Form 5

Wisconsin Department

# Wisconsin Election by an S Corporation Not to Be Treated as a Tax-Option Corporation

Mail this form to:

Wisconsin Department of Revenue PO Box 8908

of Revenue		IICale	u as a la	x-Op		poration			Madison	WI 537	08-8908
Corporation Name							Α	Federal Er	nployer ID N	umber	
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Number and Street						Suite Numbe	er B	State of In	corporation	and	rear
City	State ZIP Code (+ 4 digit suffi				n) C Number of	Shareholders	D	Number of Shares Issued and Outstanding			
E Election is to be effective	for taxable year beginr	ing:									
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Name and Address of Shareholder			Federal	<b>I</b>	Stock		01 1				
			Identifyin Number		Number of Shares	Date Acquired		Shareho	lder's Sign	der's Signature	
I, the undersigned auth any accompanying sch											
Signature Signature			. 200.010 1101	Title	200. Of 11	.,omougo		Date		301	.,,,,,,,,,

## Form 5E Instructions

#### **General Instructions**

**Purpose of Form** – A corporation that is an S corporation for federal income tax purposes uses Form 5E to elect not to be a tax-option corporation for Wisconsin tax purposes.

**How to Elect** – The election not to be a tax-option corporation for Wisconsin requires the consent of persons who hold more than 50% of the shares of the tax-option (S) corporation on the day the election is made. **Note:** If an S corporation has a qualified Subchapter S subsidiary (QSub) for federal purposes, neither the S corporation nor the QSub may elect out of Wisconsin tax-option (S) treatment.

When to Elect – You must make the election on or before the due date, or extended due date, of the first Wisconsin corporation franchise or income tax return affected by the election. The election is completed by the filing of a Wisconsin franchise or income tax return in accordance with the election. Use Wisconsin Form 4 or Form 6, as appropriate. Caution: Since the corporation will be filing federal Form 1120-S, special adjustments may be required to properly determine Wisconsin net income.

Revoking the Election – You may withdraw the "optout" election prior to the date of filing the corporation's Wisconsin franchise or income tax return by sending a letter, signed by shareholders holding more than 50% of the corporation's stock, to the Department of Revenue on or before the due date, including extensions, of the corporation's return. If the corporation's return was filed before the due date, or extended due date, you may withdraw the election by filing an amended Wisconsin franchise or income tax return, Form 5S, along with a letter requesting the withdrawal of the "opt-out" election on or before the due date or extended due date.

### **Applicable Laws and Rules**

This document provides statements or interpretations of the following provisions of Wisconsin Statutes in effect as of August 22, 2023: chs. 71 and 77, Wis. Stats. and chs. Tax 1, 2 and 3 Wis. Adm. Code.

After the due date, or extended due date, for filing the corporation's Wisconsin franchise or income tax return has passed, the "opt-out" election cannot be withdrawn, and it remains effective for the corporation and any successors for at least the next 4 taxable years after the taxable year to which the election first applies. After the 5-year period, you may revoke the "opt-out" election by filing Wisconsin Form 5R, Revocation of Election by an S Corporation Not to Be a Tax-Option Corporation.

**Exception:** The "opt-out" election is automatically revoked for the taxable year in which a federal S corporation acquires a QSub. In this case, it is not necessary to file Form 5R. You must use Wisconsin Form 5S to report the income of the corporation and its QSub.

## **Specific Instructions**

Fill in the corporation's name and address and enter the appropriate information in items A through E.

Enter in the space provided the name, address, and federal identifying number (social security number for individuals and federal employer identification number for estates, qualified trusts, and exempt organizations) of each shareholder who is signing the election. Also enter for each shareholder the number of shares owned and the date the stock was acquired. If the shareholder acquired stock on more than one date, enter the last date on which that shareholder acquired stock. Each shareholder must sign in the space indicated. If the stock is held as community property or if the income from the stock is community property, the consent must be signed by both husband and wife. Wisconsin's marital property is a form of community property.

If you need additional space, attach a schedule containing the required information.

An authorized officer of the corporation must sign this form in the space provided.