Wisconsin Department of Revenue

Credit for Tax Paid to Another State

- Individuals
- Estates
- Trusts
- S Corporations, Partnerships, and Limited Liability Companies Electing to be Taxed at the Entity Level

Publication 125 (12/20)

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IMPORTANT CHANGES

Use this publication in preparing your 2020 tax return. There are no substantive differences between the 2019 and 2020 versions of this publication.

1. INTRODUCTION

A Wisconsin resident (person domiciled in Wisconsin) may be subject to the income tax laws of both Wisconsin and another state. This may occur, for example, when the Wisconsin resident is employed outside Wisconsin, rents or sells property located outside Wisconsin, operates a business or profession outside Wisconsin, or has certain gambling winnings outside Wisconsin.

Two methods exist to prevent the same income from being taxed by more than one state. These methods are:

- Credit for net tax paid to another state
- Reciprocity

This publication provides information on the credit for net tax paid to another state.

For information on reciprocity, see Publication 121, *Reciprocity.* You may obtain this publication from any Department of Revenue office or from our internet website at revenue.wi.gov.

Note: This publication refers to S corporations throughout. For Wisconsin tax purposes, a "tax-option (S) corporation" is defined as a corporation which is treated as an S corporation under Subchapter S of the Internal Revenue Code as amended to December 31, 2017, and has not elected out of tax-option corporation status under sec. 71.365(4)(a), Wis. Stats., for the current taxable year.

2. WHO MAY CLAIM THE CREDIT

A. Types of Taxpayers Who May Qualify

The credit for net tax paid to another state is available to individuals, estates, and trusts, and S corporations, partnerships, and limited liability companies (LLCs) treated as partnerships making the election to be taxed at the entity level. S corporations, partnerships, and LLCs making the election to be taxed at the entity level may claim a credit for net tax paid to another state by the entity on their income or on net tax paid on behalf of its shareholders, partners, or members on a composite income tax return filed with the other state.

Note: If you are a Wisconsin resident shareholder of an S corporation, partner of a partnership, or member of an LLC, you may claim the credit based on income and franchise taxes paid by the corporation, partnership, or LLC to another state if the income taxed by the other state is considered income for Wisconsin tax purposes, unless the S corporation, partnership, or LLC elected to be taxed at the entity level. See Part 7 on page 13 for information relating to S corporations, partnerships, and LLCs electing to be taxed at the entity level and Part 8 on page 14 for information relating to S corporations and their shareholders, partnerships and their partners, and LLCs and their members.

B. Qualifications

You qualify to claim the credit for net tax paid to another state if the following requirements are met:

- You paid a net income tax to another state
- In the case of an S corporation, partnership, or LLC, a net income or franchise tax was paid to another state
- The income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year
- For individuals, estates, and trusts, you were a Wisconsin resident at the time the income was considered taxable
- For S corporations, partnerships, or LLCs making the election to be taxed at the entity level, the income would have been reportable by the shareholder, partner, or member if the election had not been made

Example 1: You were a Wisconsin resident from January 1 through August 31, 2020. During this period of time you were employed in Iowa. You received wages of $20,000 from your Iowa employer while you were a Wisconsin resident. The $20,000 is taxable by both Iowa and Wisconsin. You file an Iowa income tax return and pay a net income tax to Iowa based on the $20,000 of wage income.

You qualify to claim a credit for net tax paid to Iowa because all of the following apply:

- You paid a net income tax to another state
- The income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year
- You were a Wisconsin resident at the time the income was considered taxable

Example 2: You were a Wisconsin resident from January 1 through July 31, 2020. During this period of time you were employed in Wisconsin. You quit your Wisconsin job and became a resident of Iowa on August 1, 2020. While a resident of Iowa, you received a check from your Wisconsin employer for $1,000 which was payment for wages earned while you were a Wisconsin resident. The $1,000 is taxable by both Iowa and Wisconsin. You file an Iowa income tax return and pay a net income tax to Iowa for 2020.

You may **not** claim the Wisconsin credit for tax paid to Iowa. Even though you paid a net income tax to another state and the income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year, you were **not** a Wisconsin resident at the time the income was received (i.e., considered taxable).

Example 3: You were a Wisconsin resident for the entire year. On a trip during the year, you had gambling winnings of $3,000 from a casino located in Mississippi. Three per cent ($90) was withheld from the winnings as tax. You are not required to file a Mississippi income tax return to report the winnings nor will you receive a refund for any Mississippi tax withheld. You may **not** claim the $90 as a credit for net tax paid to another state. The three percent tax is a tax on gross income and does not qualify for the credit. Only "net income tax" qualifies for the credit.

Example 4: You were a Wisconsin resident for the entire year. You are self-employed, receive income from New York sources, and have an employee who works in New York for you. New York imposes a Metropolitan Commuter Transportation Mobility Tax (MCTMT) on employers and it is calculated based on payroll expenses. You may not claim a credit for net tax paid to another state since this tax is not imposed on net income.

