

Wisconsin Partnership Form 3 Instructions

New for 1996 . . .

- **Deduction for state taxes not allowed**
Partnerships, including limited liability companies classified as partnerships, are not allowed to deduct state taxes and taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by all or a portion of net income, gross income, gross receipts, or capital stock. See page 5.
- **Credit for taxes paid to another state by a limited liability company**
Wisconsin residents who are members of a limited liability company (LLC) that is treated as a partnership may claim a credit against Wisconsin net income tax for income or franchise taxes paid to another state by the LLC if the income taxed by the other state is also considered income for Wisconsin tax purposes. See page 6.

Important . . .

- **Temporary recycling surcharge**
Form 3S must be filed by partnerships that have at least \$4,000 of gross receipts from nonfarm trade or business activities or partnerships engaged in farming that have at least \$1,000 of net farm profit. See page 3.
- **Consumer use tax**
Partnerships that purchase taxable tangible personal property or taxable services for storage, use, or consumption in Wisconsin without the payment of Wisconsin sales tax may owe Wisconsin use tax. See page 14.

Don't Forget . . .

- **Use the preprinted label**
- **Fill in your federal employer ID number**
- **Fill out the form completely**
- **Attach a copy of your federal Form 1065 and any other required schedules and statements**
- **Attach a copy of any extension you receive**
- **Sign the return**

For More Information . . .

- **Wisconsin Tax Bulletin**
This quarterly bulletin published by the Department of Revenue provides information about new Wisconsin tax laws, court decisions, interpretations of law, etc. Subscriptions cost \$7 per year.
- **Topical and Court Case Index**
This index gives references to Wisconsin statutes, administrative rules, *Wisconsin Tax Bulletin* tax releases and private letter rulings, publications, and court decisions. The index is published in December, with an addendum provided in May. The annual cost is \$18, plus sales tax.

To order the bulletin or index, send a check made payable to "Document Sales" to the Wisconsin Department of Administration, P.O. Box 7840, Madison, WI 53707-7840.

General Instructions

Purpose of Form

Form 3 is used to report the income, deductions, gains, losses, etc., from the operation of a partnership. In addition to filing Form 3, partnerships must file Form 3S to compute their temporary recycling surcharge. For an explanation of the surcharge, see page 3.

Definitions

Partnership — A partnership is an association of two or more persons to carry on as co-owners a trade or business for profit. The term “partnership” includes a limited partnership, registered limited liability partnership, foreign registered limited liability partnership, syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and is not, within the meaning of the Wisconsin income tax law, a corporation, trust, estate, or sole proprietorship.

Limited Partnership — A limited partnership is a partnership composed of at least one general partner and one or more limited partners.

Registered Limited Liability Partnership — A partnership formed pursuant to an agreement governed by the laws of Wisconsin and registered under sec. 178.40, Wis. Stats.

Foreign Registered Limited Liability Partnership — A limited liability partnership formed pursuant to an agreement governed by the laws of a state other than Wisconsin or another country and registered under the laws of that jurisdiction.

General Partner — A general partner is a partner who is personally liable for partnership debts.

Limited Partner — A limited partner is a partner whose personal liability for partnership debts is limited to the amount of money or other property that the partner contributed or is required to contribute to the partnership.

Note: A partner who has the authority to act for or bind the partnership in any way and/or to participate in any way in the management or business affairs of the partnership is deemed to be a general partner, even if the person is defined as a limited partner in the partnership agreement.

Limited Liability Company — A limited liability company (LLC) is an entity formed under state law by filing articles of organization as an LLC. Unlike a partnership, none of the members of an LLC are personally liable for its debts. However, members or other persons may be personally liable for the payment of taxes based on their responsibilities or actions. An LLC may be classified for federal income tax purposes either as a partnership or a corporation. The classification depends on whether the LLC has the corporate characteristics of centralization of management, continuity of life, free transferability of interests, and limited liability. To be classified as a partnership, it may have no more than two of these characteristics. If an LLC is classified as a partnership for federal income tax purposes, it is treated as a partnership for Wisconsin purposes. An LLC classified as a corporation for federal income tax purposes is treated as a corporation by Wisconsin. For more information, obtain Publication 119, *Limited Liability Companies (LLCs)*, from any Department of Revenue office.

Who Must File

Every partnership and limited liability company treated as a partnership with income from Wisconsin sources, regardless of the amount, must file Form 3. For example, a partnership must file a return if it has income from:

- Business transacted in Wisconsin,
- Personal or professional services performed in Wisconsin, or
- Real or tangible personal property located in Wisconsin.

Exceptions:

- A syndicate, pool, joint venture, or similar organization that isn't required to file a federal partnership return because it has elected under Internal Revenue Code (IRC) section 761(a) not to be treated as a partnership for federal income tax purposes may make a similar election for Wisconsin purposes. To make the election, attach a copy of the federal election statement to the Form 3 filed with the Department of Revenue for the year of election.

If the Wisconsin election is made, the organization generally won't have to file Form 3 except for the year of election. However, the Department of Revenue may require the organization to file a return so that a partner's Wisconsin tax liability may be computed.

- Publicly traded partnerships treated as corporations under IRC section 7704 must file Wisconsin Form 4 or 5 instead of Form 3.
- Limited liability companies treated as corporations for federal income tax purposes must file Wisconsin Form 4 or 5 instead of Form 3.
- Common trust funds are treated as fiduciaries under Wisconsin law and must file Wisconsin Form 2 instead of Form 3.

Note: The Department of Revenue may require a partnership with Wisconsin resident partners to file a Wisconsin partnership return even though it has no Wisconsin business or income. For example, an out-of-state partnership that does no business in Wisconsin, has no property in Wisconsin, and has no income from Wisconsin sources may be requested to file a partnership return to enable the Department of Revenue to compute a Wisconsin resident partner's Wisconsin tax liability.

When and Where to File Return

The return must be filed with the Wisconsin Department of Revenue, P.O. Box 59, Madison, WI 53785-0001, by the 15th day of the 4th month following the close of the partnership's taxable year.

Extension of Time to File

Any extension allowed by the Internal Revenue Service for filing the federal return automatically extends the due date for Wisconsin provided you attach a copy of the federal extension to your Wisconsin return. If you aren't requesting a federal extension, but you need additional time to file your Wisconsin return, you may obtain an extension available to partnerships under federal law. To receive the Wisconsin extension, you must attach to your Wisconsin return a completed copy of the appropriate federal extension application form or a statement explaining which federal extension provision you are using.

Additional Forms or Special Help

If you need help filling out Form 3 or additional forms, you may contact any of the following Department of Revenue offices:

- Madison – 4638 University Ave. (zip code 53702)
income tax information (608) 266-2772
telephone forms request (608) 266-1961
- Milwaukee – State Office Bldg., 819 N. 6th St.
(zip code 53203)
income tax information (414) 227-4000
telephone forms request (414) 227-4440
- Appleton – 265 W. Northland Ave. (zip code 54911)
telephone (414) 832-2727
- Eau Claire – State Office Bldg., 718 W. Clairemont Ave.
(zip code 54701)
telephone (715) 836-2811

Other offices open on a limited schedule (generally Mondays) are Baraboo, Beaver Dam, Elkhorn, Fond du Lac, Grafton, Green Bay, Hayward, Hudson, Janesville, Kenosha, La Crosse, Lancaster, Manitowoc, Marinette, Marshfield, Monroe, Oshkosh, Racine, Rhineland, Rice Lake, Shawano, Sheboygan, Superior, Tomah, Watertown, Waukesha, Waupaca, Wausau, West Bend, and Wisconsin Rapids.

