

**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
100181	Pass-Through Entity-Level Tax_Partnership General Election - Common Questions

State of Wisconsin
Department of Revenue

Pass-Through Entity-Level Tax: Partnership General Election Questions

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.

Effective for taxable years beginning on or after January 1, 2019

1. What is the purpose of the election?
2. How does a partnership make the election?
3. When must the election be made?
4. How does an electing partnership receive an extension of time for filing the Wisconsin Form 3 return if the partnership is not requesting a federal extension?
5. Can a partnership file an amended return to claim the election to pay tax at the entity level if the partnership already filed a Wisconsin Form 3 return without making the election?
6. Can the election be revoked?
7. How does the electing partnership notify the partners that the election has been made?
8. When making the election, will there be any signatures required to show consent of the partners?
9. Can a partnership with a short tax year make the election?

1. **What is the purpose of the election?**

To allow a partnership or limited liability company treated as a partnership to pay tax on items that would otherwise be reported by the partners. For any year in which an election is made, partners do not include in their Wisconsin adjusted gross income their proportionate share of all items of income, gain, loss, or deduction of the partnership.

2. **How does a partnership make the election?**

The partnership must check box I in the return information section of 2019 Form 3, *Wisconsin Partnership Return*, when the form becomes available. The partnership must have consent from partners who hold an aggregate of more than 50 percent of the capital and profits of a partnership

on the day of the election, pursuant to [sec. 71.21\(6\)\(a\)](#), Wis. Stats.

3. When must the election be made?

The election must be made annually on or before the extended due date of the Wisconsin Form 3, *Wisconsin Partnership Return*. The election is made on the day the Form 3 is filed.

4. How does an electing partnership receive an extension of time for filing the Wisconsin Form 3 return if the partnership is not requesting a federal extension?

Wisconsin allows two different types of extensions: Wisconsin-only extensions and federal extensions.

Wisconsin-only extensions

Wisconsin law provides for an extension of up to 6 months. To claim this extension, check Box B on Form 3 when filing the return and enter the extended due date.

Federal extensions

Any extension allowed by the Internal Revenue Service (IRS) automatically extends the Wisconsin due date to the federal extended due date, regardless of when the federal return is actually filed.

To claim a federal extension for your Wisconsin Form 3 return, complete steps A and B below:

- A. Check Box B on Form 3 and enter the extended due date.
- B. Submit a copy of the federal extension form or statement with the Form 3 when it is filed. Do not submit a copy prior to filing the Form 3.

For more information about extensions of time to file, see Wisconsin [Publication 401, Extension of Time to File](#), or the instructions for Wisconsin Form 3.

5. Can a partnership file an amended return to claim the election to pay tax at the entity level if the partnership already filed a Wisconsin Form 3 return without making the election?

Yes, a partnership may file an amended return to claim the election on or before the extended due date of the Wisconsin Form 3. The partnership must have consent from partners who hold an aggregate of more than 50 percent of the capital and profits of a partnership on the day the amended return is filed to make the election.

6. Can the election be revoked?

Yes, the election may be revoked by filing an amended Form 3 on or before the extended due date. Partners who hold an aggregate of more than 50 percent of the capital and profits of the partnership must consent to the revocation.

7. How does the electing partnership notify the partners that the election has been made?

The partnership notifies its partners by checking the box in Part II, Item L of each partner's 2019 Schedule 3K-1, *Partner's Share of Income, Deductions, Credits, etc.*, when it becomes available.

8. When making the election, will there be any signatures required to show consent of the partners?

No, the department does not require any additional signatures to show consent of the partners. Upon request from the department, the electing partnership must prove it received consent from partners who hold an aggregate of more than 50 percent of the capital and profits of the partnership on the day of the election.

9. Can a partnership with a short tax year make the election?

Yes, a partnership may make the election for taxable years beginning on or after January 1, 2019. However, the election must be made before the extended due date of the partnership's short period Wisconsin Form 3. If a partnership would like to make the election, and has a short period, the Form 3 extended due date has not passed, and the Schedule 3-ET is not available to file Form 3, contact the department's Customer Service Bureau at (608) 266-2772 or DORIncome@wisconsin.gov.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 22, 2020: Sections 71.09, 71.20, 71.21, 71.74 and 71.84, Wis. Stats., and sec. Tax 2.89, Wis. Adm. Code.

Laws enacted and in effect after January 22, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 22, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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Email additional questions to DORIncome@wisconsin.gov

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