

Introduction

Purpose of form

A pass-through entity (PTE) with distributive income from Oregon sources must withhold tax from its nonresident owners who don't elect to join in a composite filing, Form OR-OC, and haven't 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 Publication OR-OC.

Qualifying publicly traded partnerships, estates, and most trusts aren't required to withhold on their nonresident owners.

Definitions

Throughout these instructions, the following terms are used:

"Distributive income" is generally the net taxable income or loss of a PTE. See "Oregon-source distributive income" on 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 aren't PTEs. For this purpose only: Estates aren't PTEs.

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 PTE's 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 an affidavit, Form OR-19-AF, indicating that they do not want the PTE to withhold on their Oregon-source distributive income.

Don't 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. **On Form OR-19, use the name, Social Security number (SSN), and address of the individual owner. Select individual as the owner type. Don't use the name, FEIN, and address of the grantor trust.**
- **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 isn't dependent on whether the PTE makes any distributions to its owners. A PTE with distributive income that didn't 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, won't submit Oregon tax payments for its nonresident owners.

Instructions for Form OR-19-AF

The PTE must withhold tax from the nonelecting owner's Oregon-source distributive income unless the nonelecting owner files an Form OR-19-AF or is an owner for which the PTE isn't required to withhold, such as another PTE.

To be exempt from the payment requirement, the nonelecting owner must also file an Form OR-19-AF with the department as soon as it's 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 won't withhold tax from the Oregon-source distributive income.

The affidavit is valid until it's replaced by a subsequent affidavit.

Revoking or changing an affidavit

To revoke a previously filed affidavit, submit another Form OR-19-AF (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 the ownership percentage of an owner that has filed an affidavit changes by 10 percent or more. The owner doesn't need to send an updated affidavit solely for address changes. Addresses are updated when the owner files their tax return. If an affidavit is revoked or updated, be sure the correct address is on the form. When sending us an updated affidavit or revocation, be sure to send a copy to the entity as well.

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 PTE's income include adjustments for depreciation, depletion, gain or loss difference on the sale of depreciable property, and U.S. government interest. Modifications don't include the federal tax subtraction, itemized deductions, and the Oregon standard deduction.

Oregon marijuana business modification. Oregon-licensed marijuana businesses are allowed a deduction for expenses that could be claimed as federal deductions if marijuana wasn't a controlled substance under federal law (IRC 280E). To calculate the deduction, you must fill out a federal business return as if the marijuana business expenses would have been allowed for federal purposes. You won't submit the federal business return to the IRS. The deduction is the difference between the profit/loss on your actual federal return and the "as if" return. Note: This deduction can't be used to create a net operating loss, only to reduce your Oregon source income to zero. Don't submit the "as-if" return with your Form OR-19. Keep it with your tax records. See Publication OR-17 for more information.

Oregon-source distributive income doesn't 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. On the Schedule OR-AP, complete Part 1 to figure the apportionment percentage.

Example: Charlie, an Oregon nonresident, owns 20 percent of ACME Partnership. For the year, the partnership had

\$710,000 in ordinary income and \$40,000 in capital gains. ACME estimated Charlie's Oregon source income for each period at \$3,750 and withheld \$371 (9.9 percent). On Charlie's Schedule OR-K-1, ACME reported his distributive income, ACME's Oregon apportionment percentage (10 percent), and the tax paid to Oregon on his behalf (\$1,485) which will also match the Form OR-19 annual report ACME submitted.

On his Oregon Form OR-40-N, Charlie will report in the federal column his income of \$142,000 ($\$710,000 \times 20\%$) from federal Schedule E and \$8,000 ($\$40,000 \times 20\%$) from federal Schedule D. In the Oregon column, he will multiply those amounts by 10 percent (\$14,200 and \$800).

Guaranteed payments

Guaranteed payments are treated as a business income component of the PTE's distributive income and attributed directly to the owner receiving the payment. See Oregon Administrative Rule (OAR) 150-316-0155.

