loss sharing percentage is not representative of the actual income from the partnership allocable to the nonresident partner or member (for example, if the partner's share includes IRC sec. 704(c) allocations), enter the total income from the partnership that will be included in the nonresident's income or franchise tax return.

**Estates and Trusts:**

The amount in column E for each nonresident beneficiary will be the amount you entered in Part 1, line 1, times the percentage you entered in column D, minus the nonresident beneficiary's share of intangible income sourced outside of Wisconsin (after applying the Wisconsin apportionment percentage to that intangible income).

**Column F: Gross Withholding** – Multiply the amount in column E by the appropriate withholding rate, and enter the result in column F. The online e-filing software will compute this amount automatically. The appropriate withholding rate corresponding to each tax form type (as entered in column C) is shown in the list below:

1NPR	6.75%
1CNS	6.75%
1CNP	6.75%
2	6.75%
4T (T)	6.75%
3	7.9%
5S	7.9%
4	7.9%
4T (C)	7.9%

**Column G: Share of Tax Credits and Tax Previously Withheld** – This is the amount by which the withholding computed in column F may be reduced. The withholding amount may be reduced by either of the following:

1. Income or franchise tax credits that pass through the entity filing Form PW-1
2. If the entity filing Form PW-1 is a member of another pass-through entity, Wisconsin tax withheld by that other pass-through entity

For each nonresident, enter the sum of the withholding credits from the above items in column G. Each of these withholding credits is explained below:

**1. Income or franchise tax credits:**

Enter in column G the nonresident's share of any tax credits that pass through to the nonresident, as will be reported on the nonresident's Schedule 5K-1, 3K-1, or 2K-1. If you have not yet computed these credits because you are filing Form 5S, Form 3, or Form 2 under extension, use estimates. **Caution:** Do not reduce the withholding by any tax credits allocable to nonresidents who file on a Form 1CNS or 1CNP. Tax credits cannot be claimed by nonresidents who file on a composite return.

You generally cannot claim carryforwards of a nonresident's unused prior year tax credits in column G. However, you may enter carryforwards of unused manufacturer's sales tax credit, subject to the limitations described in the instructions for Schedule MS. You must apply these limitations at the shareholder's, partner's, member's, or beneficiary's level. If the carryforward of a nonresident's share of unused manufacturer's sales tax credit exceeds \$25,000, you may claim a deduction from the nonresident's share of Wisconsin taxable income in column E, subject to the limitations described in the instructions for Schedule MS.

## **2. Credit for tax withheld by another pass-through entity:**

This credit applies to pass-through entities which are members of other pass-through entities. If an "upper-tier" pass-through entity not commercially domiciled in Wisconsin derives Wisconsin income from a "lower-tier" pass-through entity, the lower-tier entity is required to withhold on all Wisconsin income allocable to the upper-tier entity. Both the lower-tier entity and the upper-tier entity must file Form PW-1, even if the upper-tier entity has no other sources of Wisconsin income. However, the upper-tier entity may reduce the withholding by the amount already withheld on its behalf by the lower-tier entity. In column G, the upper-tier entity may enter each nonresident member's share of the tax already withheld by the lower-tier entity.

**Special instructions for upper-tier entities with Wisconsin members:** (Note: In this section the term "member" refers also to a shareholder, partner, or beneficiary.) If an upper-tier entity with Wisconsin members has tax withheld on its behalf by a lower-tier entity, the upper-tier entity has two options for allowing its members credit for tax withheld by the lower-tier entity:

**Option 1:** Include all of its members in Form PW-1, Part 2, whether they are Wisconsin residents or nonresidents. For the Wisconsin residents, complete columns A, B, C, G, and H. Enter the lower-tier withholding allocated to those members in column G, and enter \$0 in column H.

**Option 2:** Allocate the entire amount withheld by the lower-tier entity among only the nonresident members. Since the entire amount withheld would benefit only the nonresidents, the upper-tier entity may need to bill the nonresidents for the credit that would otherwise be the Wisconsin residents' share and redistribute that amount to the Wisconsin resident members.

**Column H: Net Withholding Due** – Subtract column G from column F. **If the result is negative, enter \$0.** The online e-filing software will properly compute this column automatically.

