# 2008

# Wisconsin
# Partnership Return

# Form 3 Instructions

## New for 2008:

**Related Entity Expenses**
Taxpayers must make modifications to federal income for interest or rent expenses paid, accrued, or incurred to a related entity. See pages 3 and 10 for details of how this new law affects Form 3 filers.

**Schedule RT**
Taxpayers must file Wisconsin Schedule RT if the total of certain related party expenses exceeds $100,000. See page 3 for details.

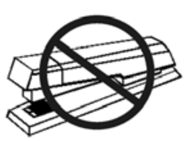
## Go Electronic!

Fast ● Accurate ● Secure

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

**Remember to file these with Form 3:**

- Schedule 3K-1 for each partner
- A copy of your federal return, including supporting schedules
- Any extension of time to file
- Any other required forms or schedules, such as Schedule RT or Schedule CR



*Do not staple attachments to your return. File electronically or use paper clips to submit these items.*

**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 3 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.

***Don't forget about use tax!***
The partnership may owe use tax if it purchased tangible personal property or certain services for storage, use, or consumption in Wisconsin without paying a state sales or use tax. See page 5 for details.

# Purpose of Form 3

Partnerships, including limited liability companies (LLCs) treated as partnerships, use Form 3 to report their income, gains, losses, deductions, and credits. In addition to filing Form 3, partnerships may also be required to file Form 3S to compute their recycling surcharge.

## Table of Contents



# General Instructions for Form 3

### Who Must File Form 3

Every partnership and limited liability company treated as a partnership with income from Wisconsin sources, regardless of the amount, must file Form 3. For example, a partnership must file a return if it has income from:

- Business transacted in Wisconsin,
- Personal or professional services performed in Wisconsin,
- Real or tangible personal property located in Wisconsin,
- A covenant not to compete, if that covenant was based on a Wisconsin-based activity, or
- Wisconsin lottery prizes, including income from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin.

The Department of Revenue may also require a partnership with Wisconsin resident partners to file a Wisconsin partnership return even though it has no Wisconsin business or income. For example, an out-of-state partnership that does no business in Wisconsin, has no property in Wisconsin, and has no income from Wisconsin sources may be requested to file a partnership return to enable the Department of Revenue to compute a Wisconsin resident partner's Wisconsin tax liability.

***Exceptions:*** The following partnerships and limited liability companies are not required to file Form 3:

- A syndicate, pool, joint venture, or similar organization that isn't required to file a federal partnership return because it has elected under Internal Revenue Code (IRC) section 761(a) not to be treated as a partnership for federal income tax purposes may make a similar election for Wisconsin purposes. To make the election, attach a copy of the federal election statement to the Form 3 filed with the Department of Revenue for the year of election.
- If the Wisconsin election is made, the organization generally won't have to file Form 3 except for the year of election. However, the Department of Revenue may require the organization to file a return so that a partner's Wisconsin tax liability may be computed.
- Publicly traded partnerships treated as corporations under IRC section 7704 must file Wisconsin Form 4 or 5 instead of Form 3.
- Limited liability companies treated as corporations for federal income tax purposes must file Wisconsin Form 4 or 5 instead of Form 3.
- Single member limited liability companies that are disregarded as separate entities under IRC section 7701 are disregarded as separate entities for Wisconsin purposes. The member is required to include the income and expenses of the limited liability company on the member's return.
- Common trust funds are treated as fiduciaries under Wisconsin law and must file Wisconsin Form 2 instead of Form 3.

## Definitions

***Partnership.*** A partnership is an association of two or more persons to carry on as co-owners a trade or business for profit. The term "partnership" includes a limited partnership, registered limited liability partnership, syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and is not, within the meaning of the Wisconsin income tax law, a corporation, trust, estate, or sole proprietorship.

***Limited Partnership.*** A limited partnership is formed under a state limited partnership law and composed of at least one general partner and one or more limited partners.

***Registered Limited Liability Partnership.*** A registered limited liability partnership (LLP) is formed under Wisconsin limited liability partnership law and registered under sec. 178.40, Wis. Stats. Generally, a partner in an LLP isn't personally liable for the debts of the LLP or any other partner.

***Foreign Registered Limited Liability Partnership.*** A foreign limited liability partnership is formed pursuant to an agreement governed by the laws of a state other than Wisconsin or another country and registered under the laws of that jurisdiction.

***General Partner.*** A general partner is a partner who is personally liable for partnership debts.

***Limited Partner.*** A limited partner is a partner whose personal liability for partnership debts is limited to the amount of money or other property that the partner contributed or is required to contribute to the partnership. **Note:** A partner who has the authority to act for or bind the partnership in any way or to participate in any way in the management or business affairs of the partnership, or both, is deemed to be a general partner, even if the person is defined as a limited partner in the partnership agreement.

***Limited Liability Company.*** A limited liability company (LLC) is an entity formed under state law by filing articles of organization as an LLC. Unlike a partnership, none of the members of an LLC are personally liable for its debts. However, members or other persons may be personally liable for the payment of taxes based on their responsibilities or actions.

An LLC may be classified for federal income tax purposes as a partnership, a corporation, or as an entity disregarded as a separate entity from its owner. If an LLC is classified as a partnership for federal income tax purposes, it is treated as a partnership for Wisconsin purposes. An LLC classified as a corporation for federal income tax purposes is treated as a corporation by Wisconsin. An LLC disregarded as a separate entity for federal income tax purposes is also disregarded as a separate entity for Wisconsin income tax purposes. For more information, obtain Wisconsin Publication 119, *Limited Liability Companies (LLCs)*.

## When and Where to File

A partnership must file its return with the Wisconsin Department of Revenue by the 15th day of the 4th month following the close of its taxable year.

***Extensions.*** Any extension allowed by the Internal Revenue Service for filing the federal return automatically extends the Wisconsin due date, if you file a copy of the federal extension with your Wisconsin return. If you aren't requesting a federal extension, but you need additional time to file your Wisconsin return, you may obtain an extension available to partnerships under federal law. To receive the Wisconsin extension, include with your Wisconsin return a completed copy of the appropriate federal extension form or a statement explaining which federal extension provision you are using.

For partnership returns due on or after January 1, 2009, the Internal Revenue Service allows an extension period of five months. This same extension period applies to Wisconsin partnership returns.

***Filing Methods.*** File electronically through the Federal/State E-Filing Program. For a list of software vendors participating in this program, visit the Department's web page at www.revenue.wi.gov/eserv/corp/third.html.

Paper filing is also permitted. If you choose to file Form 3 on paper, follow these mailing instructions carefully:

- **Do not fasten, staple or bind the pages of your return.** Use paper clips instead.
- If you are submitting multiple returns, separate them with **colored separator sheets.**
- Use the mailing address shown on page 3 of the form.

**Period Covered by Return and Accounting Methods**

The return must cover the same period as the partnership's federal income tax return. File a 2008 Wisconsin return for calendar year 2008 or a fiscal year that begins in 2008.

If a partnership elects, under IRC section 444, to have a taxable year other than a required taxable year, that election also applies for Wisconsin. Unlike for federal purposes, the partnership doesn't have to make a required payment of tax as provided in IRC section 7519.

Figure ordinary income by the accounting method regularly used in maintaining the partnership's books and records. The method may include the cash receipts and disbursements method, an accrual method, or any other method permitted by the Internal Revenue Code in effect for Wisconsin. The method must clearly reflect income.

**Disclosure of Related Entity Expenses and Reportable Transactions**

A partnership may be required to separately disclose certain expenses paid, accrued, or incurred to a related entity. A partnership or a partnership's material advisor may also be required to separately disclose reportable transactions.

> **CAUTION:** Wisconsin law provides that certain related entity expenses shall not be allowed as deductions if they are not timely disclosed as required by the Department of Revenue. Also, penalties may apply for failure to disclose reportable transactions to the Department.

***Disclosure of Related Entity Expenses.*** If the partnership paid, accrued, or incurred more than $100,000 of expenses to a related person or entity, the partnership must generally file Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its Wisconsin partnership return. **Note:** Schedule RT will not be accepted on an amended return after the extended due date of the partnership return. The Schedule RT instructions provide a detailed explanation of the filing requirements.

***Partnership's Disclosure of Reportable Transactions.*** If a partnership was required to file federal Form 8886, *Reportable Transaction Disclosure Statement*, with the Internal Revenue Service (IRS) and that form was required to be filed with the IRS after October 27, 2007, you must file a copy of Form 8886 with the Department of Revenue within 60 days of the date you are required to file it for federal income tax purposes. Send a paper copy of Form 8886, separate from your Form 3, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, P.O. Box 8958, Madison, WI 53708-8958.

See the instructions to federal Form 8886 to determine if you are required to file the form for federal purposes.

***Material Advisor's Disclosure of Reportable Transactions.*** A "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction (as defined in the U.S. Treasury Regulations) and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount.

For a material advisor providing advice to an entity and not an individual, the "threshold amount" is any of the following:

- $25,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $250,000 if the reportable transaction is not a listed transaction.

For a material advisor providing advice to an individual, the "threshold amount" is any of the following:

- $10,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $50,000 if the reportable transaction is not a listed

transaction.

