

2007

Composite Wisconsin Individual Income Tax Return For Nonresident Tax-Option (S) Corporation Shareholders

Form 1CNS Instructions

New . . .

Electronic Filing. Electronic filing is now available for Form 1CNS! You or your preparer can file this form through the Federal/State E-Filing Program. With approved third-party software, you may electronically file Form 1CNS along with other Wisconsin and federal returns in a single transmission. Or, you can use Federal/State E-Filing to file Form 1CNS alone.

Grantor Trusts. Estates and trusts are no longer eligible to use Form 1CNS. Estates and trusts must file Wisconsin Form 2. However, if a grantor trust is not required to file Form 1041 for federal income tax purposes, the grantor of the trust is deemed to be the shareholder for purposes of eligibility for Form 1CNS.

Withholding on Pass-Through Income. A tax-option (S) corporation that has nonresident shareholders is subject to a withholding tax, unless certain exceptions are met. The withholding is paid with Form PW-1 and must be filed electronically. If Form 1CNS is not also filed electronically, a hard copy of Form PW-1 must be attached to Form 1CNS.

Caution . . .

Domestic Production Activities Deduction. A taxpayer may not participate in a composite return if the taxpayer wishes to claim the Internal Revenue Code section 199 deduction for qualified domestic production activities income.

Visit the Department of Revenue's Internet web site at www.revenue.wi.gov

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.

This booklet contains:

- Form 1CNS and Instructions
- 2007 Tax Computation Worksheet



Instructions for Form 1CNS

General Instructions

Purpose of Form 1CNS

A tax-option (S) corporation having **two or more** qualifying nonresident shareholders uses Form 1CNS to report and pay the Wisconsin income tax owed by those shareholders. In order to file Form 1CNS, the corporation and shareholders 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, that otherwise would be filed by each of the qualifying and participating nonresident shareholders.

Filing Requirements for Nonresidents of Wisconsin

Nonresidents of Wisconsin having \$2,000 or more of Wisconsin gross income during 2007 must file a Wisconsin income tax return, Form 1NPR or Form 1CNS. 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 pro rata share of tax-option (S) corporation gross income (before deducting expenses) as reported on Wisconsin Schedule 5K-1, line 18, column e.

If gross income (or the combined gross income of spouses) is less than \$2,000, a Wisconsin income tax return is not required. However, if the shareholder has tax withheld by the corporation on his or her behalf, the shareholder should file a Wisconsin income tax return to obtain a refund of the amount withheld.

Who May Participate in Composite Return

A tax-option (S) corporation that does business in Wisconsin may file Form 1CNS on behalf of its nonresident shareholders who derive no taxable income or deductible loss from Wisconsin other than their pro rata shares of the Wisconsin tax-option (S) corporation income or loss.

Who May Not Participate in Composite Return

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

- The shareholder is an estate or trust. However, if a grantor trust is not required to file Form 1041 for federal income tax purposes, the grantor of the trust is deemed to be the shareholder for purposes of eligibility for Form 1CNS.
- The shareholder files his or her individual income tax return on a fiscal year basis.
- The shareholder is a Wisconsin resident during any part of 2007.
- The shareholder derives taxable income from Wisconsin in 2007 other than his or her pro rata share of tax-option (S) corporation income or loss from one corporation.
- The shareholder wishes to claim any tax credits, amounts deductible as itemized deductions, or the Internal Revenue Code section 199 deduction for qualified domestic production activities income.

Shareholders who are full-year Wisconsin residents must file Wisconsin Form 1. Part-year resident shareholders, and nonresident shareholders who may not participate in Form 1CNS, must file Wisconsin Form 1NPR to report their own income.

What Income Is Reportable on Form 1CNS

Report each qualifying and participating shareholder's pro rata share of tax-option (S) corporation income or loss for the corporation's taxable year ending between January 31, 2007, and December 31, 2007, on a 2007 Form 1CNS.

When to File

Form 1CNS is due April 15, 2008.

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 tax-option (S) corporation's federal return automatically extends the due date of Form 1CNS to 30 days after the federal extended due date, provided a copy of the federal extension is attached to Form 1CNS.

- The corporation may receive an extension of time to file Form 1CNS by attaching a statement to Form 1CNS which includes the following information: the federal extension provision being used and the name, address, and signature of each shareholder covered by the extension.
- Extensions to file allowed by the Internal Revenue Service to individual shareholders will also give Wisconsin extensions *to those particular shareholders*, provided a copy of the federal extension is attached to Form 1CNS. Other shareholders who don't have an extension may be subject to late filing fees and delinquent interest if Form 1CNS is filed after April 15, 2008. A separate \$30 late filing fee may be imposed on each shareholder who doesn't have an extension.

