

# Instructions for 2009 Wisconsin Form 3S Partnership Recycling Surcharge

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## General Instructions

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### Purpose of Form 3S

Partnerships, including limited liability companies (LLCs) treated as partnerships, use Form 3S to compute and pay the recycling surcharge.

### Who Must File

Partnerships, including LLCs treated as partnerships, must file Form 3S and 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 (as defined below) for federal income tax purposes.

### Who Is Not Required to File

Syndicates, pools, joint ventures, or similar organizations that have elected not to be treated as partnerships under Internal Revenue Code (IRC) section 761(a) aren't subject to the recycling surcharge and don't need to file Form 3S.

Single-owner LLCs that are disregarded as separate entities are not required to file Form 3S. The owner is required to include the income and expenses of the disregarded entity when computing the owner's surcharge due.

### Definitions Applicable to Partnerships

**Farming** – Farming is the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. Trees, other than trees bearing fruit or nuts, aren't treated as an agricultural or horticultural commodity. Raising or harvesting Christmas trees isn't considered farming.

**Gross Receipts** – A partnership uses its total "gross receipts" from both nonfarm trade or business activities and farm activities to determine whether the recycling surcharge applies. Gross receipts of partnerships are total receipts or sales from all trade or business activities and farming reportable by partnerships for federal income tax purposes, before deducting returns and allowances or any other business expenses. Trade or business activities are determined at the partnership level, without regard to the passive activity limitations that may apply to a partner. 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. Gross receipts don't include interest and dividends from a partnership's nonbusiness investment activities. *However*, if the partnership has \$4 million or more of gross receipts from trade or business activities, you must include any income or loss from investment activities in the partnership's net business income when figuring the amount of surcharge owed.

**Net Business Income** – A partnership is subject to the recycling surcharge based on its "net business income." This is the amount reported on the partnership's Wisconsin Form 3, Schedule 3K, line 22, column d.

**Exception:** For partnerships engaged in both farming and nonfarming activities, exclude net farm profit or loss from the amount reported on Form 3, Schedule 3K, line 22, column d, when calculating "net business income."

### Additional Information or Forms

For more information about the recycling surcharge, see Publication 400, *Wisconsin's Recycling Surcharge*.

To obtain Publication 400 or additional forms, you may:

- Download them from the Department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Request them online at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Call (608) 266-1961
- Write to the Forms Request Office, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office

If you need help in preparing Form 3S, e-mail [income@revenue.wi.gov](mailto:income@revenue.wi.gov), send a fax to (608) 267-1030, call (608) 266-2772, or write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949. Telephone

help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment.

### Period Covered by Form 3S

Form 3S covers the same period as your 2009 Wisconsin partnership return, Form 3.

### Due Date of Form 3S

You must file Form 3S on or before the due date, including extensions, of your 2009 Wisconsin partnership return.

**Caution:** The due date for **paying** the recycling surcharge is explained below.

### Extension of Time to File

Any extension of time allowed by the Internal Revenue Service for filing your partnership return automatically extends the due date of your Form 3S. Enter the extended due date in item E on Form 3S.

### Payment of Recycling Surcharge

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.

An extension for filing Form 3S doesn't extend the time to pay the recycling surcharge. Interest will be charged on the surcharge not paid by the 15th day of the 4th month following the close of the taxable year. You can avoid the 1% per month interest charges during the extension period by paying the surcharge due by that date. Submit your payment with Wisconsin Form 3S-ES, *Wisconsin Partnership Estimated Recycling Surcharge Voucher*, or make your payment by electronic funds transfer.

### Payment of Estimated Recycling Surcharge

If a partnership's recycling surcharge is \$200 or more, it generally must make quarterly estimated recycling surcharge payments using Wisconsin Form 3S-ES or by electronic funds transfer. Failure to make required estimated recycling surcharge payments may result in an interest charge. To obtain Form 3S-ES and its instructions, download them from the Department's web site at [www.revenue.wi.gov/html/taxforms10.html](http://www.revenue.wi.gov/html/taxforms10.html) or call (608) 266-1961.

### Where to File

File Form 3S electronically through the Federal/State E-Filing Program. With approved third party software, you may electronically file Form 3S along with other Wisconsin and federal returns in a single submission. Or, you can use Federal/State E-Filing to file Form 3S alone. For details and a list of approved software vendors, visit <http://www.revenue.wi.gov/eserv/corp/index.html>.

If you choose to file Form 3S on paper, use the mailing address shown on the form. **Do not attach Form 3S to Form 3 because they are to be mailed to different addresses.**

### Internal Revenue Service Adjustments and Amended Returns

If your federal partnership return is adjusted and the adjustments affect your Wisconsin recycling surcharge payable, you must report such adjustments to the Department of Revenue by filing an amended Form 3S, including a copy of the federal audit report, within 90 days after they become final.

