

2009 Montana Disregarded Entity Information Return

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Form DER-1

For calendar year 2009 or tax year beginning (MM-DD) ___ - ___ - **09** and ending (MM-DD-YY) ___ - ___ - ___

Check if applicable: <input type="checkbox"/> Initial Return <input type="checkbox"/> Final Return <input type="checkbox"/> Amended	Name _____			FEIN or SSN: _____
	Address _____ If new address check here. <input type="checkbox"/>			Check this box if this FEIN or SSN is the same as the owner's FEIN or SSN. <input type="checkbox"/>
	City _____	State _____	Zip + 4 _____	

1. Enter any assumed business name under which the entity does business in Montana _____
2. Enter the date the entity was incorporated or formed _____
3. Enter the date the entity registered with the Montana Secretary of State _____
4. Enter the state or country where the entity was incorporated or formed _____

5. Disregarded Entity Type (Check appropriate entity type—See instructions for the correct box to check.)

A. Single Member Limited Liability Company (SMLLC)

Check only one single member limited liability company owner type.

- Individual (The Montana Form DER-1 is not required to be filed if the SMLLC is owned by an individual who has been a full-year Montana resident during the applicable reporting period.)
- S corporation Partnership
- Qualified Subchapter S Subsidiary Electing IRC § 761 Partnership
- C corporation Real Estate Mortgage Investment Conduit (REMIC)
- Estate Non-Grantor Trust
- Real Estate Investment Trust (REIT) Qualified REIT Subsidiary
- Any other single member not described above

B. Entity Type Other than SMLLC

- IRC § 761 Partnership Enter date of election: _____
- IRC § 1361(b)(3) Qualified Subchapter S Subsidiary Enter date of election: _____
- IRC § 856(i)(2) Qualified Real Estate Investment Trust Subsidiary
- IRC § 860D Real Estate Mortgage Investment Conduit (REMIC). Attach a copy of federal Form 1066.

Owner Backup Withholding

6. Enter the amount of total owner withholding from Schedule I, Column E or Column F 6. _____
7. Late filing penalty (see instructions)..... 7. _____
8. Late payment penalty..... 8. _____
9. Interest 9. _____
10. Add lines 6 through 9 and enter the result here. **This is the sum of your total tax, penalties and interest.** 10. _____

Declaration

I, the undersigned, declare that I am authorized to sign the disregarded entity return and that the return, including all accompanying attachments, is, to the best of my knowledge and belief, true, correct and complete.

Signature	Title	Telephone Number	Date
Printed Name			

Schedule I

Entity name _____ Tax period ending _____ SSN/FEIN _____

Disregarded Entity Owner Information

Enter the total number of owners _____

Owners				For each non-resident owner, complete ONLY one of these three columns: E, F or G. Please refer to the instructions for Schedule I.		
A	B	C	D	E	F	G
Name Street Address City State Zip Code	Identification Number SSN/FEIN	Ownership %	Montana Source Income	Montana Corporation Tax Withheld. (Multiply column D by 6.75% and enter result.)	Montana Individual Tax Withheld. (Multiply column D by 6.9% and enter result.)	Consent Agreement (year)
1.	SSN					
	FEIN					
2.	SSN					
	FEIN					
Totals						

You may use a document formatted similarly to Schedule I as a substitute.

Form DER-1 General Information

What is a disregarded entity?

A disregarded entity is a business entity that chooses to be disregarded as a separate entity from its business owner for federal tax purposes. Most businesses, when they are set up, choose to be separated from their owners for liability reasons. But a disregarded entity chooses to be considered the same as the owner(s). This allows the business to be taxed as a pass-through entity on the business owner's personal or corporate income tax return.

Examples of disregarded entities include a domestic single member limited liability company (SMLLC) that does not elect to be classified as a corporation for federal tax purposes, a corporation that is a qualified REIT subsidiary, and a corporation that is a qualified subchapter S subsidiary.

Who is required to file Form DER-1?

A single-member limited liability company (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, if the entity is engaged in business in Montana and has Montana source income.

Exception: Form DER-1 is not required to be filed if the disregarded entity is a single member limited liability company whose sole member is an individual who has been a full-time Montana resident during the applicable reporting period.

The type of entity is selected when applying for an employer identification number (EIN) on federal Form SS-4 (Application for Employer Identification Number.) An eligible entity uses federal Form 8832 (Entity Classification Election) or federal Form 2553 (Election by a Small Business Corporation) to elect how it will be classified for federal tax purposes, as a corporation, a partnership, or an entity disregarded as separate from its owner.