A material advisor that is required to disclose a reportable transaction to the IRS after October 27, 2007, must file a copy of the disclosure with the Department of Revenue within 60 days of the date it is required for federal income tax purposes, if the reportable transaction affects the taxpayer's Wisconsin income or franchise tax liability. For federal purposes, the form required for this disclosure is Form 8918.

If you are required to file Form 8918 for federal income tax purposes and the reportable transaction to which the form relates affects the taxpayer's Wisconsin income or franchise tax liability, send a paper copy, separate from Form 3, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, P.O. Box 8958, Madison, WI 53708-8958.

**Internal Revenue Service Adjustments and Amended Returns**

***Internal Revenue Service Adjustments.*** If a partnership's federal tax return is adjusted by the Internal Revenue Service (IRS) and such adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward of a partner, you must report such adjustments to the Department of Revenue within 90 days after they become final.

In addition, each partner must file an amended Wisconsin income tax return reporting his, her, or its share of each adjustment made by the IRS to the partnership return. Each partner must file an amended Schedule 3K-1 with the amended return filed.

***Amended Returns.*** If the partnership and the partners file amended federal returns and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward of a partner, both the partnership and the partners must file amended Wisconsin returns with the Department of Revenue within 90 days after filing the amended federal returns.

To file an amended Wisconsin return, use Form 3 and check item E on the front of the return. Provide an explanation of any changes made. If the change involves an item of income, deduction, or credit that you were required to support with a form or schedule on your original return, include the corrected form or schedule with your amended return. In addition include amended Schedules 3K-1 and provide copies to the partners to file with their amended Wisconsin returns.

**Recycling Surcharge**

Partnerships, including limited liability companies (LLCs) treated as partnerships, must pay the recycling surcharge if they –

- Must file a Wisconsin partnership return, Form 3,
- Derive income from business transacted, property located, or services performed in Wisconsin, and
- Have $4 million or more of gross receipts for federal income tax purposes.

"Gross Receipts" are total receipts or sales from all trade or business activities or farming reportable by partnerships for federal income tax purposes, before deducting returns and allowances or any other business expenses. Gross receipts include the sum of the following amounts reportable on federal Form 1065 or its accompanying schedules:

- Gross receipts or sales reportable on federal Form 1065, line 1a,
- Gross receipts passed through from other partnerships and fiduciaries,
- The gross sales price from the sale or disposition of business assets,
- Gross receipts from the rental of real or tangible personal property,
- Gross receipts includable in computing other income or loss on federal Form 1065, line 7, and
- The total receipts or sales from federal Schedule F, Profit or Loss From Farming.

**Note:** When determining gross receipts, include interest and dividends from trade or business activities, such as interest and dividends received by partnerships that are dealers or traders in securities.

Partnerships figure the recycling surcharge on Form 3S, *Wisconsin Partnership Recycling Surcharge*. Form 3S must be filed by the due date, including extensions, for filing Form 3. However, the recycling surcharge must be paid by the 15th day of the 4th month following the close of the taxable period, regardless of the due date of the return. If a partnership's recycling surcharge is $200 or more, it generally must make estimated surcharge installment payments.

For more information, see the Form 3S instructions. Also see Publication 400, *Wisconsin's Recycling Surcharge*.

**Partnerships Having Nonresident Partners**

A partnership that has one or more nonresident partners is generally required to pay pass-through entity withholding.

Additionally, the partnership may file a composite individual income tax return on behalf of qualifying nonresident individual partners.

***Pass-Through Entity Withholding.*** A partnership is generally required to pay withholding tax on its distributable income which is allocable to a nonresident partner. A nonresident partner includes:

- An individual who is not domiciled in Wisconsin;
- A partnership, limited liability company, or corporation whose commercial domicile is outside Wisconsin; and
- An estate or trust that is a nonresident under sec. 71.14(1) to (3m), Wis. Stats.

However, withholding is not required on behalf of the following nonresident partners:

- A partner who is not otherwise subject to Wisconsin income or franchise tax (such as a 501(c)(3) organization with no unrelated business taxable income).
- A partner whose share of income from the partnership is less than $1,000.
- A partner who completes Form PW-2, *Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Withholding Exemption Affidavit*, and provides Part 2 of Form PW-2 to the partnership. The completed Form PW-2 must be pre-approved by the Department of Revenue. See the Form PW-2 instructions for details.

The partnership uses Form PW-1, *Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income*, to pay 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.

***Composite Return for Nonresident Individual Partners.*** A partnership that has two or more nonresident individual partners who derive no taxable income or deductible loss from Wisconsin other than their distributive shares from the partnership may file a composite individual income tax return on behalf of those partners. The partnership files this return on Form 1CNP, *Composite Individual Income Tax Return for Nonresident Partners*.

Individuals that are fiscal year filers or part-year Wisconsin residents may not participate in the composite return. No tax credits are allowed on the composite return other than a credit for pass-through entity withholding tax paid on behalf of each participating partner. Additionally, participating partners cannot claim the Internal Revenue Code section 199 deduction or any amounts deductible as itemized deductions on the composite return.

Partners that do not qualify to participate in the composite return must file a separate Wisconsin return to report the income from the partnership.

For more information on eligibility for composite filing and composite filing procedures, see the Form 1CNP instructions.

**Schedules 3K-1 and Information Returns**

***Schedules 3K-1.*** The partnership must submit a Schedule 3K-1 for each of its partners along with its Form 3. The Department is no longer accepting Schedules 3K-1 on magnetic media. File them using electronic transfer. You may obtain specifications on the Department's web site after January 1, 2009, at www.revenue.wi.gov/eserv/w-2.html.

***Information Returns for Miscellaneous Income.*** If the partnership paid $600 or more in rents, royalties, or certain nonwage compensation to one or more individuals, the partnership must file an information return to report those payments. You may use Wisconsin Form 9b, *Miscellaneous Income*, or you may use federal Form 1099 instead of Form 9b. For more information, see the Form 9b instructions.

**Wisconsin Use Tax**

The partnership may be liable for use tax. Use tax is the counterpart of sales tax. All tangible personal property and selected services, taxable under Wisconsin's sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

- Mail order and Internet purchases. You owe Wisconsin use tax if you buy such items as computers, furniture, or office supplies from a vendor who is not registered to collect Wisconsin tax.
- Inventory. If you purchase inventory items without tax for resale, and then use these items instead of selling them, you owe use tax.
- Give-aways. Generally, if you purchase items without tax and then give them away in Wisconsin, you owe use tax.

If you hold a seller's permit, use tax certificate, or consumer's use tax certificate, report your use tax on your sales and use tax return, Form ST-12. Otherwise, complete and file Form UT-5 to report use tax.

For more information on use tax, visit the Department's web site at www.revenue.wi.gov/html/sales.html, call (608) 266-2776, e-mail sales10@revenue.wi.gov, or write to the Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

**Obtaining Forms and Assistance**

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.
- Call or visit any Department of Revenue office.

If you need help in preparing a partnership tax 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.
- Call or visit any Department of Revenue office.

# Conformity With Internal Revenue Code and Exceptions

The Wisconsin income and franchise tax law applicable to partnerships is based on the federal Internal Revenue Code (IRC). The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. However, significant exceptions apply. These exceptions are discussed below.

**Note:** The exceptions listed below are those in effect as of the publication date of these instructions. It is possible that subsequent changes in Wisconsin law may eliminate some of these exceptions applicable to the partnership's 2008 return.

**Amendments to Internal Revenue Code After December 19, 2006**

Wisconsin has not adopted any amendments to the Internal Revenue Code enacted after December 31, 2006 nor any amendments to the IRC enacted by the final Act to amend the IRC in the year 2006 (P.L. 109-432, Tax Relief and Health Care Act). Thus, **Wisconsin has not adopted any amendments to the IRC enacted after December 19, 2006.**

**Depreciation and Section 179 Expensing**

If the partnership has depreciation deductions or section 179 expense deductions, it is very likely that the amount of deduction will be different for Wisconsin purposes than for federal purposes.

***Depreciation or Amortization Provisions Enacted After December 31, 2000.*** For Wisconsin purposes, depreciation or amortization is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000. For example, the following provisions do not apply for Wisconsin purposes because they were enacted after December 31, 2000:

- 30% bonus depreciation (sec. 101 of P.L. 107-147, sec. 201 of P.L. 108-27, sec. 403(a) of P.L. 108-311)
- 50% bonus depreciation (sec. 201 of P.L. 108-27)
- Accelerated depreciation for Indian reservation property (sec. 316 of P.L. 108-311)
- Modification of application of income forecast method of depreciation (sec. 242 of P.L. 108-357)
- Special expensing provisions for film and television productions (sec. 244 of P.L. 108-357)
- Special rules on depreciation for aircraft (sec. 336 of P.L. 108-357)
- Expansion of limitation on depreciation of certain passenger automobiles (sec. 910 of P.L. 108-357)
- Treatment of electric transmission property as 15-year property (sec. 1308 of P.L. 109-58)
- Expansion of amortization for certain atmospheric pollution control facilities (sec. 1309 of P.L. 109-58)
- Special expensing provisions for equipment used in refining liquid fuels (sec. 1323 of P.L. 109-58)
- Natural gas distribution lines treated as 15-year property (sec. 1325 of P.L. 109-58)
- Natural gas gathering lines treated as 7-year property (sec. 1326 of P.L. 109-58)
- Special rules for amortization of geological and geophysical expenditures (sec. 1329 of P.L. 109-58, sec.