To receive tax forms and instructions by FAX, call the Department of Revenue’s Fax-A-Form Document Retrieval System at (608) 261-6229 from your FAX telephone. You may also download forms and instructions from the department’s Internet website at <http://www.dor.state.wi.us>.

Period Covered by Return

The return must cover the same period as the partnership’s federal income tax return. File a 1996 Wisconsin return for calendar year 1996 and fiscal years that begin in 1996.

If a partnership elects, under IRC section 444, to have a taxable year other than a required taxable year, that election also applies for Wisconsin. Unlike for federal purposes, the partnership doesn’t have to make a required payment of tax as provided in IRC section 7519.

Accounting Methods

Figure ordinary income by the accounting method regularly used in maintaining the partnership’s books and records. The method may include the cash receipts and disbursements method, an accrual method, or any other method permitted by the Internal Revenue Code in effect for Wisconsin. The method must clearly reflect income.

Information Returns That May Be Required

Form 9b Report of rents, royalties, and miscellaneous compensation paid to individuals. (Note: You may use federal Forms 1099 instead of Forms 9b. Mail Forms 1099 to the Wisconsin Department of Revenue, P.O. Box 59, Madison, WI 53785-0001.)

If you must file federal information returns on magnetic media and you file at least 250 Forms 9b with Wisconsin, you generally must file Forms 9b on magnetic media. For more information, call (608) 267-3327 or write to the Bureau of Information Systems, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

Internal Revenue Service Adjustments and Amended Returns

If a partnership’s federal tax return is adjusted by the Internal Revenue Service (IRS) and such adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward of a partner, you must report such adjustments to the department within 90 days after they become final.

In addition, each partner must file an amended Wisconsin income tax return reporting his or her share of each adjustment made by the IRS to the partnership return.

If the partnership and the partners file amended federal returns and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward of a partner, both the partnership and the partners must file amended Wisconsin returns with the department within 90 days after filing the amended federal returns.

Send a copy of the final federal audit reports and amended returns to the Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991. Do not attach these items to the return for the current year.

Temporary Recycling Surcharge

For taxable years ending after April 1, 1991, and ending before April 1, 1999, partnerships that must file a Wisconsin partnership return and do business in Wisconsin are subject to a temporary recycling surcharge, with certain exceptions.

The surcharge doesn’t apply to:

- Partnerships not engaged in farming with less than \$4,000 of gross receipts from all trade or business activities for federal income tax purposes.
- Partnerships engaged solely in farming with less than \$1,000 of net farm profit for federal income tax purposes.
- Partnerships engaged in both farming and other trade or business activities with less than \$4,000 of gross receipts from all nonfarm trade or business activities for federal income tax purposes *and* less than \$1,000 of net farm profit for federal income tax purposes.

A syndicate, pool, joint venture, or similar organization that isn’t required to file a Wisconsin partnership return because it has elected under IRC section 761(a) not to be treated as a partnership isn’t subject to the temporary recycling surcharge.

Partnerships figure the temporary recycling surcharge on Form 3S. A partnership that filed a return for the prior taxable year should automatically receive Form 3S. The temporary recycling surcharge is based on a partnership’s net business income and ranges from \$25 to \$9,800.

Form 3S must be filed by the due date, including extensions, for filing Form 3. However, the temporary recycling surcharge must be paid by the 15th day of the 4th month following the close of the taxable period, regardless of the due date of the return.

Caution: Don't mail Form 3S with Form 3. The forms are to be mailed to different addresses.

A partnership that expects to owe at least \$200 of temporary recycling surcharge must make estimated surcharge installment payments using Form 3S-ES. Failure to make required estimated surcharge payments may result in an interest charge. Use Form 3U, Underpayment of Estimated Temporary Recycling Surcharge by Partnerships, to figure the amount of interest owed.

For more information, see Publication 400, *Wisconsin's Temporary Recycling Surcharge*. The publication and Forms 3S, 3S-ES, and 3U may be obtained from any Department of Revenue office.

Combined Return for Nonresident Partners

A partnership that operates in Wisconsin and has two or more nonresident partners who derive no taxable income or deductible loss from Wisconsin other than their distributive shares of the Wisconsin partnership income or loss may file a combined individual and fiduciary income tax return on behalf of those partners. The partnership files this return on Form 1CNP.

A partner may not participate in this combined return if—

- The partner is an estate or trust that has distributable income in the current year.
- The partner is a partnership or corporation.
- The partner files his or her individual or fiduciary income tax return on a fiscal year basis.
- The partner is a Wisconsin resident during any part of 1996.
- The partner derives taxable income from Wisconsin in 1996 other than his or her distributive share of partnership income or loss from one partnership.

Each qualifying and participating partner's distributive share of partnership income or loss for a partnership's taxable year ending between January 31, 1996, and December 31, 1996, is reported on a 1996 Form 1CNP. In addition, if the partner is subject to the temporary recycling surcharge, the surcharge is reported on Form 1CNP. The combined return replaces the separate 1996 Wisconsin individual or fiduciary income tax returns that otherwise would be filed by each of the qualifying and participating nonresident partners. The 1996 Form 1CNP is due on April 15, 1997.

You may obtain Form 1CNP from any Department of Revenue office.

Line-by-Line Instructions

The numbering corresponds with the line numbers on Form 3, unless otherwise indicated.

■ **Period Covered** — File a 1996 Wisconsin return for calendar year 1996 and fiscal years that begin in 1996. For a fiscal year or short taxable year, fill in the taxable year beginning and ending dates in the taxable year space at the top of the form.

■ **Name and Address** — If the front cover of your booklet has a mailing label with the partnership's name and address, remove the label and place it in this area. Make any necessary corrections on the label. If you didn't receive a booklet with a label, print or type the partnership's name and address.

■ **A, B, and C. Identifying Numbers** — Enter the partnership's federal employer identification number (EIN), Wisconsin seller's permit, use tax, or consumer's use tax number, and Wisconsin employer identification (withholding) number.

■ **D. Amended Return** — Check the box if this is an amended return.

■ **E. Partnership Terminated** — Check the box if the partnership terminated during the taxable year.

■ **F. Request for 1997 Forms** — Check the box if you want the department to send you 1997 partnership forms.

IMPORTANT — The Wisconsin partnership law is based on the federal Internal Revenue Code. However, Wisconsin income must be figured using the Internal Revenue Code as amended to December 31, 1995.

Federal law changes enacted after December 31, 1995, generally won't apply for Wisconsin purposes unless subsequently adopted by the Wisconsin Legislature, except for depreciation and amortization as noted below.

For assets placed in service in 1996, you may compute depreciation or amortization under the same method as for federal purposes, rather than under the Internal Revenue Code as amended to December 31, 1995.

