

Instructions for Form PW-2

Purpose of Form PW-2

Nonresident owners (partners, members, shareholders, or beneficiaries) use Form PW-2 to request an exemption from Wisconsin's withholding tax on income from pass-through entities. For each taxable year of the nonresident owner, a separate Form PW-2 is required, but a nonresident owner may request an exemption for multiple pass-through entities on one Form PW-2.

Pass-through entities, including tax-option (S) corporations, partnerships, limited liability companies (LLCs) treated as tax-option (S) corporations or partnerships, estates, and trusts, are required to withhold Wisconsin franchise or income taxes on income distributable to a nonresident owner. 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 owner who files an approved Form PW-2 with the department or who receives a continuous PW-2 exemption letter from the department.

Who May File Form PW-2

Any nonresident owner who makes sufficient Wisconsin estimated payments may file Form PW-2. Additionally, in certain situations, detailed in the specific instructions that follow, the nonresident owner may file Form PW-2 even if no estimated payments are made.

Note: Most first year filers are not eligible for the exemption. Also, a nonresident owner whose Wisconsin source income from the pass-through entity is less than \$1,000 is automatically exempt from withholding and should not 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 owner is claiming the exemption.

For tax-option (S) corporations, partnerships, and limited liability companies (LLCs) treated as a tax-option (S) corporation or partnership: Form PW-2 must be filed by the last day of the first month following the close of the pass-through entity's taxable year for which the nonresident owner is requesting the exemption.

Example 1: For a 2020 calendar year tax-option (S) corporation, Form PW-2 is due by February 1, 2021.

Example 2: For a partnership with a fiscal year from October 1, 2020 to September 30, 2021, Form PW-2 is due by November 1, 2021.

For estates and trusts: Form PW-2 must be filed by the last day of the second month following the close of the pass-through entity's taxable year for which the nonresident beneficiary is requesting the exemption.

Example 1: For a 2020 calendar year trust, Form PW-2 is due by March 1, 2021.

Example 2: For an estate with a fiscal year from October 1, 2020 to September 30, 2021, Form PW-2 is due by November 30, 2021.

Note: If the due date falls on a weekend or holiday, the due date becomes the business day immediately following the weekend or holiday.

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, estimated withholding, and delinquencies. After the nonresident owner files Form PW-2 with the department, the department will notify the nonresident owner whether or not the withholding exemption is approved within approximately 30 days. The department will mail the approved withholding exemption letter or the denial letter to the nonresident owner. The department's determination may not be appealed.

The nonresident owner is responsible for notifying the pass-through entity when an exemption is approved, and a pass-through entity is required to withhold until it receives the approved Form PW-2 from the owner.

Instructions

At the top right corner of Form PW-2, enter the nonresident owner's taxable year of the exemption request.

Example 1: A nonresident shareholder files a calendar year 2020 tax return, but the tax-option (S) corporation for which the shareholder is requesting the exemption files a 2019 Form 5S with a fiscal year of July 1, 2019 through June 30, 2020. The nonresident shareholder must enter "20" in the space provided. If the department approves the request, the tax-option (S) corporation is not required to withhold on the shareholder's share of income from the 2019 Form 5S with a fiscal year of July 1, 2019 through June 30, 2020.

Example 2: A nonresident shareholder files a 2020 tax return with a fiscal year of September 1, 2020 through August 31, 2021, but the tax-option (S) corporation for which the shareholder is requesting the exemption files a 2019 Form 5S with a fiscal year of October 1, 2019 through September 30, 2020. The nonresident shareholder must enter "20" in the space provided. If the department approves the request, the tax-option (S) corporation is not required to withhold on the shareholder's share of income from the 2019 Form 5S with a fiscal year of October 1, 2019 through September 30, 2020.

Instructions for Part 1

Information about Nonresident Owner Requesting Exemption You (nonresident owner) must enter your information in Part 1.

