

Pass-Through Entity Owner Payments and Oregon Affidavit

Introduction

Important change: Beginning in 2013, we are changing the process for submitting payments for pass-through entity withholding. You will now submit the payments in the name of the business. At the end of the year, the business will file an annual report to show the portion of each payment that goes to each owner. The payments are due according to the entity's tax year and the annual report is due the last day of the second month after the end of the tax year. For an entity using a calendar tax year, your annual report for tax year 2013 is due February 28, 2014. We changed the name of these payments from withholding to owner payments to clarify that they are different than tax withheld by an employer.

Purpose of form

A pass-through entity (PTE) with distributive income from Oregon sources must withhold tax from its nonresident owners who do not elect to join in a composite filing and have not filed an affidavit unless the owner is exempt. The payment is a prepayment of Oregon income and excise tax for nonresident owners of pass-through entities. For composite filing information, see Form OC instructions.

Qualifying publicly traded partnerships, estates, and most trusts are not required to withhold on their nonresident owners.

Definitions

Throughout these instructions, the following terms are used:

"BIN" is the PTE's Oregon business identification number, not its Oregon registry number. If you do not know the Oregon BIN, leave the space on the form blank or contact us for the number.

"Distributive income" is generally the net taxable income or loss of a PTE. See page 2 for a complete definition.

"Electing owner" is a nonresident owner who chooses to join in the filing of a composite return.

"FEIN" means federal employer identification number.

"Nonelecting owner" is a nonresident owner who chooses not to join in the filing of a composite return, is required to file an Oregon tax return, and has Oregon-source distributive income.

"Owner" is a partner of a partnership or limited liability partnership (LLP), shareholder of an S corporation, member of a limited liability company (LLC), or beneficiary of a trust.

"Pass-through entity (PTE)" is a partnership, S corporation, LLP, LLC, or certain trusts. Note: Single-member LLCs owned by an individual or a corporation and grantor trusts are disregarded for tax purposes and are not PTEs. For this purpose only: Estates are not PTEs.

Nonresident owners

You will receive credit for these payments only if the PTE submits owner payments and files the annual report. Do not claim payments for a composite return, instead see Form OC instructions to report your other Oregon-source income. If you claim a PTE owner payment reported to you on a Schedule K-1 or equivalent and we disallow it because we don't have a record of the payment, you'll need to contact the PTE. If a payment was submitted, you or the PTE must provide the annual report so we can locate the payment and move it to the owners' accounts. We may also need a copy of the cancelled check to find the payment.

Instructions for Oregon affidavit

The PTE must withhold tax from the nonelecting owner's Oregon-source distributive income unless the nonelecting owner files an Oregon affidavit or is an owner for which the PTE is not required to withhold, such as another PTE.

To be exempt from the payment requirement, the nonelecting owner must file an Oregon affidavit with the department as soon as it is known that the owner will receive Oregon-source distributive income from the PTE. The nonelecting owner must provide a copy of the completed affidavit to the PTE so the PTE will not withhold tax from the Oregon-source distributive income.

The nonelecting owner must file the affidavit before the end of the first quarter in which the PTE has Oregon-source distributive income, otherwise the PTE must withhold even if the nonelecting owner later files the Oregon affidavit. The affidavit is valid until it is replaced by a subsequent affidavit.

Revoking or changing an affidavit

To revoke a previously filed affidavit, submit an affidavit (or a copy of the original) with the revocation section completed to the department and the PTE.

An affidavit should be updated if there is a change in the entity information or if ownership changes by 10 percent or more. The owner does not need to send an updated affidavit for address changes since that is updated when the owner files their tax return. When sending us an updated affidavit or revocation, be sure to send a copy to the entity as well.

Owner payment requirements

A PTE is required to pay tax to the department on behalf of the nonelecting owner unless the owner:

- Has estimated or actual Oregon-source distributive income from the PTE that is less than \$1,000 for the PTEs tax year;
- Has made estimated tax payments the prior tax year based on the owner's share of Oregon-source distributive income

from the PTE and continues to make estimated tax payments for the current tax year; or

- Files the Oregon affidavit.