Show adjustments necessary to account for any differences between amounts reportable for federal and Wisconsin purposes on Schedule 3K, column c.

Schedule 3K — Partners' Shares of Income, Deductions, etc.

Schedule 3K is a summary schedule of all the partners' shares of the partnership's income, deductions, etc., as computed under Wisconsin law, similar to federal Schedule K.

■ **Column b. Federal amount** — Enter the applicable amounts from federal Schedule K.

■ **Column c. Adjustment** — Enter any adjustments necessary to arrive at the amount of any partnership item under Wisconsin law. **Be sure to attach an explanation of any adjustments in column c.**

Caution: Don't make any adjustments on Schedule 3K to exclude a nonresident or part-year resident partner's share of partnership items that are attributable to business transacted outside Wisconsin, services performed outside Wisconsin, or real or tangible personal property located outside Wisconsin and aren't taxable or deductible for Wisconsin purposes. These modifications will be made on the Schedule 3K-1 of each individual partner, as described in the instructions for Schedule 3K-1 that follow.

In addition, don't make any adjustments on Schedule 3K (or on Schedule 3K-1) for an individual, estate, or trust partner's 60% capital gain deduction or capital loss limitation. Instead, each partner will compute its own capital gain deduction or loss limitation on Wisconsin Schedule WD.

Note: Show additions as a positive number. Show subtractions by putting the amount in parentheses.

Additions to or subtractions from federal amounts may be required for the following items:

1. Adjustments required because a federal law doesn't apply for Wisconsin purposes

You must make an adjustment if an amount in column b is figured under a provision of federal law that doesn't apply for Wisconsin purposes. This may occur if a federal provision is excluded from the definition of "Internal Revenue Code" for Wisconsin purposes or if a federal law change becomes effective for Wisconsin at a different time than federally. These adjustments are often called "Schedule I adjustments" because individuals must report them on Wisconsin Schedule I. Examples of Schedule I adjustments include the following:

- If any federal laws are enacted after December 31, 1995, and apply for taxable years beginning in 1996, the changes generally won't apply for Wisconsin unless retroactively adopted by the Wisconsin Legislature.
- If you depreciated an asset under different methods for federal and Wisconsin purposes in the year the asset was placed in service because Wisconsin didn't follow a provision of federal law for that year, you must continue to depreciate the asset under the Wisconsin method in future years.

For example, federal ACRS deductions weren't available for Wisconsin purposes for the following property placed in service during the 1986 taxable year: (a) residential real property, and (b) property used in farming, as defined in IRC section 464(e)(1), if the taxpayer's nonfarm Wisconsin adjusted gross income or gross farm profit exceeded specified amounts. Instead, such property had to be depreciated under a method permitted in the Internal Revenue Code as amended

to December 31, 1980. This property must continue to be depreciated for Wisconsin purposes under the December 31, 1980, Internal Revenue Code.

- An adjustment is required in the year of the disposition of an asset if its basis differs for federal and Wisconsin purposes due to a law difference in a prior year.

2. Adjustments required because different elections are made for federal and Wisconsin purposes

Examples of different elections include the following:

- For assets first placed into service on or after January 1, 1996, a partnership may compute depreciation or amortization under either the Internal Revenue Code in effect for the year for which the return is filed or the Internal Revenue Code as amended to December 31, 1995. An asset placed in service before January 1, 1996, must continue to be depreciated or amortized under the method elected for Wisconsin purposes for the year in which it was placed in service.
- For property placed in service after December 31, 1982, a taxpayer that claimed investment tax credit for federal purposes could either (a) claim the full 10% credit and reduce the depreciable basis of the property by one-half of the credit, or (b) in the case of regular investment credit property, claim a reduced credit and depreciate the full cost of the property. A partnership that claimed the regular investment tax credit and reduced the depreciable basis of the property for federal purposes could compute depreciation on the full (unreduced) basis of the property for Wisconsin purposes.

- Wages that aren't deductible for federal purposes because they were used in computing the federal targeted jobs credit may be deducted for Wisconsin purposes.

3. Adjustments required for modifications prescribed in Wisconsin law

Most modifications required to figure a partner's Wisconsin net income are computed by that partner rather than at the partnership level. This includes many of the modifications prescribed in section 71.05(6) to (12), (19), and (20), Wisconsin Statutes. However, several types of modifications may be reportable by the partnership in column c, including the following:

- The amount of development and enterprise zone credits computed by the partnership must be shown as an addition to ordinary income on line 1, column c.
- State taxes and taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by all or a portion of net income, gross income, gross receipts, or capital stock are not deductible by partnerships. These amounts must be shown as additions to ordinary income on line 1, column c.
- Certain basis differences are treated as modifications. For example, for Wisconsin purposes, property taxes paid on vacant land had to be capitalized for 1964 and prior taxable years. A transitional adjustment must be made for this basis difference upon disposition of the property. Recompute the gain or loss on federal Form 4797 or federal Schedule D, as appropriate, by substituting the Wisconsin basis for the federal basis. Show the difference as a modification in column c.

- Income reported on line 16 or 17 that is exempt for federal purposes but taxable by Wisconsin, such as state and local government bond interest, is shown as a *subtraction* in column c. If more income is nontaxable for Wisconsin purposes than for federal purposes, show the additional amount of exempt income as an *addition*. The Wisconsin amount in column d is the amount of tax-exempt income for Wisconsin purposes.
- Expenses on line 18 that are nondeductible federally but deductible for Wisconsin purposes are shown as *subtractions* in column c. If more expenses are nondeductible for Wisconsin purposes than for federal purposes, show the additional amount of nondeductible expenses as an *addition*. The Wisconsin amount in column d is the nondeductible expense for Wisconsin purposes.

Note: If the interest income on line 4a, column b, includes any interest from obligations of the United States government and its instrumentalities, identify the amount on a separate schedule for line 21. **Do not** subtract this amount on Schedule 3K, line 4a, column c.

■ **Column d. Wisconsin amount** — Combine the amount in column b with any adjustments in column c and enter the result.

■ **Lines 13a through 13f.** Enter, in column d, the available development and enterprise zone credits as computed on Wisconsin Schedules DC and EC. Attach Schedules DC and EC to the Form 3 filed with the department.

Special tax credits may be available for partners of partnerships doing business in Wisconsin development or enterprise zones. These credits, which include a jobs credit, sales tax credit, investment credit, location credit, day care credit, and environmental remediation credit, are computed on Schedule DC, Wisconsin Development Zone Credits, or Schedule EC, Wisconsin Enterprise Zone Credits.

The Wisconsin Department of Commerce administers the Wisconsin development and enterprise zone programs. For more information about the programs, write to the Division of Community Development, Wisconsin Department of Commerce, P.O. Box 7970, Madison, WI 53707-7970 or call (608) 267-2045.

■ **Line 13g.** Enter, in column d, the available supplement to the federal historic rehabilitation tax credit as computed on Wisconsin Schedule HR. Attach Schedule HR to the Form 3 filed with the department.

Partners of partnerships that rehabilitate certified historic structures located in Wisconsin and used for business purposes may claim a credit. The partnership computes the credits on Schedule HR, Wisconsin Historic Rehabilitation Credits.