C. Tax Must Be an Income or Franchise Tax

The tax paid to the other state must have been an income or franchise tax in order to qualify for the credit. You may not claim credit for other taxes paid which are not income or franchise taxes, such as a severance tax, personal property tax, sales and use tax, or real estate tax.

D. "State" Defined

"State" means the 50 states of the United States and the District of Columbia. It does not include the Commonwealth of Puerto Rico or the several territories organized by Congress. The credit is not allowed for income or franchise tax paid to a county, city, village, or town, unless that tax is paid directly to the state. It is also not allowed for tax paid to a foreign country.

Example 1: You were a Wisconsin resident for the entire year. You work in Indiana during 2020 and received wages of $20,000. You file an Indiana income tax return for 2020 and pay an Indiana county tax to the state of Indiana on the wages received. Since the Indiana county tax is paid to the state of Indiana, and is a tax on net income, you may claim a credit for net tax paid to another state on your 2020 Wisconsin income tax return for the amount taxable to both Wisconsin and Indiana.

Example 2: You were a Wisconsin resident for the entire year. You worked briefly in Maryland and earned wages of $25,000. You file a Maryland tax return for 2020 and pay a Maryland local income tax to the state of Maryland on the wages received. Since the Maryland local income tax is a tax on net income and paid to the state of Maryland, you may claim a credit for net tax paid to another state on your 2020 Wisconsin income tax return for the amount taxable to both Wisconsin and Maryland.

Example 3: You were a Wisconsin resident for the entire year. You have self-employment income taxable to the city of Philadelphia and must pay a business income and receipts and net profits tax. While the tax is a tax on net income, it is paid to the city of Philadelphia and, therefore, does not qualify for the credit for tax paid to another state.

Example 4: You were a Wisconsin resident for the entire year. You own multiple rental properties in California and receive $1,500,000 in net rental income. Since your California source taxable income is greater than $1,000,000, you must pay the mental health services tax on your income tax return. Since the tax is a tax on net income and paid to the state of California, it qualifies as a credit for net tax paid to another state. You may claim a credit for net tax paid to another state on your 2020 Wisconsin income tax return for the amount taxable to both Wisconsin and California.

Example 5: You were a Wisconsin resident for the entire year. You are self-employed and receive income from New York sources. New York imposes a MCTMT based on net earnings from self-employment income. Since the tax is a tax on net income and paid to the state of New York, it qualifies as a credit for net tax paid to another state. You may claim a credit for net tax paid to another state on your 2020 Wisconsin income tax return for the amount taxable to both Wisconsin and New York.

E. Reciprocal States

You may not claim a credit for tax paid to another state on income which is subject to a reciprocity agreement. For 2020, Wisconsin has reciprocity agreements with Illinois, Indiana, Kentucky, and Michigan.

Under the reciprocity agreements, these four states generally will not tax certain earned income (for example, wages, salaries, tips, etc.) earned in these states by Wisconsin residents, and Wisconsin will not tax the earned income earned in Wisconsin by residents of those states. Because income that is subject to a reciprocity agreement is taxed by only one state, the credit is not available. You may claim the credit only if the same income is taxed by both Wisconsin and another state.

3. HOW TO COMPUTE THE CREDIT

A. Complete Return for Other State

Before computing your Wisconsin credit for tax paid to another state, first complete an income tax return for the other state to determine the amount of your net tax. Net tax paid to another state is the gross tax less all credits (both nonrefundable and refundable credits).

Caution: The credit for tax paid to another state is not based on the tax withheld for the other state or your estimated tax payments to the other state.

B. Complete Schedule OS

If you are an individual, estate, or trust, complete Wisconsin Schedule OS to determine your credit for tax paid to another state. You must attach a copy of Schedule OS, *Credit for Net Tax Paid to Another State*, and a copy of your tax return from the other state to your Wisconsin income tax return.

You may obtain Schedule OS from any Department of Revenue office or from our internet website at revenue.wi.gov.

C. Complete Schedule ET-OS

If you are a Wisconsin S corporation, partnership, or LLC and elected to be taxed at the entity level, complete Schedule ET-OS, *Credit for Net Tax Paid to Another State*.

D. If All of the Income Taxed by the Other State is Considered Income for Wisconsin

If all of the income taxed by the other state is considered income for Wisconsin tax purposes, your credit for tax paid to another state is equal to the lesser of the following:

- Your Wisconsin net tax liability (line 10 of 2020 Form 1 less the amounts on lines 11 through 16, line 46 of 2020 Form 1NPR less the amounts on lines 47 through 50, line 6c of 2020 Form 2 less the amount on line 7, line 18 of 2020 Schedule 5S-ET, or line 19 of 2020 Schedule 3-ET)
- The amount of net tax paid to the other state on income that is taxable to Wisconsin
- The amount of Wisconsin net tax paid on the income subject to tax in the other state

Note: The third limitation does not apply to income that is taxed by Minnesota, Illinois, Iowa, or Michigan. Net tax is the gross tax less all nonrefundable and refundable credits.

