

Form DER-1

2019 Montana Disregarded Entity Information Return



No Staples

For calendar year 2019 or tax year beginning MMDDYYYY and ending MMDDYYYY

Form fields for Name, Social Security Number, Address, Federal Employer Identification Number, City, State, ZIP Code + 4, and a checkbox for FEIN/SSN match.

Form fields for business name, incorporation date, foreign entities date, Montana Secretary of State ID #, and state/country.

Form fields for Disregarded Entity Type (A: Single-member LLC, B: Other) and owner type (Individual, Estate, etc.).

Form fields for Entity type other than SMLLC, including IRC § 761 Partnership and Other.

NEW: Single-member limited liability companies and qualified subchapter S subsidiaries owned by a pass-through entity (partnership or S corporation) or a C corporation directly or through a series of disregarded entities must report their Montana source income directly on Form PTE or Form CIT, and no longer need to file Form DER-1.



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Form DER-1 General Information

What's New for 2019?

- Beginning with tax year 2019, disregarded entities owned by a partnership, an S corporation, or a corporation must report their Montana source income on their owner's return. See Form CIT or Form PTE instructions for more information.
If the disregarded entity made estimated payments for 2019, these estimated payments will be applied to their owner's account.

What is a disregarded entity?

A disregarded entity is a business entity that is disregarded as a separate entity from its business owner for federal tax purposes. If an entity is disregarded as a separate entity for federal income tax purposes, it is also disregarded as a separate entity for Montana income tax purposes.

For example, a domestic single-member limited liability company (SMLLC) that does not elect to be classified as a corporation for federal tax purposes is a disregarded entity.

Who is required to file Form DER-1?

Single-member limited liability company: An SMLLC treated as a disregarded entity, whether formed in Montana or in another state or country, is required to file Form DER-1, Montana Disregarded Entity Information Return, each year the entity does business in Montana or has Montana source income.

Exceptions: Form DER-1 is not required if the disregarded entity is an SMLLC whose sole member is an individual, estate, or trust who has been a full-time Montana resident during the applicable reporting period. Beginning with tax year 2019, Form DER-1 is not required if the disregarded entity must report its Montana source income on Form PTE or Form CIT.

IRC § 761 electing partnership: A section 761 electing partnership is required to file Form DER-1 each year the entity does business in Montana or has Montana source income.

What is Montana Source Income?

In general, Montana source income is the separately and non-separately stated income, gain, loss, deduction, or credit, or items of income, gain, loss, deduction, or credit derived from a trade, business, occupation or profession carried on in Montana or that was derived from the sale or other transfer, or the rental, lease, or other commercial exploitation of property located in Montana.

What is the due date of Form DER-1?

Form DER-1 is due on or before the 15th day of the fourth month following the close of the owner's annual accounting period.

Note: If the due date falls on a holiday that defers a filing date as recognized by the IRS, the return may be filed on the first business day after the holiday.

Where is the form filed?

File Form DER-1 **free** through our TransAction Portal (TAP) at <https://tap.dor.mt.gov>. For more information, visit mtrevenue.gov.

Note: First time filers will need to file on paper.

Or mail the Form DER-1 to:

Montana Department of Revenue
P.O. Box 8021
Helena, MT 59604-8021

Extension of Time to File

The disregarded entity can obtain an automatic extension of time to file its information return if its owner has a valid extension of time. The extended due date is the same as the owner's federal extended due date. The disregarded entity is allowed an automatic extension to file its information return of up to six months if the owner is not required to file a federal information return.

What forms have to be filed?

Additional filing requirements are listed below for a disregarded entity that has a nonresident individual, nonresident estate, nonresident trust, or disregarded entity as its owner during the year. These filing requirements are:

- Schedule I** (Montana Disregarded Entity Owner Information) identifies the owner or owners of the disregarded entity. If one of the owners is a nonresident individual, nonresident estate, nonresident trust, or second-tier pass-through entity, the entity may be required to pay tax to the Montana Department of Revenue on behalf of the owner as provided in Montana Code Annotated 15-30-3313.
- Form PT-AGR** (Montana Pass-Through Entity Owner Tax Agreement) is completed by the nonresident individual, nonresident estate, nonresident trust, or domestic second-tier pass-through entity that agrees to timely file a Montana tax return, pay all taxes and be subject to the personal jurisdiction of Montana. A new Form PT-AGR is not required to be filed each year. The Form PT-AGR must be filed by the due date of the disregarded entity's return. The Form PT-AGR is filed separately; it is not attached to the Form DER-1. A disregarded entity needs to retain the agreements as part of its tax records.
- The disregarded entity is required to withhold on a second-tier pass-through entity owner that does not qualify as a "domestic second-tier pass-through entity owner."

The entity is unable to obtain a signed Form PT-AGR from the owner of the disregarded entity. What does it have to do?