503 of P.L. 109-222)

- Election to amortize musical works and copyrights over a 5-year period (sec. 207 of P.L. 109-222)

***Section 179 Expense Limitations.*** For Wisconsin purposes, the allowable amount of section 179 expense depends on whether the property is used in farming by a person actively engaged in farming. In either case, different maximum amounts and phaseout thresholds apply for Wisconsin purposes than for federal purposes. Additionally, off-the-shelf computer software is not considered qualifying property for Wisconsin purposes, although it is qualifying property for federal purposes.

In general, the maximum section 179 expense and phaseout threshold amounts for taxable years beginning in 2008 are as follows:

| Section 179 Property in General | | |
|---|---|---|
| | Wisconsin Law | Federal Law |
| Maximum Section 179 Expense | $25,000 | $250,000 |
| Phaseout Threshold (Amt. of qualifying property) | $200,000 | $800,000 |

For property used in farming by a person actively engaged in farming, the maximum section 179 expense and phaseout threshold amounts for taxable years beginning in 2008 are as follows:

| Section 179 Property Used in Farming by a Person Actively Engaged in Farming | | |
|---|---|---|
| | Wisconsin Law | Federal Law |
| Maximum Section 179 Expense | $115,000 | $250,000 |
| Phaseout Threshold (Amt. of qualifying property) | $460,000 | $800,000 |

For purposes of Wisconsin section 179 expense, “farming” has the meaning given in section 464(e)(1) of the IRC and “actively engaged in farming” has the meaning given in 7 CFR 1400.201.

**Other Exceptions to Internal Revenue Code**

The following federal provisions in effect as of December 19, 2006 are specifically excluded Wisconsin franchise and income tax purposes:

***Small Business Stock.*** For federal purposes, an exclusion is allowed for 50% of the gain from the sale or exchange of qualified small business stock issued after August 10, 1993 and held for more than 5 years (sec. 13113 of P.L. 103-66). For Wisconsin purposes, this section does not apply.

***Installment Method for Accrual Basis Taxpayers.*** For federal purposes, accrual basis taxpayers may report income from an installment sale under the installment method (P.L. 106-573). For Wisconsin purposes, accrual basis taxpayers cannot use the installment method. Gain from the sale of property must be recognized the year of the sale. This does not apply to dispositions of property used or produced in farming or for certain dispositions of timeshares or residential lots.

***Health Savings Accounts.*** For federal purposes, certain individuals may establish health savings accounts. A deduction is allowed for contributions to the account. Amounts contributed by an employer to an employee’s account are excluded from the employee’s gross income. (P.L. 108-173, P.L. 109-432). For Wisconsin purposes, the health savings accounts provisions do not apply.

***Other Provisions Not Adopted for Wisconsin Purposes.***

- Exclusion for extraterritorial income (sec. 1, 3, 4, and 5 of P.L. 106-519), repeal of such exclusion (sec. 101 of P.L. 108-357), and binding-contract relief provisions (sec. 513 of P.L. 109-222) (Note: Foreign sales corporation (FSC) treatment is repealed for Wisconsin purposes for taxable years beginning on or after January 1, 2005.)
- Special expensing provisions for environmental remediation costs and extension of the termination date (sec. 162 of P.L. 106-554, enacted December 21, 2000; sec. 308 of P.L. 108-311)
- Election to defer gain on disposition of transmission property to implement Federal Regulatory Commission or state electric restructuring (sec. 909 of P.L. 108-357, sec 1305 of P.L. 109-58)
- Enhanced deduction for corporate donations of computer technology and extension of the termination date (sec. 165 of P.L. 106-554, sec. 306 of P.L. 108-311)
- Tax benefits for Gulf Opportunity (GO) Zones (sec. 101 of P.L. 109-135)
- Exceptions to imputed interest rules for loans to continuing care facilities (sec. 209 of P.L. 109-222)
- Special temporary dividends received deduction for reinvesting foreign earnings in the U.S. (sec. 422 of P.L. 108-357)
- Reform of tax treatment of certain leasing arrangements (sec. 847 of P.L. 108-357)
- Special rules for nuclear decommissioning costs (sec. 1310 of P.L. 109-58)
- Pass-through of deduction for costs incurred by small refiner cooperatives to comply with EPA sulfur regulations (sec. 1324 of P.L. 109-58)
- Expansion of research credit (sec. 1351 of P.L. 109-58)

- Special tax treatment of state ownership of railroad real estate investment trust (sec. 11146 of P.L. 109-59)

**How to Report Differences**

You must report any differences between federal income and income for Wisconsin purposes in Schedule 3K, column c. For differences relating to depreciation and amortization, you must prepare schedules detailing the differences between the federal and Wisconsin computations and submit them with your return.

# Specific Instructions for Form 3

If you are filing federal Form 1065-B with the Internal Revenue Service, special instructions apply which are not covered here. For the special instructions, go to the Frequently Asked Questions on the Department of Revenue web site at http://www.revenue.wi.gov/faqs/index-b.html and click on the link for "Partnerships."

**Items A Through M**

Before completing items A. through M., fill in the partnership's 2008 taxable year at the top of the form and the partnership's name and address.

■ **A. Federal Employer Identification Number –** Enter the partnership's federal employer identification number (EIN).

■ **B. Business Activity (NAICS) Code –** Enter the partnership's principal business activity code, based on the North American Industry Classification System (NAICS), from your federal return.

■ **C. State of Formation and Year –** Enter the 2-letter postal abbreviation for the state (or name of the foreign country) under whose laws the partnership was organized and the year of formation.

■ **D. Entity Type –** Check the space indicating which type of entity is filing this return. If your entity is not one of the types listed, check the "Other" space and indicate the type of entity next to the space.

■ **E. Amended Return –** If this is an amended return, check here. Circle or clearly underline the line number of the lines you are changing and submit a detailed explanation of the changes made, including any supporting form or schedule.

■ **F. Extended Due Date –** If the partnership has an extension of time to file its Wisconsin return, check here and enter the extended due date.

■ **G. Partnership Termination –** Check here if the partnership terminated during the taxable year.

■ **H. Filing Form 1CNP –** Check here if the partnership is filing a composite Wisconsin individual income tax return, (Form 1CNP) on behalf of its qualified and participating nonresident partners.

■ **I. Schedule RT Required –** Check here if the partnership is filing Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its return. Schedule RT is generally required if the partnership pays, accrues, or incurs more than $100,000 of expenses to a related person or entity in the taxable year. See the Schedule RT instructions for details of the requirement to file Schedule RT.

■ **J. Form 3S Required –** Check here if the entity has $4 million or more of gross receipts and is required to file Form 3S and pay the recycling surcharge, as described previously.

■ **K. Number of Partners –** Enter the total number of partners that the partnership had during the taxable year.

■ **L. Number of Nonresident Partners –** Enter the total number of nonresident partners that the partnership had during the taxable year, including individuals, estates, and trusts not domiciled in Wisconsin and other partnerships, limited liability companies, and corporations whose commercial domicile is not in Wisconsin.

■ **M. Contact Person** – Enter the name, telephone number and fax number of the person the Department should contact with any questions regarding this return.

**Schedule 3K, Columns b Through d**

Schedule 3K is a summary schedule of all the partners' shares of the partnership's income, deductions, credits, etc., as computed under Wisconsin law, similar to federal Schedule K.

■ **Column b. Federal Amount –** Enter the applicable amounts from federal Schedule K in column b of Schedule

3K. For dividends and the net long-term capital gain (loss) items reported on lines 6 and 9, use the totals from federal Schedule K.

■ **Column c. Adjustment –** Enter in column c any adjustments to the federal amount necessary to arrive at the amount under Wisconsin law. However, note the following:

- Do not exclude a nonresident or part-year resident partner's share of partnership items that are attributable to business transacted outside Wisconsin, services performed outside Wisconsin, or real or tangible personal property located outside Wisconsin. These adjustments will be made on the Schedule 3K-1 of each affected partner, as described later in the specific instructions for Schedule 3K-1.
- Do not make any adjustments on Schedule 3K (or on Schedule 3K-1) for an individual, estate, or trust partner's 60% capital gain deduction or capital loss limitation. Instead, each partner will compute its own capital gain deduction or loss limitation on Wisconsin Schedule WD.

For any adjustments you enter in column c, you must prepare an explanation and submit it with your return. See the section that follows for examples of the adjustments that you are required to enter in column c.

■ **Column d. Wisconsin Amount –** Combine the amount in column b with any adjustment in column c and enter the result in column d.

**Adjustments Reportable on Schedule 3K, Column c**

You must make adjustments on Schedule 3K, Column c in the following situations:

***When a Provision of Federal Law Doesn't Apply for Wisconsin Purposes.*** You must make an adjustment if an amount in column b is figured under a provision of the Internal Revenue Code that was not adopted for Wisconsin purposes, as described earlier in these instructions. For gains and losses on sales of depreciable or amortizable assets, you will need to compute an adjustment amount in cases where your asset basis for federal purposes was different than your asset basis for Wisconsin purposes due to differences in depreciation and amortization.

These adjustments are often called "Schedule I adjustments" because individuals must report them on Wisconsin Schedule I.

