

## Introduction

### 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. The withholding 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 Oregon business identification number not your Oregon registry number. If you do not know your Oregon BIN, leave the space on the form blank.

“**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**” is 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. **Note:** Withholding is only for owners who are individuals or C-corporations.

“**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.

## 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 withholding 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 filing due to change in the ownership of the PTE or any other change of information relating to the nonelecting owner.

### Revoking an affidavit

To revoke a previously filed affidavit, send a copy of the original affidavit with the revocation section completed to the department and the PTE.

## Withholding requirements

A PTE is required to withhold tax and remit the 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 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.
- **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.

If the PTE expects the total Oregon-source distributive income of a nonresident owner will exceed \$1,000 during the tax year, the PTE should begin withholding as of the first quarter that includes Oregon-source income. Withholding is required on the entire nonresident owner’s share of Oregon-source income, not just the amount exceeding \$1,000.

Withholding is a prepayment of tax by the PTE on behalf of the owners. It’s 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

pay Oregon withholding for its nonresident owners. A PTE with no distributive income that pays a distribution from capital or retained earnings, will not pay Oregon withholding for its nonresident owners.

## Oregon-source distributive income

For withholding 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. Enter this amount in box 2 of Part C, Form OR-19.

**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 \$413 (11 percent). They sent him Form OR-19 each time they made a payment. 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 (\$1,652).

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 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 withholding is based.

## Credits

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

## Form TPV-19 tax payment instructions (withholding)

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 2011, the rate is 11 percent.
- **C corporation owners:** Use the corporate tax rates on the nonelecting owner's share of Oregon-source distributive income. For 2011, the rate is 6.6 percent on the first \$250,000 and 7.6 percent on the amount over \$250,000.

Payments must be made in the nonelecting owner's name as it will be shown on their individual or corporate income or excise tax return.

**Remember:** Disregard grantor trusts and single member LLCs owned by individuals or corporations. Use the individual's name and SSN or the corporation's name and EIN, not the disregarded entity.

You may send a single tax payment, but it must be accompanied by Form TPV-19 for each taxpayer. On the voucher, identify the date the payment is being made and the type of taxpayer.

## Tax payments on behalf of 20 or more nonelecting owners

If a PTE has 20 or more nonelecting owners, the PTE may use Schedule TPV-19 on page 4 instead of Form TPV-19. The PTE must complete the schedule using 8-point size font or larger and include the following:

- For the **PTE** that is filing the report, provide:
  - Name of PTE, address, FEIN/BIN, and the PTEs year end;
  - Contact name and telephone number for payment questions; and
  - Date of payment.
- For **each** nonelecting owner, provide:
  - Name, address, SSN/FEIN, and the owners' tax year end;  
**Note:** If ownership is joint, provide information for both spouses.
  - The type of taxpayer and ownership percentage; and
  - The amount of Oregon tax withheld.

Include the total amount withheld for all owners on the final page of Schedule TPV-19. Send a single tax payment for that amount with the completed schedule.

**Important:** Failure to use Form TPV-19, Schedule TPV-19, or a schedule that meets the above requirements, will delay the processing of withholding payments.

## Due dates for tax payments

Tax withheld for the Oregon-source distributive income of nonelecting owners must be remitted by the due date for estimated payments for the period in which the distributive income is earned or estimated.

For calendar year taxpayers, the due dates are:

- April 15 (1st period).
- June 15 (2nd period).
- September 15 (3rd period).
- January 15 (or December 15 for corporate calendar year filers) (4th period).

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

Use Form TPV-19 or a schedule to remit the payments.

## Form OR-19 Instructions

Use Form OR-19 to show Oregon tax withheld from Oregon-source distributive income for each nonresident owner. Complete Part A of Form OR-19, identifying the entity that withheld the tax and the nonresident owner's personal information. Complete parts B and C, and provide a copy of Form OR-19 to nonresident owners for their records. The PTE keeps the original Form OR-19. The entity is liable for the required withholding payments. Do not send a copy of Form OR-19 to the department unless requested to do so. Complete Form OR-19 each time withholding is required and remitted.

## Year-end tax payment summary

The PTE must provide each nonelecting owner with a statement that shows the payments made on the nonelecting owner's behalf. The statement is required to be provided to the nonelecting owner on or before the due date of the federal Schedule K-1 or the PTEs informational return, whichever is later. The statement must clearly show the tax year in which the distributive income is earned, the date(s) the payments were made, and to which tax year the payments apply. Don't send copies of these statements to the department unless requested to do so.

## Have questions? Need help?

**General tax information** ..... [www.oregon.gov/dor/Salem](http://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.

Oregon Department of Revenue  
**Schedule for 20 or more nonelecting owners**

**Schedule TPV-19**

Pass-through entity name		PTE FEIN		PTEs tax year ending		Date of payment		Owners' tax year ending	
PTE BIN	PTE address	Contact telephone		City	State	State	Zip code	State	Zip code
Contact name	FEIN/SSN	Address	City	State	ZIP code	Individual (I) Corporation (C) Estate (E) or Nongrantor Trust (T)	Ownership percentage	Amount of Oregon tax	
1.									
2.									
3.									
4.									
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20.									



# Oregon Affidavit for a Nonresident Owner in a Pass-Through Entity

Beginning with tax year: \_\_\_\_\_

<b>For office use only</b>
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 filed every time any of the nonresident owner or pass-through entity information entered above changes.*

### 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 income of 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 withholding 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**