Do not withhold if the owner is another PTE, except for entities that are disregarded for tax purposes. Two common examples of disregarded entities are:

- **Grantor trust:** A grantor trust (usually called a revocable trust or living trust) is where the grantor has control. If the grantor is a nonresident, withhold for the grantor the same as any other individual owner using the grantor's name and SSN.
- **Single member LLC:** Withhold if the member is a nonresident individual or C corporation. Withhold for the member the same as any other individual or C corporation owner using the individual's or corporation's information.

If the PTE expects the total Oregon-source distributive income of a nonresident owner to exceed \$1,000 during the tax year, the PTE should begin submitting payments as of the first quarter that includes Oregon-source income. Tax payments are required on the entire nonresident owner's share of Oregon-source income, not just the amount exceeding \$1,000.

These payments are prepayments of tax by the PTE on behalf of the owners. The requirement to submit payments is not dependent on whether the PTE makes any distributions to its owners. A PTE with distributive income that did not pay any money to its owners will still submit Oregon tax payments for its nonresident owners. A PTE with no distributive income that pays a distribution from capital or retained earnings, will not submit Oregon tax payments for its nonresident owners.

Oregon-source distributive income

For estimated tax purposes, distributive income is the net amount of income, gain, deduction, or loss of a pass-through entity for the tax year. It includes items directly related to the PTE that are considered in determining the federal taxable income of the nonresident owner. It also includes modifications provided in Oregon Revised Statute (ORS) Chapter 316 and other Oregon laws that directly relate to the PTE.

Examples of the modifications allowed that relate to the PTEs income include adjustments for depreciation, depletion, gain or loss difference on the sale of depreciable property, U.S. government interest, and any modification for federal targeted jobs tax credit. Modifications do not include the federal tax subtraction, itemized deductions, and the Oregon standard deduction.

Oregon-source distributive income does not include return of capital, income sourced in another state, or other distributions not taxable by Oregon. Oregon-source distributive income is the portion of the entity's modified distributive income that is derived from or connected with Oregon sources.

If the PTE has business activity only in Oregon, multiply the distributive income of the PTE by the ownership percentage of the nonresident owner.

Apportionable income

PTEs with business activity both inside and outside Oregon during the year must calculate Oregon-source distributive income for nonresident owners. Fill out Schedule AP-1 to figure the apportionment percentage. Fill out Schedule AP-2 using the PTEs modified distributive income to apportion the income between Oregon and other states.

Multiply line 11 on the Schedule AP-2 by the ownership percentage of each nonresident owner to get their share of Oregon-source distributive income to calculate their tax payment.

Example: Charlie, an Oregon nonresident, owns 20 percent of ACME Partnership. For the year, the partnership had \$710,000 in ordinary income, \$40,000 in capital gains, and \$70,000 in domestic production activity deductions. ACME estimated Charlie's Oregon source income for each period at \$3,750 and withheld \$371 (9.9 percent). On Charlie's Schedule K-1 and attachments, ACME reported his distributive income, ACME's Oregon apportionment percentage (10 percent), and the tax paid to Oregon on his behalf (\$1,484) which will also match the Form OR-19 annual report ACME submitted.

On his Oregon return in the federal column, Charlie will report his income of \$142,000 and \$8,000 from federal Schedules D and E and deduction of \$14,000. In the Oregon column, he will multiply those amounts by 10 percent (\$14,200, \$800, and \$1,400). Since Oregon is disconnected from the domestic production activities deduction, these same amounts (\$14,000 in the federal column and \$1,400 in the Oregon column) will also be added back in the additions section of Charlie's Oregon return.

Guaranteed payments

Guaranteed payments are treated as a business income component of the PTEs distributive income and attributed directly to the owner receiving the payment. See Oregon Administrative Rule (OAR) 150-316.124(2).