The State Historical Society of Wisconsin administers the historic preservation program. For more information about this program, write to the Division of Historic Preservation, State Historical Society of Wisconsin, 816 State Street, Madison, WI 53706-1488 or call (608) 264-6500.

■ **Line 21.** On an attached schedule, show any items and amounts not included on lines 1 through 20 that must be reported separately to partners. Include the federal amount, any

adjustment, and the amount determined under Wisconsin law of each item.

If the interest income on line 4a, column b, includes any interest from United States government obligations that is taxable for federal purposes but exempt from Wisconsin income taxes, report the amount of United States government interest on this schedule.

If this partnership is a limited liability company treated as a partnership, does business in another state, and is required to pay an income or franchise tax to the other state, Wisconsin resident partners may be able to claim credits on their individual income tax returns for their proportionate shares of the tax paid. Credits are allowed only if the income taxed by the other state is considered income for Wisconsin income tax purposes.

Attach a schedule showing the name of each state to whom a franchise or income tax was paid and the amount of the franchise or income tax paid to that state. In addition, attach a copy of the franchise or income tax return filed with each state for which this credit is claimed.

■ **Line 22.** Combine lines 1 through 7 in columns b and d. From the result, subtract the sum of lines 8 through 12a and 15. Add or subtract, as appropriate, any income or deductions reported on line 21 that affect the computation of taxable income. In column d, also include the amount of any state and local government bond interest from line 16, column c, which is taxable by Wisconsin.

■ **Signatures** — A general partner of the partnership must sign the form at the bottom of page 1. If the return is prepared by someone other than an employe of the partnership, the preparer's signature is also required.

■ **Attachments** — Attach a copy of the federal Form 1065 and supporting schedules. Also attach a copy of either Wisconsin Schedule 3K-1 or federal Schedule K-1, as appropriate, for each partner.

Schedule 3K-1 — Partner's Share of Income, Deductions, etc.

Schedule 3K-1 shows each partner's share of the partnership's income, deductions, etc., which have been summarized on Schedule 3K. Like Schedule 3K, Schedule 3K-1 requires an entry for the federal amount, adjustment, and amount determined under Wisconsin law of each applicable partnership item.

Prepare a Schedule 3K-1 for each individual or entity that was a partner in the partnership at any time during the partnership's taxable year. Attach a copy of each partner's Schedule 3K-1 to the Form 3 filed with the department. Keep a copy as part of the partnership's records, and give each partner his or her own separate copy. In addition, give each partner a copy of the "Partner's Instructions for 1996 Schedule 3K-1."

Since the Wisconsin Schedule 3K-1 replaces the federal Schedule K-1, a partnership doesn't have to also file a federal Schedule K-1 for each partner with Form 3.

Instead of using the department-printed Schedules 3K-1, you may substitute computer-printed Schedules 3K-1, provided the

substitute forms meet the department's specifications. ***Substitute forms that do not meet the specifications will be returned to you for correction.***

Partnerships with 100 or more partners are encouraged to file Schedules 3K-1 using magnetic tape, cartridge, diskette, or standard microfiche.

Specifications for magnetic tape, cartridge, diskette, standard microfiche, and substitute computer-printed forms may be obtained by writing to the Tax Processing Bureau Staff Specialist, Tax Processing Bureau, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903 or calling (608) 266-1530 (FAX (608) 264-6884).

Note: You may submit copies of the federal Schedules K-1 instead of preparing Schedules 3K-1 in the following situations:

- If the partnership operates only in Wisconsin and, on Schedule 3K, reports no adjustments in column c or credits in column d, you may use Schedules K-1 to report the Wisconsin partnership items for all partners.
- If the partnership operates in and outside Wisconsin and, on Schedule 3K, reports no adjustments in column c or credits in column d, you may use Schedules K-1 for full-year Wisconsin resident partners.

Be sure to state on the partner's federal Schedule K-1, including the copy filed with the department, that there aren't any Wisconsin adjustments or credits.

■ **Identifying Numbers, Names, and Addresses.** On each Schedule 3K-1, enter the partner's identifying number (social security number for individuals), name, and address, and the partnership's federal employer identification number, name, and address in the appropriate spaces.

■ **Items A through J.** Enter the information requested from the partner's federal Schedule K-1.

Caution: If the partner is a corporation or another partnership, don't complete items K, L, or M.

■ **Item K.** Enter the partner's state of residence (domicile). If the partner's state of residence changed during the partnership's taxable year, indicate all states involved. If the partner moved into or out of Wisconsin during the partnership's taxable year and the partnership has activities in more than one state, the partner's Wisconsin share of the distributive items will be affected. See the instructions below for more information.

■ **Item L.** Check this box only if the partner is a nonresident or part-year resident of Wisconsin during the partnership's taxable year and the partnership is a unitary, multistate partnership that must compute its Wisconsin income under the apportionment method. (See "Determining the Wisconsin Income of Multistate Partnerships" on page 11.) Complete Form 4B on the back of Form 3 and enter the partnership's apportionment percentage from Form 4B, line 28 or 33, as appropriate.

■ **Item M.** Check this box only if the partner is a nonresident or part-year resident of Wisconsin during the partnership's taxable year and the partnership is a nonunitary, multistate partnership that must compute its Wisconsin income under the separate accounting method. (See "Determining the Wisconsin Income of Multistate Partnerships" on page 11.) Attach a schedule,

similar to Form 4C, that shows the allocation of the Wisconsin amount of each partnership item reported on Form 3, Schedule 3K, column d, to Wisconsin and outside Wisconsin and the basis of such allocation.

■ **Lines 1, 2, 3, 4c, 4d, 4e, 4f, 5, 6, 7, 9, 11, 14, and 15.** Enter the partner's share of the federal amount, adjustment, and amount determined under Wisconsin law for each item. The federal amount is the amount reported on federal Schedule K-1.

Note: On line 22, explain the reason for any adjustment in column c.

A. Corporations and Other Partnerships

A corporation's or another partnership's Wisconsin amount (column d) of each item of income, loss, or deduction is the amount determined under Wisconsin law **before** apportionment or separate accounting. Any allocation of partnership income, loss, or deduction is accounted for when the partner computes its own apportionment percentage and uses that percentage on its Wisconsin return. Combine the amounts in column b with any adjustments in column c and enter the results in column d. The amounts on Schedule 3K-1, column d, should be the amounts from Schedule 3K, column d, multiplied by the partner's profit and loss percentage.

B. Individual, Estate, and Trust Full-Year Residents of Wisconsin

All partnership income of full-year Wisconsin residents is taxable regardless of the situs of the partnership or the nature of the income from the partnership, such as business income, service income, or professional income, unless otherwise exempt (such as United States government interest). This applies to both general partners and limited partners.

Therefore, a Wisconsin resident partner's share of the adjustment and Wisconsin amount for each item is the partner's proportionate share of the adjustment and Wisconsin amount shown on Schedule 3K. See the example on page 10.