Example 1: You were a Wisconsin resident for all of 2020. You worked part of the year in Iowa. The wages you earned in Iowa are taxable by both Iowa and Wisconsin. The amount of Iowa tax that was withheld from your wages was $140. The net tax computed on your 2020 Iowa income tax return is $100. You will receive a $40 refund from Iowa. Your Wisconsin net tax paid on the wages subject to tax in Iowa is $100. Your Wisconsin credit for tax paid to Iowa is $100, assuming your Wisconsin net tax (before deducting the credit) is at least $100.

Example 2: You were a Wisconsin resident for all of 2020. You paid $1,240 of net income tax to New York for 2020 on income of $20,000. Your 2020 Wisconsin net income is as follows:

Income taxable by both Wisconsin and New York	$20,000
Wisconsin income	$30,000

Your 2020 Wisconsin net tax (before deducting the credit for net tax paid to another state) is $1,080. The amount of net tax paid on the income subject to tax in the other state is $720. This is figured using the following formula:

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Wisconsin income}} \times \text{Net income tax paid to Wisconsin} = \text{Maximum credit}$$

This is figured as:

$$\frac{\$20{,}000}{\$30{,}000} \times \$1{,}080 = \$720$$

Since the lesser of the 3 amounts (1,240 of net income tax paid to New York, $1,080 of Wisconsin net tax, and $720 of net tax paid on the income subject to tax in the other state) is $720, this is the amount allowed for credit as net tax paid to another state.

E. If Only Part of the Income Taxed by the Other State is Considered Income for Wisconsin

If only part of the income taxed by the other state is considered income for Wisconsin tax purposes (for example, 100% of the capital gain from the sale of assets held more than one year is taxed by various other states, but only 70% (40% for gain on farm assets) is taxed by Wisconsin), use the following formula to determine the amount of credit you may claim.

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Total income taxable by other state}} \times \text{Net tax paid to another state} = \text{Tentative credit}$$

Note: The above formula is used when completing lines 21 through 23, and, in the case of tax paid by an S corporation, LLC, or partnership, lines 27 through 29 of Schedule OS. The above formula is also used when completing lines 3 through 5, and in the case of tax paid on behalf of Wisconsin resident members on a composite return, lines 8 through 10 of Schedule ET-OS in the case of tax paid by an S corporation, partnership, or LLC electing to be taxed at the entity level.

The credit is limited to the lesser of the following:

- Your Wisconsin net tax liability (line 10 of 2020 Form 1 less the amounts on lines 11 through 16, line 46 of 2020 Form 1NPR less the amounts on lines 47 through 50, line 6c of 2020 Form 2 less the amount on line 7, line 18 of 2020 Schedule 5S-ET, or line 19 of 2020 Schedule 3-ET)
- The amount of net tax paid to the other state on income that is taxable to Wisconsin
- The amount of Wisconsin net tax paid on the income subject to tax in the other state

Note: The third limitation does not apply to income that is taxed by Minnesota, Illinois, Iowa, or Michigan. Net tax is the gross tax less all nonrefundable and refundable credits.

Example 1: Credit based on long-term capital gain. You were a Wisconsin resident for all of 2020. You sold land in Illinois in 2020 and realized a gain of $20,000 on the sale. The entire gain is taxable by Illinois, but only 70% ($14,000) is taxable by Wisconsin. You had no other gain or loss allocable to Illinois. You completed an Illinois income tax return and paid a net tax to Illinois of $1,140. Using the formula in section E on page above, your Wisconsin credit for net tax paid to Illinois is $798, computed as follows:

$$\frac{\$14{,}000}{\$20{,}000} \times \$1{,}140 = \$798$$

Note: When completing Schedule OS, in this example $14,000 would be filled in on line 19 as income taxable to both Wisconsin and the other state. The $20,000 would be filled in on line 20 as total income taxed by the other state. Since the tax was paid to Illinois, the third limitation referenced on page 7 does not apply.

Example 2: Credit based on long-term capital gain and capital loss. You were a Wisconsin resident for all of 2020. You sold real estate located in California and realized a $30,000 long-term capital gain. The entire gain is taxable by California. You had no other income or loss allocable to California. The net income tax paid to California for 2020 was $1,950.

For Wisconsin tax purposes, you have a capital loss carryover to 2020 of $13,000. The net capital gain taxable by Wisconsin is as follows:

Long-term capital gain from sale of California real estate	$30,000
Less capital loss carryover	-13,000
Net long-term capital gain	17,000
Less 30% capital gain exclusion	-5,100
Wisconsin taxable amount	$11,900

In addition to the $11,900, you have other income taxable to Wisconsin and compute a Wisconsin net tax (before deducting a credit for tax paid to California) of $2,350 based on $65,200 of income.

