

Instructions for 2018 Form PW-2

Purpose of Form PW-2

Nonresidents use Form PW-2 to claim exemption from Wisconsin's withholding tax on income from pass-through entities. For each taxable year of the nonresident, a separate Form PW-2 is required for each pass-through entity for which the nonresident wishes to claim a withholding exemption.

Pass-through entities, including tax-option (S) corporations, partnerships, limited liability companies (LLCs) treated as partnerships, estates, and trusts, are required to withhold Wisconsin franchise or income taxes on income distributable to a nonresident owner or beneficiary. Section 71.775(3)(a)3., Wis. Stats., provides that a pass-through entity is not required to withhold on income distributable to a nonresident who files an approved Form PW-2 with the Department of Revenue or who receives a continuous PW-2 exemption letter from the department.

Who May File Form PW-2

Any nonresident shareholder, member, partner, or beneficiary who has made sufficient Wisconsin estimated payments for the taxable year may file Form PW-2. Additionally, in certain situations, detailed in the specific instructions that follow, the nonresident may file Form PW-2 even if no estimated payments have been made.

Note: Most first year filers are not eligible for the exemption.

Nonresidents whose Wisconsin income from the pass-through entity is \$1,000 or less are automatically exempt from withholding and do not need to file Form PW-2.

Due Date for Form PW-2

The filing deadline for Form PW-2 depends on the type of pass-through entity for which the nonresident is claiming the exemption. The form is considered filed on the date it is postmarked or faxed.

For tax-option (S) corporations, the nonresident must file Form PW-2 with the department by the last day of the first month following the close of the S corporation's taxable year. For example, for a calendar year S corporation, Form PW-2 is due January 31, 2019.

For partnerships, and LLCs taxed as partnerships the nonresident must file Form PW-2 with the department by the last day of the first month following the close of the pass-through entity's taxable year. For example, for a calendar year partnership, Form PW-2 is due January 31, 2019. Form PW-2 is considered to be filed on the date it is postmarked or faxed.

For fiduciaries, estates, and trusts, the nonresident must file Form PW-2 with the department by the last day of the second month following the close of the pass-through entity's taxable year. For example, for a calendar year fiduciary, estate, or trust, Form PW-2 is due February 28, 2019. Form PW-2 is considered to be filed on the date it is postmarked or faxed.

Caution: Department Approval Required

The exemption from withholding on Form PW-2 must be approved by the department in order to be valid. Approvals depend on items such as: filing history, adequate payments, and delinquencies. After the nonresident files Form PW-2 with the department, the department will notify the nonresident whether or not the withholding exemption is approved within approximately 30 days. If approved, the department will mail a withholding exemption letter to the nonresident. *The department's determination may not be appealed.*

Instructions for Part 1

PASS-THROUGH ENTITY INFORMATION

Enter the information for the pass-through entity for which you are requesting the withholding exemption. Instructions for specific fields in this section are given below.

Entity's identification number. Enter the pass-through entity's federal employer identification number (FEIN). If the entity is an estate, enter the social security number of the decedent.

Last day of entity's taxable year. Enter the ending date of the pass-through entity's taxable year for which you will be reporting income from the pass-through entity on your 2018 Wisconsin income or franchise tax return.

REPORTING ENTITY

If the nonresident reporting entity is a disregarded entity, grantor trust, or combined return filer, enter the taxpayer's name and the social security number,

Wisconsin tax number, or federal employer identification number of the entity reporting the income.

Example 1: Nonresident grantor trust -- Joe Lock Irrevocable Trust FBO Jane Downing -- is requesting an exemption for ABC Partnership; however, Jane Downing reports the income on her individual income tax return. For the reporting entity, she enters her own name and social security number.

Example 2: DEF, LLC is a disregarded entity for income tax purposes. Their income is reported by Box Corporation. For the reporting entity, DEF, LLC should enter Box Corporation and Box Corporation's federal employer identification number.

NONRESIDENT INFORMATION

Enter the information as it applies to you. Instructions for specific fields in this section are given below.

Taxpayer's identification number. Enter your social security number. If the taxpayer filing this affidavit is a corporation, LLC, partnership, trust, or estate, enter the federal employer identification number (FEIN) of the entity.

Form that you will use to report your income or franchise tax for this period. Check the box corresponding to the form you will use to report the income from this pass-through entity. A description of each form is given below:

- *Form 1NPR:* Income tax return for nonresident individuals
- *Form 1CNP:* Composite income tax return for nonresident individual partners of a partnership
- *Form 1CNS:* Composite income tax return for individual nonresident shareholders of a tax-option (S) corporation
- *Form 2:* Income tax return for fiduciaries, estates, and trusts
- *Form 3:* Partnership income tax return
- *Form 4:* Non-Combined corporation franchise or income tax return
- *Form 4T:* Exempt organization business franchise or income tax return
- *Form 5S:* Tax-option (S) corporation franchise or income tax return
- *Form 6:* Combined corporation franchise or income tax return

REQUIRED INFORMATION

Amount of income and credits from the pass-through entity. Enter the amount of Wisconsin income and credits you expect to be allocated to you from the pass-through entity for your taxable year beginning in 2018. If you do not know what these amounts are, determine a reasonable estimate. You may wish to contact the pass-through entity to assist in determining these amounts.

