

CAUTION

A taxpayer may **not** participate in filing a composite Wisconsin income tax return if the taxpayer wishes to claim the Internal Revenue Code section 199 deduction for qualified domestic production activities income.

2005

Composite Wisconsin Individual and Fiduciary Income Tax Return For Nonresident Partners

Form 1CNP Instructions

New . . .

Withholding required for nonresident partners

A partnership that has nonresident partners is subject to a withholding tax, unless certain exceptions are met. See page 2.

Important . . .

Extensions of time to file

The partnership may receive an extension of time to file Form 1CNP. See page 1 for more information.

This booklet contains:

- Form 1CNP and Instructions
- 2005 Tax Computation Worksheet

For More Information . . .

Visit the Department of Revenue's Internet web site at www.dor.state.wi.us

At this site you may download tax forms and instructions, Department of Revenue publications, and the *Wisconsin Tax Bulletin*, which is a quarterly newsletter that provides information about new Wisconsin tax laws, administrative rules, court decisions, tax releases, and private letter rulings. The site also provides links to Wisconsin laws and tax rules.



Instructions for Form 1CNP

General Instructions

Purpose of Form 1CNP

A partnership, including a limited liability company (LLC) classified as a partnership for federal income tax purposes, having **two or more** qualifying nonresident partners uses Form 1CNP to report and pay the Wisconsin income tax owed by those partners. In order to file Form 1CNP, the partnership and partners must agree to the rules prescribed by the Wisconsin Department of Revenue as set forth below.

The composite return replaces the separate Wisconsin income tax return, Form 1NPR or Form 2, that otherwise would be filed by each of the qualifying and participating nonresident partners.

Filing Requirements for Nonresidents of Wisconsin

Nonresidents of Wisconsin having \$2,000 or more of Wisconsin gross income during 2005 must file a Wisconsin income tax return, Form 1NPR or Form 1CNP. A nonresident who is married has a Wisconsin filing requirement if the combined Wisconsin gross income of both spouses is \$2,000 or more.

Gross income means all income (before deducting expenses) reportable to Wisconsin which is received in the form of money, property, or services. Gross income includes a distributive share of partnership gross income (before deducting expenses) as reported on Wisconsin Schedule 3K-1, line 21, column e.

If gross income (or the combined gross income of spouses) is less than \$2,000, a Wisconsin income tax return doesn't have to be filed.

Filing Requirements for Nonresident Fiduciaries

Nonresident estates or trusts that have \$600 or more of gross income from Wisconsin sources must file a Wisconsin fiduciary return, Form 2 or Form 1CNP. In addition, nonresident trusts that have any Wisconsin taxable income for the year must file a Wisconsin fiduciary return, Form 2 or Form 1CNP.

Who May Participate in Composite Return

A partnership that derives income from business transacted, services performed, or property located in Wisconsin may file Form 1CNP on behalf of its nonresident partners who derive no taxable income or deductible loss from Wisconsin other than their distributive shares of the Wisconsin partnership income or loss.

Who May Not Participate in Composite Return

A partner may not participate in this composite return in any of the following cases:

- 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 2005.
- The partner derives taxable income from Wisconsin in 2005 other than his or her distributive share of partnership income or loss from one partnership.
- The partner wishes to claim any deductions or tax credits.

Partners who are full-year Wisconsin residents must file Wisconsin Form 1. Part-year resident partners, and nonresident partners who may not participate in Form 1CNP, must file Wisconsin Form 1NPR to report their own income. Estates and trusts that may not participate in Form 1CNP must file Wisconsin Form 2.

What Income Is Reportable on Form 1CNP

Report each qualifying and participating partner's distributive share of partnership income or loss for the partnership's taxable year ending between January 31, 2005, and December 31, 2005, on a 2005 Form 1CNP.

When to File

Form 1CNP is due April 17, 2006.

Extensions of Time to File

The following extensions of time to file are available:

- Any extension allowed by the Internal Revenue Service for filing the partnership's federal return automatically extends the due date of Form 1CNP to the same extended due date, provided a copy of the federal extension is attached to Form 1CNP.
- If the partnership doesn't apply for a federal extension, but needs additional time to file the Wisconsin return, it may obtain an extension available to partnerships under federal law. To receive the Wisconsin extension, attach to Form 1CNP a completed copy of the appropriate federal

extension application form or a statement explaining the federal extension provision being used.

- The partnership may receive an extension of time to file Form 1CNP by attaching a statement to Form 1CNP which includes the following information: the federal extension provision being used and the name, address, and signature of each partner covered by the extension.
- Extensions to file allowed by the Internal Revenue Service to individual partners will also give Wisconsin extensions *to those particular partners*, provided a copy of the federal extension is attached to Form 1CNP. Other partners who don't have an extension may be subject to late filing fees and delinquent interest if Form 1CNP is filed after April 17, 2006. A separate \$30 late filing fee may be imposed on each partner who doesn't have an extension.