Because Wisconsin did not tax the same amount of capital gain as California, the credit for tax paid to California must be computed using the formula in section E on page 7. The amount of capital gain considered income for Wisconsin and included in the numerator of the formula as income taxable by both Wisconsin and California is $24,900 ($13,000 which is included in Wisconsin income but offset by the capital loss carryover plus $11,900 which is taxable after the capital gain exclusion is applied). The tentative credit for net tax paid to California is $1,619, computed as follows:

$$\frac{\$24{,}900}{\$30{,}000} \times \$1{,}950 = \$1{,}619$$

To figure the credit allowable, the third limitation must be figured, as referenced on page 7. The formula in section D on page 7 is used:

$$\frac{\$24{,}900}{\$65{,}200} \times \$2{,}350 = \$897$$

Since the lesser of the 3 amounts is $897, this is the amount allowed as credit for net tax paid to another state.

Note: When completing Schedule OS, in this example $24,900 would be filled in on line 19 as income taxable to both Wisconsin and the other state. The $30,000 would be filled in on line 20 as total income taxed by the other state and $1,950 would be filled in on line 22 as the net tax from the other state's income tax return. The $65,200 would be filled in on line 31 as Wisconsin income and $2,350 would be filled in on line 33 as Wisconsin net income tax.

Example 3: Credit based on more than one long-term capital gain and capital loss. You were a Wisconsin resident for all of 2020. You sold real estate located in California and realized a $20,000 long-term capital gain. The entire gain is taxable by California. You also had a $10,000 gain taxable by Wisconsin on the sale of stock held more than one year and a $4,000 long-term Wisconsin capital loss carryover.

Because Wisconsin did not tax the same amount of capital gain as California, the credit for tax paid to California must be computed using the formula. When determining the income taxable by both Wisconsin and the other state, a portion of the capital loss is allocated to each long-term capital gain. The gain taxable by both California and Wisconsin is determined as follows:

Long-term capital gain from sale of California real estate	$20,000
Portion of capital loss used to offset gain	2,667
$\frac{\$20,000}{\$30,000} \times \$4,000 = \$2,667$	
Balance	17,333
Less 30% capital gain exclusion	5,200
Taxable amount	$12,133

The amount of capital gain taxable by both Wisconsin and California is $14,800 ($2,667 which is included in Wisconsin income but offset by the capital loss carryover, plus $12,133 which is taxable after the capital gain exclusion is applied).

Note: When completing Schedule OS, in this example $14,800 would be filled in on line 19 as income taxable to both Wisconsin and the other state.

Example 4: Credit based on partnership income and long-term capital gain. You were a Wisconsin resident for all of 2020. You were a general partner in XYZ Partnership, which had nonunitary operations in Wisconsin and Ohio. Since the Wisconsin and Ohio operations were nonunitary, the partnership determined its 2020 income or loss from Wisconsin operations and Ohio operations by means of separate accounting. The partnership had the following income (loss):

	Wisconsin Operations	Ohio Operations	Total Operations
Ordinary income (loss)	$ (1,500)	$ 500	$ (1,000)
Capital gain	3,000	5,000	8,000

On your 2020 Ohio income tax return, you reported ordinary income of $500 and capital gain income of $5,000. You paid net income tax of $500 to Ohio. Since you were a full-year Wisconsin resident, you were required to report on your Wisconsin income tax return your distributive share of XYZ Partnership's entire income or loss, regardless of where it was earned or incurred. On your Wisconsin return, you reported an ordinary loss of $1,000 and capital gain income of $5,600 (70% of $8,000). Net income tax paid to Wisconsin, before figuring the credit for net tax paid to another state, is $166.

The tentative credit allowed is $364 for tax paid to Ohio. This credit is computed as follows:

$$\frac{\$4,000}{\$5,500} \quad X \quad \$500 \quad = \quad \$364$$

The numerator of the formula (income taxable by both Wisconsin and Ohio) consists of the $500 of partnership ordinary income and $3,500 of capital gain income (70% of the $5,000 capital gain income taxed by Ohio is taxable by Wisconsin). The $500 of partnership ordinary income is considered taxable by Wisconsin because the ordinary income or loss from both Wisconsin and Ohio operations is included in Wisconsin adjusted gross income.

The denominator of the formula (total income taxable by Ohio) consists of the $500 of ordinary income and $5,000 of capital gain that was taxable by Ohio.

To figure the third limitation, as referenced on page 7, use the following:

$$\frac{\$4{,}000}{\$4{,}600} \quad X \quad \$166 \quad = \quad \$144$$

The numerator of the formula (income taxable by both Wisconsin and Ohio) consists of the amount as figured above ($500 of partnership ordinary income and $3,500 of capital gain income). The denominator of the formula is the Wisconsin income of $4,600 ($5,600 of capital gain income less $1,000 of ordinary loss).

Since the lesser of the 3 amounts is $144, this is the amount allowed as credit for net tax paid to another state.

Note: When completing Schedule OS, in this example $4,000 would be filled in on line 19 as income taxable to both Wisconsin and the other state. The $5,500 would be filled in on line 20 as total income taxed by the other state and $364 would be filled in on line 22 as net tax paid from the other state's income tax return. The $4,600 would be filled in on line 31 as Wisconsin income and $166 would be filled in on line 33 as Wisconsin net income tax.