C. Individual, Estate, and Trust Nonresidents of Wisconsin

A nonresident partner's share of the partnership's income derived from business transacted in Wisconsin, services performed in Wisconsin, or real or tangible personal property located in Wisconsin is taxable by Wisconsin. Business income is taxable whether or not the individual partner conducts business in Wisconsin. This applies to both general partners and limited partners. However, partnership income derived from personal services, including professional services, is taxable to a nonresident partner only if that nonresident partner personally performs services in Wisconsin. The amount of personal service income attributable to the nonresident partner's services performed in Wisconsin is taxable.

Example 1. Two nonresident individuals are partners of a partnership that does business only in Wisconsin. Both nonresidents are taxed on their entire share of the partnership income for Wisconsin income tax purposes.

Example 2. A nonresident is one of two equal partners of a partnership that does business in Wisconsin and Illinois. The partnership derives 40% of its income from business activities in Wisconsin and 60% from business activities in Illinois. The Wisconsin resident partner operates the Wisconsin business. The

nonresident partner operates the Illinois business. The Wisconsin resident is taxed on one-half of the total partnership income for Wisconsin income tax purposes. The nonresident is taxed on one-half of the 40% of the partnership income attributable to business activities in Wisconsin.

Example 3. A nonresident is a limited partner, with a 1% interest in partnership profits, of a partnership that derives income from real estate located in Wisconsin and in other states. The nonresident limited partner is taxed on 1% of the partnership income attributable to the real estate located in Wisconsin.

Example 4. A nonresident is a partner, with a 10% interest in partnership profits, of a certified public accounting firm that operates in and outside Wisconsin. One-fourth of the partnership's income is attributable to professional services performed in Wisconsin and three-fourths is attributable to professional services performed in other states. The nonresident partner doesn't personally perform any services in Wisconsin. The nonresident isn't subject to Wisconsin income tax on his or her proportionate share of the partnership income earned in Wisconsin.

If the partnership's entire income is derived from business transacted or property located in Wisconsin, a nonresident partner's share of the adjustment and Wisconsin amount of each item is the partner's proportionate share of the adjustment and Wisconsin amount shown on Schedule 3K, columns c and d, respectively.

If the partnership derives income from business transacted or property located in and outside Wisconsin (that is, it's a multistate partnership), a nonresident partner's Wisconsin amount (column d) of each item is the partner's proportionate share of the portion attributable to Wisconsin (based on apportionment or separate accounting, as appropriate). The adjustment (column c) is the amount necessary to reconcile the federal amount and the Wisconsin amount. The adjustment includes the partner's share of any adjustment on Schedule 3K, column c, as well as the partner's share of the amount on Schedule 3K, column d, that isn't attributable to Wisconsin. Compute the Wisconsin amount of each share item (Schedule 3K-1, column d) by multiplying the amount attributable to Wisconsin by the nonresident partner's proportionate share. See the example on page 10.

If the partnership is a unitary, multistate business, complete Form 4B and enter the apportionment percentage from Form 4B, line 28 or 33, in the space provided in item L for each nonresident partner. Compute the nonresident partner's Wisconsin amount of each item by multiplying the Wisconsin amount from Schedule 3K, column d, by the apportionment percentage and multiplying that result by the partner's proportionate share.

If the partnership has nonapportionable income (loss) on Form 4B, line 5, figure the nonresident partner's Wisconsin amount of any affected item by multiplying the amount of the nonapportionable item attributed to Wisconsin on Form 4B by the partner's proportionate share.

If the partnership is a nonunitary, multistate business, complete a schedule similar to Form 4C that shows the allocation of the Wisconsin amounts from Schedule 3K, column d, to Wisconsin and outside Wisconsin. This schedule should also show the basis of such allocation. Compute the Wisconsin amount of each item to enter on Schedule 3K-1, column d, by multiplying the

amount allocated to Wisconsin on such a schedule by the nonresident partner's proportionate share.

If the partnership derives income from personal services, a nonresident partner's Wisconsin amount (column d) is equal to the value of the services he or she personally performed in Wisconsin. If the nonresident partner didn't personally perform any services in Wisconsin, the Wisconsin amount for that partner is zero. The adjustment (column c) is the amount necessary to reconcile the federal amount and the Wisconsin amount. This adjustment includes the partner's share of any adjustment on Schedule 3K, column c, as well as the partner's share of the amount on Schedule 3K, column d, that isn't taxable by Wisconsin.

Note: Regardless of any provision in the partnership agreement, a nonresident partner must limit the amount of his or her non-Wisconsin income to the same percentage that the partnership's non-Wisconsin income is to all its income. In addition, a nonresident partner must limit the amount of his or her Wisconsin losses or deductions to the same percentage that the partnership's Wisconsin losses or deductions are to all its losses or deductions. The characterization in a partnership agreement of payments to nonresident partners as salary, or as interest for the use of capital, can't affect the determination of whether such payments are derived from Wisconsin sources.

D. Individual Part-Year Residents of Wisconsin

Individuals who are part-year residents of Wisconsin must report to Wisconsin —

- All partnership income or loss, regardless of where it is earned or incurred, while they were residents of Wisconsin, and
- All partnership income or loss derived from business transacted in Wisconsin, personal services they personally performed in Wisconsin, or real or tangible personal property located in Wisconsin, while they were nonresidents of Wisconsin.

If the partnership's entire income is derived from business transacted or property located in Wisconsin, a part-year resident partner's share of the adjustment and Wisconsin amount of each item is the partner's proportionate share of the adjustment and Wisconsin amount shown on Schedule 3K, columns c and d, respectively.

If the partnership derives income from activities in and outside Wisconsin (that is, it's a multistate partnership), a part-year resident partner computes the Wisconsin amount of each item in two parts: one for the portion of the partnership's taxable year that the partner was a resident of Wisconsin and one for the portion of the partnership's taxable year that the partner was a nonresident of Wisconsin. For this purpose, the amount of any share item is determined on a daily basis. That is, every share item is allocated between the periods during which the partner was a resident or nonresident based on the number of days during the partnership's taxable year that the partner was a resident or nonresident of Wisconsin. The partner's share of an item for each period (resident or nonresident) is figured in the same manner as that of full-year residents and nonresidents, respectively. See the example on page 10.

■ **Lines 4a, 4b, and 16.** Enter the partner's share of the federal amount, adjustment, and Wisconsin amount for each item. The federal amount is the amount reported on federal Schedule K-1.

A. Corporations and Other Partnerships

A corporation's or another partnership's Wisconsin amount (column d) is the amount determined under Wisconsin law *before* apportionment or separate accounting.

B. Full-Year Residents of Wisconsin

Generally, intangible income, such as interest and dividends, passed through to partners who are full-year Wisconsin residents is taxable. However, the amount of interest on United States government obligations included on line 4a, column d, is not taxable for Wisconsin income tax purposes and is reported on line 22. Interest on state and local government bonds generally is exempt for federal purposes but taxable by Wisconsin. Show the amount of state and local government bond interest that is taxable by Wisconsin as a subtraction on line 16, column c.

Enter the partner's proportionate share of the adjustment and Wisconsin amount shown on Schedule 3K. See the example on page 10.

C. Nonresidents of Wisconsin

Intangible income, such as interest and dividends, passed through to a nonresident partner isn't taxable by Wisconsin. This applies to both general partners and limited partners.

