

# 2009 Montana Disregarded Entity Information Return

**D**  
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 of the disregarded entity _____  Address _____ If new address check here. <input type="checkbox"/>  City _____ State _____ Zip + 4 _____	FEIN or SSN: _____  Check this box if this FEIN or SSN is the same as the owner's FEIN or SSN. <input type="checkbox"/>
--	---	---

1. Enter your disregarded entity's business name if different from above \_\_\_\_\_
2. Enter the date that you incorporated or formed your disregarded entity \_\_\_\_\_
3. Enter the date that you registered your disregarded entity with the Montana Secretary of State \_\_\_\_\_
4. Enter the state or country where you incorporated or formed your disregarded entity \_\_\_\_\_
5. Disregarded Entity Type (Check appropriate entity type)
  - Single Member Limited Liability Company  
 You do not have to complete Montana Form DER-1 if your single member limited liability company is owned by a full-year Montana resident during the applicable reporting period.  
**Check only one single member limited liability company owner type.**
    - C corporation
    - Individual, Estate, or Non-Grantor Trust
    - S corporation
    - Partnership
    - Qualified Subchapter S Subsidiary
    - Real Estate Mortgage Investment Conduit (REMIC)
    - Real Estate Investment Trust (REIT)
    - Electing IRC § 761 Partnership
    - Qualified REIT Subsidiary
    - Any other single member not described above
  - 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.

**Late File Penalty**

6. Late file penalty (see instructions) ..... 6. \_\_\_\_\_

**Disregarded Entity Backup Withholding Payment from Schedule I (Enter the tax withheld for the owners.)**

7. Enter the total from Schedule I, Column E ..... 7. \_\_\_\_\_
8. Enter the total from Schedule I, Column F ..... 8. \_\_\_\_\_
9. Add lines 7 and 8, then enter the result. This is your total disregarded entity backup withholding. .... 9. \_\_\_\_\_
10. Add lines 6 and 9, then enter the result. **This is your total payment due.** ..... 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**

Disregarded entity name \_\_\_\_\_ Tax period ending \_\_\_\_\_

SSN/FEIN \_\_\_\_\_

**Disregarded Entity Owner Information**

Complete columns E through G for a nonresident individual, foreign C corporation or second tier pass-through entity owner

A		B			C	D	E	F	G
Owner 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 or statement (year)
1.		SSN							
		FEIN							
2.		SSN							
		FEIN							
3.		SSN							
		FEIN							
4.		SSN							
		FEIN							
5.		SSN							
		FEIN							
6.		SSN							
		FEIN							
7.		SSN							
		FEIN							
Column Totals									

Use additional sheets if necessary or 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 is disregarded as a separate entity from its owner for federal income tax purposes or is a Qualified Subchapter S Subsidiary that is not treated as a separate corporation under the Internal Revenue Code.

### Who is required to file Form DER-1?

A disregarded entity is required to file Montana Form DER-1 if the entity is engaged in business in Montana and has Montana source income.

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

### What is the due date of Form DER-1?

If your Disregarded Entity is a:	Then your Form DER-1 is due:
Single Member Limited Liability Company whose single member owner is a:	
<ul style="list-style-type: none"> <li>• C corporation,</li> <li>• S corporation,</li> <li>• Qualified Subchapter S Subsidiary,</li> <li>• Real Estate Investment Trust (REIT), or</li> <li>• Qualified REIT Subsidiary</li> </ul>	On or before the 15th day of the third month following the close of the owner's annual accounting period.
<ul style="list-style-type: none"> <li>• Individual, Estate or Non-Grantor Trust,</li> <li>• Partnership, or</li> <li>• Real Estate Mortgage Investment Conduit (REMIC)</li> </ul>	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.
IRC § 761 Electing Partnership (Syndicate, Group, Pool, Joint Venture, or other Unincorporated Organization)	On or before August 31, 2010.
Qualified Subchapter S Subsidiary as defined in IRC § 1361(b)(3).	On or before August 31, 2010.
Qualified Real Estate Investment Trust Subsidiary as defined in IRC § 856(i)(2) (REIT).	On or before the 15th day of the third month after the close of parent's REIT annual accounting period.
Real Estate Mortgage Investment Conduit as defined in IRC § 860D. (REMIC)	On or before the 15th day of the fourth month after close of the REMIC's annual accounting period.

