# Pass-Through Entity Withholding Tax Payment

Pass-through entities are required to submit returns and payments electronically. Use this voucher only if you have been granted a waiver. For details, visit the Department's website at **www.tax.virginia.gov.**

**General Information**

Every pass-through entity (PTE) doing business in the Commonwealth that has taxable income derived from Virginia sources and must allocate any portion of that income to a nonresident owner is required to pay the withholding tax. The PTE is required to withhold 5% of the share of taxable income from Virginia sources that is allocable to each nonresident owner. The amount of withholding tax may be reduced by any tax credits that were earned by the PTE and allowable by the Code of Virginia that pass through to nonresident owners.

**How to Make Withholding Tax Payments Electronically**

To payments electronically, use the **eForms** application on the Department's website at **www.tax.virginia.gov**. Select the **502W** from the **eForms** list and complete the form and payment information online. You can schedule your payment for a future date.

A PTE may also make its tax payments using an ACH Credit transaction through its bank. Some banks may charge a fee for this service. For information on how to submit ACH Credit Payments to the Department, see the Electronic Payment Guide at **www.tax.virginia.gov**.

**When to File and Pay**

The withholding tax payment is due on the due date of the PTE's return regardless of whether the extension to file Form 502 is used. For calendar year filers, the withholding tax payment is due on April 15, 2017.

NOTE: Virginia does not recognize Emancipation Day, occurring annually on April 16 in Washington DC.

**Purpose of Form**

Use Form 502W:

- To make a withholding payment when a PTE has an approved waiver to file on paper rather than electronically
- To make a withholding payment prior to filing Form 502, usually when the PTE is filing during the automatic 6-month extension
- To make a withholding payment prior to the due date

Do not use Pass-Through Entity Payment Vouchers (Form 502W and Form 502V) to make payments with the Unified Nonresident Income Tax Return, Form 765.

NOTE: Form 502V must be used when a PTE makes a payment <u>with</u> the Form 502.

**Exempt Entities**

The PTE will not be required to pay the withholding tax if it:

- Is a Publicly Traded Partnership
- Is a Disregarded Entity
- Files a Unified Return on Behalf of All Nonresident Owners

**Undue Hardship**

If a PTE believes that the withholding requirement causes an undue hardship, the PTE may apply to the Tax Commissioner requesting an exemption. In addition to any other information that is pertinent to the PTE's petition for relief, the letter shall provide information that will enable the Tax Commissioner to compare and evaluate the cost to the PTE of complying with the withholding tax requirements, and the cost to the Commonwealth of collecting income tax from any nonresident owners that do not voluntarily file Virginia income tax returns and pay the tax.

**Exempt Owners**

The PTE must pay the withholding tax for all nonresident owners, with the following exceptions:

- Individuals who are exempt from paying federal income taxes based on their status or who are exempt from Virginia income taxes. The exemption must apply to the individual's share of the PTE's income. Examples are diplomatic immunity and individuals who did not have any liability for Virginia income tax in the previous year and who do not expect to have any liability in the current year.
- Entities other than individuals and corporations that are exempt from paying federal income taxes by reason of their purpose or activities. The exemption from federal income tax must apply to the entity's share of the PTE's income. Examples of such exempt entities are:
  - Other PTEs. Generally, a PTE does not need to withhold for a nonresident owner that is also a PTE. These nonresident owner PTEs are responsible for filing their own Forms 502 and must pay the withholding tax for their nonresident owners' shares of income from Virginia sources. If a PTE is notified by a nonresident owner PTE that the nonresident owner PTE is not going to file a Form 502, then the PTE is required to withhold on the nonresident owner PTE.

    <u>Caution:</u> If a PTE withholds on a nonresident owner PTE, the nonresident owner PTE cannot claim credit for such withholding on its Form 502 for such withholding. PTE withholding is not "generation skipping" and does not pass through an intermediate PTE to owners that are more than one level of ownership away. If a PTE erroneously withholds for a nonresident owner PTE, the PTE should file an amended

**Detach at dotted line below. DO NOT SEND ENTIRE PAGE.**

## Form 502W

**(Doc ID 522)**

*For assistance, call (804) 367-8037.*

## Pass-Through Entity Withholding Tax Payment

**VIRGINIA DEPARTMENT OF TAXATION**
**P.O. BOX 1500, RICHMOND, VA 23218-1500**

**Attention: Payment must be made electronically. Use this voucher only if you have an approved waiver.**

☐ Check if initial filer
(This is the first year filing a PTE return.)

