

# 2007

## Composite Wisconsin Individual Income Tax Return For Nonresident Partners

### Form 1CNP Instructions

#### New . . .

**Electronic Filing.** Electronic filing is now available for Form 1CNP! 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 1CNP along with other Wisconsin and federal returns in a single transmission. Or, you can use Federal/State E-Filing to file Form 1CNP alone.

**Grantor Trusts.** Estates and trusts are no longer eligible to use Form 1CNP. 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 partner for purposes of eligibility for Form 1CNP.

**Withholding on Pass-Through Income.** A partnership that has nonresident partners or members 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 1CNP is not also filed electronically, a hard copy of Form PW-1 must be attached to Form 1CNP.

#### 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](http://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 1CNP and Instructions
- 2007 Tax Computation Worksheet



# 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, 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 2007 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 is not required. However, if the partner has tax withheld by the partnership on his or her behalf, the partner should file a Wisconsin income tax return to obtain a refund of the amount withheld.

### 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 a partnership, corporation, LLC treated as a partnership or corporation, an estate or a 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 partner for purposes of eligibility for Form 1CNP. Likewise, a member of a single member LLC treated as a disregarded entity is deemed to be the partner for purposes of Form 1CNP eligibility.
- The partner files his or her individual income tax return on a fiscal year basis.
- The partner is a Wisconsin resident during any part of 2007.
- The partner derives taxable income from Wisconsin in 2007 other than his or her distributive share of partnership income or loss from one partnership.
- The partner 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.

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.

### 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, 2007, and December 31, 2007, on a 2007 Form 1CNP.

### When to File

Form 1CNP 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 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.
- 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 15, 2008. A separate \$30 late filing fee may be imposed on each partner 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 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.

**Exceptions:** Withholding is not required in the following situations:

- The partner is exempt from Wisconsin income or franchise taxation. In this case, the partnership may rely on a written statement from a partner explaining why the partner is exempt from Wisconsin tax.
- The partner's share of income from the partnership attributable to Wisconsin is less than \$1,000.
- The partner or member completes Form PW-2 (*Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Withholding Exemption Affidavit*) and provides Part 2 of Form PW-2 to the partnership.
- The partnership is a publicly traded partnership, as defined under section 7704(b) of the Internal Revenue Code, that is treated as a partnership, provided the partnership properly files Schedule 3K-1 for each partner.

The partnership uses Form PW-1 to report 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 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 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 and check the box indicating that it is an amended return. 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.

## 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@revenue.wi.gov](mailto:income@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](http://www.revenue.wi.gov)
- Request them online at [www.revenue.wi.gov](http://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

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## 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.

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## Line-by-Line Instructions

Complete federal Form 1065 or 1065-B, Wisconsin Form 3, including all supporting schedules, and Wisconsin Form PW-1, 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 Social Security Number** – Enter the information requested concerning the nonresident partners 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 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 that are deductible by the partners in computing federal adjusted gross income are allowed as deductions on Form 1CNP, 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 1CNP showing the computation of net income.

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

**Caution:** An individual 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, 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 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 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 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.

**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.

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 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 \$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 H	

■ **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. Wisconsin Income Tax Withheld** – Enter the amount of pass-through entity withholding paid by the partnership on behalf of each partner, 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 J the tax previously paid with the original return.

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

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

If you are not filing Form 1CNP 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 partnership's federal employer identification number on the check and attach it to the front of Form 1CNP.

■ **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 partnership's 2008 withholding tax. Attach to Form 1CNP a schedule showing each partner's name, social security number, and share of the amount on line 8.

■ **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 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 1065 or 1065-B, Wisconsin Form 3, the federal Schedules K-1, or the Wisconsin Schedules 3K-1.