Example 5: All income taxable by other state not taxable by Wisconsin. You were a California resident until July 1, 2020, when your employer transferred you to Wisconsin and you became a Wisconsin resident. You decided to rent out your California home while waiting for it to sell and realized net rental income of $1,500 between July 1, 2020, and December 31, 2020. You received wages of $25,000 and $350 of interest income while a California resident. Your taxable income for California is $26,850 and your net tax paid to California is $1,600. Your net tax paid to Wisconsin, before figuring the credit for net tax paid to another state, is $54.

Your rental income is taxable by both Wisconsin and California. Because Wisconsin did not tax the wage and interest income you received while a California resident, you must use the formula in section E on page 7 to compute your tentative credit for tax paid to California. The tentative credit for tax paid to California is $89, computed as follows:

$$\frac{\$1{,}500}{\$26{,}850} \quad X \quad \$1{,}600 \quad = \quad \$89$$

To figure the third limitation, as referenced on page 7, use the formula in section D on page 7:

$$\frac{\$1{,}500}{\$1{,}500} \quad X \quad \$54 \quad = \quad \$54$$

Since the lesser of the 3 amounts is $54, this is the amount allowed as credit for net tax paid to another state.

Note: When completing Schedule OS, in this example $1,500 would be filled in on line 19 as income taxable to both Wisconsin and the other state. The $26,850 would be filled in on line 20 as total income taxed by the other state and $89 filled in on line 22 as the net tax paid from the other state's tax return. The $1,500 would be filled in on line 31 as Wisconsin income and $54 filled in on line 33 as Wisconsin net income tax.

F. Minimum Tax

You may claim a credit for minimum tax paid to another state if (1) the minimum tax is classified as an income tax, and (2) the income taxed by the other state is also considered income by Wisconsin.

Note: If you have questions about whether another state's minimum tax is classified as an income tax, you may contact the department by:

Email: DORIncome@wisconsin.gov

Write: Mail Stop 5-77
Customer Service Bureau
Wisconsin Department of Revenue
PO Box 8949
Madison WI 53708-8949

Call: (608) 266-2486

Example 1: You were a Wisconsin resident for all of 2020. You own a building in Iowa. Your 2020 net income from the rental of this building was $20,000. Your total Wisconsin income is $110,000. You paid $800 of Iowa state income tax on this rental income. You also paid $100 of Iowa minimum income tax based on a tax preference item of $7,000 for depreciation. The Iowa minimum income tax is classified as an income tax.

Your 2020 Wisconsin net tax (before deducting a credit for tax paid to Iowa) is $4,000. The Iowa rental income is included as taxable income in the computation of the Wisconsin income tax.

Your Wisconsin tentative credit for net tax paid to Iowa is $800. Since Wisconsin no longer has an alternative minimum tax, no tax was paid on the $7,000 of the tax preference item for Wisconsin purposes.

Your Wisconsin maximum credit, as figured by the third limitation referenced on page 7, is $727 ($20,000 / $110,000 x $4,000). Therefore, the lesser of the 3 amounts is $727 and this is the amount allowed as net tax paid to another state.

4. WHEN TO CLAIM THE CREDIT

A. Credit Allowed for Year Income Taxable

The credit for tax paid to another state may be claimed on the Wisconsin income tax return for the year in which the out-of-state income is considered income for Wisconsin tax purposes. For example, if income is taxable on a 2020 Wisconsin income tax return, the credit for tax paid to another state on such income may only be claimed on the 2020 Wisconsin income tax return, regardless of when the tax is actually paid to the other state.

Example 1: You were a full-year resident of Wisconsin during 2020. You sold real estate located in California in 2020. The gain is reported on both your 2020 California and Wisconsin income tax returns. You paid the tax to California in 2021 at the time you filed your California income tax return. You may claim a credit for tax paid to California on your 2020 Wisconsin income tax return even though the tax was paid in 2021.

Example 2: You were a full-year resident of Wisconsin during 2020. In 2020, you received income of $4,000 from rental property located in Iowa. You made estimated tax payments to Iowa of $150 in 2020 and $50 in January 2021. The Iowa income of $4,000 is reported as income on both your 2020 Iowa and Wisconsin returns. The 2020 Iowa income tax return shows the following:

Iowa rental income	$ 4,000
Iowa net tax	$ 185
Estimated tax payments	200
Refund	$ 15

You may claim a credit for net tax paid to Iowa on your 2020 Wisconsin income tax return even though a part of the net tax was paid in 2021.

B. No Refund or Carry Forward of Unused Credit

If the credit for net tax paid to another state is not entirely offset against Wisconsin tax for the year, the balance of the credit may not be refunded to you nor carried forward to subsequent years.

C. Claim Credit Within Four Years

The credit for tax paid to another state must be claimed within four years of the unextended due date of the Wisconsin income tax return. For example, a credit for a 2020 calendar year return (due April 15, 2021) must be claimed by April 15, 2025.

