

Instructions for 2009 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 affidavit with the Department of Revenue in the form and manner prescribed by the Department. Form PW-2 is the form affidavit prescribed by 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.

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.

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, 2010.

For partnerships, LLCs taxed as partnerships, estates, or 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 partnership, Form PW-2 is due February 28, 2010.

Form PW-2 is considered to be filed on the date it is postmarked or faxed.

Caution: Department Approval Required

Form PW-2 must be approved by the Department in order to be valid. After the nonresident files Form PW-2 with the Department as described in these instructions, the Department will return Form PW-2 to the nonresident within approximately 30 days. *The Department's determination on approval of Form PW-2 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.

Person to contact regarding this information and telephone number. Enter the name and telephone number of a representative of the pass-through entity the Department may contact regarding the information reported on Form PW-2.

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 2009 Wisconsin income or franchise tax return.

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*: Corporation franchise or income tax return (multistate corporations)
- *Form 4T*: Exempt organization business franchise or income tax return
- *Form 5*: Corporation franchise or income tax return (corporations whose entire income is attributable to Wisconsin)
- *Form 5S*: Tax-option (S) corporation franchise or income tax return

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 2009. 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 2009 taxable year. Enter the beginning and ending dates of your taxable year beginning in 2009 to which this affidavit applies.

Reason for Exemption

- **Box 1:** Check this box if you made estimated payments for your 2009 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 or suspended loss carryforwards which exceed the amount of Wisconsin

income that will be allocated to you from the pass-through entity. 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 incurred Wisconsin source losses from other activities in the current taxable year which exceed your total Wisconsin income, and enter the amount and an explanation of each loss in the table provided. Use the following categories to explain your losses:

- *Losses from other pass-through entities.* Enter the name, address, and FEIN of each pass-through entity from which you incurred Wisconsin source losses.
- *Farm losses.*
- *Rental property losses.*
- *Business losses.*

- **Box 4:** 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, and enter the credit amount, credit type and the source of each credit in the table provided. Use the following categories to explain the sources of your credits:

- *Credits from other pass-through entities.* Enter the name, address, and FEIN of each pass-through entity from which you have Wisconsin credits.
- *Credits from business activities other than pass-through entities.*
- *Other credits.*

- **Box 5:** 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 2009 taxable year as you entered it in Part 1.

You must specify how you want the Department to return Part 2 of the affidavit to you. Check Box A. or B. to indicate your preference, and complete the fax number or mailing address information requested. Finally, you must sign and date Form PW-2.

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
Central Audit Unit D, Mail Stop 5-144
P.O. Box 8958
Madison, WI 53708-8958

Approval by Department of Revenue

The Department will not approve Form PW-2 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 for exemption does not match the Department's records.

- In cases where estimated payments are the reason specified for the exemption and those estimated payments are determined to be insufficient.

The Department will return Part 2 of Form PW-2 to you within approximately 30 days of the date received, and will indicate "Approved" or "Not Approved" in the check boxes underneath the signature line.

Present the approved Part 2 of Form PW-2 to the pass-through entity for which you are claiming the withholding exemption. The pass-through entity must keep a copy of Part 2 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 corp@revenue.wi.gov,
- Contact the Department at (608) 266-1235 (for Form PW-2 questions only), or
- Write to the Wisconsin Department of Revenue, Central Audit Unit D, Mail Stop 5-144, PO Box 8958, Madison WI 53708-8958.

Form PW-2 Affidavit

Fax Cover Sheet

<p>To: Wisconsin Department of Revenue Central Audit Unit D Fax (608) 267-0834</p> <p>From:</p> <p>Sender's Name: _____ _____</p> <p>Sender's Telephone Number: () _____</p> <p>Number of Pages Submitted (Including Cover Sheet): _____</p>

Fax to: (608) 267-0834

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) 266-1235 so that we can arrange to retrieve the transmitted documents at no cost to you.

**Office Services:
Route to Central Audit Unit D**