***Adjustments required because different elections are made for federal and Wisconsin purposes.*** Examples of different elections include the following:

- For assets placed in service in taxable years beginning before January 1, 2001, a partnership could compute depreciation or amortization under either the Internal Revenue Code in effect for the year for which the return was filed or the Internal Revenue Code as amended to a specific date, at the taxpayer's option. An asset placed in service before 2001 must continue to be depreciated or amortized under the method elected for Wisconsin purposes for the year in which it was placed in service.
- For property placed in service after December 31, 1982, a taxpayer that claimed investment tax credit for federal purposes could either (a) claim the full 10% credit and reduce the depreciable basis of the property by one-half of the credit, or (b) in the case of regular investment tax credit property, claim a reduced credit and depreciate the full cost of the property. A partnership that claimed the regular investment tax credit and reduced the depreciable basis of the property for federal purposes could compute depreciation on the full (unreduced) basis of the property for Wisconsin purposes.
- Wages that aren't deductible for federal purposes because they were used in computing the federal work opportunity tax credit may be deducted for Wisconsin purposes.

***Adjustments Required for Modifications Prescribed in Wisconsin Law.*** Most modifications required to figure a partner's Wisconsin net income are computed by that partner rather than at the partnership level. This includes many of the modifications prescribed in sec. 71.05(6) to (12), (19), and (20), Wis. Stats. However, several types of modifications may be reportable by the partnership in column c. These modifications are described next.

**Modifications Prescribed in Wisconsin Law**

The following are examples of Wisconsin modifications that may be required in Schedule 3K, column c.

***Tax Credit Amounts.*** Certain tax credits computed by the partnership are required to be added back to the partnership's ordinary income (line 1). These credits include the following:

- Dairy and livestock farm investment credit
- Film production credits
- Health Insurance Risk-Sharing Plan assessments credit
- Ethanol and biodiesel fuel pump credit
- Development zones credits
- Technology zone credit
- Internet equipment credit
- Enterprise zone jobs credit
- Dairy manufacturing facility investment credit

***State Taxes.*** For Wisconsin purposes, state taxes and taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by all or a portion of net income, gross income, gross receipts, or capital stock are not deductible by partnerships.

***Related Entity Interest and Rental Expenses.*** For taxable years beginning on or after January 1, 2008, a partnership must make an addition modification to "add back" interest and rental expenses paid, accrued, or incurred to a related entity. After the partnership makes this addition modification, the partnership completes Schedule RT to determine if it is eligible for a deduction for any of the amount added back. The partnership then makes a subtraction modification in the amount for which it is eligible for a deduction.

See the Schedule RT instructions for further details of the expenses that require this modification and the specific criteria that must be met in order to deduct related entity interest or rental expenses.

The partnership reports the addition modifications for related entity expenses on Schedule 3K, lines 21a and 21b. For the amount eligible for a deduction, the partnership enters the subtraction amount on Schedule 3K, lines 21c and 21d. Additionally, these amounts must be reported as adjustments in column c on the lines to which the expenses relate. For example, if the related entity rental expense is an item of ordinary income, the modifications must also be reported on Schedule 3K, line 1, column c.

***Income from Expenses Disallowed to Related Entity.*** If the partnership has interest income or rental income from a related entity, and that related entity was ineligible to claim a deduction for the interest or rental expenses because it did not meet the criteria set forth in Schedule RT, the partnership may make a subtraction modification to exclude the income corresponding to the expense that the payor could not deduct. The partnership makes the subtraction on the line of Schedule 3K corresponding to the type of income being modified.

***Pre-1987 Depreciation Differences.*** Certain differences in Wisconsin and federal depreciation that existed before 1987 are treated as modifications. For example, federal ACRS deductions weren't available for Wisconsin purposes for the following property placed in service during the 1986 taxable year: (a) residential real property, and (b) property used in farming, as defined in IRC section 464(e)(1), if the taxpayer's nonfarm Wisconsin adjusted gross income or gross farm profit exceeded specified amounts. Instead, such property had to be depreciated under a method permitted in the Internal Revenue Code as amended to December 31, 1980. This property must continue to be depreciated for Wisconsin purposes under the December 31, 1980, Internal Revenue Code.

***Certain Basis Differences.*** Certain basis differences are treated as modifications. For example, for Wisconsin purposes, property taxes paid on vacant land had to be capitalized for 1964 and prior taxable years. A transitional adjustment must be made for this basis difference upon disposition of the property. Recompute the gain or loss on federal Form 4797 or federal Schedule D, as appropriate, by substituting the Wisconsin basis for the federal basis. Show the difference as a modification in column c.

***Differences in Taxable Interest Income.*** If the tax-exempt interest income reported on line 18a, column b, includes any interest that is exempt for federal purposes but taxable by Wisconsin (such as state and local government bond interest) report this amount as an *addition* on line 5, column c, and as a *subtraction* on line 18a, column c.

If the interest income reported on line 5, column b, includes any interest from obligations of the United States government and its instrumentalities, do not subtract this amount on Schedule 3K, line 5, column c. Instead, identify this amount on a separate schedule for line 20c.

**CAUTION:** Do not subtract interest income from obligations of the United States government and its instrumentalities from interest income on Schedule 3K, line 5, column c. This income is taxable to partners who are subject to Wisconsin franchise tax.

***Differences for Other Income and Expense Items.*** Income reported on line 18b that is exempt for federal purposes but taxable by Wisconsin is shown as a *subtraction* in column c. If more income is nontaxable for Wisconsin purposes than for federal purposes, show the additional amount of exempt income as an *addition*. The amount under Wisconsin law in column d is the amount of tax-exempt income for Wisconsin purposes.

Expenses on line 18c that are nondeductible federally but deductible for Wisconsin purposes are shown as *subtractions* in column c. If more expenses are nondeductible for Wisconsin purposes than for federal purposes, show the additional amount of nondeductible expenses as an *addition*. The amount under Wisconsin law in column d is the nondeductible expense for Wisconsin purposes.

### Credits Reportable on Schedule 3K, Line 15

To determine if you are eligible for any of the credits in lines 15a through 15q, see Publication 123, *Business Tax Credits for 2008*, or refer to the instructions to the credit schedules referenced below. Except as otherwise indicated, you must file the credit schedule referenced below with your Form 3 in order to claim the credits on Schedule 3K

■ **Line 15a. Manufacturing Investment Credit –** Enter the amount of manufacturing investment credit for which the partnership obtained certification from the Wisconsin Department of Commerce. Submit a copy of the Department of Commerce certification with the partnership's Form 3. The partnership is not required to complete Schedule MI.

■ **Line 15b. Dairy and Livestock Farm Investment Credit –** Enter the available dairy and livestock farm investment credit from Schedule DI, line 7.

■ **Line 15c. Health Insurance Risk-Sharing Plan Assessments Credit –** Enter the available Health-Insurance Risk Sharing Plan assessment credit from Schedule HI, line 4.

■ **Line 15d. Ethanol and Biodiesel Fuel Pump Credit –** Enter the available ethanol and biodiesel fuel pump credit from Schedule EB, line 5.

■ **Line 15e. Development Zones Credit –** Enter the available development zones credit from Schedule DC, line 5.

■ **Line 15f. Development Opportunity Zone Capital Investment Credit –** Enter the available development opportunity zone investment credit from Schedule DC, line 13.

■ **Line 15g. Development Zone Capital Investment Credit** – Enter the available development opportunity zone or agricultural or airport development zone capital investment credit from Schedule DC, line 21.

■ **Line 15h. Technology Zone Credit –** Enter the available technology zone credit from Schedule TC, line 6.

■ **Line 15i. Early Stage Seed Investment Credit –** Enter the available early stage seed investment credit from Schedule VC, line 10.

■ **Line 15j. Angel Investment Credit –** Enter the available angel investment credit from Schedule VC, line 4.

■ **Line 15k. Supplement to Federal Historic Rehabilitation Credit –** Enter the available supplement to the federal historic rehabilitation tax credit from Schedule HR, line 5.

■ **Line 15l. Film Production Company Investment Credit –** Enter the available film production company investment credit from Schedule FP, line 16.

■ **Line 15m. Nonrefundable Film Production Services Credit –** Enter the available nonrefundable film production services credit from Schedule FP, line 6.

■ **Line 15n. Internet Equipment Credit –** Enter the available Internet equipment credit from Schedule IE, line 3.

■ **Line 15o. Enterprise Zone Jobs Credit –** Enter the available enterprise zone jobs credit from Schedule EC, line 16.

■ **Line 15p. Dairy Manufacturing Facility Investment Credit –** Enter the available dairy manufacturing facility investment credit from Schedule DM, line 7.

■ **Line 15q. Refundable Film Production Services Credit –** Enter the available refundable film production services credit from Schedule FP, line 10.

■ **Line 15r. Credit for Tax Paid to Other States –** If the partnership does business in another state and either the partnership or its partners must pay an income tax on the partnership's income earned there, Wisconsin resident partners may be able to claim credit on their individual income tax returns for their pro rata shares of the tax paid. Credit is allowed only if the income taxed by the other state is considered taxable income by Wisconsin. Fill in line 15r if:

- The partnership files a combined or composite return with that state on behalf of the partners who are nonresidents of that state and pays the tax on their pro rata shares of the partnership's income earned there.
- The partnership files a partnership income tax return with that state and pays tax on the income earned there that is attributable to the partners who are nonresidents of that state.