### Where to File

Please mail your 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 Form DER-1 if its owner has a valid extension of time. The extended due date for Form DER-1 is the same as the federal extended due date for its owner. If the owner is not required to file a federal information return, the disregarded entity is allowed an automatic six month extension to file Form DER-1.

### 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 second tier 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 not 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, and where applicable, the amount of individual income or corporate license tax withheld from the owner.
- 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 tax return, pay all taxes and be subject to the personal jurisdiction of Montana. 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. Form PT-STM is required to be filed each year.

### I am unable to obtain a signed Form PT-AGR or PT-STM from the owner of the disregarded entity. What do I have to do?

If you are 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 of your disregarded entity you are 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.

Upon withholding from the owner's share, the disregarded entity is required to complete Form PT-WH notifying the owner of the amount of withholding remitted to the State of Montana. The owner may use this amount as a payment against their corporate license tax or individual income tax.

### **What happens if I am late in filing Form DER-1?**

A disregarded entity is charged a late file 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. For more information, see "Late Filing Penalty" below.

**Please Note:** A late file 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.

### **Form DER-1 Instructions**

**Heading.** Enter the name and address of the disregarded entity that is doing business in Montana.

**Federal Employer Identification Number (FEIN) or Social Security Number (SSN).** Enter the FEIN or SSN 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 located below.

**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.** Check only one of the five types of disregarded entities listed.

If you have checked the box indicating that you are a single member limited liability company, check the appropriate box that corresponds with the 10 types of owners listed under the single member limited liability company category.

If you have 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 – Late File Penalty.** A disregarded entity is charged a late file 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. 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).

**Line 7 – Montana Corporation Tax Withheld.** If the owner is a foreign C corporation and did not sign an agreement to file a Montana tax return, the disregarded entity is required to withhold tax at the rate of 6.75% on the corporation's Montana source income. Enter the amounts withheld for each owner and reported on Schedule I, Column E.

**Line 8 – Montana Individual Tax Withheld.** If the owner is a nonresident individual who did not sign an agreement to file a Montana tax return, the disregarded entity is required to withhold tax at the rate of 6.9% on that individual's Montana source income. Enter the amounts withheld for each owner and reported on Schedule I, Column F.

**Line 10 – Total Payment Due.** Add lines 6 and 9. This is the total amount that you should remit with your information return. To assure proper application of your payment, include your 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**

Except for an IRC § 761 partnership, the disregarded entity should have only one owner who owns 100% of the disregarded entity.

**Column A – Name and Address of Owner.** Enter the name and complete mailing address of each owner. Include the street address, city, state and zip code.

**Column B – Identification Number.** If the owner is an individual, enter the social security number (SSN). If the owner is an individual filing federal Schedule C, enter the individual's SSN.

If the owner is a C corporation, enter the federal identification number (FEIN). If the owner is a single member limited liability company owned by an S corporation, enter the S corporation's FEIN.

**Column C - Percentage of Ownership.** Enter each owner's percentage of ownership. Generally, this is 100% unless the disregarded entity is an IRC § 761 partnership.

**Column D – Montana Source Income.** Enter the owner's share of the disregarded entity's Montana source income, gain, loss, deduction or credit.

**Column E – Montana Corporation Tax Withheld.** If the owner is a foreign C corporation, multiply the amount in column D by 6.75% and enter the result in this column.

**Column F – Montana Individual Tax Withheld.** If the owner is a nonresident individual or a second tier pass-through entity, multiply the amount in column D by 6.9% and enter the result in this column.

**Column G – Consent Agreement or Statement.** The information supplied in this column is for nonresident owners who will be filing a Montana tax return. An owner is considered a nonresident if the individual owner is not a Montana resident. A disregarded entity is not required to complete and attach a new agreement each year as long as we have an up-to-date Form PT-AGR for that owner. You only need to provide Form PT-STM for a second tier pass-through entity that has a nonresident owner. If the owner is a second tier pass-through entity, we have to receive a new Form PT-STM each year. In column G, enter the year that the form was provided to us or attach copies of up-to-date, signed agreements and statements and enter "2009" in column G.