Nonresident's 2018 taxable year. Enter the beginning and ending dates of your taxable year beginning in 2018 to which this affidavit applies.

Reason for Exemption

■ **Box 1:** Check this box if you made estimated payments for your 2018 tax year (or applied an overpayment from the prior tax year) and enter the total amount of these estimated payments as of the date of filing Form PW-2. If your estimated payments were not sufficient to cover the income that will be allocated to you from the pass-through entity (after accounting for credits from the pass-through entity), attach an explanation of why you believe these estimated payments are sufficient. For example, you may have a loss from another activity that partially offsets your income from the pass-through entity.

■ **Box 2:** Check this box if you have Wisconsin source net operating loss carryforwards which exceed the amount of Wisconsin income that will be allocated to you from the pass-through entity. Enter the requested information regarding the name, source, FEIN, and amount of loss carryforward. Do not check this box unless you have filed Wisconsin income or franchise tax returns for each year of losses that produced the loss carryforwards.

■ **Box 3:** Check this box if you have Wisconsin credits or credit carryforwards from other activities in the current taxable year which exceed the tax (before credits) attributable to your total Wisconsin income from the pass-through entity.

■ **Box 4:** Check this box if the entity filing Form PW-2 is itself a pass-through entity and will withhold taxes on its Wisconsin income (including income passed through to

it from a lower-tier entity) allocable to its nonresident partners, members, shareholders, or beneficiaries, unless an exemption applies.

Instructions for Part 2

If the taxpayer filing Form PW-2 is an entity and not an individual, enter the entity's name as the nonresident partner, member, shareholder, or beneficiary. The tax year end date you enter must correspond with the end of your 2018 taxable year as you entered it in Part 1.

■ **Third Party Designee** – If you want to allow a tax preparer or tax preparation firm, or any other person you choose to discuss your 2018 form with the Department of Revenue, check “Yes” in the “Third Party Designee” area of your return. Also, fill in the designee's name, phone number, and any five digits the designee chooses as his or her personal identification number (PIN). If you check “Yes,” you are authorizing the department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- Give the department any information missing from your return,
- Call the department for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain department notices about math errors, offsets, and return preparation.

You are not authorizing the designee to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the department. If you want to expand the designee's authorization, you must submit Form A-222 (Power of Attorney). The authorization will automatically end no later than the due date (without regard to extensions) for filing your 2019 tax return.

You must also sign and date Form PW-2.

Finally, complete the mailing address information requested on the form because the department will mail the approved withholding exemption letter to you. Print legibly or use a return address label.

How to Submit Form PW-2

Submit Form PW-2 to the department by fax or mail. **If you will be using a fax, use the fax cover sheet on the last page of these instructions.**

If you will be mailing Form PW-2, mail to:

Wisconsin Department of Revenue
BTS/PTE, Mail Stop 6-81
PO Box 8958
Madison, WI 53708-8958

Approval by Department of Revenue

The department will not approve an exemption from withholding under the following conditions (this list is not all-inclusive):

- Form PW-2 is filed after the deadline.
- The form is not filled out completely.
- The information provided for the reason(s) for exemption does not match the department's records.
- Insufficient estimated payments.

If the withholding exemption is approved, the department will mail a withholding exemption letter to you within approximately 30 days of the date received. Present the letter to the pass-through entity for which you are claiming the withholding exemption. The pass-through entity must keep a copy of the letter in its records to substantiate the exemption.

Customer Assistance

If you have questions regarding how to complete this form, you may:

- Email your question to the department at DORAuditPassThrough@wisconsin.gov
- Contact the department at (608) 266-3680 (Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment.)
- Write to the Wisconsin Department of Revenue, Central Audit Unit, BTS/PTE Mail Stop 6-81, PO Box 8958, Madison WI 53708-8958.

Form PW-2 Fax Cover Sheet

To: Wisconsin Department of Revenue
PTE Unit A/C
Fax (608) 267-0834

From: _____

Sender's Phone Number: (____) _____

Number of Pages Submitted (Including Cover Sheet): _____

Confidential Information

This facsimile transmission contains information which may be confidential or legally privileged. These documents are intended only for the use of the Wisconsin Department of Revenue. If you or your firm are not the intended recipient and have received this information in error, you are notified that reading, occupying, disclosing, or distributing these documents, or taking any action based on the information contained in them, is strictly prohibited. These documents should be returned to the Wisconsin Department of Revenue as soon as possible. Notify the Department of Revenue at (608) 266-3680 so that we can arrange to retrieve the transmitted documents at no cost to you.