Enter the postal abbreviation of the state in the space provided and the amount of income tax paid to that state. If tax is paid to more than three states, enter "See Attached" on one of the entry lines, enter the total amount on that line, and submit a schedule listing all states and the amount of income tax paid to each state. Submit with Form 3 a copy of the income tax return filed with each state for which a credit is claimed.

■ **Line 15s. Wisconsin Tax Withheld –** If the partnership is subject to withholding tax on the Wisconsin income of nonresident partners, enter, the amount of Wisconsin tax withheld. Generally, this will be the amount the partnership paid with Form PW-1. However, if the partnership is a member of another pass-through entity that already withheld Wisconsin tax on income passed through to the partnership, also include the tax withheld by that other entity on the partnership's share of income.

**CAUTION:** On line 15s, do not include any cash deposits or withholding made with Form WT-11, *Nonresident Entertainer's Application and Receipt for Surety Bond, Cash Deposit, or Withholding by Employer.* Use Form 3S to report those amounts.

**"Other Items and Amounts" Reportable on Schedule 3K, Item 20c**

For line 20c, submit a schedule showing any items and amounts not included on lines 1 through 20b that must be reported separately to the partners. Include the federal amount, any adjustment, and the amount determined under Wisconsin law for each item. Amounts that may be included on this schedule include, but are not limited to, the following:

***U.S. Government Interest.*** If the interest income on line 5, column b, includes any interest from United States government obligations that is taxable for federal purposes but exempt from Wisconsin income taxes, report the amount of United States government interest on this schedule.

***Disposal of Section 179 Property.*** If the partnership disposed of property for which a section 179 expense deduction was claimed in a prior year, provide the following information for each asset: description of the property; gross sales price; both the federal and the Wisconsin cost or other basis plus expense of sale (*excluding* the partnership's basis reduction in the property due to the section 179 expense deduction); depreciation allowed or allowable (*excluding* the section 179 expense deduction); and both the federal and Wisconsin amount of section 179 expense deduction passed through in previous years for the property and the partnership's taxable years for which the amounts were passed through.

**Schedule 3K, Lines 21 Through 23**

■ **Lines 21a Through 21d. Related Entity Interest and Rental Expenses –** On lines 21a and 21b, enter in column d the amounts attributable to interest and rental expenses paid, accrued, or incurred to a related entity. On lines 21c and 21d, enter the amounts eligible for a deduction as determined by the Schedule RT instructions. If the total of lines 21a and 21b exceeds $100,000, the partnership must file Schedule RT with its Form 3. If the total of lines 21a and 21b is $100,000 or less, the partnership may be required to file Schedule RT if its total related entity expenses, including interest and rent, exceed $100,000. See the Schedule RT instructions for details.

■ **Line 22. Income (Loss) –** For each of columns b and d, combine lines 1 through 11. From the result, subtract the sum of lines 12 and 13a through 13d. Add or subtract, as appropriate, any income or deductions reported on line 20c that affect the computation of taxable income.

If you reported on line 20c the disposition of property for which a section 179 expense deduction was claimed in a prior year, complete federal Form 4797 to figure the amount of gain or loss to combine with the other items of income, loss, and deduction. If the federal and Wisconsin bases of the property or section 179 deductions differ, use two Forms 4797. Disregard the special instructions for partnerships and partners when filling out Form 4797. On one Form 4797, determine the federal gain or loss to combine with the other federal amounts reported in column b. Complete a second Form 4797 to compute the Wisconsin gain or loss to combine with the other Wisconsin amounts reported in column d.

■ **Line 23. Gross Income –** Enter the partnership's gross income that is reportable to Wisconsin. Gross income is the total amount received from all activities, before deducting the cost of goods sold or any other expenses. Gross income includes gross receipts from trade or business activities, gross rents and royalties, interest and dividends, the gross sales price of assets, and all other gross receipts. If the partnership is a member of one or more other pass-through entities, include gross income attributable to those other pass-through entities.

**Submitting Your Form 3**

***Signatures.*** A general partner of the partnership or an LLC member must sign the form on page 3. If the return is prepared by someone other than an employee of the partnership, the preparer's signature is also required.

***Supporting Documentation.*** Submit the following items with your Form 3:

- Federal Form 1065.
- Supporting schedules (supporting schedules that are not Department-prescribed forms may be submitted as .pdf documents with electronic returns).
- Wisconsin Schedule 3K-1 or federal Schedule K-1 for each partner.
- Any extension of time to file.
- If the partnership has a nonresident partner who is not subject to income or franchise tax and would otherwise be subject to withholding tax based on income passed through to that partner, include a statement from that partner stating why no tax was withheld.

If you are filing Form 3 on paper, **do not staple, fasten or bind these supporting documents to your return. Use paper clips instead.**

# Specific Instructions for Schedule 3K-1

Schedule 3K-1 shows each partner's share of the partnership's income, deductions, credits, etc., which have been summarized on Schedule 3K. Like Schedule 3K, Schedule 3K-1 requires an entry for the federal amount, adjustment, and amount determined under Wisconsin law of each applicable item. In addition, Schedule 3K-1 for a nonresident or part-year resident partner requires a separate entry for the amount of each share item attributable to Wisconsin.

Prepare a Schedule 3K-1 for each individual or entity that was a partner in the partnership at any time during the partnership's taxable year. File a copy of each partner's Schedule 3K-1 with the Form 3 filed with the Department. Keep a copy as part of the partnership's records, and give each partner his, her, or its own separate copy. Schedule 3K-1 must be prepared and given to each partner on or before the day on which Form 3 is filed. In addition, give each partner a copy of the "Partner's Instructions for 2008 Schedule 3K-1."

**Federal Schedules K-1**

Since the Wisconsin Schedule 3K-1 replaces the federal Schedule K-1, a partnership doesn't have to also file a federal Schedule K-1 for each partner with Form 3. However, you may submit copies of the federal Schedules K-1 instead of preparing Schedules 3K-1 in the following situations:

- If the partnership operates only in Wisconsin and, on Schedule 3K, reports no adjustments in column c or credits in column d, you may use Schedules K-1 to report the Wisconsin partnership items for all partners.
- If the partnership operates in and outside Wisconsin and, on Schedule 3K, reports no adjustments in column c or credits in column d, you may use Schedules K-1 for **full-year Wisconsin resident** partners.

If you file federal Schedules K-1 instead of Wisconsin Schedules 3K-1, you must state on the partner's federal Schedule K-1 that there aren't any Wisconsin adjustments or credits.

**Information About the Partnership**

■ **Items A Through D.** Enter the information about the partnership from the partner's federal Schedule K-1.

**Information About the Partner**

■ **Items E Through H.** Enter the information about the partner from the partner's federal Schedule K-1.

■ **Item I.** Enter the partner's entity type from federal Schedule K-1. If the partnership is aware that the partner is a disregarded entity or grantor trust, enter in item I the name of the member or grantor to whom the income on Schedule 3K-1 will be reported. If you enter this information, it is less likely that the Department of Revenue will need to contact you or the partner to verify that the proper amount of income is reported.

■ **Items J and K.** Enter the information about the partner from the partner's federal Schedule K-1.

■ **Item L.** Enter the information about the partner's capital account from the partner's federal Schedule K-1. Check the appropriate box indicating which method was used to determine the partner's capital account. If tax basis was used, the Wisconsin amounts may be different than the federal amounts. For example, the basis of property contributed to the partnership may have been different for Wisconsin and federal purposes, or the current year increase (decrease) may differ if a federal provision is excluded from the definition of "Internal Revenue Code" for Wisconsin purposes.

If the amounts in item L represent tax basis, submit a schedule describing any differences between the Wisconsin and federal tax basis.

■ **Item M.** If the partner is an individual, enter the partner's state of residence (domicile). If the partner's state of residence changed during the partnership's taxable year, indicate all states involved. If the partner moved into or out of Wisconsin during the partnership's taxable year and the partnership has activities in more than one state, the partner's Wisconsin share of the distributive items will be affected. See the instructions below for more information.

■ **Item N.** If the partner is a nonresident individual or part-year Wisconsin resident individual during the partnership's taxable year and the partnership is a unitary, multistate partnership using apportionment, complete Form 4B or Form 4B-1 and enter the partnership's apportionment percentage from Form 4B, line 11, or Form 4B-1, as appropriate.

■ **Item O.** Check this box only if the partner is a nonresident individual or part-year Wisconsin resident during the partnership's taxable year and the partnership is a nonunitary, multistate partnership using the separate accounting method. Prepare and submit a schedule, similar to Form 4C, that shows the allocation of the amount under Wisconsin law in column d of each applicable partnership item reported on Form 3, Schedule 3K, to Wisconsin and outside Wisconsin and the basis of such allocation.

■ **Item P.** Check this box if the partner is a nonresident who filed Form PW-2, *Nonresident Partner, Member, Shareholder, or Beneficiary Withholding Affidavit*, to claim exemption from pass-through entity withholding. Check this box only if Form PW-2, Part 2 indicates it was approved by the Department. You must keep a copy of the approved Form PW-2, Part 2 on file to substantiate the withholding exemption. However, the partnership generally must still report that partner on Form PW-1 to disclose that the withholding exemption was claimed. See the Form PW-1 instructions for further details.