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**To receive credit for your payment in the correct taxable year, please enter the ending month (numerical) and year.**

| | Month Ending | Year Ending | |
|---|---|---|---|
| **Calendar** year: | 12 | | OR; |
| **Fiscal** year: | | | OR; |
| **Short** taxable year: | | | |

| FEIN | Entity Type | NAICS Code |
|---|---|---|
| Name of Pass-Through Entity | | |
| Address (Number and Street) | | |
| Address Continued | | |
| City, State and ZIP Code | | |

Amount of Payment $ _____.00

I declare that this return (including accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Signature Date Phone Number

Va. Dept. of Taxation 2601021 Rev. 07/16

Form 502. See the Amended Returns section of the Form 502 instructions for additional information.

- Entities exempt by reason of diplomatic immunity or pursuant to treaties between the United States and other countries. An entity claiming this exemption must provide a statement to the PTE stating that it has diplomatic immunity from federal income tax.
- Real estate investment trusts (REITs) except Captive REITs.
- Corporations that are exempt from Virginia income tax include:
  - Certain banks, insurance companies, and public utilities that are subject to other taxes in lieu of Virginia income tax.
  - Corporations that are exempt from federal income tax under IRC § 501.

If a nonresident owner claims to be exempt from the withholding tax, the PTE is required to obtain documentation from the nonresident owner setting forth the basis for such exemption. This documentation must be retained by the PTE with its records.

The determination of nonresident status will be based on the owner's address of record for the PTE unless the PTE has other information relating to the owner's residence or commercial domicile by reason of the owner's participation in management of the PTE. If an owner is also employed by the PTE, the information relating to withholding on wages shall also be considered.

The PTE shall provide with its return of withholding tax a list of every individual, corporation, and other entity claiming exemption from the withholding tax. The list shall contain the name, Social Security Number, federal employer identification number (FEIN), or other taxpayer identification number and the address of each nonresident owner claiming exemption, as well as a description of the basis for the claimed exemption.

**Penalties**

**Extension Penalty** - The PTE must pay at least 90% of the withholding tax due by the return due date to avoid a penalty. If the return is filed within the 6-month extension and less than 90% of the tax was paid by the original return due date, then the PTE owes an extension penalty. The penalty is 2% per month of the tax due with the return from the due date through the date that the return is filed, up to a maximum of 12%.

**Late Filing Penalty** - If the return is filed after the extended due date, the extension is not valid, and the entity is subject to the late filing penalty of 30% or $1,200, whichever is greater.

**Late Payment Penalty** - If the return is filed within the extended period and full payment is not included with the return, the entity is subject to the late payment penalty of 6% per month from the date the return is filed through the date of payment, up to a maximum of 30%.

**Interest** - Interest is due on any unpaid tax at the underpayment rate under IRC § 6621, plus 2%, from the due date until paid.

**Change of Address/Out-of-Business**

If the PTE changes its business mailing address or discontinues the business, either send a completed Form R-3, Registration Change Request or a letter to the **Virginia Department of Taxation, P.O. Box 1114, Richmond, Virginia 23218-1114**. A Form R-3 can be obtained from the Department's website, **www.tax.virginia.gov**, or by calling the Department's Forms Request Unit at **(804) 367-8037**.

**Questions**

If you have any questions about this return, call (804) 367-8037 or write to the **Virginia Department of Taxation, P.O. Box 1115, Richmond, Virginia 23218-1115.**

**Preparation of Payment Voucher**

Complete the PTE's FEIN, entity type, North American Industry Classification System (NAICS Code), ending month and year, and name and address information.

Entity type: A proper entry in this field is required. Enter the code that corresponds to the type of entity that is filing this return.

| Type | Code |
|---|---|
| S Corporation | SC |
| General Partnership | PG |
| Limited Partnership | PL |
| Limited Liability Company | LL |
| Limited Liability Partnership | LP |
| Other | OB |

NAICS code: Enter the 6-digit NAICS code. You can access a list of these codes by visiting the **Business** section on the Department's website, **www.tax.virginia.gov**.

Determine the amount of withholding due by either:

(1) Computing the taxable income of the PTE and applying the pro rata share of the nonresident owners. Multiply the nonresident income by 5% to calculate the tax liability. Then reduce the tax liability by the owner's share of any tax credits.

(2) Computing the taxable income of the individual nonresident owners. Calculate the tax liability of each owner by multiplying taxable income by 5%. Reduce the tax liability by the owner's share of tax credits.

Enter the total amount withheld for all nonresident owners in the block indicating the amount of payment.

**Declaration and Signature**

Be sure to sign, date, and enter your phone number in the space indicated.