Note: If a due date falls on a Saturday, Sunday, or legal holiday, the due date is the following business day.

Example: You filed your 2014 Wisconsin income tax return on April 15, 2015. Partnership income of $20,000 was included on your 2014 Wisconsin return. You did not file an income tax return with any other state at that time.

During 2020 it was determined that you should have filed a 2014 Minnesota income tax return as the partnership income was also taxable by that state. You filed a 2014 Minnesota income tax return and paid tax of $1,200 to Minnesota during 2020.

You may not claim a credit on your 2020 Wisconsin income tax return for the 2014 tax paid to Minnesota in 2020. The credit could have been claimed only on your 2014 Wisconsin income tax return. Since the credit must be claimed within four years of the unextended due date of the 2014 Wisconsin return, an amended 2014 Wisconsin return may not be filed to claim the credit for tax paid to Minnesota in 2020. In this example, you would have had to claim the credit by April 15, 2019.

5. HOW TO CLAIM THE CREDIT

A. Individuals

Claim the credit on line 17 of the 2020 Form 1 or line 51 of the 2020 Form 1NPR. The amount of credit claimed may not exceed the tax shown on line 10 of the 2020 Wisconsin Form 1 less the amounts on lines 11 through 16 or line 46 of the 2020 Form 1NPR less the amounts on lines 47 through 50.

B. Estates and Trusts

Claim the credit on line 8 of the 2020 Form 2. The amount of credit claimed may not exceed the net tax shown on line 6c of the 2020 Form 2 less the amount on line 7.

C. S Corporations

Claim the credit on line 19 of the 2020 Schedule 5S-ET, *Entity Level Tax Computation*. The amount of credit may not exceed the net tax shown on line 18 of the 2020 Schedule 5S-ET.

D. Partnerships and Limited Liability Companies

Claim the credit on line 20 of the 2020 Schedule 3-ET, *Entity Level Tax Computation*. The amount of credit may not exceed the net tax shown on line 19 of the 2020 Schedule 3-ET.

E. Enclosures With the Return

For individuals, estates, and trusts, enclose schedule OS and a complete copy of the other state's income tax return and withholding statements (Forms W-2, W-2G, or 1099), if any, with the Wisconsin income tax return.

For S corporations, partnerships, and LLCs electing to be taxed at the entity level, a completed Schedule ET-OS must be enclosed with Schedule 5S-ET or 3-ET. In addition, enclose a copy of the S corporation's, partnership's, or LLC's income or franchise tax return from the other state. If the entity is claiming credit for tax paid to another state on behalf of their shareholders, partners, or members on a composite income tax return, enclose a copy of the composite income tax return from the other state.

Shareholders of S corporations, partners of partnerships, and members of LLCs are required to enclose additional information with their Wisconsin returns. See "Enclosures with the Wisconsin Return" in section B of Part 8 on page 16 for further information.

6. CHANGES TO OTHER STATE'S RETURN

If you claim a credit for tax paid to another state and you later file an amended return with that other state, you must also file an amended Wisconsin return if the changes to the other state's return affect the amount of your Wisconsin credit for net tax paid to another state. The amended Wisconsin return must be filed within 90 days of the date the amended return was filed with the other state.

7. S CORPORATIONS, PARTNERSHIPS, AND LIMITED LIABILITY COMPANIES ELECTING TO BE TAXED AT THE ENTITY LEVEL

If a Wisconsin S corporation, partnership, or LLC operates in any state other than Wisconsin and the corporation must pay income or franchise taxes to that state on or measured by the income earned there, the entity may claim credit for such taxes paid. If the S corporation, partnership, or LLC paid tax to the other state on behalf of their shareholders, partners, or members on a composite income tax return, only the S corporation, partnership, or LLC may claim the credit and not the shareholders, partners, or members.

A. What Taxes Qualify for the Credit?

Income and franchise taxes that are measured by income and paid to another state by a Wisconsin S corporation, partnership, or LLC may be claimed as a credit by that corporation. The following examples illustrate various types of taxes that do and do not qualify for the credit. While the examples refer to S corporations, they also apply to partnerships and LLCs when the partnership or LLC is subject to the same type of tax.

Example 1: New York taxes. New York imposes a corporate level tax on S corporations. The tax is equal to the fixed dollar minimum tax. The fixed dollar minimum tax is determined by the corporation's New York receipts.

Federal S corporations that do not elect New York S corporation status are subject to the New York corporation franchise tax which is imposed on whichever of the following bases results in the greatest franchise tax liability:

(a) Business income

(b) Capital

(c) A fixed dollar minimum tax that varies based on the corporation's New York receipts

Corporations paying the franchise tax on net income start with federal taxable income (before the net operating loss deduction and special deductions) and make various New York modifications.

A Wisconsin S corporation elects to be taxed at the entity level for Wisconsin purposes. The S corporation may claim a credit for tax paid to New York if the tax is based on business income and the income is also considered income for Wisconsin income tax purposes.