■ **Item Q.** If the partnership ceased to exist or withdrew from Wisconsin or if the partner terminated his, her, or its interest in the partnership during the taxable year, check the "Final 3K-1" box. To correct an error on a Schedule 3K-1 already filed, file an amended Schedule 3K-1 and check the "Amended 3K-1" box.

**Schedule 3K-1, Columns a Through e**

***Column a – Distributive Share Items.*** These item descriptions are substantially identical to the item descriptions on federal Schedule K-1. However, on the lines for other income, other deductions, alternative minimum tax (AMT) items, nondeductible expenses, distributions, and other information, enter the actual description instead of the applicable code from the federal Schedule K-1.

***Column b – Federal Amount.*** The federal amount is the partner's share of the amount from Wisconsin Schedule 3K, column b, and should agree with the amount for that item reported on the partner's federal Schedule K-1.

***Column c – Adjustment.*** The adjustment is the partner's share of the amount from Wisconsin Schedule 3K, column c. On a separate schedule you submit with Schedule 3K-1, explain the reason for any adjustment in column c. If the difference arises because a federal law change has not been adopted by Wisconsin, identify it as a "Schedule I adjustment." Individual partners must account for this difference on Wisconsin Schedule I.

***Column d – Amount Under Wisconsin Law.*** The amount under Wisconsin law is the partner's share of the amount from Wisconsin Schedule 3K, column d. This is the amount used in computing Wisconsin income by a full-year resident of Wisconsin or a corporation or another partnership that is a partner.

***Column e – Wisconsin source amount.*** Fill in this column only for a nonresident individual or part-year Wisconsin resident individual. The Wisconsin source amount is the portion of the partner's amount in column d that is attributable to Wisconsin. If the partnership is doing business in and outside Wisconsin, this generally will be the amount from column d multiplied by the partnership's apportionment percentage from item N.

**CAUTION:** Do not fill in column e for a partner who is a corporation, another partnership, or a full-year Wisconsin resident individual, estate, or trust.

**Partners That Are Corporations or Other Partnerships**

For partners that are corporations or other partnerships, the amount in Schedule 3K-1, columns c and d should equal the amounts in Schedule 3K, columns c and d, multiplied by the partner's profit and loss sharing percentage. The amount in column d for each item is the amount determined under Wisconsin law *before* apportionment or separate accounting. *Do not fill in column e.*

**Partners That Are Full-Year Wisconsin Resident Individuals, Estates, and Trusts**

The amount in Schedule 3K-1, columns c and d should equal the amounts in Schedule 3K, columns c and d, multiplied by the partner's profit and loss sharing percentage. All partnership income of full-year Wisconsin residents is taxable regardless of the situs of the partnership or the nature of the income from the partnership, such as business income, service income, intangible income, or professional income, unless otherwise exempt (such as United States government interest). This applies to both general partners and limited partners. *Do not fill in column e.*

**Partners That Are Nonresident Individuals, Estates, and Trusts**

The amount in Schedule 3K-1, columns c and d should equal the amounts in Schedule 3K, columns c and d, multiplied by the partner's profit and loss sharing percentage. The partner uses the information from Schedule 3K-1, column d, to calculate the Wisconsin basis in the partnership. However, in column e, you will need to fill in the Wisconsin source amount of the amount in column d.

If the partnership's entire income is derived from business transacted or property located in Wisconsin, enter the amount from column d in column e. In this case, the entire amount in column d is the Wisconsin source amount.

However, if the partnership derives income from business transacted or property located in and outside Wisconsin, a nonresident individual partner's Wisconsin source amount in column e is determined as explained below.

***Share of Income Apportioned or Allocated to Wisconsin.*** A nonresident individual's share of the partnership's income derived from the following items is taxable by Wisconsin:

- Business transacted in Wisconsin.
- Services performed in Wisconsin.

- Real or tangible personal property located in Wisconsin.

Further, business income is taxable whether or not the individual partner conducts business in Wisconsin.

The nonresident individual partner's Wisconsin source amount of each of these items is the amount from column d that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate.

If the partnership is a unitary, multistate business, compute the nonresident partner's amount in column e of each of these items by multiplying the amount in column d by the apportionment percentage from item N. If the partnership has nonapportionable income (loss) on Form 4B, line 5, compute the nonresident partner's amount in column e of any affected item by multiplying the amount of the nonapportionable item from column d, that is attributed to Wisconsin on Form 4B by the partner's proportionate share.

If the partnership is a nonunitary, multistate business, compute the Wisconsin source amount in column e of each item by multiplying the amount from Schedule 3K-1, column d, that is allocated to Wisconsin on a schedule similar to Form 4C by the nonresident partner's proportionate share.

***Personal Services Performed in Wisconsin.*** Partnership income derived from personal services, including professional services, is taxable to a nonresident partner only if the 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.

If the partnership derives its income from personal services, a nonresident partner's Wisconsin source amount in column e is equal to the value of the services he or she personally performed in Wisconsin. If the nonresident partner didn't personally perform any services in Wisconsin, the Wisconsin source amount in column e for that partner is zero.

***Examples.*** The Wisconsin source amount of column d is determined equally for general partners and limited partners. The following examples illustrate the rules described above:

*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.* A nonresident is one of two equal partners of 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 partner operates the Illinois business. The Wisconsin resident is taxed on one-half of the total partnership income for Wisconsin income tax purposes. The nonresident is taxed on one-half 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 partnership income earned in Wisconsin.

***Income Not Sourced to Wisconsin.*** Intangible income, such as interest and dividends, passed through to a nonresident partner who is an individual generally isn't taxable by Wisconsin. Gains and losses resulting from sales of stocks, bonds, or other intangibles which are passed through to nonresident partners also aren't taxable by Wisconsin. Thus, for line 5 (Interest Income) and line 6 (Ordinary Dividends), the Wisconsin source amount to report in column e is zero. For line 18a (Tax-Exempt Interest Income), do not fill in column e.

**CAUTION:** Regardless of any provision in the partnership agreement, a nonresident partner must limit his or her non-Wisconsin income to the same percentage that the partnership's non-Wisconsin income is to all its income. A nonresident partner also must limit his or her Wisconsin losses or deductions to the same percentage that the partnership's Wisconsin losses or deductions are to all its losses or deductions. The characterization in a partnership agreement of payments to nonresident partners as salary, or as interest for the use of capital, can't affect the determination of whether such payments are derived from Wisconsin sources.

***Itemized Deduction Amounts.*** For lines 13 (Other Deductions) and 20 (Other Information), if these amounts are allowable in computing a nonresident individual's Wisconsin itemized deduction credit, enter the amount from column d in column e, even if the partnership derives income from business transacted or property located in and outside Wisconsin. For these items, you do not need to determine the Wisconsin source amount.

However, for amounts on lines 13 and 20 that are adjustments to Wisconsin income instead of deductions used in figuring the itemized deduction credit, determine the amount of column d that is sourced to Wisconsin as explained above, and enter the result in column e.

**Partners That Are Part-Year Wisconsin Resident Individuals, Estates, and Trusts**

The amount in Schedule 3K-1, columns c and d should equal the amounts in Schedule 3K, columns c and d, multiplied by the partner's profit and loss sharing percentage. The partner uses the information from Schedule 3K-1, column d, to calculate the Wisconsin basis in the partnership. However, in column e, you will need to fill in the Wisconsin source amount of the amount in column d.

For individuals who are part-year residents of Wisconsin, Wisconsin source income includes:

- All partnership income or loss, regardless of where it is earned or incurred, while they were residents of Wisconsin, and
- All partnership income or loss derived from business transacted in Wisconsin, personal services they personally performed in Wisconsin, or real or tangible personal property located in Wisconsin while they were nonresidents of Wisconsin.

If the partnership's entire income is derived from business transacted or property located in Wisconsin, enter the amount from column d in column e.

If the partnership derives income from activities in and outside Wisconsin, a part-year resident partner computes the Wisconsin source amount in column e of each item in two parts: one for the portion of the partnership's taxable year that the partner was a resident of Wisconsin and one for the portion of the partnership's taxable year that the partner was a nonresident of Wisconsin. For this purpose, the amount of any share item is determined on a daily basis. That is, every share item is allocated between the periods during which the partner was a resident or nonresident based on the number of days during the partnership's taxable year that the partner was a resident or nonresident of Wisconsin.

The partner's share of an item for each period (resident or nonresident) is figured in the same manner as that of full-year residents and nonresidents, respectively.

**Credits Reportable on Schedule 3K-1, Line 15**

■ **Line 15a through 15q.** Compute the credits in lines 15a through 15q in the same manner for partners who are full-year, part-year, or nonresidents of Wisconsin. For part-year and nonresident partners, also enter the allowable credits in column e. For each credit, enter the partner's proportionate or specially allocated share of the amount on Schedule 3K. (**Note:** Only the early stage seed investment credit may be specially allocated. See the Schedule VC instructions for details.)

■ **Line 15r. Credit for Tax Paid to Other States –** Complete this line only for full-year Wisconsin resident partners and part-year Wisconsin resident partners. Enter zero for partners who are nonresidents of Wisconsin or corporations.

