

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
FS1117	Pass-Through Withholding and Composite Returns - Fact Sheet



Pass-Through Withholding and Composite Returns Fact Sheet 1117

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This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

This fact sheet provides a general overview of pass-through entity withholding requirements and the use of composite returns by pass-through entities.

For detailed information see the form instructions, pass-through withholding [Common Questions](#) or composite return [Common Questions](#).

Pass-through Withholding Requirement

During the period of time an owner (partner, member, shareholder, or beneficiary) is considered a nonresident of Wisconsin, a pass-through entity (partnership, tax-option (S) corporation, estate, or trust) is required to withhold income or franchise tax on Wisconsin income that is allocable to that owner, unless an exemption applies. Exemptions are listed under sec. [71.775\(3\)](#), Wis. Stats.

When are payments due?

Pass-through entities must make quarterly pass-through withholding payments on or before the 15th day of the 3rd, 6th, 9th, and 12th months of the taxable year.

Pass-through withholding payments must be made online through [My Tax Account](#) or through your financial institution ([ACH Credit](#)).

Pass-through Withholding Return (Form PW-1)

The pass-through entity must file Form PW-1 to report its withholding tax liability for the taxable year. Form PW-1 follows the taxable year of the entity's franchise or income tax return (Form 5S, Form 3, or Form 2). If the pass-through entity is filing a composite return (Form 1CNS or Form 1CNP) on behalf of qualifying nonresident owners, it should complete Form PW-1 prior to the composite return.

When is Form PW-1 due?

- The filing deadline for tax-option (S) corporations, partnerships, and limited liability companies treated as tax-option (S) corporations or partnerships is the 15th day of the 3rd month following the close of the entity's taxable year.
- The filing deadline for *estates and trusts* is the 15th day of the 4th month following the close of the entity's taxable year.

Wisconsin allows an automatic seven month extension to file Form PW-1. If tax is due, interest will be assessed on the tax due during the extension period.

What filing options are available?

Form PW-1 must be filed electronically. Filing options include Wisconsin [My Tax Account](#) or [third-party software](#). If withholding tax is due, the payment must also be made electronically.

Pass-through Withholding Waiver (Form PW-2)

Pursuant to sec. [71.775\(3\)\(a\)3](#), Wis. Stats, a nonresident owner may file an affidavit, [Form PW-2](#), to request an exemption from Wisconsin withholding on income from pass-through entities. The exemption 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.

Note: A nonresident owner whose Wisconsin income from the pass-through entity is less than \$1,000 is automatically exempt from withholding and should not file Form PW-2.

When is Form PW-2 due to the department?

- For tax-option (S) corporations, partnerships, and limited liability companies treated as tax-option (S) corporations or partnerships, the nonresident owner must file Form PW-2 by the last day of the first month following the close of the entity's taxable year. For example: for a 2019 calendar year tax-option (S) corporation, Form PW-2 is due by January 31, 2020.
- For estates and trusts, the nonresident owner must file Form PW-2 with the department by the last day of the second month following the close of the entity's taxable year. For example: for an estate with a fiscal year from October 1, 2019 to September 30, 2020, Form PW-2 is due by November 30, 2020.

The department will send a letter of approval or denial within approximately 30 days.

For more information, see Form PW-2 [instructions](#).

Nonresident Income Reporting Requirement

Nonresident individuals having Wisconsin gross income of \$2,000 or more are required to file an individual income tax return (Form 1NPR). However, qualifying nonresident owners can choose to be included on a composite return (Form 1CNS or Form 1CNP) which replaces the Form 1NPR.

Composite Returns

A pass-through entity may file a composite return on behalf of two or more qualifying and agreeing nonresident partners or shareholders.

For information on who may not participate in a composite return, see the composite return [Common Questions](#).

There are two types of Wisconsin composite returns:

- Form 1CNP is used by partnerships
- Form 1CNS is used by tax-option (S) corporations

The nonresident owner's share of Wisconsin income or loss is reported on the composite return. Amounts withheld by the partnership or tax-option (S) corporation and reported on Form PW-1 are claimed on the composite return.

When is the composite return due?

The filing deadline for *partnerships* and *tax-option (S) corporations* is April 15.

What filing options are available?

Form 1CNP/1CNS must be filed electronically. Filing options include Wisconsin [My Tax Account](#) for all filers or [third-party software](#) for corporations or partnerships. If withholding tax is due, the payment must also be made electronically.

Any Questions?

For more information, contact the Wisconsin Department of Revenue.

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Applicable Laws and Rules

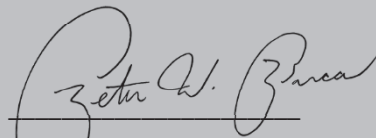
This document provides statements or interpretations of the following laws and regulations in effect as of November 6, 2019: Sections 71.03 and 71.775, Wis. Stats., and secs. Tax 2.04 and Tax 3.02, Wis. Adm. Code.

Laws enacted and in effect after November 6, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 6, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE



Peter Barca

Secretary of Revenue