

2019 Wisconsin Schedule ESBT Instructions

Purpose of Schedule

A trust that makes the election to be an electing small business trust (ESBT) and has Wisconsin sourced income from one or more tax-option (S) corporations must use Schedule ESBT to compute the Wisconsin tax on the Wisconsin sourced income from the tax-option (S) corporation(s).

Note: If the trust is an ESBT, check the appropriate box on page 1 of the trust's Form 2, *Wisconsin fiduciary income tax for estates or trusts*, under the information section indicating the trust is an electing small business trust.

Result of Making the Election

Electing small business trusts must separate the income from tax-option (S) corporations and treat it as a separate trust from other trust income. The net income for the tax-option (S) corporation portion is determined under federal law, as modified by Wisconsin addition and subtraction items as provided on Schedule A of Form 2 and Schedule 2M. The separate trust is taxed on its Wisconsin taxable income at the highest rate for fiduciaries (7.65%).

The ESBT must enclose with Form 2 a copy of the Schedule 5K-1 from the tax-option (S) corporation (or the Schedule K-1 from the federal S corporation if the S corporation was not required to file a Wisconsin tax return) that includes the name and federal employer identification number (FEIN) of the tax-option (S) corporation.

CAUTION: If the ESBT receives a Schedule 5K-1 with box 3 in Part B checked, indicating the tax-option (S) corporation made the entity-level tax election pursuant to sec. 71.365(4m)(a), Wis. Stats., the following reporting requirements apply:

- All items of income, gain, loss, or deduction from the electing tax-option (S) corporation must be removed from the ESBT's Wisconsin income.
- The ESBT may not claim a credit for taxes paid to another state on income taxed on the electing tax-option (S) corporation's Wisconsin tax return. In addition, a resident ESBT may not claim a credit for taxes paid to another state on income taxed at the tax-option (S) corporation's entity level in Wisconsin.
- The ESBT may only use the manufacturing and agriculture credit to offset tax liability resulting from the ESBT's prorated share of the tax-option (S) corporation's income as provided in sec. 71.07(5n)(c)3., Wis. Stats. Since a shareholder of an electing tax-option (S) corporation does not have income and resulting tax from the tax-option (S) corporation in the year of the election, the shareholder (ESBT) cannot use the credit to offset income tax liability from other sources of income. The ESBT may carry forward the credit for 15 years and use the credit to offset tax liability resulting from the ESBT's prorated share of taxable income from the tax-option (S) corporation for a year in which the election is not made.
- The ESBT may not claim Wisconsin pass-through withholding from a tax-option (S) corporation if the corporation elected to be taxed at the entity level and claimed a refund of the pass-through withholding or submitted a written request to apply the pass-through withholding against the tax liability at the entity level.

When and Where to File

Enclose Schedule ESBT with the trust's Form 2, *Wisconsin fiduciary income tax for estates or trusts*.

Part I Computation of Wisconsin ESBT Income

Column (a) – Federal ESBT Amount:

Fill in the amounts from the tax-option (S) corporation portion of the ESBT that are taxable for federal purposes.

The federal ESBT amount is the trust's share of the amount from Wisconsin Schedule 5K-1, column (b), and should agree with the amount for that item reported on the trust's Federal Schedule K-1 (Form 1120S).

Column (b) – Wisconsin ESBT Amount:

Fill in amounts from the tax-option (S) corporation portion of the ESBT that are taxable to Wisconsin. Pursuant to sec. 71.125(2), Wis. Stats., an ESBT's income is computed under sec. 641 of the Internal Revenue Code, as modified by sec. 71.05(6) to (12), (19) and (20), Wis. Stats. For information about the addition and subtraction modifications, see Schedule A of Form 2 and Schedule 2M.

Residents – In general, the amounts entered in column (b), should agree with the amounts from Wisconsin Schedule 5K-1, Part III, column (d).

Nonresidents or part-year residents – In general, the amounts entered in column (b), should agree with the amounts from Wisconsin Schedule 5K-1, Part III, column (e).

If the ESBT is a shareholder of a tax-option (S) corporation making the entity-level tax election pursuant to sec. 71.365(4m)(a), Wis. Stats., see the **CAUTION** under "Result of Making the Election" earlier in these instructions.

Column (c) – Non-Wisconsin ESBT Amount:

Residents – Leave column (c) blank.

Nonresidents or part-year residents – Fill in amounts from the tax-option (S) corporation portion of the ESBT that are not from Wisconsin sources. In general, the amounts entered in column (c), should agree with the difference between Wisconsin Schedule 5K-1, Part III, columns (d) and (e).

Specific Line Instructions:

Line 4 – Capital gain or (loss):

The Wisconsin 30-percent and/or 60-percent long-term capital gain exclusion applies for the ESBT's net long-term capital gains.

Line 8 – Other income:

Submit a supplemental statement with Schedule ESBT identifying each additional item of income and enter the total income from the supplemental statement on line 8.

Line 15 – Other deductions:

Submit a supplemental statement with Schedule ESBT identifying each additional deduction item and enter the total deduction amount from the supplemental statement on line 15.

Note: The federal qualified business income deduction under sec. 199A, of the Internal Revenue Code, was not adopted by Wisconsin and may not be included as a deduction in column (b).

Part II Computation of Wisconsin Tax**Line 19 – Total Wisconsin electing small business trust income (from line 18, column b):**

If line 17, column (b) is greater than line 9, column b, enter 0 (zero) on line 19.

Part III Source of Tax-Option (S) Corporation ESBT Income

Provide the legal name and FEIN of each tax-option (S) corporation included on the Schedule ESBT. If the ESBT holds shares in more than three tax-option (S) corporations, attach a schedule listing the legal name and FEIN of each tax-option (S) corporation included on the Schedule ESBT.

Additional Information and Assistance**Contact Information**

- o Email your questions to DOREstateandFiduciary@wisconsin.gov
- o Call (608) 266-2772
- o Call or visit any Department of Revenue office listed on the department's website at <https://www.revenue.wi.gov/Pages/FAQS/ise-address.aspx>

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of December 2, 2019: Chapter 71, Wis. Stats.