

Instructions for 2008 Schedule RT

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General Instructions for Schedule RT

Who Must File Schedule RT

A taxpayer or pass-through entity which claims a deduction on a Wisconsin income or franchise tax return for certain expenses paid, accrued, or incurred to a “related entity” must file Schedule RT if those expenses exceed \$100,000.

The requirement to file Schedule RT applies to taxable years beginning on or after January 1, 2008.

Taxpayers and pass-through entities required to file Schedule RT include corporations, individuals, tax-option (S) corporations, partnerships, limited liability companies (LLCs), insurance companies, and fiduciaries.

Threshold Amount. Schedule RT is required if the total related entity expenses described on lines 1 through 4c of Schedule RT (adjusted for the Wisconsin apportionment percentage if applicable) exceeds \$100,000.

Purpose of Schedule RT

The purpose of Schedule RT depends on the type of related entity expense involved.

Interest Expenses and Rental Expenses. 2007 Wisconsin Act 226 enacted statutes providing that a taxpayer or pass-through entity which directly or indirectly pays, accrues, or incurs interest expense or rental expense to a “related entity” and deducts the expense on a federal income tax return must make an addition to Wisconsin income to reverse out the expense. For expenses that are “added back” in this manner, the taxpayer or entity must then file Schedule RT (unless not required, as described previously in *Threshold Amount*) to obtain a Wisconsin deduction for those expenses.

Caution: If Schedule RT is required but not timely filed, no Wisconsin deduction is allowed for related entity interest expenses or rental expenses. See *Due Date for Schedule RT*, below.

Other Related Entity Expenses. For related entity expenses that are not interest expenses or rental expenses, the taxpayer or pass-through entity must file Schedule RT to disclose to the Department of Revenue that certain expenses deducted on the Wisconsin return were expenses paid, accrued, or incurred to a related entity.

Due Date for Schedule RT

Taxpayers or pass-through entities must file Schedule RT by the due date of the Wisconsin income or franchise tax return, including extensions. File Schedule RT along with your Wisconsin income or franchise tax return.

Exception for due date: If you had a short period for a taxable year beginning in 2008 and have expenses reportable on Schedule RT, but have already filed your return, you must file an amended 2008 return which includes Schedule RT by October 15, 2009.

A Wisconsin deduction will not be allowed for related entity interest or rental expenses if Schedule RT (where required) is filed with an amended return after the due date, including extensions. (Note the exception for 2008 short period returns above.)

For related entity expenses that are not interest expenses or rental expenses, a deduction may still be allowed if a taxpayer fails to file Schedule RT when required. However, if additional tax is subsequently discovered, a penalty of 25% of the additional tax may apply if the failure to meet all requirements was not due to good cause.

Special Instructions for Pass-Through Entities and Their Members

Partnerships, limited liability companies treated as partnerships, tax-option (S) corporations, and fiduciaries which pay, accrue, or incur expenses to a related entity must complete Schedule RT and submit it with their Wisconsin return. The partners, members, shareholders, or beneficiaries of these entities are not required to file Schedule RT for their share of the related entity expenses.

However, the pass-through entity must report on the designated lines of Schedule 3K-1, 5K-1, or 2K-1 the shareholder's, partner's, member's, or beneficiary's share of the expense added back and the amount which qualifies for deduction based on Schedule RT, Part II.

Definitions Relating to Schedule RT

Who Is a "Related Entity"?

For purposes of the Schedule RT filing requirement, a "related entity" is a related person under sections 267 and 1563 of the Internal Revenue Code (IRC). A "related entity" also includes certain real estate investment trusts (REITs) if they are not "qualified REITs." (See the section *Transactions Involving REITs* on page 9 for the definition of "qualified REIT.")

Section 267, IRC, provides that the following relationships result in "related persons":

- Members of a family, namely, brothers and sisters, half-brothers and half-sisters, spouse, ancestors, and lineal descendants.

- An individual and a corporation of which more than 50% of the outstanding stock is owned (directly or indirectly) by or for the individual.
- Two corporations which are members of the same controlled group as defined in section 1563(a), IRC, except that 50% is substituted for 80% wherever it appears in sec. 1563(a).
- A grantor and fiduciary of any trust.
- A fiduciary of a trust and a fiduciary of another trust, if the same person is the grantor of both trusts.
- A fiduciary of a trust and a beneficiary of such trust.