For income reported on lines 4a and 4b, the adjustment (column c) is equal to the federal amount (column b) and the Wisconsin amount (column d) is zero. For federally tax-exempt interest reported on line 16, the Wisconsin amount (column d) is equal to the federal amount (column b). See the example on page 10.

D. Part-Year Residents of Wisconsin

Individuals who are part-year residents of Wisconsin must report to Wisconsin intangible income, such as interest and dividends, passed through while they were Wisconsin residents. The intangible income is allocated between the periods during which the partner was a resident or nonresident based on the number of days during the partnership's taxable year that the partner was a resident or nonresident of Wisconsin. This applies whether the partnership operated solely in Wisconsin or in and outside of Wisconsin. See the example on page 10.

■ **Lines 8, 10, 11, and 12a.** Enter the partner's share of the federal amount, adjustment, and Wisconsin amount for each item.

If these amounts are allowable in computing an individual's Wisconsin itemized deduction credit, multiply the amounts on Schedule 3K, column d, by the partner's profit and loss percentage. Don't apply the apportionment percentage or use the amount determined by separate accounting, regardless of the partner's state of residence.

If the amounts are adjustments to Wisconsin income, instead of deductions used in figuring the itemized deduction credit, multiply the amounts on Schedule 3K, column d, by the apportionment percentage or use the amount determined by separate accounting. Multiply that result by the partner's profit and loss percentage.

■ **Lines 13a through 13f.** Enter the partner's proportionate share of the development zone credits from Schedule DC and enterprise zone credits from Schedule EC.

■ **Line 13g.** Enter the partner's proportionate share of the supplement to the federal historic rehabilitation tax credit from Schedule HR.

Note: The basis of the partner's interest in the partnership must be reduced by its proportionate share of the credit computed.

■ **Lines 17 and 18.** Enter the partner's proportionate share of the federal amount, adjustment, and Wisconsin amount for each of these items. The federal amount is the amount reported on the partner's federal Schedule K-1. The adjustment in column c is the difference between the nontaxable or nondeductible amount for federal and Wisconsin purposes. Show *increases* in the amount of tax-exempt income or nondeductible expenses as *additions*. Report *decreases* in the amount of tax-exempt income or nondeductible expenses as *subtractions*. The Wisconsin amount (column d) is the amount of nontaxable income or nondeductible expenses for Wisconsin.

■ **Lines 19 and 20.** Enter the distributions of money and property made to each partner, on the appropriate line.

■ **Line 21.** Enter in column d the partner's proportionate share of the partnership's gross income that is reportable to Wisconsin. For a resident partner, gross income is the total amount received from all activities, before deducting the cost of goods sold or any other expenses. For a nonresident partner, gross income includes gross receipts from trade or business activities, gross rents, the gross sales price of assets, and other gross receipts that are attributable to Wisconsin.

■ **Line 22.** Complete as necessary. Include the federal amount, adjustment, and Wisconsin amount for each item when applicable. Attach additional schedules if more space is needed. Include the following items on line 22:

- The amount of interest income from United States government obligations that is included on line 4a, column d.
- For a corporation or another partnership that is a general partner, enter the partner's proportionate share of the partnership's Wisconsin and total property, payroll, and sales from Form 4B, lines 16, 19, and 25.
- If the partnership is engaged in both farming and some other business activity, indicate on the Schedules 3K-1 of noncorporate partners the portion of each of the share items that is attributable to the farm operations. The partners use this information in applying the farm loss limitations.
- If the partner is a full-year Wisconsin resident individual, estate, or trust and the partnership is a limited liability company treated as a partnership, indicate on this line the partner's share of the income or franchise taxes paid to other states which was entered on line 21, of Schedule 3K.

If the partner is a part-year Wisconsin resident individual, estate, or trust and the partnership is a limited liability company treated as a partnership, indicate on this line the partner's share of the income or franchise taxes paid to other states which was entered on line 21, of Schedule 3K times the ratio of days the partner was a Wisconsin resident during the

limited liability company's taxable year to the total days in the limited liability company's taxable year.

Note: Partnerships whose Wisconsin partners may qualify for farmland preservation credit or farmland tax relief credit should attach a copy of the farmland property tax bill to the Schedule 3K-1 given to each Wisconsin partner. It isn't necessary for the partnership to attach the property tax bill to the Schedules 3K-1 sent to the department. Partners will compute their allowable credits based on their proportionate shares of the partnership's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC instructions. See the instructions for Wisconsin Form 1, 1NPR, 4, or 5 for details on the farmland tax relief credit.

Example of Schedule 3K-1 for Individual Partners

ABC Partnership is a calendar year multistate partnership whose income is attributable 70% to a business located in Wisconsin. There are three individual partners (A, B, and C) who each have a one-third interest in the profits and losses of the partnership. Partner A was a Wisconsin resident during all of 1996. Partner B was an Illinois resident during this period. Partner C was a resident of Wisconsin until moving to Florida on April 1, 1996. Therefore, Partner C was a part-year resident of Wisconsin during the partnership's taxable year, having been a resident for 91 days and a nonresident for 275 days.

Schedule 3K for the year ending December 31, 1996, shows the following amounts on the lines indicated.

	(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Wisconsin amount
1	Ordinary income	\$ 9,000	\$ -0-	\$ 9,000
4a	Interest income	700	-0-	700
16	Tax-exempt interest income	300	(300)	-0-
22	U.S. government interest included on line 4a, column d: \$100			

For Partner A, Schedule 3K-1 would show the following:

	(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Wisconsin amount
1	Ordinary income	\$ 3,000	\$ -0-	\$ 3,000
4a	Interest income	233	-0-	233
16	Tax-exempt interest income	100	(100)	-0-
22	U.S. government interest included on line 4a, column d: \$33			

These amounts are computed by multiplying the amounts from Schedule 3K by Partner A's profit and loss percentage (33.33%).

For Partner B, Schedule 3K-1 would show the following:

	(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Wisconsin amount
1	Ordinary income	\$ 3,000	\$ (900)	\$ 2,100
4a	Interest income	233	(233)	-0-
16	Tax-exempt interest income	100	-0-	100
22	U.S. government interest included on line 4a, column d: \$0			

The federal amounts (column b) are computed by multiplying the amounts from Schedule 3K, column b, by Partner B's profit and loss percentage (33.33%).

The Wisconsin amount (column d) of the ordinary income on line 1 is computed by multiplying the Wisconsin amount

(\$9,000) from Schedule 3K, column d, by Partner B's profit and loss percentage (33.33%) and by ABC Partnership's Wisconsin apportionment percentage (70%). This results in the following calculation:

$$\$9,000 \times .3333 \times .7 = \$2,100$$

Since Partner B is a nonresident of Wisconsin, the Wisconsin amount (column d) of the interest income on line 4a is zero and of the tax-exempt interest income on line 16 is equal to the federal amount (column b).

The adjustment (column c) for each item is the difference between column b and column d.

For Partner C, Schedule 3K-1 would show the following:

	(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Wisconsin amount
1	Ordinary income	\$ 3,000	\$ (676)	\$ 2,324
4a	Interest income	233	(175)	58
16	Tax-exempt interest income	100	(25)	75
22	U.S. government interest included on line 4a, column d: \$8			

The federal amounts (column b) are computed by multiplying the amounts from Schedule 3K, column b, by Partner C's profit and loss percentage (33.33%).