Name. Individuals, enter your name in the order requested (last name, first name, middle initial). Estates, enter the decedent's name in the order requested (last name, first name, middle initial). All other owners such as tax-option (S) corporations, partnerships, and trusts, enter your full legal name.

Nonresident owner's social security number (SSN) or federal employer identification number (FEIN). Individuals, enter your complete SSN. Estates, enter the decedent's complete SSN and the estate's complete FEIN. Disregarded entities including grantor trusts that do not have an FEIN, enter your owner's complete FEIN/SSN. All other owners, enter your complete FEIN.

Address, city, state, and zip code. Enter your complete address. Include your apartment number, if any, in the address box.

Last day of owner's taxable year. Enter the ending date of your taxable year. For example, an individual nonresident owner filing a 2020 calendar year tax return enters "December 31, 2020".

Type of taxpayer. Check the appropriate box to indicate what type of taxpayer you are. If you are a disregarded entity, you must provide the name and SSN/FEIN of your owner. If you check the "Other" box, describe the type of entity you are in the space provided.

Form used to report your Wisconsin source income. Check the appropriate box to indicate what form will be used to report your Wisconsin source income. A description of each form is given below.

- *Form 1NPR:* Income tax return for nonresident individuals
- *Form 2:* Income tax return for 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

Caution: The department will not approve Form PW-2 on behalf of individuals who file on a composite return (Form 1CNS or Form 1CNP).

If you are a grantor trust, a member of a combined return, or a disregarded entity, you must provide the name and SSN/FEIN of the taxpayer reporting the income.

Example 1

Facts:

- John Doe Trust (nonresident owner of ABC Partnership) is a grantor trust filing Form PW-2 to request an exemption for ABC Partnership
- John Doe is the grantor of the John Doe Trust
- John Doe reports the income from ABC Partnership on his individual income tax return (Form 1NPR)

After John Doe Trust enters its name, FEIN, address, and last day of its taxable year, it must:

- Check the "Estate or Trust" box
- Check the "Form 1NPR" box and enter the name and SSN of John Doe in the space provided

Example 2

Facts:

- DEF, LLC (nonresident owner of ABC Partnership) is filing Form PW-2 to request an exemption for ABC Partnership
- DEF, LLC is a disregarded entity for income tax purposes and owned by MNO Corporation
- MNO Corporation reports the income from ABC Partnership on Form 4

After DEF, LLC enters its name, FEIN, address, and last day of its taxable year, it must:

- Check the "Disregarded Entity" box and enter the name and FEIN of MNO Corporation in the space provided
- Check the "Form 4" box and enter the name and FEIN of MNO Corporation in the space provided

Example 3

Facts:

- XYZ, LLC (nonresident owner of ABC Partnership) is filing Form PW-2 to request an exemption for ABC Partnership
- XYZ, LLC is a disregarded entity for income tax purposes and owned by JKL Corporation
- JKL Corporation is a member of a combined return (Form 6) which is filed by GHI Corporation

After XYZ, LLC enters its name, FEIN, address, and last day of its taxable year, it must:

- Check the "Disregarded Entity" box and enter the name and FEIN of JKL Corporation in the space provided
- Check the "Form 6" box and enter the name and FEIN of GHI Corporation in the space provided

Instructions for Part 2

In the space provided, you (nonresident owner) must enter your full legal name.

Third Party Designee If you want to allow a tax preparer or tax preparation firm, or any other person you choose to discuss your Form PW-2 with the department, 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 Form PW-2 return.

- Authorizing the designee to:
 - Give the department any information missing from your Form PW-2 return.
 - Call the department for information about the processing or status of your Form PW-2 return.
- 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.

The designee's authorization will automatically end no later than the due date (without regard to extensions) for filing your tax return for the next taxable year. If you want to expand the designee's authorization, you must submit Form A-222 (Power of Attorney).

You must also sign and date Form PW-2. Include your title (if applicable) in the space provided. Some examples are shown below.