- A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts.
- A fiduciary of a trust and a corporation more than 50% of the value of which is owned (directly or indirectly), by or for the trust or the grantor of the trust.
- A person and an exempt organization under sec. 501, IRC, which is controlled directly or indirectly by the person or (if the person is an individual) the person's family.
- A corporation and a partnership if the same persons own more than 50% of the outstanding value of the corporation's stock and more than 50% of the capital interest or profits interest in the partnership.
- An S corporation and another S corporation if the same persons own more than 50% in value of the outstanding stock of each corporation.
- An S corporation and a C corporation if the same persons own more than 50% in value of the outstanding stock of each corporation.
- An executor of an estate and a beneficiary of such estate.

Additionally, the following relationships involving partnerships and limited liability companies (LLCs) are "related persons":

- A partnership and a partner who holds a direct or indirect capital or profits interest in that partnership of more than 50%.
- An LLC and a member who holds a direct or indirect interest in that LLC of more than 50%.
- Two partnerships or LLCs if a single partner or member owns, directly or indirectly, more than 50% of both entities.

For relationships that involve ownership of stock, assets, or net profits, Wisconsin generally follows the constructive ownership rules of section 318(a), IRC.

What Are "Interest Expenses"?

For purposes of the statutory requirement to add back related entity interest expenses, "interest expenses" means interest that would otherwise

be deductible under section 163 of the Internal Revenue Code and otherwise deductible in the computation of Wisconsin income.

Expenses that are deductible as "interest expenses" under section 163, IRC, may include:

- All interest paid or accrued within the taxable year on indebtedness.
- Original issue discount.
- Nonseparately stated interest included in carrying charges for installment purchases.
- Redeemable ground rents, excluding amounts paid in redemption.
- Premiums paid or accrued for mortgage insurance.

What Are "Rental Expenses"?

For purposes of the statutory requirement to add back related entity rental expenses, "rental expenses" means expenses for the use of (or the right to use) real property or tangible personal property in connection with real property.

Services furnished or rendered in connection with rented property are also considered "rental expenses" and are subject to the addback requirement if the services are furnished by a related entity in connection with property rented from a related entity. Such services would constitute "rental expenses" regardless of whether the same related entity furnished the services as rented the property.

The method used to compute the expense and the manner in which it is reported for financial accounting purposes has no effect on whether the expense is a "rental expense" under the addback statute. For example, amounts paid under capital leases may not be called "rental expenses" in the financial accounting records, but they are considered "rental expenses" under the addback statute.

Specific Instructions for Part I

On lines 1 through 3, enter the name and identification number of related entities to whom the taxpayer paid, accrued, or incurred the expense described. Also identify the type of entity and fill in the amount of the expense, in the aggregate, attributable to each entity. If you are filing under the apportionment method, enter the unapportioned amounts. List the related entity with the largest amount first.

Supporting Documentation and Attachments

If you are reporting related entity expenses paid, accrued, or incurred to more than two related entities for any of the expense types in lines 1 through 3, you must prepare and submit with Schedule RT a schedule listing the name, identification number, entity type, expense type, and expense amount corresponding to the related entities included in lines 1c, 2c, and 3c.

For line 4c, you must submit a supplemental schedule for any related entity expenses except for interest, rent, or royalty expenses; management or service fees; or inventory purchases, if the total amount of such expenses paid, accrued, or incurred to related entities is more than 10% of total expenses claimed for the taxable year.

The schedule for line 4c must contain the following information for each related entity:

- Entity name.
- Entity's federal employer identification number (or social security number if an individual).
- Type of entity (corporation, S corp., partnership, individual, fiduciary, other).
- Amount of related entity expense not included in lines 1 through 4b.
- Description of expense.

You may also submit any other documentation you believe would enhance the Department of Revenue's understanding of the transactions. However, this additional documentation is not required.

Guidelines for Adequate Disclosure

You must disclose actual numbers. Entering "available on request" will not be considered an adequate disclosure. However, for each of lines 1 through 4c, disclosure will be considered adequate if the total of that expense type for all related entities combined is within 10% of the actual amount of such expense.

Specific Instructions for Part II

Complete Part II only if you had related entity interest or rental expenses you wish to deduct on your Wisconsin return.