Where to File

Mail Form 1CNP to the Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912.

Withholding Requirement for Partnerships Having Nonresident Partners

In general, a partnership that has one or more nonresident partners is required to withhold income or franchise tax on the income allocable to the nonresident partners.

A nonresident partner includes an individual who is not domiciled in Wisconsin and an estate or a trust that is a nonresident under sec. 71.14(1) to (3m), Wis. Stats. The withholding rate is the highest rate for a single individual under sec. 71.06, Wis. Stats.

Exceptions: Withholding is not required on behalf of the following nonresident partners:

- A partner that is exempt from Wisconsin income or franchise taxation. The partnership may rely on a written statement from a partner explaining why the partner is exempt from Wisconsin tax.
- A partner with no Wisconsin income other than his, her, or its share of income attributable to Wisconsin, and his, her, or its share of that income is less than \$1,000.
- A partner who is a member of a publicly traded partnership, as defined under section 7704(b) of the Internal Revenue Code, that is treated as a partnership. The entity must file with the Department

on magnetic media an information return that reports the following information: the name, address, taxpayer identification number, and share of taxable income for each unit holder with more than \$500 of income from the entity.

The partnership uses Form PW-1 to pay the withholding. Form PW-1 is due with payment by the 15th day of the 4th month following the close of the partnership's taxable year. It must be filed, and payment must be made, by electronic means unless electronic filing and payment presents an undue hardship. See the Form PW-1 instructions for details of the filing procedures.

Internal Revenue Service Adjustments and Amended Returns

Wisconsin law requires the following information to be provided to the Department of Revenue:

- Adjustments made to a partner's federal tax return by the Internal Revenue Service that affect the Wisconsin net tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward must be reported within 90 days after they become final.
- Changes made on a partner's amended return filed with the Internal Revenue Service that affect the Wisconsin net tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward must be reported on an amended Wisconsin return within 90 days after filing the amended federal return.

Either the partnership or the partner must report this information as follows:

- The partnership must file an amended Form 1CNP to report federal adjustments or amendments to a partner's federal return that affect the amount of the partner's income or tax reported on the partnership's original Form 1CNP.

To amend Form 1CNP, file another Form 1CNP clearly marked "AMENDED RETURN" at the top of the form. Attach to the amended return a copy of the final federal audit reports if the amended return is being filed as a result of a federal audit. Otherwise, attach an explanation of the changes made and the reasons for the changes. Send the amended return to the Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991. Don't attach it to the return for the current year.

- The partner must file an amended Form 1NPR to report federal adjustments or amendments to the

partner's federal return that affect Wisconsin items of income, loss, or credit other than the partnership income or loss reported on Form 1CNP.

To amend Form 1NPR, file a Form 1NPR clearly marked "AMENDED RETURN" at the top of the form. Include any partnership income or loss previously reported on Form 1CNP. Attach to the amended return a copy of the final federal audit report if the amended return is being filed as a result of a federal audit. Otherwise, attach an explanation of the changes made and the reasons for the changes. If claiming credit for taxes previously paid on your behalf on Form 1CNP, include a statement indicating the partnership's name and federal employer identification number and amount of tax paid. Send the amended return to the Wisconsin Department of Revenue using the address specified in the Form 1NPR instructions.

Refunds, Assessments, and Correspondence

By filing Form 1CNP, the signing partner declares that the partnership has a power of attorney or other written authorization from each qualifying and participating partner to file a composite return. The Department of Revenue will mail refund checks, assessments, and all correspondence to the partnership at the address indicated on Form 1CNP. If an issue cannot be resolved between the partnership and the Department, the partnership must agree to be responsible for the payment of any additional tax due, interest, and penalties, as finally determined. In unusual circumstances, the Department may contact the individual partners.

Additional Information

If you need help with the composite return, you may:

- E-mail your question to income@dor.state.wi.us
- Send a FAX to (608) 267-1030
- Call (608) 266-2772 [TTY (608) 267-1049]
- Write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949

Additional Forms

If you need forms or publications, you may:

- Download them from the Department's Internet web site at www.dor.state.wi.us
- Use your fax telephone to call the Department's Fax-A-Form Retrieval System at (608) 261-6229
- Request them online at www.dor.state.wi.us/html/formsreq.html

- Call (608) 266-1961
- Write to the Forms Request Office, Wisconsin Department of Revenue, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949

Wisconsin Taxation of Partnership Income of Nonresidents of Wisconsin

A nonresident partner's portion of the partnership's income attributable to a business located 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. 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. Two nonresident individuals and one Wisconsin resident are equal partners in 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 partners operate the Illinois business. Each nonresident partner is taxed on one-third 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 income earned in Wisconsin.