Deductions

Individual tax deduction

Deductions normally allowed to individuals (itemized deductions or the standard deduction) are not allowed.

Self-employment tax deduction

Each PTE must calculate the self-employment tax deduction for each electing member that is subject to self-employment tax. The self-employment tax deduction that is attributable to the Oregon-source distributive income is subtracted from the Oregon-source distributive income to determine the amount upon which estimated tax payments are based.

Credits

Credits normally allowed on owners' tax returns, such as the credit for income taxes paid to another state, are not taken into account for this purpose.

Form TPV-19 tax payment instructions

Calculate the amount of tax to be withheld and remitted to the department as follows:

- **Individual owners:** Use the highest individual tax rate on the nonelecting owner's share of Oregon-source distributive income. For 2013, the rate is 9.9 percent.
- **C corporation owners:** Use the corporate tax rates on the nonelecting owner's share of Oregon-source distributive income. For 2013, the rate is 6.6 percent on the first \$10 million and 7.6 percent on the amount over \$10 million.

Once you calculate the total payment for the owners, enter the amount on voucher Form TPV-19. Enter the PTE's information on the voucher and submit it with the payment. You will reconcile how much of each payment goes to each owner when you file the annual report at the end of the year.

Due dates for tax payments

Tax payments for the Oregon-source distributive income of nonelecting owners must be remitted for the period in which the distributive income is earned or estimated. Use the entity's tax year.

For calendar year entities, the due dates for 2013 are:

- April 15, 2013 (1st period).
- June 17, 2013 (2nd period).
- September 16, 2013 (3rd period).
- December 16, 2013 (4th period).

For fiscal-year filing entities, the due dates are the 15th day of the fourth, sixth, ninth, and 12th months of the tax year.

Exception: Fiscal-year filing entities with only noncorporate owners who file using a calendar tax year may elect to use the due dates applicable to the owners instead. For example, Beachside LLC has a fiscal tax year ending September 30. For their 2013 tax year, they would normally send in payments on January 15, 2014; March 15, 2014; June 15, 2014; and September 15, 2014. Their owners are all individuals who file using a calendar tax year, so they elect to use the exception. Since the owners report this income in their 2014 calendar tax year, the payment due dates are April 15, 2014; June 15, 2014; September 15, 2014; and January 15, 2015.

Use Form TPV-19 to remit the payments.

Form OR-19 instructions

Use Form OR-19 to show the portion of each payment that was Oregon tax withheld from Oregon-source distributive income for each required nonresident owner. Do not include owners who are exempt, joining a composite return, or filed an affidavit. Complete Form OR-19, identifying the entity that paid the tax and each nonresident owner's information. Enter the date and amount of each payment sent in during the tax year. Up to four payments can be reported on a Form OR-19. Each line should be only one taxpayer, so

enter spouses separately. Remember to use the individual's or corporation's information for disregarded entities. Use whole dollars for all amounts.

Use additional Form OR-19s as needed to divide a payment among all owners and enter the total for each column on the last form. The total must match the payment as listed above in the heading.

For example, Partnership ABC made only one payment of \$3,500 during the year. They have 15 nonresident owners getting a portion of that payment. They will use three Form OR-19s for their annual report and the total in column (d) on the third form must be \$3,500.

If the amounts in any of the columns do not match the corresponding payment that was made, the form will be rejected and returned to the PTE to correct and resubmit. Remember that the owners will not receive credit for the payment made on their behalf until the PTE has submitted a correct Form OR-19 annual report.

If the PTE wants any portion of a payment to go to its Form OC account because some or all of the owners will be joining the composite return, enter "Form OC" and the type of owners and the amount from each payment. If filing Form OC for different types of owners, a separate entry is needed for each owner type.