In item A, check all boxes that are true in their entirety for the interest expense or rental expense you reported in Part I. If a box is true in its entirety for a portion of the expense you reported, check the box and refer to the instructions to item B.

In item B, you will enter the amount of interest expenses and rental expenses eligible for a Wisconsin deduction based on whether the ex-

penses fit the criteria corresponding to boxes i., ii., or iii. of item A.

Each of the three boxes in item A, as well as item B, are explained in detail below. Also see the section Additional Guidance for Part II, beginning on page 6.

Item A, Box i.

Section 71.80(23)(a)1., Wis. Stats., provides that a Wisconsin deduction is generally allowed for a related entity interest or rental expense under either of the following circumstances:

- The expense was paid, accrued, or incurred to a related entity which was acting as a conduit because the related entity paid, accrued, or incurred that expense to an unrelated third party during the same taxable year as the taxpayer paid, accrued, or incurred the expense to the related entity.
- The expense was paid, accrued or incurred to a bank holding company under 12 USC 1841(a), a savings bank holding company under 12 USC 1841(l), or a savings and loan holding company under 12 USC 1467a(a)(1)(D) or direct or indirect subsidiary of such company; and not paid, accrued, or incurred directly or indirectly to any entity organized under the laws of another jurisdiction and that primarily holds and manages investments of a bank, subsidiary, or affiliate.

Except as indicated below, you may check box i. if either of the above is true.

Expenses Ineligible for Item A, Box i. You may not check box i. for interest expense in connection with any debt that is used to acquire the taxpayer's own stock or assets under section 368 of the Internal Revenue Code.

Item A, Box ii.

Section 71.80(23)(a)2., Wis. Stats., provides that a Wisconsin deduction is generally allowed for a related entity interest or rental expense if both of the following are true:

- The expense was paid, accrued, or incurred to a related entity that included the corresponding interest income or rental income in its tax base for any tax on (or measured by) its net income or receipts in Wisconsin or another jurisdiction, and
- That entity's "aggregate effective tax rate" applied to that corresponding income was at least 80% of the taxpayer's "aggregate effective tax rate."

The "aggregate effective tax rate" is the sum of the entity's "effective tax rates" for each applicable state or jurisdiction.

The "effective tax rate" is the maximum tax rate imposed by a state, U.S. possession, or foreign

country, multiplied by the apportionment percentage (if any) applicable to the entity in that state, U.S. possession, or foreign country.

Except as indicated below, check box ii. if the taxpayer meets both prongs of the test shown above. You may use Worksheet A on page 11 of these instructions to compute the aggregate effective tax rates and apply the 80% test. You do not need to submit this worksheet with your Schedule RT.

Items Not Includable In "Aggregate Effective Tax Rate." The following items may not be included in the computation of the aggregate effective tax rate:

- The tax rate of any state, U.S. possession, or foreign country where the taxpayer or related entity files a combined or consolidated report or return if it results in eliminating the tax effects of the transaction between the taxpayer and the related entity in that state, U.S. possession, or foreign country.
- For expenses paid, accrued, or incurred to pass-through entities, the pass-through entity members' tax rate attributable to income or receipts for which the state, U.S. possession or foreign country does not impose a tax at the pass-through entity level.

Expenses Ineligible for Item A, Box ii. You may not check box ii. if the interest or rental expense is paid, accrued or incurred to a real estate investment trust (REIT) that is not a "qualified REIT." See the section *Transactions Involving REITs* on page 9 for further details.

Item A, Box iii.

Section 71.80(23)(a)3., Wis. Stats., provides that a Wisconsin deduction is allowable for related entity interest or rental expense if the taxpayer establishes any other conditions the Department considers relevant, based on the facts and circumstances of each particular case, to determine that all of the following are true:

- The primary motivation for the transaction was one or more business purposes other than the avoidance or reduction of state income or franchise taxes;

- That the transaction changed the economic position of the taxpayer in a meaningful way apart from tax effects; and
- That the interest expenses or rental expenses were paid, accrued, or incurred using terms that reflect an arm's length relationship.

See *Additional Guidance for Item A, Box iii.* beginning on page 8 for a list of factors the Department would generally consider relevant in determining whether all of the above are true. You may submit with Schedule RT any information pertaining to these factors or other factors you believe are relevant. However, you are not required to submit this additional information with Schedule RT.