Line-by-Line Instructions

Complete federal Form 1065 or 1065-B and Wisconsin Form 3, including all supporting schedules, before starting Form 1CNP. Fill in Schedule 2 of Form 1CNP first; then enter the totals from Schedule 2 on Schedule 1.

Schedule 2

■ **Columns A and B. Name and Address and Identifying Number** – Enter the information requested concerning the nonresident partners who qualify and are participating in this composite return. Complete names, addresses, and identifying numbers are required. For individuals and estates, enter the social security number in column B. For trusts, enter the federal employer identification number. Attach a separate schedule, if necessary.

Note: If both spouses are partners and they wish to compute their tax jointly, use only one entry line in Schedule 2. Enter both names on that line in column A, list both social security numbers in column B, and combine their incomes in columns C, D, E, and F for purposes of determining the tax to enter in column H.

■ **Column C. Partner's Share of Wisconsin Partnership Income (Loss)** – Using the amounts entered on Schedule 3K-1, column e, compute each partner's Wisconsin net income or loss to enter on Schedule 2, column C. Don't include guaranteed payments in column C; instead, show these payments in column D.

Show income as a positive number. Show a loss by putting the amount in parentheses.

The net income or loss may not agree with the total of the amounts on Schedule 3K-1, column e, for the following reasons:

- Only those separately stated deductions of the partnership (Schedule 3K-1, lines 12 and 13) that are deductible by the partners in computing federal adjusted gross income are allowed as deductions on Form 1CNP. Amounts that are deductible by the individual partners as itemized deductions (such as charitable contributions, deductions relating to port-

folio income (loss), and other miscellaneous itemized deductions from Schedule 3K-1, line 13) aren't deductible on Form 1CNP. Use the Wisconsin apportionment percentage to allocate allowable deductions to Wisconsin.

- Passive activity losses may be limited as provided in the Internal Revenue Code.
- 60% of the net capital gain realized on assets held more than 1 year is excludable from income.
- The net capital loss deduction is limited to \$500.

If any of these differences apply, attach a schedule to Form 1CNP showing the computation of net income.

Estates and trusts may be allowed certain deductions used in computing adjusted gross income.

If the partner is claiming a net operating loss carryforward, attach a schedule showing the computation of the carryforward.

Caution: An individual or fiduciary generally must have a federal net operating loss in order to have a Wisconsin net operating loss. For exceptions, see the tax release titled "Wisconsin Net Operating Loss When There Is No Federal Net Operating Loss" in *Wisconsin Tax Bulletin 70* (January 1991, page 19).

■ **Column D. Guaranteed Payments** – Enter each partner's guaranteed payments attributable to Wisconsin from Schedule 3K-1, line 4, column e.

■ **Column E. Total Wisconsin Income (Loss)** – Add the amounts in columns C and D for each partner.

■ **Column F. Federal Adjusted Gross Income** – For each partner who is an individual, enter the partner's federal adjusted gross income from federal Form 1040 on Schedule 2, column F.

Note: If this information is not available, you must compute the partner's Wisconsin tax using the alternate method described in the instructions below for Schedule 2, column H.

■ **Column G. Filing Status** – For each partner whose federal adjusted gross income was reported in column F, enter the appropriate designation for the partner's filing status in 2005: S for single, H for head of household, MFJ for married filing a joint return, and MFS for married filing a separate return.

Tax Computation Worksheet – Individuals		
1	If your filing status is: • Single or head of household, fill in \$8,840 • Married filing joint return, fill in \$11,780 • Married filing separate return, fill in \$5,890	
2	Divide the amount from Schedule 2, column E, by the amount from Schedule 2, column F, and enter the ratio	
3	Multiply line 1 by line 2	
4	Fill in the amount from Schedule 2, column E	
5	Fill in the smaller of line 3 or line 4	
6	Multiply line 5 by 4.60% (0.0460). (round to the nearest cent)	
7	Subtract line 5 from line 4. If the result is zero, skip lines 8 through 20 and go to line 21	
8	If your filing status is: • Single or head of household, fill in \$8,840 • Married filing joint return, fill in \$11,790 • Married filing separate return, fill in \$5,890	
9	Fill in the ratio from line 2 above	
10	Multiply line 8 by line 9	
11	Fill in the smaller of line 7 or line 10	
12	Multiply line 11 by 6.15% (0.0615). (round to the nearest cent)	
13	Subtract line 11 from line 7. If the result is zero, skip lines 14 through 20 and go to line 21	
14	If your filing status is: • Single or head of household, fill in \$132,580 • Married filing joint return, fill in \$176,770 • Married filing separate return, fill in \$88,390	
15	Fill in ratio from line 2 above	
16	Multiply line 14 by line 15	
17	Fill in the smaller of line 13 or line 16	
18	Multiply line 17 by 6.50% (0.0650). (round to the nearest cent)	
19	Subtract line 17 from line 13. If the result is zero, skip line 20 and go to line 21	
20	Multiply line 19 by 6.75% (0.0675). (round to the nearest cent)	
21	Add lines 6, 12, 18, and 20. Fill in total here and on Schedule 2, column H.	