Where to File

File electronically through the Federal/State E-Filing Program. Paper filing is also permitted. For paper forms, mail to the Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991.

Withholding Requirement for Tax-Option (S) Corporations Having Nonresident Shareholders

In general, a tax-option (S) corporation that has one or more nonresident shareholders is required to withhold income or franchise tax on the income allocable to the nonresident shareholders.

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

- A shareholder that is exempt from Wisconsin income or franchise taxation. The tax-option (S) corporation may rely on a written statement from a shareholder explaining why the shareholder is exempt from Wisconsin tax.
- A shareholder whose income from the tax-option (S) corporation attributable to Wisconsin is less than \$1,000.
- A shareholder who completes Form PW-2 (*Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Withholding Exemption Affidavit*) and provides Part 2 of Form PW-2 to the tax-option (S) corporation.

The tax-option (S) corporation uses Form PW-1 to report the withholding. Form PW-1 is due with payment by the 15th day of the 3rd month following the close of the corporation'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 shareholder'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 shareholder'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 corporation or the shareholder must report this information as follows:

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

To amend Form 1CNS, file another Form 1CNS and check the box indicating that it is an amended return. 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.

- The shareholder must file an amended Form 1NPR to report federal adjustments or amendments to the shareholder's federal return that affect Wisconsin items of income, loss, or credit other than the tax-option (S) corporation income or loss reported on Form 1CNS.

To amend Form 1NPR, file a Form 1NPR and check the box indicating that it is an amended return. Include any tax-option (S) corporation income or loss previously reported on Form 1CNS. 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 1CNS, include a statement indicating the corporation's name and federal employer identification number and amount of tax paid.

Refunds, Assessments, and Correspondence

By filing Form 1CNS, the signing corporate officer declares that the tax-option (S) corporation has a power of attorney or other written authorization from each qualifying and participating shareholder to file a composite return. The Department of Revenue will mail refund checks, assessments, and all correspondence to the corporation at the address indicated on Form 1CNS. If an issue cannot be resolved between the corporation and the Department, the corporation 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 shareholders.

Additional Information

For additional information about the taxation of tax-option (S) corporations and their shareholders, refer to the Department's Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*.

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

- E-mail your question to corp@revenue.wi.gov
- 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.revenue.wi.gov
- Request them online at www.revenue.wi.gov
- Call (608) 266-1961
- Write to the Forms Request Office, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949

Wisconsin Taxation of Tax-Option (S) Corporation Income of Nonresidents of Wisconsin

All tax-option (S) corporation income earned in Wisconsin is taxable to nonresidents of Wisconsin. If a corporation does business only in Wisconsin, a nonresident's share of its entire net income is taxable by Wisconsin. If a corporation does business in more than one state, the amount attributable to Wisconsin based on apportionment or separate accounting, as appropriate, is taxable. A unitary, multistate corporation generally must determine the amount attributable to Wisconsin using the apportionment method. A nonunitary, multistate corporation must use separate accounting.

Because all tax-option (S) corporation items retain their character as business income or loss, a nonresident shareholder's share, as well as a resident's share, of a tax-option (S) corporation's intangible income, with certain exceptions, is taxable by Wisconsin. Interest on United States government obligations, bonds issued by the government of Puerto Rico, and certain state and local government bonds isn't taxable by Wisconsin.

Line-by-Line Instructions

Complete federal Form 1120S, Wisconsin Form 5S, including all supporting schedules, and Wisconsin Form PW-1, before starting Form 1CNS. Fill in Schedule 2 of Form 1CNS first; then enter the totals from Schedule 2 on Schedule 1.

Schedule 2

■ **Columns A through C. Name and Address, Social Security Number, and Pro Rata Share** – Enter the information requested concerning the nonresident shareholders who qualify and are participating in this composite return. Complete names, addresses, and social security numbers are required. Attach a separate schedule, if necessary.

Note: If both spouses are shareholders 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 ownership interests in column C, and combine their incomes in columns D and E for purposes of determining the tax to enter in column G.

