

**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
100194	Registration of Qualified Wisconsin Businesses - Common Questions

State of Wisconsin
Department of Revenue

Registration of Qualified Wisconsin Businesses

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.

1. What is a "qualified Wisconsin business"?
2. My business registered with the Department of Revenue as a qualified Wisconsin business for 2014 through 2019. Do I still need to register as a qualified Wisconsin business for 2020?
3. Who may register as a qualified Wisconsin business?
4. Is employment through a professional employer organization allowed for purposes of meeting the 2 full-time employees and 50% payroll requirements?
5. If partners of a partnership receive guaranteed payments, are they considered employees for purposes of registering to be a qualified Wisconsin business?
6. For purposes of meeting the 2 full-time employees requirement, what is considered a full-time employee?
7. How does a business register?
8. When may a business register?
9. What information from a registration is made available to the public?
10. May business contact information, address, or other information provided with a registration be updated?
11. I started doing business in Wisconsin in 2020. How do I register my business for 2020?
12. Should the number of employees and amount of payroll and property of a disregarded entity be included in the parent company registration to be a qualified Wisconsin business?
13. If my business files on a fiscal year, when should I register and for what year?

1. **What is a "qualified Wisconsin business"?**

A qualified Wisconsin business is a business certified by the Wisconsin Economic Development Corporation (WEDC) or registered with the Department of Revenue (DOR).

The WEDC was responsible for certifying businesses through 2013. The DOR registration program began in 2014.

2. My business registered with the Department of Revenue as a qualified Wisconsin business for 2014 through 2019. Do I still need to register as a qualified Wisconsin business for 2020?

Yes. A business must register in each year for which it desires to be a qualified Wisconsin business.

3. Who may register as a qualified Wisconsin business?

A business may register as a qualified Wisconsin business if, in the business's tax year ending immediately before the date of registration:

- o The business has at least 2 full-time employees,
- o The amount of payroll compensation paid by the business in Wisconsin is at least 50% of all payroll compensation paid by the business, and
- o The value of real and tangible personal property owned or rented and used by the business in Wisconsin is at least 50% of the value of all real and tangible personal property owned or rented and used by the business.

4. Is employment through a professional employer organization allowed for purposes of meeting the 2 full-time employees and 50% payroll requirements?

Yes, for purposes of the payroll qualification, an employee of a professional employer organization, as defined in sec. 202.21(5), Wis. Stats., or a professional employer group, as defined in sec. 202.21(4), Wis. Stats., who is performing services for a client is considered an employee solely of the client.

5. If partners of a partnership receive guaranteed payments, are they considered employees for purposes of registering to be a qualified Wisconsin business?

No, partners of a partnership who receive guaranteed payments are not considered employees of the partnership. Internal Revenue Service Rev. Rul. 69-184 provides, "bona fide members of a partnership are not employees of the partnership..." and "...remuneration received by a partner from the partnership is not 'wages' with respect to 'employment'..." Wisconsin follows this treatment.

6. For purposes of meeting the 2 full-time employees requirement, what is considered a full-time employee?

For purposes of registering to be a qualified Wisconsin business, the department administers "full-time job" to have the meaning as provided pursuant to sec. 238.30(2m), Wis. Stats.

Pursuant to sec. 238.30(2m), Wis. Stats., "...'Full-time job' means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays..."

7. How does a business register?

A business must register using our Register Qualified Business online application. An immediate confirmation of registration is provided, and the business will be placed on an internet listing of qualified Wisconsin businesses. In general, the list of qualified Wisconsin businesses will be updated biannually (January 31 and July 31).

8. When may a business register?

Registration for 2020 must be completed by January 4, 2021.

9. What information from a registration is made available to the public?

The business's legal name and address; the name, email address, and phone number of a contact person for the business; and the business's internet address is posted to a listing of qualified Wisconsin businesses.

10. May business contact information, address, or other information provided with a registration be updated?

Yes. An amended registration may be submitted through the online application.

11. I started doing business in Wisconsin in 2020. How do I register my business for 2020?

If you are qualified to register as a qualified Wisconsin business for 2021 based on your 2020 tax year, you are considered a qualified Wisconsin business for 2020. To be added to the Internet listing of 2020 qualified Wisconsin businesses, when completing your online registration for 2021, in the first section of the online registration under the question "Did the business start operations in Wisconsin last year," select yes.

Note: This exception applies only for the year in which you began doing business in Wisconsin, as defined in sec. 71.22(1r), Wis. Stats.

12. Should the number of employees and amount of payroll and property of a disregarded entity be included in the parent company registration to be a qualified Wisconsin business?

Yes. The number of employees and amount of payroll and property from a disregarded entity are included in the parent company's total employees, payroll, and property when determining eligibility to be considered a qualified Wisconsin business.

Caution:

- Sole proprietorships and disregarded entities should not register to be a qualified Wisconsin business.
- Corporations filing a combined return must qualify independently of each other to register as a qualified Wisconsin business with regards to employees, payroll, and property.

13. If my business files on a fiscal year, when should I register and for what year?

A business with a fiscal taxable year must register for the same year in which the fiscal taxable year ends. The registration should not occur until after the end of the fiscal taxable year.

Example:

Partnership has a fiscal year of October 1, 2019, through September 30, 2020. The partnership has from October 1, 2020, until January 4, 2021, to register to be a qualified Wisconsin business for 2020. The 2020 registration requirements under sec. 73.03(69)(b), Wis. Stats., are based on fiscal year October 1, 2019 through September 30, 2020.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 21, 2020: Sections 71.05, 71.22, 73.03, 202.21 and 238.30, Wis. Stats., secs. 238.145 and 238.146, Wis. Stats. (2011-2012), sec. Tax 2.986, Wis. Adm. Code, and IRS Rev. Rul. 1964-184.

Laws enacted and in effect after January 21, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 21, 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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Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100194

January 21, 2020

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