The Wisconsin amounts (column d) are computed in two parts: one for the period that Partner C was a resident of Wisconsin (91 days) and one for the period that Partner C was a nonresident of Wisconsin (275 days).

The adjustment (column c) for each item is the difference between column b and column d.

The Wisconsin amount (column d) of the ordinary income on line 1 is computed as follows:

(1) For the period of residence, multiply the Wisconsin amount of ordinary income from Schedule 3K (\$9,000) by the profit and loss percentage (33.33%) and by the ratio of days Partner C was a resident of Wisconsin to total days in the taxable year (91/366). Add to that result the amount computed for the period of nonresidence in (2) below.

(2) For the period of nonresidence, multiply the Wisconsin amount of ordinary income from Schedule 3K (\$9,000) by Partner C's profit and loss percentage (33.33%) and by ABC Partnership's Wisconsin apportionment percentage (70%). Multiply the result by the ratio of days Partner C was a nonresident of Wisconsin to total days in the taxable year (275/366). This results in the following calculation:

Period of residence:	\$9,000 x .3333 x 91/366	= \$ 746
Period of nonresidence:	\$9,000 x .3333 x .7 x 275/366	= <u>1,578</u>
Total		<u>\$ 2,324</u>

The Wisconsin amount (column d) of the interest income on line 4a is the amount computed for the period of residence. The calculation is:

Period of residence:	\$700 x .3333 x 91/366	= \$ 58
Period of nonresidence:		<u>0</u>
Total		<u>\$ 58</u>

The adjustment (column c) for tax-exempt income (that is, the amount of such interest reported on line 16, column b, which is

taxable by Wisconsin) is the amount computed for the period of residence. The Wisconsin amount (column d) of tax-exempt interest income is the difference between columns b and c. The calculation of federally tax-exempt interest that is taxable by Wisconsin is:

Period of residence:	$\$300 \times .3333 \times 91/366$	= \$	25
Period of nonresidence:			<u>0</u>
Total			<u><u>\$ 25</u></u>

The United States government interest income included on line 4a, column d, is calculated as follows:

Period of residence:	$\$100 \times .3333 \times 91/366$	= \$	8
Period of nonresidence:			<u>0</u>
Total			<u><u>\$ 8</u></u>

Determining the Wisconsin Income of Multistate Partnerships

A partnership that does business in Wisconsin and at least one other state or foreign country must determine the amount of income attributable to Wisconsin for purposes of figuring (a) its temporary recycling surcharge and (b) a nonresident or part-year resident individual or fiduciary partner's share of partnership income taxable by Wisconsin. The partnership must use either the apportionment method or the separate accounting method to allocate a portion of its income to Wisconsin.

What Is Apportionment

Under the apportionment method, a partnership shows all income and deductions for the partnership as a whole and then assigns a part to Wisconsin according to a formula that determines Wisconsin net income.

Who Must Use Apportionment

A partnership engaged in business in and outside Wisconsin is required to report a portion of its total company net income to Wisconsin using the apportionment method if its Wisconsin operations are a part of a unitary business, unless the department gives permission to use separate accounting (see the instructions for separate accounting on page 11). To use the apportionment method, a partnership must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country.

“Nexus” means that a partnership's business activity is of such a degree that the state or foreign country has jurisdiction to impose an income tax or franchise tax measured by net income. Under Public Law 86-272, a state can't impose an income tax or franchise tax based on net income on a partnership selling tangible personal property if the partnership's only activity in the state is the solicitation of orders, which orders are approved outside the state and are filled by delivery from a point outside the state.

What Is a Unitary Business

A unitary business is one that operates as a unit and can't be segregated into independently operating divisions or branches. The operations are integrated, and each division or branch is dependent upon or contributory to the operation of the business as a whole. It isn't necessary that each division or branch operating in Wisconsin contribute to the activities of all divisions or branches outside Wisconsin.

What Is Nonapportionable Income

Nonapportionable income is that income which is allocable directly to a particular state. It includes income or loss derived from the sale of nonbusiness real or tangible personal property or from rentals and royalties from nonbusiness real or tangible personal property. This income is assigned to the state where the property is located.

Total nonapportionable income (loss) is removed from total company net income before the apportionment percentage is applied. The Wisconsin nonapportionable income (loss) is then combined with the Wisconsin apportionable income to arrive at Wisconsin net income.

What Is the Apportionment Percentage

For unitary, multistate businesses (except air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations, and public utilities whose incomes are apportioned by special rules of the department), the apportionment percentage is determined by the weighted average of the following three ratios:

1. Wisconsin tangible property to total company (partnership) tangible property.
2. Wisconsin payroll to total company (partnership) payroll.
3. Wisconsin sales to total company (partnership) sales. (This ratio is double-weighted.)

Air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations (except insurance companies), and public utilities use special apportionment percentages established for these companies in Wisconsin Administrative Code sections Tax 2.46, 2.47, 2.475, 2.48, 2.49, and 2.50. Professional sports clubs figure their property, payroll, and sales factors under the rules provided in Wisconsin Administrative Code section Tax 2.505. For further information about the special apportionment percentages, contact any Department of Revenue office.

What Is Separate Accounting

Under the separate accounting method, a partnership must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business.

Who Must Use Separate Accounting

A partnership engaged in a nonunitary business in and outside Wisconsin is required to determine the amount of income attributable to Wisconsin by separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin.

A unitary business may use separate accounting only with the approval of the department. An application for such approval must set forth, in detail, the reasons why separate accounting will more clearly reflect the partnership's Wisconsin net income. It should be mailed to the Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906 before the end of the taxable year for which the use of separate accounting is desired.

A partnership that uses separate accounting must complete a schedule similar to Form 4C showing the income attributable to

Wisconsin Form 4C may be obtained from any Department of Revenue office.

Line-by-Line Instructions for Form 4B

■ **Line 1.** Enter all profits and losses from disposals of nonbusiness tangible property in the appropriate column or columns. Such profits and losses are nonapportionable and follow the situs of the property.

■ **Line 2.** Enter rents and royalties received on nonbusiness tangible property in the appropriate column or columns. These are nonapportionable and follow the situs of the property.

■ **Line 3.** Enter any expenses that are directly or indirectly related to rents and royalties reported on line 2. Since such income is nonapportionable, the related expenses are nonapportionable.

■ **Line 5.** Enter the total net nonapportionable income or loss for both Wisconsin and the total company.

■ **Lines 6 through 13.** Enter the undepreciated original cost of tangible property owned and used in producing apportionable income at the beginning and at the end of the taxable year. Group the property into the general categories listed for both Wisconsin and the total company.

Don't include construction in progress, idle property, or property used in producing nonapportionable income. Such property isn't used in the production of apportionable income and, therefore, isn't includable in the property factor.

Note: If any major acquisitions or dispositions occurred within the taxable year, the average monthly balances of property may be used (or required by the department) instead of the average of the beginning and ending balance. In this case, attach a separate schedule showing the calculation rather than completing lines 6 through 13.