■ **Column D. Shareholder's Share of Wisconsin Tax-Option (S) Corporation Income (Loss)** – Using the amounts entered on Schedule 5K-1, column e, compute each shareholder's Wisconsin net income or loss to enter on Schedule 2, 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 5K-1, column e, for the following reasons:

- Only those separately stated deductions of the corporation that are deductible by the shareholders in computing federal adjusted gross income are allowed as deductions on Form 1CNS, except the Internal Revenue Code section 199 deduction on qualified domestic production activities income is not allowed. 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 1CNS showing the computation of net income.

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

■ **Column E. Federal Adjusted Gross Income** – For each shareholder, enter the shareholder's federal adjusted gross income from federal Form 1040 on Schedule 2, column E.

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

■ **Column F. Filing Status** – For each shareholder whose federal adjusted gross income was reported in column E, enter the appropriate designation for the shareholder's filing status in 2007: S for single, H for head of household, MFJ for married filing a joint return, and MFS for married filing a separate return.

Note: To use the joint return filing status, the shareholder's spouse cannot have any income taxable by Wisconsin other than income or loss from this same tax-option (S) corporation. If both spouses are shareholders and they wish to compute their tax jointly, combine their net incomes for purposes of determining the tax to enter in column G.

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

■ **Column G. Tax** – If the shareholder's federal adjusted gross income has been entered on Schedule 2, column E, figure the tax on the income in column D by using the tax computation worksheet on page 5. Don't use the tax tables in the Form WI-Z, 1A, 1, or 1NPR booklets. No standard deduction or itemized deductions will be allowed for purposes of this composite filing.

Tax Computation Worksheet		
1 If your filing status is: • Single or head of household, fill in \$9,510 • Married filing joint return, fill in \$12,680 • Married filing separate return, fill in \$6,340		
2 Divide the amount from Schedule 2, column D, by the amount from Schedule 2, column E, and enter the ratio		
3 Multiply line 1 by line 2		
4 Fill in the amount from Schedule 2, column D		
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 \$9,510 • Married filing joint return, fill in \$12,680 • Married filing separate return, fill in \$6,340		
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 \$123,630 • Married filing joint return, fill in \$164,850 • Married filing separate return, fill in \$82,420		
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 G		

Alternate Method: If the shareholder’s federal adjusted gross income is unknown, multiply the Wisconsin income in column D by 6.75% (0.0675) and enter the result on Schedule 2, column G.

■ **Column H. Alternative Minimum Tax** – A shareholder may be subject to the Wisconsin alternative minimum tax if the corporation has adjustments and tax preference items that are attributable to Wisconsin (Schedule 5K-1, line 15, column e).

Complete a separate Wisconsin Schedule MT for each shareholder who is subject to the alternative minimum tax. If both spouses are shareholders 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 H. Attach a copy of Schedule MT to Form 1CNS.

■ **Column I. Wisconsin Tax Withheld** – Enter the amount of pass-through entity withholding paid by the tax-option (S) corporation on behalf of each shareholder, as reported on Form PW-1, Part 2. Include any withholding carried over from a prior year. If this is an amended return, also include in column I the tax previously paid with the original return.

Required Attachments: If you are not filing Form 1CNS electronically, you must attach a copy of Form PW-1 to substantiate the amount withheld. If the amount in column I includes withholding carried over from a prior year, attach a schedule showing the amount of claimed withholding that was paid in each year.

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

Schedule 1

■ **Line 1. Wisconsin Tax-Option (S) Corporation Income (Loss) of Qualifying and Participating Non-resident Shareholders** – Enter the total net income (loss) from Schedule 2, column D.

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

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

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

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

If you are not filing Form 1CNS electronically, you must attach a copy of Form PW-1 to substantiate the amount withheld.

■ **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 and are not filing electronically, you may pay by check or money order made payable to the Wisconsin Department of Revenue. Write the corporation's federal employer identification number on the check and attach it to the front of Form 1CNS.

■ **Line 8. Amount to Apply to 2008 Withholding Tax** – Enter the amount of any overpayment from line 7 that is to be applied to the corporation's 2008 withholding tax. Attach to Form 1CNS a schedule showing each shareholder's name, social security number, and share of the amount on line 8.

■ **Signatures** – An officer of the corporation must sign and date Form 1CNS at the bottom of page 1. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must also sign the form and furnish the preparing firm's federal employer identification number. A self-employed individual preparer must enter "SSN" and his or her social security number, or "PTIN" and the preparer's tax identification number, in the space for the preparer's federal employer ID number.

■ **Attachments** – Attach a copy of any application for an extension of time to file the return. Don't attach federal Form 1120S, Wisconsin Form 5S, the federal Schedules K-1, or the Wisconsin Schedules 5K-1.