If the entity is unable to obtain a signed Form PT-AGR, the entity is required to remit an amount based on the owner's share of Montana source income reported on Schedule I, Column D.

If the owner is a nonresident individual, nonresident estate, or nonresident trust or a second-tier disregarded entity, multiply the owner's Montana source income by 6.9% to determine the amount of the remittance.

What happens if the disregarded entity is late in filing Form DER-1?

The entity is charged a late filing penalty if Form DER-1 is filed after the due date, including the automatic extension, unless the entity can show reasonable cause for not filing on time. For a disregarded entity that does not have a tax year, the penalty is based on the number of owners on December 31 of the preceding year. This penalty is calculated for up to five months.

Form DER-1 Instructions

Heading

Name and Address. Enter the entity's true name (as set forth in the charter or other legal document creating it) and mailing address.

FEIN or SSN. Enter the FEIN (Federal Employer Identification Number) or SSN (Social Security Number) of the disregarded entity. If the FEIN or SSN is the same as the owner's FEIN or SSN reported on Schedule I, mark the box.

Lines 1 through 5 – Complete lines 1 through 5 as they relate to the disregarded entity and not the owner of the disregarded entity.

Lines 2 and 3 – Complete either line 2 or 3. If the disregarded entity was incorporated or formed in Montana (a domestic entity), complete line 2. If the disregarded entity was incorporated or formed in a jurisdiction other than Montana (a foreign entity) complete line 3.

Line 4 – Enter the letter and number of the organizational ID assigned by the Montana Secretary of State.

Line 6 – Disregarded Entity Type. First determine if the disregarded entity is a single-member limited liability company (mark box 6A) OR another entity type (mark box 6B).

6A Single-member Limited Liability Company (SMLLC). If you marked the box indicating the disregarded entity is an SMLLC, the next step is to mark the appropriate box corresponding with the type of owner listed. For example, if the owner of the SMLLC is a trust, line 6A would show one mark in box A and another mark in the trust box.

6B Entity type other than SMLLC. If you marked the box indicating that you are an IRC § 761 partnership, enter the date of your federal election.

Line 7 – Total Income Tax Withholding. Enter the total from Schedule I, column E. This is the total amount withheld on behalf of the owner.

Line 8a – Total Montana Mineral Royalty Tax Withheld. Enter the total amount of mineral royalty tax the disregarded entity paid and/or the total amount of Montana mineral royalty tax withheld on behalf of the disregarded entity by a lower-tier pass-through entity. These amounts will be reported on federal Forms 1099 and Montana Schedules K-1. Attach a copy of the Forms 1099 and Montana Schedules K-1 you received that report amounts withheld on your behalf. Royalty payments made to owners of Montana mineral rights are subject to withholding if certain thresholds are met. This withholding is different than the amounts deducted from the disregarded entity's royalty payments for production taxes.

Line 8b – Mineral Royalty Tax Withheld Distributed to Owner. Enter the amount of mineral royalty tax withheld reported on line 8a that is distributed to the owner.

Line 8c – Montana Mineral Royalty Tax Withheld Attributable to Disregarded Entity. Subtract line 8b from line 8a. This is the amount of Montana mineral royalty tax withheld that is attributable to the disregarded entity.

Line 9a – Total Montana Pass-Through Withholding from Montana Schedules K-1. If the disregarded entity had an ownership interest in a pass-through entity that had Montana source income and the pass-through entity paid Montana income tax on behalf of the disregarded entity, enter the amount here. This amount is reported to the disregarded entity on a Montana Schedule K-1. Attach a copy of the Montana Schedules K-1 you received that report amounts withheld on your behalf.

Line 9b – Montana Pass-Through Withholding Distributed to Royalty Owner. Enter the amount of Montana pass-through withholding reported on line 9a that is distributed to the owner.

Line 9c – Montana Pass-Through Withholding Attributable to Disregarded Entity. Subtract line 9b from line 9a. This is the amount of Montana pass-through withholding that is attributable to the disregarded entity.

Line 10a – 2019 Estimated Tax Payments. Enter the total Montana estimated tax payments that the disregarded entity made for 2019.

Line 10b – 2019 Extension Payment. Enter any extension payment for 2019 made on or before the original due date of the disregarded entity's return.

Line 10c – For Amended Tax Returns Only – Payments Made with Original Return. Enter any payments the disregarded entity made when it filed its original tax return and any subsequent payments that were applied to the disregarded entity's 2019 tax liability.

Line 10d – For Amended Tax Returns Only – Previously Issued Refunds. Enter the amount of any refund the disregarded entity received when it filed its original tax return or a previously amended tax return.

Line 13 – Late Filing Penalty. A late filing penalty is charged if Form DER-1 is filed after the due date, including the automatic extension. The penalty is \$10 multiplied by the number of months or fractions of a month that the entity does not file the disregarded entity information return. This penalty is calculated for up to five months. For example, if a disregarded entity files the Form DER-1 six months after its due date, the late file penalty would be \$50 (\$10 x 5 months).