For a full-year resident, enter in column d the partner's proportionate share of the tax credits on Schedule 3K, line 15r. For a part-year resident, enter in column d the amount computed by multiplying the credit on Schedule 3K, line 15r, by the partner's profit and loss percentage, multiplied by the ratio of days that the partner was a resident of Wisconsin during the partnership's taxable year to the total days in the partnership's taxable year. Enter the result in column e.

■ **Line 15s. Wisconsin Tax Withheld –** If the partnership was required to file Form PW-1 to withhold tax on behalf of its nonresident partners, enter in column d and column e the tax withholding allocated to the partner.

**Schedule 3K-1, Lines 18 through 22**

■ **Lines 18a Through 18c.** Enter the partner's proportionate share of the federal amount, adjustment, and amount determined under Wisconsin law from Schedule 3K for each of these items. Do not fill in column e.

If the partner is a corporation or another partnership, identify the sources of tax-exempt income for Wisconsin. This income may be includable in taxable income if passed through to a corporation subject to the franchise tax.

■ **Line 19. Distributions** – Enter the distributions of money and property made to each partner. Do not fill in column e.

■ **Line 20. Other Information –** Complete as necessary. Include the federal amount, adjustment, amount determined under Wisconsin law, and Wisconsin source amount for each item when applicable. Prepare and submit additional schedules if more space is needed. Include the following items on line 20:

- The amount of interest income from United States government obligations that is included on Schedule 3K-1, line 5, column d (column e for nonresidents and part-year residents of Wisconsin).
- Information on the sale, exchange, or other disposition

of property for which the section 179 expense deduction was claimed.

- If the partnership is engaged in both farming and some other business activity, indicate on the Schedules 3K-1 of noncorporate partners the portion of each of the share items that is attributable to the farm operations. The partners use this information in applying the farm loss limitations.
- Any information needed by a partner to determine why the Wisconsin amount of any item differs from the federal amount.

**Note:** Partnerships whose Wisconsin partners may qualify for farmland preservation credit or farmland tax relief credit should provide a copy of the farmland property tax bill with the Schedule 3K-1 given to each Wisconsin partner. It isn't necessary for the partnership to submit the property tax bill with the Schedules 3K-1 sent to the Department. Partners will compute their allowable credits based on their proportionate shares of the partnership's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC instructions. See the instructions for Wisconsin Form 1, 1NPR, 4, or 5 for details on the farmland tax relief credit. If the partnership is a member of one or more other pass-through entities, gross income includes the gross income attributable to those other pass-through entities.

■ **Lines 21a Through 21d. Related Entity Interest and Rental Expenses –** Enter in column d the partner's proportionate share of the amounts from Schedule 3K.

■ **Line 22. Gross Income –** Enter the partner's share of the partnership's gross income that is reportable to Wisconsin. Gross income includes:

- The partner's proportionate share of the total amount received from all activities, before deducting the cost of goods sold or any other expenses.
- The partner's proportionate share of gross receipts from trade or business activities, gross rents and royalties, interest and dividends, the gross sales price of assets, and all other gross receipts.
- The partner's share of guaranteed payments taxable by Wisconsin.
- If the partnership is a member of one or more other pass-through entities, the partner's share of gross income attributable to those other pass-through entities.

Enter the partner's share of the partnership's gross income in column d. For part-year and nonresident partners, enter the partner's share of the gross receipts that are attributable to Wisconsin in column e.

**Partner's Share of Apportionment Factors**

For a corporation or another partnership that is a partner, on lines 23 through 25 enter the partner's proportionate share of the partnership's apportionment factor from Form 4B or Form 4B-1 (if applicable). If the partnership only has one apportionment factor (for example, the single sales factor apportionment formula), leave lines 24 and 25 blank.

For an example of how to complete Schedule 3K-1 for Wisconsin resident individual partners, nonresident individual partners, and part-year Wisconsin resident individual partners, see page 18.

# Example of Schedule 3K-1 for Individual Partners

ABC Partnership is a calendar year partnership whose income is attributable 70% to a business located in Wisconsin. There are three individual partners, each with a one-third interest in the profits and losses of the partnership. Partner A was a Wisconsin resident during all of 2008. Partner B was an Illinois resident during all of 2008. Partner C was a resident of Wisconsin until moving to Florida on April 1, 2008. Therefore, Partner C was a Wisconsin resident for 90 days (January 1 through March 31) and a nonresident for 275 days (April 1 through December 31).

Schedule 3K for the year ending December 31, 2008, shows the following amounts on the lines indicated:

**Schedule 3K**

| (a) Distributive share items | (b) Federal amount | (c) Adjustment | (d) Amt. under WI law |
|---|---|---|---|
| **1** Ordinary Income | $9,000 | $600 | $9,600 |
| **5** Interest Income | 700 | 300 | 1,000 |
| **18a** Tax-exempt interest income | 300 | (300) | 0 |
| **20c** U.S. Government interest included on line 5, column d | | | 100 |

The Partners' Schedules 3K-1 would show the following:

**Partner A's Schedule 3K-1**

| (a) Distributive share items | (b) Federal amount | (c) Adjustment | (d) Amount under WI law | (e) WI Source Amount |
|---|---|---|---|---|
| **1** Ordinary Income | $3,000 | $200 | $3,200 | |
| **5** Interest Income | 233 | 100 | 333 | |
| **18a** Tax-exempt Interest Income | 100 | (100) | 0 | |
| **20** U.S. Gov't interest included on line 5, col. d | | | 33 | |

**Partner B's Schedule 3K-1**

| (a) Distributive share items | (b) Federal amount | (c) Adjustment | (d) Amount under WI law | (e) WI Source Amount |
|---|---|---|---|---|
| **1** Ordinary Income | $3,000 | $200 | $3,200 | $2,240 |
| **5** Interest Income | 233 | 100 | 333 | 0 |
| **18a** Tax-exempt Interest Income | 100 | (100) | 0 | |
| **20** U.S. Gov't interest included on line 5, col. d | | | 33 | 0 |

**Partner C's Schedule 3K-1**

| (a) Distributive share items | (b) Federal amount | (c) Adjustment | (d) Amount under WI law | (e) WI Source Amount |
|---|---|---|---|---|
| **1** Ordinary Income | $3,000 | $200 | $3,200 | $2,477 |
| **5** Interest Income | 233 | 100 | 333 | 82 |
| **18a** Tax-exempt Interest Income | 100 | (100) | 0 | |
| **20** U.S. Gov't interest included on line 5, col. d | | | 33 | 8 |

Following are explanations of the Schedule 3K-1 amounts:

***Partner A.*** The amounts in column d are computed by multiplying the amounts from Schedule 3K by Partner A's 33.33% profit and loss percentage. Column e is blank since Partner A is a full-year Wisconsin resident.

***Partner B.*** The amounts in columns b, c, and d are computed by multiplying the amounts from Schedule 3K by Partner B's 33.33% profit and loss percentage. For ordinary income, compute the Wisconsin source amount for column e by multiplying the amount under Wisconsin law from column d by ABC Partnership's 70% apportionment percentage. Since Partner B is a nonresident, the Wisconsin source amount of the interest income on line 5, column e, is zero. Do not fill in line 18a, column e.

***Partner C.*** The amounts in columns b, c, and d are computed by multiplying the amounts from Schedule 3K by Partner C's 33.33% profit and loss percentage. Compute the Wisconsin source amounts in column e in two parts: one for the period that Partner C was a Wisconsin resident and one for the period that Partner C was a nonresident. Do not fill in line 18a, column e. The computations of Partner C's amounts in column e are shown below:

**Partner C's Line 1: Ordinary Income**

| | | |
|---|---|---|
| Period of residence | $3,200 x 90/365 | = $789 |
| Period of nonresidence | $3,200 x .7 x 275/365 | = $1,688 |
| Total | | = $2,477 |

**Partner C's Line 5: Interest Income**

| | | |
|---|---|---|
| Period of residence | $333 x 90/365 | = $82 |
| Period of nonresidence | | -0- |
| Total | | = $82 |

**Partner C's U.S. Government Interest for Line 20**

| | | |
|---|---|---|
| Period of residence | $100 x .3333 x 90/365 | = $8 |
| Period of nonresidence | | -0- |
| Total | | = $8 |

# Determining the Wisconsin Income of Multistate Partnerships

A partnership that does business in Wisconsin and at least one other state or foreign country must determine the amount of income attributable to Wisconsin for purposes of figuring (a) its recycling surcharge and (b) the share of partnership income taxable to partners that are nonresident or part-year resident individuals or fiduciaries. The partnership must use either the apportionment method or the separate accounting method to allocate a portion of its income to Wisconsin.

**Who Must Use Apportionment**

Under the apportionment method, a partnership shows all income and deductions for the partnership as a whole and then assigns a part to Wisconsin according to a formula that determines Wisconsin net income. A partnership engaged in business in and outside Wisconsin is required to report a portion of its total company net income to Wisconsin using the apportionment method if its Wisconsin operations are a part of a unitary business, unless the Department gives permission to use separate accounting.

A unitary business is one that operates as a unit and can't be segregated into independently operating divisions or branches. The operations are integrated, and each division or branch is dependent upon or contributory to the operation of the business as a whole. It isn't necessary that each division or branch operating in Wisconsin contribute to the activities of all divisions or branches outside Wisconsin.
To use the apportionment method, a partnership must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country.

