

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

## Form 1CNS and Instructions

### Important Notice:

The Form 1CNS filing must only include shareholders who are eligible to participate. For example, shareholders who have any other sources of Wisconsin taxable income cannot participate.

If ineligible shareholders are included in a composite return, the Department of Revenue may be unable to accept the return. For a complete explanation of the participation requirements, see page 1.

### Withholding Is Required for Nonresident Shareholders

A tax-option (S) corporation must generally pay withholding tax on its income allocable to a nonresident shareholder. The withholding is reported and paid using Form PW-1, *Wisconsin Nonresident Withholding on Pass-Through Entity Income*. See page 4 for further details.

### Do not attach any of the following to Form 1CNS:

- Federal Form 1120S or Schedules K-1
- Wisconsin Form 5S or Schedules 5K-1
- Wisconsin Form PW-1



*Do not staple any items to your return. If you need to include supplemental schedules not listed above, file electronically or use paper clips.*

## *Go Electronic!*

Fast • Accurate • Secure

File Form 1CNS through the Federal/State E-Filing Program. With approved third party software, you can file Form 1CNS along with other Wisconsin and federal returns in a single filing. Or, you may use Federal/State E-Filing to file Form 1CNS separately. See *When and Where to File* on page 2 for details.

### Visit us online at

[www.revenue.wi.gov](http://www.revenue.wi.gov) to...

- Obtain tax forms and instructions.
- Get answers to frequently asked questions (FAQs).
- Find out which third-party software you can use to file Form 1CNS electronically.
- Register for electronic funds transfer.
- Check out the *Wisconsin Tax Bulletin* quarterly newsletter.
- Read Department of Revenue publications which explain specific topics in detail.
- Register to receive e-mail news about new laws and procedures.
- Determine which e-mail address or telephone number to use to contact the Department about a specific question.

# 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 its shareholders must agree to the rules prescribed by the Wisconsin Department of Revenue set forth in these instructions. 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.

## Table of Contents

<b>General Instructions for Form 1CNS</b> .....	<b>1</b>
Purpose of Form 1CNS .....	1
Who May Participate in Composite Return.....	1
Who May Not Participate in Composite Return.....	1
What Income Is Reportable on Form 1CNS.....	2
When and Where to File.....	2
Internal Revenue Service Adjustments and Amended Returns.....	2
Refunds, Assessments, and Correspondence.....	3
Additional Information and Forms .....	3
<b>Wisconsin Taxation of Tax-Option (S) Corporation Income for Nonresidents</b> .....	<b>3</b>
Nonresident Individual Filing Requirements .....	3
Shareholder's Share of Income Taxable to Wisconsin.....	4
Withholding Requirement for Tax-Option (S) Corporations Having Nonresident Shareholders .....	4
<b>Specific Instructions for Form 1CNS</b> .....	<b>4</b>
Line-by-Line Instructions .....	4
Schedule 2 Instructions .....	4
Schedule 1 Instructions .....	6
Instructions for Signatures, Payment, and Supplemental Schedules .....	6
<b>Tax Computation Worksheet for Form 1CNS</b> .....	<b>7</b>

## General Instructions for Form 1CNS

### Who May Participate in Composite Return

A tax-option (S) corporation that derives income from business transacted, services performed, or property located 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 cannot participate in this composite return in any of the following cases:

- The shareholder is an entity other than an individual. However, if the shareholder is an LLC treated as a disregarded entity or a grantor trust that is not required to file Form 1041 for federal income tax purposes, the single member of the LLC or grantor of the grantor trust is deemed to be the shareholder for purposes of the Form 1CNS eligibility requirements.
- The shareholder is an electing small business trust (ESBT).
- 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 2008.

- The shareholder derives taxable income from Wisconsin in 2008 other than his or her pro rata share of income or loss from one tax-option (S) 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.
- The shareholder is required to file Wisconsin Schedule RT, *Wisconsin Related Entity Expenses Disclosure* Statement, to report interest or rental expenses that result from related party transactions between the shareholder and corporation.

