



**NONRESIDENT PASSTHROUGH ENTITY MEMBER
WITHHOLDING EXEMPTION AND CERTIFICATION**
OFFICE OF STATE TAX COMMISSIONER
SFN 28754 (12-2023)



Form PWE

Part 1 - Nonresident PTE member information

Nonresident PTE Member Name		Federal Employer Identification Number*	
Mailing Address			
City		State	ZIP Code
Contact Name	Telephone Number	Email Address	
Entity type - Indicate how the entity is filing for federal income tax purposes by checking the appropriate box: <input type="radio"/> Partnership <input type="radio"/> S corporation <input type="radio"/> Trust <input type="radio"/> Grantor trust* <input type="radio"/> Disregarded entity* *If "Grantor trust" or "Disregarded entity" is checked, identify Settlor or Owner in boxes below.			
Name of Settlor/Owner		Federal Employer Identification Number*	

Part 2 - Passthrough entity information

Entity Name		Federal Employer Identification Number*	
Mailing Address			
City		State	ZIP Code
Contact Name	Telephone Number	Email Address	
Entity type - Indicate how the entity is filing for federal income tax purposes by checking the appropriate box: <input type="radio"/> Partnership <input type="radio"/> S corporation <input type="radio"/> Trust <input type="radio"/> Grantor trust* <input type="radio"/> Disregarded entity* *If "Grantor trust" or "Disregarded entity" is checked, identify Settlor or Owner in boxes below.			
Name of Settlor/Owner		Federal Employer Identification Number*	

Part 3 - Nonresident PTE member election and certification for exemption

Pursuant to N.D.C.C. § 57-38-31.1, the nonresident PTE member (in Part 1) elects exemption from income tax withholding on its North Dakota distributive share of income from the passthrough entity (in Part 2), starting with the following tax year:
 Calendar year _____ Fiscal year beginning _____, _____ and ending _____, _____

This election remains in effect for all subsequent tax years until revoked.

Certification - The nonresident PTE member (in Part 1) certifies that it will file any return and pay any tax required under N.D.C.C. ch. 57-38 and that it is subject to North Dakota's jurisdiction for the collection of the tax, and any applicable penalty and interest, on its North Dakota distributive share of income from the passthrough entity (in Part 2).

Part 4 - Nonresident PTE member revocation of exemption

The nonresident PTE member (in Part 1) revokes the election and certification made on a Form PWE previously given to the passthrough entity (in Part 2). This revocation is effective beginning with the following tax year:
 Calendar year _____ Fiscal year beginning _____, _____ and ending _____, _____

Part 5 - Nonresident PTE member signature

I declare, under penalty of perjury, that this form is correct and complete to the best of my knowledge and belief.

Printed Name of Authorized Representative of Nonresident PTE Member	Title
Signature of Authorized Representative	Date Signed

*Privacy Act - See instructions

Instructions to Form PWE

Purpose of form

Under North Dakota Century Code (N.D.C.C.) § 57-38-31.1, a passthrough entity is required to withhold North Dakota income tax from a nonresident member's North Dakota distributive share of income. A nonresident member that is a passthrough entity (nonresident PTE member) may elect to exempt its North Dakota distributive share of income from this withholding requirement. The election is made on Form PWE.

General instructions

To elect exemption from North Dakota income tax withholding on its North Dakota distributive share of income from a passthrough entity, a nonresident PTE member must complete Form PWE and submit it to the passthrough entity on or before the last day of the passthrough entity's tax year for which the election is to take effect.

A "nonresident PTE member" means a passthrough entity with a commercial domicile outside North Dakota that owns an interest in, or is a beneficiary of, a passthrough entity that is subject to the withholding requirement under N.D.C.C. § 57-38-31.1. Commercial domicile refers to the location of the principal office from which the entity's activities are normally managed or directed.

A "passthrough entity" means a general partnership, limited partnership, limited liability partnership, limited liability trust, grantor trust, limited liability company not taxed as a C corporation, and any other similar entity not taxed at the entity level for North Dakota income tax purposes.

An election remains in effect until it is revoked by the nonresident PTE member. The election does not affect the nonresident PTE member's requirement to file a North Dakota income tax return and pay any tax due on its North Dakota distributive share of income.

Instructions for nonresident PTE member

Complete Form PWE as instructed below and submit it to the passthrough entity on or before the last day of the passthrough entity's tax year. To make (or revoke) an election with respect to more than one passthrough entity, a separate Form PWE must be completed and given to each one. Keep a copy of the completed Form PWE for your records.

Making the election. To make the election, complete Parts 1, 2, 3, and 5. Do not complete Part 4. In Part 3, specify the tax year the election is to take effect. If you and the passthrough entity have different tax years, specify the tax year of the passthrough entity for which the election is to take effect. The election remains in effect until you revoke it.

Revoking the election. To revoke a previously made election, complete Parts 1, 2, 4, and 5. Do not complete Part 3.

Entity type. For purposes of the entity type in Parts 1 and 2, the following apply:

- If the entity is a limited liability company, check the box corresponding to how it is filing for federal income tax purposes.
- If "Grantor trust" or "Disregarded entity" is checked, provide the name and social security number (or FEIN) of the trust's settlor or entity's owner.

Instructions for passthrough entity

If you receive a Form PWE from a nonresident PTE member, do the following:

1. Check to see that all applicable items on the form are filled in and that the information in Part 2 is correct.
2. Do not withhold North Dakota income tax on the nonresident PTE member's North Dakota distributive share of income starting with the tax year specified in Part 3.
3. On your North Dakota income tax return filed for each tax year the election is in effect, fill in the circle under "Form PWA or Form PWE" for the nonresident PTE member on the applicable schedule as follows—
 - If filing Form 38 (fiduciary return), see Schedule BI, Column 6.
 - If filing Form 58 (partnership return), see Schedule KP, Column 7.
 - If filing Form 60 (S corporation return), see Schedule KS, Column 7.
4. Attach a copy of the Form PWE to your North Dakota income tax return for each tax year the election is in effect. Keep the original signed Form PWE for your records.

Revocation. If you receive a Form PWE revoking a previously made election, you must withhold North Dakota income tax from the nonresident PTE member's North Dakota distributive share of income starting with the tax year specified in Part 4.

Need assistance?

Phone: 701-328-1247

Speech or hearing impaired:
800-366-6888 (Relay ND)

Email: individualtax@nd.gov

Website: www.tax.nd.gov

Privacy Act Notification. In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 57-01-15 and 57-38-31.1, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.