Form **5E** 

# Wisconsin Election by an S Corporation Not to Be Treated as a Tax-Option Corporation

Mail this form to:

Wisconsin Department of Revenue PO Box 8908

	Treated as a Tax-Option Corporation					PO Box 8908 Madison WI 53708-8908	
Corporation Name					A Federal Emp	loyer ID Number	
Number and Street				Suite Number	B State of Inco	rporation and Year	
Dity	State	if known) C Number o	f Shareholders	D Number of Shares Issued and Outstanding			
Election is to be effective to	for taxable year beginning:						
The undersigned, owning onsent to have the confective for the taxable election will automaticall surposes. Each sharehoumber, and stock own	poration not be treated year indicated above a ly terminate for the tax older, in signing this el	I as a tax-option corp nd at least the next 4 able year in which the ection, declares that	outstanding shares oration for Wisconsin taxable years for this corporation acquire the information with	n franchise or inco is corporation or an is a qualified Subo respect to his or	ome tax purpose ny successor co chapter S subsic her name, addr	es. This election will be rporation. However, the liary (QSub) for feder ess, federal identifying	
Name and Address of Shareholder		Federal	Otoon	Stock Owned			
		Identifying Number				Shareholder's Signature	
, the undersigned auth any accompanying scho Signature		s, and declare that it					

## Form 5E Instructions

#### **General Instructions**

**Purpose of Form** – A corporation that is an S corporation for federal income tax purposes uses Form 5E to elect not to be a tax-option corporation for Wisconsin tax purposes.

**How to Elect** – The election not to be a tax-option corporation for Wisconsin requires the consent of persons who hold more than 50% of the shares of the tax-option (S) corporation on the day the election is made. **Note:** If an S corporation has a qualified Subchapter S subsidiary (QSub) for federal purposes, neither the S corporation nor the QSub may elect out of Wisconsin tax-option (S) treatment.

When to Elect – You must make the election on or before the due date, or extended due date, of the first Wisconsin corporation franchise or income tax return affected by the election. The election is completed by the filing of a Wisconsin franchise or income tax return in accordance with the election. Use Wisconsin Form 4 or Form 6, as appropriate. Caution: Since the corporation will be filing federal Form 1120-S, special adjustments may be required to properly determine Wisconsin net income.

Revoking the Election – You may withdraw the "optout" election prior to the date of filing the corporation's Wisconsin franchise or income tax return by sending a letter, signed by shareholders holding more than 50% of the corporation's stock, to the Department of Revenue on or before the due date, including extensions, of the corporation's return. If the corporation's return was filed before the due date, or extended due date, you may withdraw the election by filing an amended Wisconsin franchise or income tax return, Form 5S, along with a letter requesting the withdrawal of the "opt-out" election on or before the due date or extended due date.

## **Applicable Laws and Rules**

This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of June 1, 2020: Section 71.365(4)(a), Wis. Stats.

Laws enacted and in effect after June 1, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to June 1, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

After the due date, or extended due date, for filing the corporation's Wisconsin franchise or income tax return has passed, the "opt-out" election cannot be withdrawn, and it remains effective for the corporation and any successors for at least the next 4 taxable years after the taxable year to which the election first applies. After the 5-year period, you may revoke the "opt-out" election by filing Wisconsin Form 5R, Revocation of Election by an S Corporation Not to Be a Tax-Option Corporation.

**Exception:** The "opt-out" election is automatically revoked for the taxable year in which a federal S corporation acquires a QSub. In this case, it is not necessary to file Form 5R. You must use Wisconsin Form 5S to report the income of the corporation and its QSub.

### **Specific Instructions**

Fill in the corporation's name and address and enter the appropriate information in items A through E.

Enter in the space provided the name, address, and federal identifying number (social security number for individuals and federal employer identification number for estates, qualified trusts, and exempt organizations) of each shareholder who is signing the election. Also enter for each shareholder the number of shares owned and the date the stock was acquired. If the shareholder acquired stock on more than one date, enter the last date on which that shareholder acquired stock. Each shareholder must sign in the space indicated. If the stock is held as community property or if the income from the stock is community property, the consent must be signed by both husband and wife. Wisconsin's marital property is a form of community property.

If you need additional space, attach a schedule containing the required information.

An authorized officer of the corporation must sign this form in the space provided.