



This publication provides general information and is not meant to be a substitute for tax laws or regulations.

A pass-through entity is required to withhold 5.12% of their “effectively connected taxable income” that can be (1) lawfully taxed by West Virginia, and (2) allocable to a nonresident distributee. A pass through entity which fails to withhold and remit is liable for payment of the amount of tax due.

“Effectively Connected Taxable Income” means income that is from, or *connected* to, West Virginia sources. This kind of income is taxable to the pass through entity if it was actually distributed or deemed to have been distributed for federal income tax purposes. A pass through entity’s tax credits flow through to the individual shareholder or partner, but tax credits cannot be used to make their tax liability less than zero.

A pass through entity is not required to withhold if:

- the distribution is to a corporation that is exempt from paying federal income taxes on the corporation's West Virginia source income;
- the distribution is to a person that is exempt from paying federal income taxes on their West Virginia source income;
- when compliance would cause “undue hardship” on the pass through entity. Note that this exception requires the entity to file a written petition with the Tax Commissioner for an exemption from the withholding requirements.
- the entity is an unincorporated organization that has elected under I.R.C §761 not to be treated as a partnership for federal income tax purposes. This entity is still required to report certain income information on [WV/NRW-3](#); or
- the distribution is to a nonresident person who timely filed a West Virginia Nonresident Income Tax Agreement ([WV/NRW-4](#)) and it has not been revoked. However, the pass through entity is responsible for the tax liability if no WV/NRW-4 has been filed.

Deadlines

S Corporations: A [PTE-100](#) is due with the withholding payments no later than the 15th day of the third month following the close of the taxable year.

Partnerships, Estates, and Trusts: A PTE-100 or [IT-141](#), depending on the entity, is due with the withholding payments no later than the 15th day of the third month following the close of the taxable year of the entity.

Composite Returns: If a composite [IT-140 NRC Return](#) is filed for nonresident individuals, the withholding payments associated are due on the 15th day of the fourth month after the close of the taxable year, as well as a \$50 filing fee.

An extension of time to file any of the above-referenced returns does not extend the time for paying the amount of withholding due, or the amount of tax due with a composite return.

When a pass through entity is allowed an extension of time to file its federal return, the entity is automatically allowed an extension of time to file its West Virginia return. Filers should remit the payment with [PTE-100EXT](#) to:

West Virginia Tax Division
Tax Account Administration
PO Box 11751
Charleston, WV 25339-1751

For more information, you can:

- **Call** a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- **Email** taxhelp@wv.gov
- **Go Online** to tax.wv.gov