

**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
100183	Pass-Through Entity-Level Tax_Partnership Tax Payments and Transferability - Common Questions

State of Wisconsin
Department of Revenue

Pass-Through Entity-Level Tax: Partnership Tax Payments and Transferability 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. Can the partnership get credit for estimated tax payments made by its partners, or vice versa depending on whether an election is made?
2. Can an electing partnership transfer payments from the entity's pass-through withholding account (Form PW-ES payments) to the entity-level tax account (Form 3-ES payments)?
3. Can an electing partnership transfer payments from the entity-level income tax account (Form 3-ES payments) to the entity's pass-through withholding account (Form PW-ES payments)?
4. Is an electing partnership required to make quarterly estimated tax payments?
5. How does a partnership make a payment if there is an amount due with the return?
6. How does a partnership make a payment for an amount due on an amended return?
7. In the first year a partnership makes an election to pay tax at the entity level, is the partnership subject to underpayment interest on late estimated tax payments even if the prior year Wisconsin tax liability for the partnership was zero?
8. If an electing partnership does not pay the full amount of taxes due by the unextended due date of the entity's Wisconsin tax return, what interest rate will apply?
9. Is an electing partnership required to make pass-through withholding tax payments for nonresident partners?
10. If an electing partnership made withholding tax payments for a nonresident partner, how does the withholding get refunded?
11. Does the entity-level tax election change how a partnership reports its nonresident entertainer withholding paid by another person on its behalf?

1. **Can the partnership get credit for estimated tax payments made by its partners, or vice versa depending on whether an election is made?**

No, payments must be made separately by the partners and their partnership. The department will not transfer payments between an account of a partner and an account of a partnership. Partners and partnerships must file their respective Wisconsin income tax returns to receive a refund of their overpayments.



2. **Can an electing partnership transfer payments from the entity's pass-through withholding account (Form PW-ES payments) to the entity-level tax account (Form 3-ES payments)?**

Yes, the partnership may submit a written request to move pass-through withholding payments to the entity-level income tax account if the payments were made by the same entity. Written requests may be submitted to dorincomepte@wisconsin.gov.

3. **Can an electing partnership transfer payments from the entity-level income tax account (Form 3-ES payments) to the entity's pass-through withholding account (Form PW-ES payments)?**

Yes, the partnership may submit a written request to move entity-level income tax payments to the entity's pass-through withholding account if the payments were made by the same entity. Written requests may be submitted to dorincomepte@wisconsin.gov.

4. **Is an electing partnership required to make quarterly estimated tax payments?**

Yes, estimated payments and underpayment interest under secs. [71.09](#) and [71.84](#), Wis. Stats., apply. A payment can be made by submitting  [Form 3-ES](#), *Wisconsin Partnership Estimated Tax Voucher*, with a check or an electronic payment using [ACH](#) or [My Tax Account](#). See  [instructions](#) for Form 3-ES for additional information.

Important:

- Make sure to identify the correct tax year when submitting a payment so that the payment is applied to the correct tax year's liability (e.g., use 2020 Form 3-ES to make an estimated tax payment for the 2020 tax year liability).
- If paying through My Tax Account, use "estimated payment" as the payment type.

5. **How does a partnership make a payment if there is an amount due with the return?**

There are four methods an electing partnership may use to make a return payment:

- i. Electronically: Make the payment through My Tax Account, by selecting "return payment" and **confirm** the payment is for the same year as the year of the tax return (e.g., tax year 2020 must be selected to make a return payment for a 2020 calendar year Form 3).
- ii. Electronically: Make the return payment through the partnership's accounting software supported by the Wisconsin Department of Revenue (e.g., ACH payment through QuickBooks).
- iii. Paper: Mail a check with the Form 3. Make checks payable and mail to:

Wisconsin Department of Revenue
PO Box 8908
Madison WI 53708-8908

- iv. Paper: If the Form 3 is filed electronically and the payment is made at a later date, mail a check with the correct year Form 3-EPV, *Wisconsin Partnership Electronic Payment Voucher*. Make checks payable and mail to:

Wisconsin Department of Revenue
 Box 930208
 Milwaukee WI 53293-0208

6. How does a partnership make a payment for an amount due on an amended return?

There are three methods an electing partnership may use to make an amended return payment:

- i. Electronically: Make the amended return payment through My Tax Account, by selecting "amended return payment" and confirm the payment is for the same year as the year of the tax return (e.g., tax year 2020 must be selected to make an amended return payment for a 2020 calendar year Form 3).
- ii. Electronically: Make the amended return payment through the partnership's accounting software supported by the Wisconsin Department of Revenue (e.g., ACH payment through QuickBooks).
- iii. Paper: Mail a check with the amended Form 3. Make checks payable and mail to:

Wisconsin Department of Revenue
 PO Box 8908
 Madison WI 53708-8908

7. In the first year a partnership makes an election to pay tax at the entity level, is the partnership subject to underpayment interest on late estimated tax payments even if the prior year Wisconsin tax liability for the partnership was zero?

If the preceding taxable year was 12 months, the partnership had no Wisconsin tax liability in that year, and the partnership was a resident of Wisconsin for all of that year, then the electing partnership will not owe underpayment interest pursuant to sec. 71.09(11)(b), Wis. Stats.

Pursuant to sec. 71.21(6)(d)5., Wis. Stats., the provisions of secs. 71.09 and 71.84, Wis. Stats., relating to estimated payments and underpayment interest shall apply to an electing partnership.

8. If an electing partnership does not pay the full amount of taxes due by the unextended due date of the entity's Wisconsin tax return, what interest rate will apply?

The interest rate may be 12 percent or 18 percent as provided in secs. 71.82 and 71.84, Wis. Stats.

9. Is an electing partnership required to make pass-through withholding tax payments for nonresident partners?

No, pursuant to sec. 71.775(3)(a)4., Wis. Stats., an electing partnership is not required to make pass-through withholding tax payments for nonresident partners.

10. If an electing partnership made withholding tax payments for a nonresident partner, how does the withholding get refunded?

There are two primary methods for claiming a refund of pass-through withholding paid by a partnership:

- i. The electing partnership may file a Form PW-1, *Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income*, reflecting \$0 withholding tax computed in Part 2 of Form PW-1, **OR**
- ii. The partners may file their respective Wisconsin income tax return and claim the withholding on their return.

11. Does the entity-level tax election change how a partnership reports its nonresident entertainer withholding paid by another person on its behalf?

No, the electing partnership may report the nonresident entertainer withholding paid by another person on its behalf using one of the two methods below, regardless of whether the partnership makes an election under sec. 71.21(6)(a), Wis. Stats.

- i. As withholding on Line 5 of Form 3, or
- ii. As a Form WT-11 withholding payment made on the entity's behalf on Line 4 of Form PW-1

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 22, 2020: Sections 71.03, 71.05, 71.09, 71.20, 71.21, 71.75, 71.775, 71.82, 71.84 and 73.03, Wis. Stats.

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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