

Composite Wisconsin Individual Income Tax Return for Nonresident Partners

Form 1CNP and Instructions

Important Notice:

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

If ineligible partners or members 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 Partners or Members

A partnership must generally pay withholding tax on its income allocable to a nonresident partner or member. 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 1CNP:

- Federal Form 1065 or Schedules K-1
- Wisconsin Form 3 or Schedules 3K-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 1CNP through the Federal/State E-Filing Program. With approved third party software, you can file Form 1CNP along with other Wisconsin and federal returns in a single filing. Or, you may use Federal/State E-Filing to file Form 1CNP separately. See *When and Where to File* on page 2 for details.

Visit us online at

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 1CNP 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 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 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 partners.

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General Instructions for Form 1CNP

Who May Participate in Composite Return

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

Who May Not Participate in Composite Return

A partner cannot participate in this composite return

in any of the following cases:

- The partner is an entity other than an individual. However, if the partner 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 partner for purposes of the Form 1CNP eligibility requirements.
- 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 2008.
- The partner derives taxable income from Wisconsin in 2008 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.
- The partner 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 partner and partnership.

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 1, 2008, and December 31, 2008, on a 2008 Form 1CNP. (**Note:** For a partnership 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 1CNP 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 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 filed with Form 1CNP.
- The partnership may receive an extension of time to file Form 1CNP by filing a statement with 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 filed with 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, 2009. A separate \$30 late filing fee may be imposed on each partner 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 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:

When partnership must report this information. 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 line 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 partner must report this information. 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 designated line indicating that it is an amended return. Include any partnership income or loss previously reported on Form 1CNP. 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, 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 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 and Forms

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

- E-mail your question to 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.
- 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 Partnership 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 distributive share of partnership gross income (before deducting expenses) as reported

on Wisconsin Schedule 3K-1, line 22, 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 (either Form 1CNP or Form 1NPR) to obtain a refund of the amount withheld.

Partner's Share of Income Taxable to Wisconsin

A nonresident partner's portion of the partnership's income attributable to a business located in Wisconsin

sin, 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.

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. However, 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, if the partnership submits a Schedule 3K-1 for each nonresident 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. See the Form PW-1 instructions for details of the filing procedures.

Specific Instructions for Form 1CNP

Line-by-Line Instructions

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

are instructions for Schedule 2, followed by instructions for Schedule 1.

Schedule 2 Instructions

■ **Columns A and B. Name and Address and Social Security Number** – Enter the information requested concerning the nonresident partners 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 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 amounts in columns C1, C2, D, E, and F for purposes of determining the tax to enter in column H.

■ **Column C1. 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 C1. Don't include guaranteed payments in column C1; instead, show these payments in column D.

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, include a schedule with Form 1CNP showing the computation of net income.

If the partner is claiming a net operating loss carryforward, prepare a schedule showing the computation

of the carryforward and submit it with your Form 1CNP. **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 C2. Partner's Share of Wisconsin Gross Income** – For each partner, fill in the amount reported on Schedule 3K-1, line 22. If the amount on Schedule 3K-1, line 22 is \$2,000 or more, the partner has a Wisconsin filing requirement and must file using either Form 1CNP or Form 1NPR.

■ **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 C1 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 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 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 explained below.

■ **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 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 H. 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.

■ **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. For each applicable partner, file a copy of Schedule MT with your Form 1CNP.

■ **Column J1. Tax Withheld From Form PW-1** – Enter the amount of pass-through entity withholding paid by the partnership on behalf of each partner, as reported on Part 2 of Form PW-1. Do not include withholding carried over from the 2007 Form 1CNP (report this carryover in Column J2). If this is an amended return, also include in column J1 the tax previously paid with the original return.

■ **Column J2. Withholding Carryover From 2007** – Enter the amount of pass-through entity withholding carryover from line 8 of your 2007 Form 1CNP.

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

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 1CNP. Instead, the overpayment will automatically be refunded to you.

Instructions for Signatures, Payment, and Supplemental Schedules

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.

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

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

- A copy of any application for an extension of time to file the return.
- If applicable, schedules to substantiate the partner's share of Wisconsin partnership income (loss) reported in column C1.
- Schedule MT for any partner who is subject to the alternative minimum tax.

Do not attach federal Form 1065 or 1065-B, Wisconsin Form 3, Wisconsin Form PW-1, the federal Schedules K-1, or the Wisconsin Schedules 3K-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 1CNP

1 If your filing status is:		
<ul style="list-style-type: none"> • Single or head of household, fill in \$9,700 • Married filing joint return, fill in \$12,930 • Married filing separate return, fill in \$6,470 		
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:		
<ul style="list-style-type: none"> • Single or head of household, fill in \$9,700 • Married filing joint return, fill in \$12,930 • Married filing separate return, fill in \$6,460 		
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:		
<ul style="list-style-type: none"> • Single or head of household, fill in \$126,060 • Married filing joint return, fill in \$168,090 • Married filing separate return, fill in \$84,050 		
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		