Note: To use the joint return filing status, the partner's spouse cannot have any income taxable by Wisconsin other than income or loss from this same partnership. If both spouses are partners and they wish to compute their tax jointly, combine their net incomes for purposes of determining the tax to enter in column H.

Do not fill in column G for any partner whose tax must be computed under the alternate method.

■ **Column H. Tax** – If the partner's federal adjusted gross income has been entered on Schedule 2, column F, figure the tax on the income in column E by using the tax computation worksheet for individuals in the column to the left. Don't use the tax tables in the Form WI-Z, 1A, or 1 booklets because a standard deduction is built into those tables. No standard deduction or itemized deductions will be allowed for purposes of this composite filing.

Alternate Method: If the partner's federal adjusted gross income is unknown, multiply the Wisconsin income in column E by 6.75% (0.0675) and enter the result on Schedule 2, column H.

For estates and trusts, use the tax rate schedule below.

2005 Tax Rate Schedule – Estates and Trusts			
If column E is:		The 2005 gross tax is:	
over –	but not over –		of the amount over –
\$ 0	\$ 8,840	4.60%	\$ 0
8,840	17,680	\$406.64 + 6.15%	8,840
17,680	132,580	\$950.30 + 6.50%	17,680
132,580 or over		\$8,418.80 + 6.75%	132,580

■ **Column I. Alternative Minimum Tax** – A partner may be subject to the Wisconsin alternative minimum tax if the partnership has adjustments and tax preference items that are attributable to Wisconsin (Schedule 3K-1, line 17, column e).

Complete a separate Wisconsin Schedule MT for each partner who is subject to the alternative minimum tax. If both spouses are partners and are filing a joint return, combine their income, adjustments, and tax preference items on one Schedule MT. Enter the amount of alternative minimum tax in column I. Attach a copy of Schedule MT to Form 1CNP.

■ **Column J. Estimated Tax Payments and Tax Withheld** – Enter any estimated tax payments made by the partner or by the partnership on each partner's behalf. Separately enter Wisconsin income tax withheld by the partnership.

Amended Return: If this is an amended return, enter the tax previously paid.

■ **Column K. Balance Due or Overpayment** – Compute the balance due or overpayment for each partner.

Schedule 1

■ **Line 1. Wisconsin Partnership Income (Loss) of Qualifying and Participating Nonresident Partners** – Enter the total net income (loss) from Schedule 2, column E.

■ **Line 2. Tax** – Enter the total tax from Schedule 2, column H.

■ **Line 3. Alternative Minimum Tax** – Enter the total alternative minimum tax from Schedule 2, column I.

■ **Line 4. Total Tax** – Add the amounts on lines 2 and 3 and enter the total.

■ **Line 5a. Estimated Tax Payments** – Enter the total estimated tax payments from Schedule 2, column J.

■ **Line 5b. Wisconsin Income Tax Withheld** – Enter the total Wisconsin income tax withheld from Schedule 2, column J.

■ **Line 5c. Total Amount Paid** – Add the amounts on lines 5a and 5b and enter the total.

■ **Line 6 or 7. Balance of Tax Due or Overpayment** – Complete line 6 or 7 to determine the amount you owe or your overpayment.

If you owe an additional amount, you may pay by check or money order made payable to the Wisconsin Department of Revenue. Write the partnership's federal employer identification number on the check and attach it to the front of Form 1CNP.

■ **Line 8. Amount to Apply to 2006 Withholding Tax** – Enter the amount of any overpayment from line 7 that is to be applied to the partnership's 2006 withholding tax. Attach to Form 1CNP a schedule showing each partner's name, identifying number, and share of the amount on line 8. The balance will be refunded.

■ **Signatures** – A general partner of the partnership or an LLC member must sign and date Form 1CNP at the bottom of page 1. If the return is prepared by someone other than an employee of the partnership, the preparer's signature is also required.

■ **Attachments** – Attach a copy of any application for an extension of time to file the return. Don't attach federal Form 1065 or 1065-B, Wisconsin Form 3, the federal Schedules K-1, or the Wisconsin Schedules 3K-1.