Deductions

Individual tax deduction

Deductions normally allowed to individuals (itemized deductions or the standard deduction) aren't allowed in determining the income amount upon which owner payments are based and remitted.

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 the owner's estimated payments are based.

Credits

Credits normally allowed on owners' tax returns, such as the credit for income taxes paid to another state, aren't taken into account in determining the income amount upon which owner payments are based and remitted.

Form OR-19-V 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 2020, 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 2020, the rate is 6.6 percent on the first \$1 million and 7.6 percent on the amount over \$1 million.

Once you calculate the total payment for the owners, enter the amount on voucher Form OR-19-V. 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 Form OR-19 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.

Estimated tax payments can be submitted using Form OR-19-V or through Revenue Online. Visit www.oregon.gov/dor for more information.

For calendar year entities, the due dates for 2021 are:

- April 15, 2021 (1st period).
- June 15, 2021 (2nd period).
- September 15, 2021 (3rd period).
- December 15, 2021 (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 2020 fiscal tax year ending September 30, 2021. The LLC would normally send in payments on the following due dates: January 15, 2021; March 15, 2021; June 15, 2021; and September 15, 2021. Their owners are all individuals who file using a calendar tax year, so the LLC chooses to use the exception. Because the owners report this income in their 2021 calendar tax year as required by IRS and Oregon laws, the payment due dates are April 15, 2021; June 15, 2021; September 15, 2021; and January 17, 2022.

Form OR-19 instructions

Preparer information. If the form was completed by a paid preparer, provide all paid preparer information in the signature block, including the paid preparer address, phone number, and license number. If the form was completed by someone other than a paid preparer, provide the name and phone number of the preparer in the header and leave the paid preparer fields in the signature block blank.

Use Form OR-19 at the end of the tax year to show how much of each payment belongs to each nonresident owner. Complete Form OR-19, identifying the entity that paid the tax and each nonresident owner's information. Each line should list only one taxpayer, so **enter spouses separately**. You must complete the name, tax identification number, and address for each owner receiving a portion of the payment. For owner type, list how the owner will file. Select from Individual, Corporation, Trust/Estate, or Composite. Don't enter Grantor Trust, Disregarded Entity, or LLC.

Important:

- **Owners won't receive credit for payments made on their behalf until the PTE has submitted a Form OR-19 annual report.**
- **Don't include owners that are exempt, have no Oregon tax liability or withholding, joining a composite return, or filed an affidavit;**
- **Use the individual or corporate owner's information for disregarded entities;**
- **Use Form OR-19 only when submitting this information. Do not submit this form with each period payment.**
- **Incomplete forms or forms submitted in the incorrect format won't be processed.**
- **Make sure the owner's name on Form OR-19 matches the name that will be on their personal income tax return.**

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. Use whole dollars for all amounts. If you made more than four payments, combine the last payments under Payment 4.

Form OR-19 is due on the last day of the second month after the end of the entity's tax year. For tax year 2020, the due date for entities using a calendar year is **February 28, 2022**.

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

Make additional copies of Section 2 as needed to divide a payment among all owners and enter the total for all payments on the last page of Part 2. The total payments must match the payments as provided on Section 1 of the form.

If the PTE wants any portion of a payment to go to its Form OR-OC account because some or all of the owners will be joining the composite return, enter "Form OR-OC" and the amount from each payment.

For example, XYZ LLC sent in payments using voucher Form OR-19-V and now determines that all the nonresident owners will be joining the Form OR-OC. On their Form OR-19 annual report, they will enter "Form OR-OC" in the "nonresident owner first name" field and enter the amount of each payment to be transferred to the Form OR-OC account.

Do you have questions or need help?

www.oregon.gov/dor
503-378-4988 or 800-356-4222
questions.dor@oregon.gov

Contact us for ADA accommodations or assistance in other languages.