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 taxable income or loss for the tax-option (S) corporation's taxable year ending between January 1, 2008, and December 31, 2008, on a 2008 Form 1CNS. (**Note:** For a tax-option (S) corporation on a 52-53 week taxable year, the taxable year is considered to end on the last day of the month closest to the end of the period.)

### When and Where to File

Form 1CNS is due April 15, 2009. However, 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 filed with Form 1CNS.
- The corporation may receive an extension of time to file Form 1CNS by filing a statement with 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 filed with 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, 2009. A separate \$30 late filing fee may be imposed on each shareholder who doesn't have an extension.

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.

### 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 the filing of the amended federal return.

Either the corporation or the shareholder must report this information as follows:

***When corporation must report this information.*** 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 shareholder's original Form 1CNS.

To amend Form 1CNS, file another Form 1CNS and check the space at the top of the form indicating that it is an amended return. File with 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, include an explanation of the changes

made and the reasons for the changes.

***When shareholder must report this information.***

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 designated line indicating that it is an amended return. Include any tax-option (S) corporation income or loss previously reported on Form 1CNS. Include with 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, provide 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 shareholder 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 tax-option (S) 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 and Forms**

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.

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.

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

**Nonresident Individual Filing Requirements**

Nonresidents of Wisconsin having \$2,000 or more of Wisconsin gross income during 2008 must file a Wisconsin income tax return. 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 19, 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, the shareholder should file a Wisconsin income tax return

(Form 1NPR or Form 1CNS) to obtain a refund of the amount withheld.

### Shareholder's Share of Income Taxable to 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, Guam, the Virgin Islands, or (for bonds issued after October 16, 2004) the Government of American Samoa, and certain state and local government bonds isn't taxable to the shareholders for Wisconsin purposes.

### 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. However, withholding is not required on behalf of the following nonresident shareholders:

- A shareholder that is exempt from Wisconsin income taxation. In this case, the tax-option (S) corporation may rely on a written statement from a shareholder explaining why the shareholder is exempt from Wisconsin tax.
- The shareholder's share of income from the tax-option (S) corporation attributable to Wisconsin is less than \$1,000.
- The shareholder 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. See the Form PW-1 instructions for details of the filing procedures.

## Specific Instructions for Form 1CNS

### Line-by-Line Instructions

Fill in Schedule 2 of Form 1CNS first; then enter the totals from Schedule 2 on Schedule 1.

#### Schedule 2 Instructions

■ **Columns A Through C. Name and Address, Social Security Number, and Pro Rata Share** – Enter the information requested concerning the nonresident shareholders who are participating in this composite return. Complete names, addresses, and social security numbers are required. Prepare and submit a separate schedule, if necessary, if there are not enough

lines provided on Schedule 2.

**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, both ownership interests in column C, and combine their amounts in columns D1, D2, and E for purposes of determining the tax to enter in column G.

■ **Column D1. 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 D1.

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 tax-option (S) corporation that are deductible by the shareholders in computing federal adjusted gross income are allowed as deductions on Form ICNS, 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, submit a schedule with Form ICNS showing the computation of net income.

If the shareholder is claiming a net operating loss carryforward, prepare a schedule showing the computation of the carryforward and submit it with your Form ICNS. **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 D2. Shareholder’s Share of Wisconsin Gross Income** – For each shareholder, fill in the amount reported on Schedule 5K-1, line 19. If the amount on Schedule 5K-1, line 19 is \$2,000 or more, the shareholder has a Wisconsin filing requirement and must file using either Form ICNS or Form 1NPR.

■ **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 2008: 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 explained below.

■ **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 E by using the tax computation worksheet on page 7 of these instructions. Don’t use the tax tables in the Form 1A & WI-Z, Form 1, or Form 1NPR booklets. No standard deduction or itemized deductions will be allowed for purposes of this composite filing.

*Alternate method of computing column G.* If the shareholder’s federal adjusted gross income is unknown, multiply the Wisconsin income in column D1 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 tax-option (S) 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. For each applicable shareholder, file a copy of Schedule MT with your Form ICNS.