Item B

For item B, enter the total amount of interest or rental expense which meets the criteria described in box i., box ii. or box iii. of item A. If you are filing under the apportionment method, enter the unapportioned amount. If you checked more than one box, you do not need to separately state the amount that qualifies under each criteria.

Provided that you properly made Wisconsin addition modifications to add back related entity interest and rental expense deductions as required by 2007 Wisconsin Act 226, the amount you enter in item B is the amount you may enter as a subtraction modification on your Wisconsin return.

If Expenses Are Not Eligible for Deduction

If any portion of your interest or rental expenses did not qualify for a Wisconsin deduction because it did not fully meet any of the criteria corresponding to boxes i., ii., or iii. of item A, you must:

- Review your prior years' returns and amend them as necessary. If you engaged in substantially identical transactions in those years, the Department may audit those transactions and make adjustments under its authority in secs. 71.30(2) and 71.80(1)(b), Wis. Stats. (see *Department of Revenue's Authority*, below).
- Notify the related entity of the amount of expense not deductible to you so that the related entity may subtract the corresponding interest or rental income. Use Schedule RT-1 to notify the related entity. See the Schedule RT-1 instructions for details.

Department of Revenue's Authority

Wisconsin Statutes (secs. 71.30(2) and 71.80(1)(b)) expressly provide that although a taxpayer may meet one or more of the criteria shown on Schedule RT, Part II, item A, the Department of Revenue retains the right to distribute, apportion, or allocate gross income, deductions, credits or allowances between or among two or more related entities in circumstances where it is necessary to prevent evasion of taxes or to clearly reflect the income of the related entities.

Additional Guidance for Part II

Following are guidelines which will help you determine if you are eligible to check box i., box ii., or box iii. in Part II, item A:

Item A, Box i.: Taxable Year

"Taxable year" refers to the taxable year of the taxpayer who wishes to claim the deduction for the expense paid, accrued or incurred to the related entity. For purposes of applying sec. 71.80(23)(a)1., the Department will con-

sider an expense paid to an unrelated entity before the unextended due date of the taxpayer's income or franchise tax return to be paid within the taxpayer's "taxable year." However, such expenses that occur after the end of the taxpayer's tax year may not then be counted again as occurring in the subsequent taxable year.

Item A, Box i.: Less Than 100% of Interest Expense Paid to Unrelated Entity

If less than 100% of the interest expense paid, accrued, or incurred to the related entity from the taxpayer and all other related entities is paid to an unrelated entity within the taxpayer's taxable year, a pro rata share of the taxpayer's expense is considered to be paid, accrued, or incurred to the unrelated entity.

Example:

- Taxpayer A made a \$100 interest payment to Related Entity B.
- Related Entity B received a total of \$400 of related entity interest income during Taxpayer A's taxable year. \$100 of this amount was from Taxpayer A and \$300 was from other related entities.
- In Taxpayer A's taxable year, Related Entity B pays \$200 of interest expense to unrelated third parties.

In the example above, \$50 ($(\$100/\$400) \times \200) of the interest Taxpayer A paid to Related Entity B would be considered to be paid, accrued, or incurred to an unrelated entity.

Item A, Box ii.: Related Entity With Loss or Credit Carryforwards

If the related entity to which the taxpayer paid, accrued, or incurred the expenses pays no tax based on income or receipts because it has loss carryforwards or credit carryforwards, the maximum statutory tax rate and the entity's apportionment percentage in each state where it would otherwise have a tax liability may be included in the computation of the aggregate effective tax rate.

Example:

- Taxpayer A makes a \$500,000 interest payment to Related Corporation C.
- Related Corporation C has no other income and is engaged in business only in State X.
- Related Corporation C has a \$1,000,000 loss carryforward in State X. C uses this carryforward to offset the \$500,000 related entity interest income and therefore owes no tax to State X.

- State X has a maximum corporation income tax rate of 6.2%.

In the example above, Related Corporation C's aggregate effective tax rate would be 6.2%.

Item A, Box ii.: Differing Reporting Periods

If the related entity to which the taxpayer paid, accrued, or incurred the expenses is on a taxable year that ends before the taxpayer's taxable year, determine the related entity's aggregate effective tax rate based on the related entity's most recently ended taxable year.