See *How to Notify Nonresidents of the Amount Withheld* on this same page for details on how to ensure that nonresidents receive the entire amount of credit due.

**Line 5: Total Withholding This Page** – Add the amounts in column H on each page of Part 2.

**Line 6: Additional Pages Included** – Enter the number of additional pages included, if any, and the total from line 5 of each subsequent page.

**Line 7: Amount Paid With Original Return** – If you have already filed a Form PW-1 for the taxable year and are filing an amended Form PW-1, enter the amount of withholding you reported on Part 1, line 2, of your original Form PW-1.

**Line 8: Total Income or Franchise Tax Withheld** – Add lines 5 and 6, less line 7. **Caution:** Do not enter a negative amount. Enter total on Part 1, line 2. Then complete Part 1, lines 3 and 4 (see instructions on page 3).

If you needed additional pages for Part 2, complete lines 6 through 8 on the first page only.

## **How to Notify Nonresidents of the Amount Withheld**

After you have completed Form PW-1, you must notify the pass-through entity's nonresident shareholders, partners, members, or beneficiaries of the amount you withheld on their behalf. Enter each shareholder's, partner's, member's, or beneficiary's share of the amount withheld on Schedule 5K-1, 3K-1, or 2K-1, on the line designated "Wisconsin tax withheld."

The amount to enter on Schedule 5K-1, 3K-1, or 2K-1 is the amount in Part 2, column H, for each shareholder, partner, member, or beneficiary. **Exception for tiered entities:** If the entity filing Form PW-1 had tax withheld on its behalf by a lower-tier entity, the amount to enter on Schedule 5K-1, 3K-1, or 2K-1 is the amount in Part 2, column H, for each shareholder, partner, member, or beneficiary, plus the portion of Part 2, column G that equals the withholding from the lower-tier entity allocated to each shareholder, partner, member, or beneficiary.

**Interest Computation Schedules (for Part 1, line 3)**

**If the pass-through entity files Form 5S, 3, or 2 under extension:**

- 1. Number of days between unextended due date of Form 5S, 3, or 2 and Form PW-1 filing date or extended due date of Form 5S, 3, or 2, whichever is sooner . . . . . 1. \_\_\_\_\_
- 2. Divide line 1 by 365 (round to 4 decimal places) . . . . . Line 1 / 365 = 2. \_\_\_\_\_
- 3. Multiply line 2 by 12% (round to 4 decimal places) . . . . . Line 2 x 12% = 3. \_\_\_\_\_
- 4. Total amount of withholding due (from Form PW-1, Part 1, line 2) . . . . . 4. \_\_\_\_\_
- 5. Multiply line 4 by line 3. This is the total interest at 12%. . . . . 5. \_\_\_\_\_

*If the pass-through entity files Form PW-1 after the extension date, complete lines 6-9:*

- 6. Number of days between extended due date of Form 5S, 3, or 2 and Form PW-1 filing date 6. \_\_\_\_\_
- 7. Divide line 6 by 365 (round to 4 decimal places) . . . . . Line 6 / 365 = 7. \_\_\_\_\_
- 8. Multiply line 7 by 18% (round to 4 decimal places) . . . . . Line 7 x 18% = 8. \_\_\_\_\_
- 9. Multiply line 8 by line 4 above. This is the total interest at 18%. . . . . 9. \_\_\_\_\_

10. Interest due. Add lines 5 and 9 above. . . . . 10. \_\_\_\_\_  
**Enter this amount in Part 1, line 3.**

**If the pass-through entity has not obtained an extension to file Form 5S, 3, or 2:**

- 1. Number of days between unextended due date of Form 5S, 3, or 2 and Form PW-1 filing date . . . . . 1. \_\_\_\_\_
- 2. Divide line 1 by 365 (round to 4 decimal places) . . . . . Line 1 / 365 = 2. \_\_\_\_\_
- 3. Multiply line 2 by 18% (round to 4 decimal places) . . . . . Line 2 x 18% = 3. \_\_\_\_\_
- 4. Total amount of withholding due (from Form PW-1, Part 1, line 2) . . . . . 4. \_\_\_\_\_
- 5. Multiply line 4 by line 3. This is the total interest at 18% . . . . . 5. \_\_\_\_\_  
**Enter this amount in Part 1, line 3.**