An entity type other than SMLLC includes the following:

IRC § 761 Electing Partnership (Syndicate, Group, Pool, Joint Venture, or other Unincorporated Organization): Form DER-1 is required to be filed on or before 90 days after the date it makes the IRC 761 election. Other events which will require the filing of Form DER-1 within 90 days of the date include: (1) its 761 election is changed or revoked for federal tax purposes; (2) any capital or profit interest of any partner, member, or other owner is transferred, liquidated, or redeemed; (3) it is dissolved, liquidated, merged, or consolidated with another entity; (4) it sells substantially all its assets; or (5) it files an application for a certificate of withdrawal with the Montana Secretary of State.

Qualified Subchapter S Subsidiary as defined in IRC § 1361(b)(3): Any corporation described in IRC § 1361(b)(3) whose parent elects to be treated as a qualified subchapter S subsidiary and that has Montana source income, must file Form DER-1 on or before 90 days after the election is made. Other events which will require the filing of Form DER-1 within 90 days of the date include: (1) its qualified subchapter S subsidiary status is changed or

revoked for federal tax purposes; (2) its stock is transferred or redeemed; (3) it is dissolved, liquidated, merged, or consolidated with another entity; (4) it sells substantially all its assets; or (5) it files an application for a certificate of withdrawal with the Montana Secretary of State.

Qualified Real Estate Investment Trust Subsidiary as defined in IRC § 856(i)(2) (REIT): Any corporation defined as a qualified REIT subsidiary in IRC § 856(i)(2) that has Montana source income and the assets, liabilities, and items of income, deductions, and credits of which are included in the federal income tax return of its parent REIT, must file Form DER-1 on or before the due date of its parent REIT's information return.

Real Estate Mortgage Investment Conduit as defined in IRC § 860D (REMIC): Every unincorporated Real Estate Mortgage Investment Conduit (REMIC) described in IRC § 860D, that has Montana source income, must file a copy of its federal Form 1066 (Real Estate Mortgage Investment Conduit Income Tax Return) on or before the federal due date (including extensions). Generally, REMICs must file the Form 1066 by April 15th. However, if the entity will file its final return, Form 1066 is due by the 15th day of the 4th month following the date the REMIC ceased to exist.

What is Montana Source Income?

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 that you have 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?

If the Disregarded Entity is a:	Then the Form DER-1 is due:
Single Member Limited Liability Company whose single member owner is a:	
<ul style="list-style-type: none">• C corporation,• S corporation,• Real Estate Investment Trust (REIT)	On or before the 15th day of the third month following the close of the owner's annual accounting period.
Qualified Subchapter S Subsidiary	On or before the due date of the parent S corporation's information return.
Qualified REIT Subsidiary	On or before the due date of the parent REIT's information return.
<ul style="list-style-type: none">• Individual• Estate• Non-Grantor Trust• Partnership• Real Estate• Mortgage Investment Conduit (REMIC)	On or before the 15th day of the fourth month following the close of the owner's annual accounting period.
Electing IRC § 761 Partnership	On or before April 15, 2010
Any other single member LLC not described above.	On or before August 31, 2010

If the Disregarded Entity is a:	Then the Form DER-1 is due:
Entity Type Other than Single Member Limited Liability Company	
<ul style="list-style-type: none"> • IRC § 761 Electing Partnership (Syndicate, Group, Pool, Joint Venture, or other Unincorporated Organization) • Qualified Subchapter S Subsidiary as defined in IRC § 1361(b)(3). • Qualified Real Estate Investment Trust Subsidiary as defined in IRC § 856(i)(2) (REIT). • Real Estate Mortgage Investment Conduit as defined in IRC § 860D. (REMIC) 	See "Who is required to file Form DER-1?" regarding due date.

tax return, pay all taxes and be subject to the personal jurisdiction of Montana. The owner completes the agreement and returns it to the entity. The disregarded entity is not required to attach a new Form PT-AGR each year, but it has to attach currently effective agreements for each new nonresident owner. It also needs to retain these agreements along with its tax records.

- Form PT-STM (Montana Second Tier Pass-Through Entity Owner Statement) is executed by the second tier pass-through entity. This form identifies the owners of the second tier pass-through entity and establishes that its Montana source income will be fully accounted for in Montana individual or corporation tax returns that are filed by the owners of the second tier pass-through entity. We require Form PT-STM to be filed each year that the disregarded entity has a owner that is a pass-through entity that has as an owner, a nonresident individual, pass-through entity or foreign C corporation.