If the related entity is on a taxable year that ends after the taxpayer's taxable year, the taxpayer may not know what the related entity's apportionment percentages and taxing states will be for the related entity's taxable year. In this case, the aggregate effective tax rate may be determined as follows:

- If in the related entity's most recently ended taxable year it was subject to a tax on or measured by net income or receipts in a state, U.S. possession, or foreign country, the related entity's aggregate effective tax rate may be computed based on the related entity's most recently ended taxable year.
- If the related entity was not subject to such tax for its most recently ended taxable year, you may modify the computation of the aggregate effective tax rate as shown below. (Caution: You may not compute the related entity's aggregate effective tax rate in this manner for any subsequent taxable year.):
 - Use 100% as the related entity's apportionment percentage.
 - Use the statutory tax rate of the state where the related entity is incorporated, organized, formed, or (if the related entity is an individual), where the individual resides.

Item A, Box ii.: Taxpayer or Related Entity Is a Pass-Through Entity

For a pass-through entity, the aggregate effective tax rate cannot include taxes imposed on the entity's members. If a pass-through entity elects to file a composite return in a state on be-

half of some or all of its members, the tax rate applicable to that composite return cannot be included in the entity's effective tax rate for that state.

However, taxes imposed at the entity level that are on (or measured by) net income or receipts may be included in the entity's aggregate effective tax rate. For example, Wisconsin's recycling surcharge, which is imposed on partnerships and tax-option (S) corporations in sec. 77.93 (1) and (3), Wis. Stats., may be included in the Wisconsin effective tax rate of a pass-through entity.

Withholding taxes paid on income distributable to members may also be considered entity-level taxes if the state, U.S. possession, or foreign country imposes the withholding as a tax on the income of the pass-through entity. For example, sec. 71.775, Wis. Stats., imposes a withholding tax on a pass-through entity for the privilege of doing business in Wisconsin or deriving income from property located in Wisconsin. The amount of tax is equal to the nonresident member's share of Wisconsin distributable income multiplied by the highest tax rate applicable to the nonresident member.

You may use Worksheet B on page 12 to compute the Wisconsin effective tax rate of a pass-through entity. Computation of the effective tax rates applicable to other jurisdictions will depend on the tax structures of those jurisdictions. The sum of these effective tax rates is the aggregate effective tax rate applicable to the pass-through entity.

Additional Guidance for Item A, Box iii.

Below are examples of factors the Department would consider relevant in determining whether the taxpayer meets all three of the criteria specified in sec. 71.80(23)(a)3.:

- The primary motivation for the transaction was one or more business purposes other than the avoidance or reduction of state income or franchise taxes;
- The transaction changed the economic position of the taxpayer in a meaningful way apart from tax effects; and

- The interest expenses or rental expenses were paid, accrued, or incurred using terms that reflect an arm's length relationship.

Specific evidence that adequately supports that these criteria are met will vary based on the facts and circumstances. However, in general, if one or more of the factors listed below are present, it is more likely that a deduction may not be allowed.

These factors apply to related entity interest and rental expenses under sec. 71.80(23)(a)3. Wis. Stats., as well as to other types of related entity expenses.

Note: The Department of Revenue has express statutory authority in secs. 71.30(2) and 71.80(1)(b), Wis. Stats., to distribute, apportion, or allocate gross income, deductions, credits or allowances between or among two or more related entities in circumstances where it is necessary to prevent evasion of taxes or to clearly reflect the income of the related entities. This authority includes all types of related entity expenses.

Factors for Related Entity Expenses in General.

- 1) There was no actual transfer of funds from the taxpayer to the related entity, or the funds were substantially returned to the taxpayer, either directly or indirectly.
- 2) If the transaction was entered on the advice of a tax advisor, the advisor's fee was determined by reference to the tax savings.
- 3) The related entity does not regularly engage in similar transactions with unrelated parties on terms substantially similar to those of the subject transaction.
- 4) The transaction was not entered into at terms comparable to arm's length as determined by Treas. Reg. 1.482-1(b).
- 5) There was no realistic expectation of profit from the transaction apart from the tax benefits.
- 6) The transaction resulted in improper matching of income and expenses.
- 7) An expense for the transaction was accrued under FIN 48.

Factors Specific to Related Entity Interest Expenses.