For example, XYZ LLC sent in payments using voucher Form TPV-19 and now determines that all the nonresident owners will be joining the Form OC. They have both individual and corporate owners joining the Form OC. On their Form OR-19 annual report, they will make two entries. On line 1 they will enter "Form OC" in column (b) and "I" in column (c) along with the amount of each payment for the individual owners. On line 2 they will enter "Form OC" in column (b) and "C" in column (c) along with the amount of each payment for the corporate owners.

Important: Provide each owner with their total payments in column (h) so they can claim the payment on their Oregon return when they file.

Have questions? Need help?

General tax information www.oregon.gov/dor/Salem 503-378-4988
Toll-free from an Oregon prefix..... 1-800-356-4222

Asistencia en español:
En Salem o fuera de Oregon 503-378-4988
Gratis de prefijo de Oregon..... 1-800-356-4222

TTY (hearing or speech impaired; machine only):
Salem area or outside Oregon 503-945-8617
Toll-free from an Oregon prefix..... 1-800-886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers above for information in alternative formats.

Annual Report of Nonresident Owner Tax Payments

Entity tax year end date _____

Pass-through entity information

Pass-through entity (PTE) name			PTE FEIN	Estimated payments	Amount of payment		Check Date (MM/DD/YYYY)
PTE Address			PTE BIN	Payment 1		.00	
City	State	ZIP code	Contact telephone	Payment 2		.00	
Name of contact person				Payment 3		.00	
Type of entity: <input type="checkbox"/> Partnership <input type="checkbox"/> S Corporation <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> LP				Payment 4		.00	

FEIN/SSN (a)	Name and Address (b)	Owner type (c)	Payment 1 (d)	Payment 2 (e)	Payment 3 (f)	Payment 4 (g)	Total for owner (h)
1.			\$.00	\$.00	\$.00	\$.00	\$.00
2.			\$.00	\$.00	\$.00	\$.00	\$.00
3.			\$.00	\$.00	\$.00	\$.00	\$.00
4.			\$.00	\$.00	\$.00	\$.00	\$.00
5.			\$.00	\$.00	\$.00	\$.00	\$.00
6.			\$.00	\$.00	\$.00	\$.00	\$.00
7.			\$.00	\$.00	\$.00	\$.00	\$.00
Total payments (Enter on last page only. Must match payments 1-4 listed above.)			\$.00	\$.00	\$.00	\$.00	

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This form is due by the end of the second month after the end of the entity's tax year. The due date for entities using a calendar 2013 tax year is February 28, 2014.

Oregon Affidavit
for a Nonresident Owner of a Pass-Through Entity

Beginning with tax year: _____

For office use only
Date received

Nonresident owner information

Name of nonresident owner			Social Security no. or federal employer identification no. (FEIN)
Street or mailing address			Oregon business identification no. (BIN) (if applicable)
City	State	ZIP code	Telephone number ()
Ownership percentage %	Estimated Oregon-source distributive income each year \$		

Pass-through entity information

Name of pass-through entity (PTE)			FEIN
Street or mailing address			BIN
City	State	ZIP code	Telephone number ()

This form must be resubmitted if the PTE information entered above changes or ownership changes by 10% or more. See Form OR-19 and Oregon Affidavit instructions.

Agreement to file

I agree to timely file all required Oregon income or excise tax return(s) and to make timely payments of all taxes imposed by the state of Oregon with respect to my share of the Oregon distributive income from the pass-through entity named above. I understand that I am subject to the jurisdiction of the state of Oregon for purposes of the collection of unpaid income tax, together with related penalties and interest.

Signature

Taxpayer's or authorized agent's signature	Date
X	

Revocation of this affidavit

By signing below, I declare that:

- I am an Oregon resident;
- I am subject to tax on the income from the above-listed PTE;
- I am no longer an owner in the above-listed PTE; or
- I am joining in the filing of an Oregon Composite Return.

Signature

Taxpayer's or authorized agent's signature	Date
X	

Mail to:
Oregon Department of Revenue
PTAC Compliance
955 Center St NE
Salem OR 97301-2555