The New York fixed dollar minimum tax paid by an S corporation does not qualify for the credit for tax paid to another state. In addition, the franchise tax based on capital does not qualify for the credit.

Example 2: Pennsylvania taxes. As of January 1, 2016, Pennsylvania only has a corporate net income tax.

The capital stock/foreign franchise tax has been eliminated for tax years beginning January 1, 2016, and after. The corporate loans tax was repealed for tax years beginning after December 31, 2013.

Pennsylvania S corporations are not subject to the corporate net income tax unless they have built-in gains. Their taxable income is their net recognized built-in gains as determined for federal income tax purposes. A Wisconsin S corporation may not claim a credit for the Pennsylvania built-in gains tax since these taxes are not imposed on the corporation's net income.

Example 3: Washington business and occupation tax. Washington imposes a business and occupation tax for the act or privilege of engaging in business activities within that state. The tax is measured by the application of rates against the value of various bases, such as the value of products manufactured, gross proceeds of sales, or gross income.

An S corporation elects to be taxed at the entity level for Wisconsin purposes. The S corporation may not claim credit for the Washington business and occupation tax since it is not measured by net income.

Example 4: Kentucky limited liability entity tax (LLET). The Kentucky LLET is a tax of each non-exempt corporation and limited liability tax pass-through entity doing business in Kentucky. The LLET is measured by gross receipts or gross profits, with a minimum tax of $175. Gross receipts include, but is not limited to, sales, rent proceeds from the sale of real and tangible personal property, interest, and dividends.

If the entity is subject to the minimum LLET or the tax is measured by gross receipts, the entity may not claim a credit for the Kentucky LLET paid by the entity. If the entity's tax is measured by gross profit, the entity may claim a credit for the Kentucky LLET paid by the entity.

8. SHAREHOLDERS OF S CORPORATIONS, PARTNERS OF PARTNERSHIPS, AND MEMBERS OF LIMITED LIABILITY COMPANIES TREATED AS PARTNERSHIPS

If an S corporation, partnership, or LLC operates in any state other than Wisconsin and either the corporation or its shareholders, the partnership or its partners, or the LLC or its members must pay income or franchise taxes to that state on or measured by the income earned there, Wisconsin resident shareholders, partners, or members may claim credit for their pro rata share of such taxes paid. The credit is allowable only if the income taxed by the other state is considered income for Wisconsin tax purposes and the credit is subject to the third limitation as referenced on page 7.

A. What Taxes Qualify for the Credit?

Income and franchise taxes that are measured by income and paid to another state by an S corporation, partnership, or by an LLC may be claimed as a credit by Wisconsin resident shareholders of that corporation, partners of that partnership, or members of that LLC.

The following examples illustrate various types of taxes that do and do not qualify for the credit. While the examples refer to S corporations and their shareholders, they also apply to partnerships and their partners and LLCs and their members when the partnership or LLC is subject to the same type of tax.

Example 1: Illinois replacement tax. The Illinois replacement tax is imposed on an S corporation’s net income. The net income is computed by combining the corporation’s federal ordinary income or loss and separately stated items of income, loss, and deduction and then making various Illinois additions and subtractions.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the Illinois replacement tax paid by an S corporation, provided the income taxed by Illinois is also considered income for Wisconsin.

Example 2: Michigan business tax. The Michigan business tax is imposed on persons or unitary business groups doing business or having business activity in the state of Michigan. The tax has two components: (1) a 4.95% tax on business income, and (2) a 0.8% modified gross receipts tax.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the Michigan business tax paid by the S corporation, provided the income taxed by Michigan is also considered income for Wisconsin. The business income component and the modified gross receipts tax component both qualify for the credit.

Example 3: Minnesota taxes. Minnesota imposes taxes based on the federal taxes for built-in gains, capital gains, and excess passive income of S corporations. In addition, a minimum fee, based on the sum of the property, payroll, and sales attributable to Minnesota, applies to all S corporations.

A Wisconsin resident shareholder may not claim a credit for his or her pro rata share of the S corporation's built-in gains tax, capital gains tax, or excess passive income tax paid to Minnesota since these taxes are not imposed on the corporation's net income. In addition, the Minnesota minimum fee does not qualify for the credit for tax paid to another state.

Example 4: New York taxes. New York imposes a corporate level tax on S corporations. The tax is equal to the fixed dollar minimum tax. The fixed dollar minimum tax is determined by the corporation's New York receipts.

Federal S corporations that do not elect New York S corporation status are subject to the New York corporation franchise tax which is imposed on whichever of the following bases results in the greatest franchise tax liability:

(a) Business income

(b) Capital

(c) A fixed dollar minimum tax that varies based on the corporation's New York receipts

Corporations paying the franchise tax on net income start with federal taxable income (before the net operating loss deduction and special deductions) and make various New York modifications.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the S corporation's tax paid to New York if the tax is based on business income and the income is also considered income for Wisconsin income tax purposes.