- 8) The taxpayer is not sufficiently capitalized or has no reasonable expectation to make payment on the debt underlying the interest expense.
- 9) There is no written contract underlying the interest expense that reflects an arm's length interest rate.
- 10) The interest is attributable to any of the following:
 - An unpaid charge that is not an allowable expense, such as an expense that may have any of the characteristics of 1) through 9) above or 11) below.

- A loan from a "captive" insurance company.
- A dividend note.
- A loan from a related entity with net operating loss carryforwards.
- A loan from a related entity that is an intermediary set up in a jurisdiction that imposes no corporate-level income tax.

Factors Specific to Related Entity Rental Expenses.

- 11) The rental expense is paid to a "captive" REIT.

Transactions Involving REITs

A real estate investment trust (REIT) that is a "qualified REIT" is not considered a "related entity." Thus, expenses paid, accrued, or incurred to a "qualified REIT" are not required to be added back or reported on Schedule RT.

A "qualified REIT" is any of the following:

- Any REIT which is not owned (directly or indirectly) more than 50% by an entity taxable as a corporation.
- Any publicly traded REIT.
- Any REIT owned more than 50% by:
 - An entity exempt from federal and Wisconsin tax;
 - An entity that is a "qualified REIT" itself;
 - A qualified REIT subsidiary under sec. 856(i), IRC; or
 - A foreign entity substantially similar to a "qualified REIT," which is true if all of the criteria under the header below are met.

Foreign Entities Substantially Similar to Qualified REITs. A foreign entity is substantially similar to a qualified REIT, and thus may own more than 50% of a qualified REIT, if all of the following are true:

- At least 75% of the entity's total asset value consists of real estate assets, cash and cash equivalents, and U.S. Government securities;
- The entity is not taxed at the entity level;
- The entity annually distributes at least 85% of taxable income to shareholders;
- The entity is not owned more than 10% by a single entity or the entity is publicly traded; and
- The entity is organized in a country that has a tax treaty with the U.S.

For Further Assistance

Frequently Asked Questions

The Department of Revenue's web site has a link to frequently asked questions (FAQs) on a number of topics, including Schedule RT and the related entity expense addback requirements. Go to www.revenue.wi.gov and click the link for "FAQs." You may also access the FAQ page directly at www.revenue.wi.gov/faqs/index.html.

Wisconsin Tax Bulletin

The Department of Revenue has a quarterly publication, the *Wisconsin Tax Bulletin*, which provides information and guidance on new and existing Wisconsin tax laws. The July 2008 issue provides an overview of 2007 Act 226. The October 2008 and January 2009 issues contain a two-part series of frequently asked questions relating to the addback statute and the Schedule RT filing requirements.

The *Wisconsin Tax Bulletin* (current and archived issues) is available on the Department's

web site. Go to www.revenue.wi.gov and click the link for "Publications." You may also access the *Wisconsin Tax Bulletin* directly at www.revenue.wi.gov/ise/wtb/index.html.

The Department also offers an e-mail service to deliver the *Wisconsin Tax Bulletin* along with other news and guidance for tax practitioners. You may register for this service at www.revenue.wi.gov/html/lists.html.

Additional Assistance

If you are unable to find the answers to your questions in these instructions or using the above resources, you may contact the Department of Revenue at:

E-mail: corp@revenue.wi.gov

Telephone: (608) 266-7177

Fax: (608) 261-6240

Worksheet B: Wisconsin Effective Tax Rate of a Pass-Through Entity

(a) Type of Members ² With Interest in Entity	(b) Allocable Share of Pass-Through Entity Income	(c) Entity's Wisconsin Apportionment Percentage ³	(d) Applicable Rate	(e) Wisconsin Effective Tax Rate (b) x (c) x (d)
Wisconsin Resident Members			0.2% if entity subject to recycling surcharge	
			0% if entity not subject to recycling surcharge	
Non-Wisconsin Members Which Are Individuals and Fiduciaries			6.75%	
Non-Wisconsin Members Other Than Individuals and Fiduciaries			7.9%	
Total Wisconsin Effective Tax Rate (Sum of amounts in column e)				

² "Members" includes shareholders of a tax-option (S) corporation, partners of a partnership, members of an LLC, and beneficiaries of an estate or trust.

³ If the interest income or rental income is nonapportionable income, use 100% or 0%. If a portion of the income is nonapportionable, you will need to prorate the apportionment percentage based on the ratio of apportionable income to nonapportionable income.