- If the nonresident owner is an individual, the individual must sign the return, but the title is not applicable.
- If the nonresident owner is a partnership, a general partner must sign the return and enter "general partner" in the space provided.
- If the nonresident owner is a corporation, an officer of the corporation must sign the return and enter his or her title (president, treasurer, etc.) in the space provided.
- If the nonresident owner is an estate, the personal representative or special administrator must sign the return and enter "personal representative" or "special administrator" in the space provided.
- If the nonresident owner is a trust, the trustee must sign the return and enter "trustee" in the space provided.

Instructions for Part 3

You (nonresident owner) must 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.

If you are requesting a pass-through withholding exemption for more than one pass-through entity, complete a separate Part 3, Part 4, and Part 5 for each pass-through entity and include it with the Form PW-2.

Enter the total number of pass-through entities for which you are requesting an exemption in the space provided. Include this number in each Part 3 you file.

Name. Enter the full legal name of the pass-through entity for which you are requesting the exemption.

Pass-through entity's FEIN or SSN. Enter the pass-through entity's complete FEIN. If the entity is an estate, enter the complete SSN of the decedent.

Address, city, state, and zip code. Enter the pass-through entity's complete address.

Pass-through entity's last day of 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 Wisconsin income or franchise tax return.

For example, a nonresident shareholder files a calendar year 2020 tax return, but the tax-option (S) corporation for which the shareholder is requesting the exemption has a fiscal year of July 1, 2019 through June 30, 2020. The nonresident shareholder must enter "June 30, 2020".

Type of pass-through entity. Check the appropriate box to indicate the type of pass-through entity. For example, if the pass-through entity is an LLC that is taxed as a tax-option (S) corporation, check the "Tax-Option (S) Corporation" box.

Instructions for Part 4

You (nonresident owner) must enter the amount of Wisconsin income and credits you expect to be allocated to

you from the pass-through entity provided in Part 3 for your taxable year. 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.

Caution: If your Wisconsin source income from the pass-through entity is less than \$1,000, do not file Form PW-2 because the pass-through entity is already exempt from withholding on your behalf.

Instructions for Part 5

Reason(s) for Exemption You (nonresident owner) must check all boxes that apply to you.

■ **Box 1:** Check this box if you made estimated payments for your taxable year (or applied an overpayment from the prior tax year).

Enter the total amount of these payments as of the date of filing Form PW-2 in the space provided.

Caution: 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), include an explanation of the reason 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 a Wisconsin source net operating or business loss carryforward which exceeds the amount of Wisconsin income that will be allocated to you from the pass-through entity. Enter the amount of your Wisconsin source net operating or business loss carryforward in the space provided.

Caution: Do not check this box unless you have filed Wisconsin income or franchise tax returns for each year of losses that produced the loss carryforward.

■ **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.

Enter the name and amount of your Wisconsin credit in the space provided. If the credit is coming from a pass-through entity, enter the SSN or FEIN of the pass-through entity.

If you have more than one credit, include a schedule detailing the name, amount, and source (SSN or FEIN) of each credit.

■ **Box 4:** Check this box if you are a pass-through entity and have withheld taxes on your Wisconsin income (including income passed through to you from a lower-tier entity) allocable to your nonresident owners unless an exemption applies.

■ **Box 5:** Check this box for any other reason you believe an exemption should be allowed. Provide a detailed explanation to support your reason.

How to Submit Form PW-2

File Form PW-2 electronically through My Tax Account at <https://tap.revenue.wi.gov/PW2/>.

If you are not able to file electronically, 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
PO Box 8906
Madison, WI 53708-8906

Approval by Department of Revenue

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

- 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.

The department will mail an approval or denial letter within approximately 30 days of the date the Form PW-2 is received. If approved, 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) 264-4229 (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, PO Box 8906, Madison WI 53708-8906.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of August 11, 2020: Section 71.775, Wis. Stats.

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): _____

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