Where to File

Please 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, foreign C corporation or a pass-through entity as its owner during the year. A nonresident individual is a person who did not consider Montana as home at any time during the tax year even though they may have lived and worked in Montana temporarily during the tax year. A foreign C corporation is a C corporation that is engaged in or doing business in Montana. A pass-through entity is a partnership, S corporation, or disregarded entity. These filing requirements are:

- Schedule I (Montana Disregarded Entity Owner Information) identifies the owner or owners of the disregarded entity. If the entity has a nonresident individual, foreign C corporation, or second tier pass-through entity, the entity may be required to remit backup withholding to the Montana Department of Revenue on behalf of the owner as provided in 15-30-3313, Montana Annotated Code (MCA). The disregarded entity will have to remit amounts for those nonresident owners who did not file a consent agreement (PT-AGR) or statement (PT-STM).
- Form PT-AGR (Montana Pass-Through Entity Owner Tax Agreement) is executed by the nonresident individual or foreign C corporation that agrees to timely file a Montana

The entity is unable to obtain a signed Form PT-AGR or Form PT-STM 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 from the nonresident individual or foreign C corporation, or Form PT-STM from the second-tier pass-through entity owner, the entity is required to withhold tax from the owner's share of Montana source income reported on Schedule I, Column D. If the owner is a foreign C corporation, multiply the foreign C corporation's Montana source income by 6.75% to determine the amount of withholding.

If the owner is a nonresident individual, or a second-tier pass-through entity, multiply the owner's Montana source income by 6.9% to determine the amount of withholding.

Form PT-WH (Montana Income Tax Withheld for a Nonresident Individual, Foreign C Corporation or Second Tier Pass-Through Entity) is completed for each nonresident owner or second tier pass-through entity who has not provided the disregarded entity with a signed Form PT-AGR or Form PT-STM. The Form PT-WH is not filed with the disregarded entity information return. This form is provided to the nonresident owner to be included as Montana income tax withheld on the owner's Montana individual tax return (Form 2), corporation income tax return (Form CLT-4), partnership return (Form PR-1), S corporation return (Form CLT-4S) or estate or trust return (Form FID-3).

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, check the box.

Lines 1 through 4. Complete lines 1 through 4 as they relate to the disregarded entity and not the owner of the disregarded entity.

Line 5 – Disregarded Entity Type. First determine if the disregarded entity is a single member limited liability company (check box 5A) OR another entity type (check box 5B).

5A. Single Member Limited Liability Company (SMLLC). If you checked the box indicating the disregarded entity is a SMLLC, the next step is to check the appropriate box corresponding with the type of owner listed. For example, if the SMLLC is an S corporation, line 5A would show one check in box A and another check in the S corporation box.

5B. Entity Type Other than SMLLC. If you checked the box indicating an entity type other than SMLLC, please see the instructions for "Who is required to file Form DER-1?" to determine when the Form DER-1 is required to be filed. These particular entity types require certain events to occur in order to "trigger" a filing requirement.

If you checked the box indicating that you are an IRC § 761 partnership or an IRC § 1361(b)(3) qualified subchapter S subsidiary, enter the date of your federal election.

Line 6 – Owner Backup Withholding. Enter the total from Schedule I, column E or F. This is the total amount withheld on behalf of the nonresident owner(s). The owner(s) will claim this amount on their own Montana income tax returns.

Line 7 – Late Filing Penalty. A late filing penalty is charged 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. The penalty is \$10 multiplied by the number of owners at the close of the tax year for each month or fraction 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 owned by ten individuals and an S corporation files the Form DER-1 six months after its due date, the late file penalty would be \$550 (\$10 x 11 x 5 months).

Please Note: A late filing penalty is not imposed on an entity that has ten or fewer owners if the owners have filed the required tax returns or other required reports timely and have paid all taxes when due.

Line 8 – Late Payment Penalty. If the entity hasn't paid the tax liability (line 6) by the due date of the return, it will have to pay a late payment penalty. This penalty is 1.2% per month or fraction of a month on the tax liability that was not paid by the original due date. This penalty cannot exceed 12% of the tax liability on line 6.

Line 9 – Interest. Compute interest on any tax liability (line 6) that has not been paid by the due date of the tax return and enter the total here.

If 100% of the tax liability is not paid by the original due date, interest is due at a rate of 8% per year, computed daily on the unpaid balance.

To calculate the interest, multiply line 6 by 0.02192% (0.0002192) times the number of days after the unextended due date.

Line 10 – Total Tax, Penalties and Interest. Add lines 6 through 9; enter the result here.

Pay the amount due to the Montana Department of Revenue and include the FEIN or SSN and "FORM DER-1" in the memo section of the payment. Send your payment and Form DER-1 to:

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

Schedule I Instructions

Include all owners on this form. Except for an IRC § 761 partnership, the disregarded entity should have only one owner who owns 100% of the entity.

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 5A, enter the federal 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).

Column E and Column F. Enter the amount of backup withholding for each owner. For a foreign C corporation, the amount withheld is 6.75% of the Montana source income. For a nonresident individual or a second tier pass-through entity, the amount withheld is 6.9% of the Montana source income. Transfer the amount(s) of these columns to page 1, line 6 of the Form DER-1.

Column G – Consent Agreement. Enter the year that the agreement was provided to us. If you are providing the statement to us this year, enter "2009."

Please Note: If you need additional space, you may use a document formatted similarly to Schedule I as a substitute.