■ **Line 14.** Add lines 13a and 13b for Wisconsin property and for total company property, and divide each of these totals by 2. This is the average owned property for Wisconsin and the total company.

■ **Line 15.** Multiply the net annual rental for property used in the production of apportionable income by 8 and enter the result. "Net annual rental" is the annual rental paid less any annual rental received from subrentals unless this results in a negative or clearly inaccurate valuation. Net annual rental doesn't include incidental day-to-day expenses such as hotel or motel accommodations, daily rentals of autos, or royalties based on extraction of natural resources.

If the taxable year covers a period of less than 12 months, the net rent paid for the short period must be annualized. However, if the rental term is for less than 12 months, the rent must be adjusted accordingly.

Leases are given the same treatment in computing the property factor as they are in computing net income. Leases that have been capitalized in computing net income are included as property owned and used for property factor purposes. All other lease payments are included in the rentals times 8 computation.

■ **Line 16.** Enter the total Wisconsin and total company property. Divide the Wisconsin property by the total company property and enter the percentage.

■ **Line 17.** Enter, for Wisconsin and the total company, the compensation paid to the company's own employees for the performance of personal services. The compensation must be related to the production of apportionable income. Compensation related to the operation, maintenance, protection, or supervision of property used in the production of both apportionable and nonapportionable income or losses must be prorated, and only the portion related to the production of apportionable income is included for Wisconsin and the total company. Compensation includes wages, salaries, commissions, and any other form of remuneration paid to employees.

Compensation is paid in Wisconsin (included in the numerator of the payroll factor) if —

- The individual's service is performed entirely in Wisconsin.
- The individual's service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual's service in Wisconsin.
- A portion of the service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.
- A portion of the service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.
- The individual is neither a resident of nor performs services in Wisconsin but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides doesn't have jurisdiction to impose franchise or income taxes on the employer.

An individual is considered to be performing a service in Wisconsin during the year if that individual spends any portion of at least 5 days during the partnership's taxable year in Wisconsin performing services.

■ **Line 18.** Enter management or service fees paid to a related corporation for the performance of personal services. The fees must be related to the production of apportionable income. Payments made to independent contractors aren't includable.

■ **Line 19.** Enter the total Wisconsin and total company payroll. Divide the Wisconsin payroll by the total company payroll and enter the percentage.

■ **Lines 20 through 25.** For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of business income:

- Gross receipts from the sale of inventory.
- Gross receipts from the operation of farms, mines, and quarries.
- Gross receipts from the sale of scrap or by-products.
- Gross commissions.
- Gross receipts from personal and other services.
- Gross rents from real property or tangible personal property.
- Interest on trade accounts and trade notes receivable.

- A partner's share of the partnership's gross receipts or a member's share of the limited liability company's gross receipts.
- Gross management fees.
- Gross royalties from income producing activities.
- Gross franchise fees from income producing activities.

"Gross receipts" means gross sales less returns and allowances, plus service charges, freight, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales and use taxes, are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price of the product.

The following items are among those not included for sales factor purposes:

- Gross receipts and gain or loss from the sale of tangible business assets, except receipts from the sale of inventory, scrap, or by-products or from the operation of a farm, mine, or quarry.
- Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.
- Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property isn't used in the production of business income.
- Royalties from nonbusiness real property or nonbusiness tangible personal property.
- Proceeds and gain or loss from the redemption of securities.
- Interest, except interest on trade accounts and trade notes receivable, and dividends.
- Gross receipts and gain or loss from the sale of intangible assets, except inventory.
- Dividends deductible in determining net income.
- Gross receipts and gain or loss from the sale of securities.
- Proceeds and gain or loss from the sale of receivables.
- Refunds, rebates, and recoveries of amounts previously expended or deducted.
- Foreign exchange gain or loss.
- Royalties and income from passive investments in patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, and technical know-how.
- Pari-mutuel wager winnings and purses.
- Other items not includable in apportionable income.

Enter on lines 20a and 20b the appropriate Wisconsin destination sales. Gross receipts from the sales of tangible personal property (except sales to the federal government) are Wisconsin sales if the property is delivered or shipped to a purchaser in Wisconsin. Sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location and immediately transported to the purchaser's out-of-state business location aren't Wisconsin sales. However, if the seller doesn't have nexus with the state in which the purchaser's business is located, the sales are "thrown back" to Wisconsin as discussed later. Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

Enter on line 21a sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin.

Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

Enter on line 21b sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state. These sales are included in the numerator of the sales factor at 50%.

Enter on line 21c sales, other than sales to the federal government, that are "thrown back" to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus. "Throwback" sales are included in the numerator of the sales factor at 50%.

"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Enter on line 22 the "double throwback" sales. These are sales of tangible personal property by an office in Wisconsin to a purchaser in another state, but not shipped or delivered from Wisconsin, if the taxpayer doesn't have nexus in (1) the state from which the property is delivered or shipped, or (2) the destination state. "Double throwback" sales are included in the numerator of the sales factor at 50%.

Enter on line 23 the total sales for Wisconsin (sum of lines 20a through 22) and the total company.

Enter on line 24, for both Wisconsin and the total company, gross receipts of apportionable income, other than sales of tangible personal property, that are includable in the sales factor.

Gross receipts are attributable to Wisconsin if the income producing activity that gives rise to the receipts is performed in Wisconsin. If the income producing activity is performed partly in and partly outside Wisconsin, assign receipts to Wisconsin based on the ratio of direct costs of performing the services in Wisconsin to the direct costs of performing the services in all states having jurisdiction to tax the business.

■ **Line 26.** Divide the Wisconsin amount on line 25 by the total company amount on line 25 and enter the sales percentage on line 26. Also multiply the percentage by 2, as indicated, and enter the double-weighted sales percentage.

■ **Line 28.** Divide the percentage on line 27 by 4 and enter the resulting percentage here and on Schedule 3K-1, item L, and Form 3S, line 3.

Don't divide the percentage on line 27 by 4 if a factor has been eliminated. A factor may be eliminated if it isn't employed to any appreciable extent in producing apportionable income. If a factor is omitted, the total must be divided by no more than the number of factors used. If either the property or payroll factor is omitted, divide by 3. If the sales factor is omitted, divide by 2. Don't omit a factor simply because it isn't employed in Wisconsin.

■ **Lines 29 through 33.** Air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations, and public utilities that apportion their

income must complete lines 29 through 33, as appropriate. For additional information, contact any Department of Revenue office.

Form UT-5 — Consumer Use Tax Return

Who Must File

The state, county, and stadium use tax is payable directly to the state by the purchaser (consumer) when tangible personal property or taxable services are purchased from a retailer who is not authorized to collect the 5% Wisconsin, 0.5% county, or 0.1% stadium sales and use tax. Complete Form UT-5 to report use tax if

- You do not hold a seller's permit, use tax registration certificate, or consumer's use tax registration certificate, and
- You infrequently purchase or lease property or services subject to use tax.

If you hold a seller's permit, use tax registration certificate, or consumer's use tax registration certificate, do not use Form UT-5. Instead, report your use tax on your sales and use tax return, Form ST-12.

For more information or forms, call (608) 266-2776 or write to the Compliance Bureau, Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.