Note: A late filing penalty is not imposed if the owner is an individual, an estate of a deceased individual, or a C corporation, and if the owner has filed the required tax returns or other required reports timely and have paid all taxes when due.

Line 14 – Late Payment Penalty. The late payment penalty is equal to 0.5% per month, calculated daily, on the unpaid amount from the original due date of the return until it is paid. The daily rate is 0.0164%. Your late payment penalty will never exceed 12% (24 months x 0.5%) of the unpaid tax.

Late pay penalty is automatically waived if you pay all the tax and interest with your return, or within 30 days of the first notice from the department.

If the disregarded entity files an amended tax return that reflects an increased tax liability, it may have the late payment penalty waived. To receive the waiver, mark the "Amended Return" box on Form DER-1 and pay the tax and applicable interest in full when the disregarded entity files the amended return. By marking this box and paying all tax and interest, the disregarded entity is treated as having requested a waiver of the late payment penalty.

Line 15 – Interest. Compute interest on any tax liability (line 7) that has not been paid by the due date of the tax return and enter the total on this line.

If 100% of the tax liability is not paid by the original due date, interest is due at a rate of 5% per year, computed daily on the unpaid balance.

To calculate the interest, multiply line 7 by 0.0137% (0.000137) times the number of days after the unextended due date.

Line 18 – Amount You Owe. If the amount on line 17 is greater than zero, enter it on this line. This is the amount due with the disregarded entity's return. The disregarded entity can pay the amount it owes by e-check or credit/debit card (visit mtrevenue.gov for more information and instructions) or by money order, personal check, or cashier's check payable to the MONTANA DEPARTMENT OF REVENUE. Remember to use a voucher, sign the check, and write the disregarded entity's taxpayer identification number (either a SSN or FEIN) and "Tax Year 2019" on the memo line. A payment voucher is available online at mtrevenue.gov under Forms.

Line 19 – Refund. If the amount on line 17 is less than zero, enter it on this line as a positive number. This is the amount the disregarded entity overpaid.

If you would like to use direct deposit, enter the financial institution's routing number (RTN#) and the account number (ACCT#) in the space provided. The routing number will be nine digits and the account number can be up to 17 characters, including numbers and letters. Mark whether the account is a checking or savings account and if the refund will go to a bank outside of the United States and its territories (Midway Islands, Puerto Rico, American Samoa, U.S. Virgin Islands, Federated States of Micronesia, and Guam). If the financial institution does not accept the direct deposit, we will mail you a refund check.

Schedule I Instructions

Include all owners on this form. The disregarded entity should have only one owner who owns 100% of the entity, except for a section 761 IRC partnership, or when spouses are considered a single taxpayer.

Column A – Name and Address of Owner. Enter the name and complete mailing address of each owner.

Column B – Identification Number. If the owner is an individual or an individual filing federal Schedule C, enter the individual's Social Security Number (SSN). If the owner is any other entity type listed on page 1, line 6A, enter the Federal Employer Identification Number (FEIN).

Column C – Percentage of Ownership. Enter each owner's percentage of ownership in the disregarded entity that is used to calculate the owner's share of income (loss). Generally, this is 100% unless the disregarded entity is an IRC § 761 partnership.

Column D – Montana Source Income. Enter each owner's share of the disregarded entity's Montana source income (loss). Complete Worksheet DE to determine your Montana source income derived from your own activities. If the disregarded entity derives Montana source income from its own activities and receives Montana source income from another pass-through entity, the Montana source income received from the pass-through entity is nonapportionable.

Column F – PT-AGR. If the owner is a nonresident individual, nonresident estate, nonresident trust or a domestic second-tier disregarded entity, the owner must provide Form PT-AGR to the disregarded entity if the pass-through entity does not pay tax on behalf of the owner for the owner's share of Montana source income. If the disregarded entity is filing the agreement to the department this year, enter "2019."

Worksheet DE - Instructions

Complete this worksheet when the disregarded entity must calculate Montana source income from its own activities. Montana source income flowing through the disregarded entity is included in this determination as nonapportionable income.

To determine Montana source income, complete the Everywhere column first. If the income reported on line 17 includes apportionable income, then check the box and calculate the apportionment factor. Use the apportionment factor to calculate your Montana source income. If line 17 includes nonapportionable income, report it on the applicable line in the Montana column.

Everywhere Column

Report the disregarded entity's items of income (loss), deductions on the Everywhere column. Report Montana adjustments to everywhere income on lines 15 and 16. If the disregarded entity has apportionable income (loss), complete the apportionment factor section at the bottom of the Everywhere column.

Montana Column

On each line, enter the sum of income (loss) deduction and adjustments apportioned and allocated to Montana. Income apportioned to Montana is the product of any apportionable income from the Everywhere column by the apportionment factor.

Line 17 – Report the amount of Montana source income on Schedule I.