FORM PWA - Passthrough Entity Withholding - Adjustment To Nonresident Member Withholding

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

SFN 28728 (10-2014)

2014

Part 1 - To be completed by nonresident member

Nonresident member name	Social security number (or FEIN)

1. Estimated North Dakota distributive share of income or estimated total North Dakota taxable income, whichever is smaller ..... 1 _____
2. Multiply line 1 by 3.22 percent (.0322) ..... 2 _____
3. a. Estimated North Dakota income tax paid ..... 3a _____
   b. Additional North Dakota income tax withheld from wage income ..... 3b _____
4. Withholding adjustment amount. Add lines 3a and 3b ..... 4 _____
5. Amount to withhold. Subtract line 4 from line 2 ..... 5 _____

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

Nonresident member's signature	Date

Part 2 - To be completed by passthrough entity

Passthrough entity name	Federal employer identification number

Tax year for which this adjustment applies. If the passthrough entity and the nonresident member have different tax years, specify the tax year of the passthrough entity to which the adjustment applies.

☐ Calendar year 2014 **OR** ☐ Fiscal year beginning _____ 2014, and ending _____ , _____

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 at the rate of 3.22 percent from a nonresident member's North Dakota distributive share of income if (1) it is $1,000 or more and (2) it is not included in a composite return. If eligible, a nonresident member may request that an amount less than the statutory amount be withheld by completing and submitting Form PWA to the passthrough entity.

General instructions

A nonresident member is eligible to use Form PWA if any of the following apply:

- The member already paid estimated North Dakota income tax on the North Dakota distributive share of income.
- The member had additional North Dakota income tax withheld from wage income to cover the tax expected to be owed on the North Dakota distributive share of income.
- The member will have a North Dakota taxable income less than the North Dakota distributive share of income because of an offsetting North Dakota loss or adjustment to income on the member's North Dakota income tax return.

A "nonresident member" means an individual who is not domiciled in North Dakota, a trust that is not organized in North Dakota, or a passthrough entity that does not have a commercial domicile in North Dakota.

A "passthrough entity" means a partnership (all types), S corporation, trust, limited liability company not taxed as a C corporation, or other entity not taxed at the entity level for North Dakota income tax purposes.

Exemption for certain members. If the nonresident member is a passthrough entity, the member may be eligible to elect to exempt its North Dakota distributive share of income from North Dakota income tax withholding. See Form PWE for more information.

Specific instructions for nonresident member

Complete Part 1 of Form PWA. On line 3, the North Dakota income tax paid or withheld must be for the same tax year that your North Dakota distributive share of income is reportable on your North Dakota income tax return. Submit the completed Form PWA to the passthrough entity before the last day of the passthrough entity's tax year to which the adjustment it is to apply.

Specific instructions for passthrough entity

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

1. Complete Part 2.
2. Do not withhold North Dakota income tax from the nonresident member's North Dakota distributive share of income for the specified tax year.
3. Fill in the circle under "Form PWA or Form PWE" for the nonresident member on your North Dakota income tax return as follows—
   - If filing Form 38, see Schedule BI, Column 6.
   - If filing Form 58, see Schedule KP, Column 7.
   - If filing Form 60, see Schedule KS, Column 7.
4. Attach a copy of Form PWA to your North Dakota income tax return. Keep the original signed copy for your records.

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.