"Nexus" means that a partnership's business activity is of such a degree that the state or foreign country has jurisdiction to impose an income tax or franchise tax measured by net income. Under Public Law 86-272, a state can't impose an income tax or franchise tax based on net income on a partnership selling tangible personal property if the partnership's only activity in the state is the solicitation of orders, which orders are approved outside the state and are filled by delivery from a point outside the state.

**What Is the Apportionment Percentage**

For unitary, multistate businesses (except direct air carriers, motor carriers, railroads, sleeping car companies, pipeline companies, financial institutions, brokers-dealers, investment advisers, investment companies, underwriters, and telecommunications companies whose incomes are apportioned by special rules of the Department), the apportionment percentage is determined by the ratio of Wisconsin sales to total company (partnership) sales.

For most companies, the apportionment percentage is computed on Form 4B. However, direct air carriers, motor carriers, railroads, sleeping car companies, pipeline companies, financial institutions, brokers-dealers, investment advisers, investment companies, underwriters, and telecommunications companies should see Form 4B-1 and its instructions.

**What Is Nonapportionable Income**

Nonapportionable income is that income which is allocable directly to a particular state. It includes income or loss derived from the sale of nonbusiness real or tangible personal property or from rentals and royalties from nonbusiness real or tangible personal property. This income is assigned to the state where the property is located.

All income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin shall be allocated to Wisconsin.

Total nonapportionable income (loss) is removed from total company net income before the apportionment percentage is applied. The Wisconsin nonapportionable income (loss) is then combined with the Wisconsin apportionable income to arrive at Wisconsin net income.

**Line-by-Line Instructions for Form 4B**

***Part I – Nonapportionable Income.***

■ **Line 1.** Enter rents and royalties received on nonbusiness real and tangible property in the appropriate column or columns. These are nonapportionable and follow the situs of the property.

■ **Line 2.** Enter any expenses that are directly or indirectly related to rents and royalties reported on line 1. Since such income is nonapportionable, the related expenses are nonapportionable.

■ **Line 4.** Enter all profits and losses from disposals of nonbusiness real and tangible property in the appropriate column or columns. Such profits and losses are nonapportionable and follow the situs of the property. Also enter on line 4 all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin. This income is nonapportionable and must be allocated to Wisconsin.

■ **Line 5.** Enter the total net nonapportionable income or loss for both Wisconsin and the total company.

***Part II – Apportionment Percentage.***

For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of apportionable income:

- Gross receipts from the sale of inventory.
- Gross receipts from the operation of farms, mines, and quarries.
- Gross receipts from the sale of scrap or by-products.
- Gross commissions.
- Gross receipts from personal and other services.
- Gross rents from real property or tangible personal property.
- Interest on trade accounts and trade notes receivable.
- A partner's share of a partnership's gross receipts or a member's share of a limited liability company's gross receipts.
- Gross management fees.
- Gross royalties from income producing activities.
- Gross franchise fees from income producing activities.

"Gross receipts" means gross sales less returns and allowances, plus service charges, freight, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales and use taxes, are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price.

The following items are among those not included for sales factor purposes:

- Gross receipts and gain or loss from the sale of tangible business assets, except receipts from the sale of inventory, scrap, or by-products or from the operation of a farm, mine, or quarry.
- Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.
- Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property isn't used in the production of business income.
- Royalties from nonbusiness real property or nonbusiness tangible personal property.
- Proceeds and gain or loss from the redemption of securities.
- Interest, except interest on trade accounts and trade notes receivable, and dividends.
- Gross receipts and gain or loss from the sale of intangible assets, except inventory.
- Dividends deductible in determining net income.
- Gross receipts and gain or loss from the sale of securities.
- Proceeds and gain or loss from the sale of receivables.
- Refunds, rebates, and recoveries of amounts previously expended or deducted.
- Foreign exchange gain or loss.
- Royalties and income from passive investments in patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, and technical know-how.
- Pari-mutuel wager winnings and purses.
- Other items not includable in apportionable income.

■ **Lines 1a and 1b.** Enter the amounts of Wisconsin destination sales. Gross receipts from the sales of tangible personal property, except sales to the federal government, are Wisconsin sales if the property is delivered or shipped to a purchaser in Wisconsin. Sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location and immediately transported to the purchaser's out-of-state business location aren't Wisconsin sales. However, if the seller doesn't have nexus with the state in which the purchaser's business is located, the sales are "thrown back" to Wisconsin as discussed later. Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

■ **Line 2a.** Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin. Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

■ **Line 2b.** Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state. These sales are included in the numerator of the sales factor at 50%.

■ **Line 2c.** Enter the amount of sales, other than sales to the federal government, that are "thrown back" to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus. "Throwback" sales are included in the numerator of the sales factor at 50%.

■ **Line 3.** Enter the amount of "double throwback" sales. These are sales, other than sales to the federal government, of tangible personal property by an office in Wisconsin to a purchaser in another state, but not shipped or delivered from Wisconsin, if the taxpayer doesn't have nexus in (1) the state from which the property is delivered or shipped, or (2) the destination state. "Double throwback" sales are included in the numerator of the sales factor at 50%.

**NOTE:** For purposes of throwback sales and double throwback sales, "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any United States territory or possession. A foreign country isn't a state.

■ **Line 5a.** Enter the amount of gross receipts from the use of computer software that the purchaser or licensee uses at a location in Wisconsin. Computer software is used in Wisconsin if the purchaser or licensee uses the software in the regular course of business operations in Wisconsin, for personal use in Wisconsin, or if the purchaser or licensee is an individual whose domicile is in Wisconsin. If the purchaser or licensee uses the computer software in more than one state, the gross receipts are divided among those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in Wisconsin, the Department may consider the number of users in each state where the software is used, the number of site licenses or workstations in Wisconsin, and any other factors that reflect the use of computer software in Wisconsin.

■ **Line 5b.** Enter the amount of gross receipts from the use of computer software if the taxpayer is not subject to income tax in the state in which the gross receipts are considered received, but the taxpayer's commercial domicile is in Wisconsin.

"Commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the Department determines are appropriate, including the location where the greatest number of employees of the trade or business work, have their office or base of operations, or from which the employees are directed or controlled. These gross receipts are included in the numerator of the sales factor at 50%.

■ **Line 7a.** Enter the amount of gross receipts from services if the purchaser of the service received the benefit of the service in Wisconsin. The benefit of the service is received in Wisconsin if any of the following applies:

- The service relates to real property that is located in Wisconsin.
- The service relates to tangible personal property that is located in Wisconsin at the time that the service is received or tangible personal property that is delivered directly or indirectly to customers in Wisconsin.
- The service is provided to an individual who is physically present in Wisconsin at the time that the service is received.
- The service is provided to a person engaged in a trade or business in Wisconsin and relates to that person's business in Wisconsin.

If the purchaser of a service receives the benefit of the service in more than one state, the gross receipts from the service are included in the numerator of the sales factor according to the portion of the service received in Wisconsin.

■ **Line 7b.** Enter the amount of gross receipts from services, if the taxpayer is not subject to income tax in the state in which the benefit of the service is received, to the extent that the taxpayer's employees or representatives performed services from a location in Wisconsin. These gross receipts are included in the numerator of the sales factor at 50%.

■ **Line 9.** For both Wisconsin and the total company, enter the amount of other gross receipts of apportionable income that are includable in the sales factor. These gross receipts are attributable to Wisconsin if the income producing activity that gives rise to the receipts is performed in Wisconsin. If the income producing activity is performed partly in and partly outside Wisconsin, assign receipts to Wisconsin based on the ratio of direct costs of performance in Wisconsin to the direct costs of performance in all states having jurisdiction to tax the business. For additional information, see section Tax 2.39, Wisconsin Administrative Code.

■ **Line 11.** Divide line 10, column a, by line 10, column b, and multiply that amount by 100. Carry the result to 4 places to the right of the decimal point. Enter the percentage here and on Form 3S, line 3, and on Schedule 3K-1, item N.

**Separate Accounting**

A partnership engaged in a nonunitary business in and outside Wisconsin must determine the amount of income attributable to Wisconsin by separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin. Under separate accounting, the partnership must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business.

A unitary business may use separate accounting only with the approval of the Department. An application for such approval must set forth, in detail, the reasons why separate accounting will more clearly reflect the partnership's Wisconsin net income. It should be mailed to the Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906 before the end of the taxable year for which the use of separate accounting is desired.

Since a partnership does not compute its income in the same manner as a corporation, a partnership cannot use Form 4C to determine its income attributable to Wisconsin. Instead, a partnership using separate accounting should prepare a 5-column schedule that provides the following information: (a) a listing of all of the distributive share items from Wisconsin Schedule 3K, column a, and any supplemental schedules, (b) the total amount from Wisconsin Schedule 3K, column d, for each of the share items, (c) the amount from column b attributable to Wisconsin, (d) the amount from column b attributable to other states, and (e) the basis for the allocation.

The schedule should also include a detailed explanation of how income and expenses were allocated in and outside Wisconsin. For example, if the allocation is based on actual expenses, write "Actual" in column e. If the allocation is based on a percentage of sales at each location, enter the percentage in column e and provide details on how the percentage was computed.