■ **Column I1. Tax Withheld From Form PW-1** – Enter the amount of pass-through entity withholding paid by the tax-option (S) corporation on behalf of each shareholder, as reported on Part 2 of

Form PW-1. Do not include withholding carried over from the 2007 Form 1CNS (report this carryover in Column I2). If this is an amended return, also include in column I1 the tax previously paid with the original return.

■ **Column I2. Withholding Carryover From 2007** – Enter the amount of pass-through entity withholding carryover from line 8 of your 2007 Form 1CNS.

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

### Schedule 1 Instructions

■ **Lines 1 through 7.** Fill in the amounts as instructed on the form. If you have an overpayment on line 7, you will not be able to carry over that overpayment to your 2009 Form 1CNS. Instead, the overpayment will automatically be refunded to you.

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## Instructions for Signatures, Payment, and Supplemental Schedules

**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.

**Payment.** If you have an amount due on line 6, pay by electronic funds transfer or (if you choose to file Form 1CNS on paper), pay by check or money order. If you pay by check or money order, write the tax-option (S) corporation's federal employer identification number on the check and paper clip (do not staple) it to the front of Form 1CNS.

**Supplemental Schedules.** As described in the preceding instructions, you may be required to file one or more supplemental schedules with your Form 1CNS, including:

- A copy of any application for an extension of time to file the return.
- If applicable, schedules to substantiate the shareholder's share of Wisconsin tax-option (S) corporation income (loss) reported in column D1.
- Schedule MT for any shareholder who is subject to the alternative minimum tax.

**Do not** attach federal Form 1120S, Wisconsin Form 5S, Wisconsin Form PW-1, the federal Schedules K-1, or the Wisconsin Schedules 5K-1.

If you choose to file on paper, **do not** staple or bind the attachments. Instead, use paper clips. If you are submitting multiple returns, use colored separator sheets to separate them.

## Tax Computation Worksheet for Form 1CNS

<b>1</b> If your filing status is:		
<ul style="list-style-type: none"> <li>• Single or head of household, fill in \$9,700</li> <li>• Married filing joint return, fill in \$12,930</li> <li>• Married filing separate return, fill in \$6,470</li> </ul>		
<b>2</b> Divide the amount from Schedule 2, column D1, by the amount from Schedule 2, column E, and enter the ratio		
<b>3</b> Multiply line 1 by line 2		
<b>4</b> Fill in the amount from Schedule 2, column D1		
<b>5</b> Fill in the smaller of line 3 or line 4		
<b>6</b> Multiply line 5 by 4.60% (0.0460) (round to the nearest cent)		
<b>7</b> Subtract line 5 from line 4. If the result is zero, skip lines 8 through 20 and go to line 21		
<b>8</b> If your filing status is:		
<ul style="list-style-type: none"> <li>• Single or head of household, fill in \$9,700</li> <li>• Married filing joint return, fill in \$12,930</li> <li>• Married filing separate return, fill in \$6,460</li> </ul>		
<b>9</b> Fill in the ratio from line 2 above		
<b>10</b> Multiply line 8 by line 9		
<b>11</b> Fill in the smaller of line 7 or line 10		
<b>12</b> Multiply line 11 by 6.15% (0.0615) (round to the nearest cent)		
<b>13</b> Subtract line 11 from line 7. If the result is zero, skip lines 14 through 20 and go to line 21		
<b>14</b> If your filing status is:		
<ul style="list-style-type: none"> <li>• Single or head of household, fill in \$126,060</li> <li>• Married filing joint return, fill in \$168,090</li> <li>• Married filing separate return, fill in \$84,050</li> </ul>		
<b>15</b> Fill in ratio from line 2 above		
<b>16</b> Multiply line 14 by line 15		
<b>17</b> Fill in the smaller of line 13 or line 16		
<b>18</b> Multiply line 17 by 6.50% (0.0650) (round to the nearest cent)		
<b>19</b> Subtract line 17 from line 13. If the result is zero, skip line 20 and go to line 21		
<b>20</b> Multiply line 19 by 6.75% (0.0675) (round to the nearest cent)		
<b>21</b> Add lines 6, 12, 18, and 20. Fill in total here and on Schedule 2, column G		