The New York fixed dollar minimum tax paid by an S corporation does not qualify for the credit for tax paid to another state. In addition, the franchise tax based on capital does not qualify for the credit.

Example 5: Pennsylvania taxes. As of January 1, 2016, Pennsylvania only has a corporate net income tax.

The capital stock/foreign franchise tax has been eliminated for tax years beginning January 1, 2016, and after. The corporate loans tax was repealed for tax years beginning after December 31, 2013.

Pennsylvania S corporations are not subject to the corporate net income tax unless they have built-in gains. Their taxable income is their net recognized built-in gains as determined for federal income tax purposes. A Wisconsin resident shareholder may not claim a credit for his or her pro rata share of the Pennsylvania S corporation's built-in gains tax since these taxes are not imposed on the corporation's net income.

Example 6: Washington business and occupation tax. Washington imposes a business and occupation tax for the act or privilege of engaging in business activities within that state. The tax is measured by the application of rates against the value of various bases, such as the value of products manufactured, gross proceeds of sales, or gross income.

A Wisconsin resident shareholder may not claim credit for the Washington business and occupation tax since it is not measured by net income.

Example 7: Texas margin tax. The tax base for the margin tax is the taxable entity's margin. "Margin" equals the lesser of four calculations:

(1) Total revenue minus cost of goods sold

(2) Total revenue minus compensation paid

(3) Total revenue times 70 percent

(4) Total revenue minus $1 million

The margin is apportioned to Texas using a single sales factor apportionment formula.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the Texas margin tax paid by an S corporation, provided the income taxed by Texas is also considered income for Wisconsin.

Example 8: Ohio commercial activity tax (CAT). The Ohio CAT is an annual tax on the privilege of doing business in Ohio. The CAT is measured by the taxable gross receipts from most business activities. Gross receipts include most business receipts from the sale or rental of property or from the performance of a service. Examples of receipts that are not subject to the CAT include interest (other than from installment sales), dividends, capital gains, wages, or gifts.

A Wisconsin resident shareholder may not claim credit for the Ohio CAT since it is not measured by net income.

Example 9: Kentucky limited liability entity tax (LLET). The Kentucky LLET is a tax of each non-exempt corporation and limited liability tax pass-through entity doing business in Kentucky. The LLET is measured by gross receipts or gross profits, with a minimum tax of $175. Gross receipts include, but is not limited to, sales, rent proceeds from the sale of real and tangible personal property, interest, and dividends.

If the entity is subject to the minimum LLET or the tax is measured by gross receipts, a Wisconsin resident shareholder may not claim a credit for his or her pro rata share of the Kentucky LLET paid by the entity. If the entity's tax is measured by gross profit, a Wisconsin resident shareholder may claim a credit for his or her pro rata share of the Kentucky LLET paid by the entity.

B. Enclosures with the Wisconsin Return

A completed Wisconsin Schedule OS must be enclosed with the Wisconsin income tax return. In addition, shareholders, partners, and members must submit verification with their Wisconsin income tax returns of the amount of their credits as follows:

- If the corporation's S status, partnership status, or LLC status is recognized for income tax purposes by the other state and the Wisconsin resident shareholder, partner, or member files an individual or fiduciary income tax return with that state and pays tax on his or her pro rata share of the corporation's, partnership's, or LLC's income earned there, the shareholder, partner, or LLC member must enclose a copy of the other state's individual or fiduciary income tax return.
- If the corporation, partnership, or LLC is required to file a Wisconsin return (Form 5S for an S corporation or Form 3 for a partnership or LLC), the amount of tax paid to another state is shown on the Wisconsin Schedule 5K-1, or Schedule 3K-1 for a partnership or LLC, which the Wisconsin resident shareholder,

partner, or member receives from the corporation, partnership, or LLC. The shareholder, partner, or member must enclose a copy of the Schedule 5K-1 or 3K-1, as appropriate, with the Wisconsin individual or fiduciary income tax return.

- If the corporation, partnership, or LLC is not required to file a Wisconsin return and the corporation, partnership, or LLC pays an income or franchise tax to another state on or measured by the income earned there, the shareholder, partner, or member must enclose a letter from the corporation, partnership, or LLC which includes a schedule showing the shareholder's, partner's, or member's pro rata share of the items taxed by that state, the adjusted gross income, and the net tax paid.

9. ADDITIONAL INFORMATION

If you have additional questions or need copies of tax forms, you may visit any Department of Revenue office or:

Visit our website . . .	revenue.wi.gov
Email . . .	DORIncome@wisconsin.gov
Write . . .	Mail Stop 5-77 Wisconsin Department of Revenue Customer Service Bureau P.O. Box 8949 Madison, WI 53708-8949
Telephone . . .	(608) 266-2486

Applicable Laws and Rules

This document provides statements or interpretations of the following provisions of Wisconsin Statutes and Administrative Rules in effect as of December 7, 2020: Chapter 71, Wis. Stats., and sec. Tax 2.955, Wis. Adm. Code

Laws enacted and in effect after December 7, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to December 7, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.