If you file an amended federal partnership return and the changes affect your Wisconsin recycling surcharge payable, you must file an amended Form 3S with the Department of Revenue within 90 days after filing the amended federal return.

Send your amended Form 3S to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908. Don't attach amended returns to other tax returns that you are filing.

### Penalties for Not Filing or Filing Incorrect Forms

If you don't file a Form 3S that you are required to file, or if you file an incorrect Form 3S due to negligence or fraud, interest, a late filing fee, and penalties may be assessed against you. The interest rate on a delinquent surcharge is 18% per year. For taxable years on or after January 1, 2010, the late filing fee is \$50. Civil penalties may be as much as 100% of the amount of surcharge not reported on Form 3S. Criminal penalties for filing a false return include a fine of up to \$10,000 and imprisonment.

**Note:** If a partnership's or LLC's recycling surcharge is delinquent, its partners or members are jointly and severally liable for it.

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### Specific Instructions

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**Rounding Off to Whole Dollars** – Round cents to the nearest whole dollar by eliminating amounts less than 50 cents and increasing amounts from 50 cents through 99 cents to the next higher dollar.

■ **Period Covered** – File the 2009 Form 3S for calendar year 2009 and fiscal years that begin in 2009. Fill in the taxable year beginning and ending dates in the spaces provided.

■ **Name and Address** – Using black ink, print or type the partnership's name and address in the spaces provided.

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

■ **B. County** – Enter the name of the Wisconsin county in which the partnership’s business is located. If the partnership has business activities in more than one county, enter the location of the principal business operations.

■ **C. Type of Entity** – Check the space to indicate which type of entity is filing this return.

■ **D. Amended Return** – If this is an amended return, check the box, submit with Form 3S an explanation of the changes made, and see the special instructions for line 6.

■ **E. Extension** – If you received an extension of time to file your partnership return, check the box and fill in the extended due date of your return.

■ **F. Partnership Terminated** – Check the box if the partnership terminated during the taxable year.

■ **G. Contact Person** – Enter the name, telephone number, and fax number of a person that the Department may call if questions about your return arise while it is being processed.

■ **Line 1. Partnership Gross Receipts** – Enter the partnership’s gross receipts (as defined earlier) reportable for federal income tax purposes.

**Note:** If you have less than \$4 million of gross receipts for federal income tax purposes, you aren’t subject to the recycling surcharge.

■ **Line 2. Net Business Income** – Enter the amount from the partnership’s Wisconsin Form 3, Schedule 3K, line 22, column d.

**Exception:** For partnerships engaged in farming activities, exclude net farm profit or loss from the amount reported on Form 3, Schedule 3K, line 22, column d, when calculating “net business income.” If the partnership is engaged only in farming, enter zero on line 2.

If you had a loss, enter the amount of loss as a negative on line 2, leave lines 3 and 4 blank, and enter \$25 on line 5.

■ **Line 3. Wisconsin Apportionment Percentage** – Unitary, multistate partnerships should complete 2008 Wisconsin Form 4B, Apportionment Data, or Form 4B-1, Apportionment Data for Specialized Industries, if applicable. See the instructions for Form 4B in the Form 3 instruction booklet. Form 4B-1 and its instructions are available on the Department’s web site.

■ **Line 4. Wisconsin Net Business Income** – Multiply the amount on line 2 by the percentage on line 3.

■ **Line 5. Recycling Surcharge** – Enter the greater of \$25 or 0.2% (0.002) of the amount on line 4, but not more than \$9,800. **Note:** If line 4 is zero, enter \$25 on line 5.

■ **Line 6. Estimated Recycling Surcharge and/or Form WT-11 Payments** – Enter estimated recycling surcharge payments made using 2009 Wisconsin Form 3S-ES or electronic funds transfer. **Amended Return:** If this is an amended return, enter the recycling surcharge previously paid. If the partnership had nonresident entertainer withholding paid on its behalf from Form WT-11, *Nonresident Entertainer’s Application and Receipt for Surety Bond, Cash Deposit, or Withholding by Employer*, enter the amount of withholding reported on Form WT-11.

**Caution:** Do not include withholding from Form PW-1 on line 6. If the partnership has tax withheld on its behalf by a pass-through entity of which it is a member, the partnership must file its own Form PW-1 to obtain credit for the tax withheld.

■ **Line 7. Withholding from Form W-2G** – If the partnership has Wisconsin withholding from lottery prizes or other gambling winnings, enter the amount of Wisconsin withholding reported on Form W-2G for the partnership.

■ **Line 9. Underpayment Interest Due** – Enter any underpayment interest due from Wisconsin Form 3U, line 18.

A partnership that doesn’t make estimated recycling surcharge payments when due may be subject to underpayment interest for the period of the underpayment. Generally, a partnership is subject to interest if its recycling surcharge liability is \$200 or more, and it did not timely pay the smaller of (a) 90% of its surcharge liability for 2009, or (b) 100% of its prior year’s surcharge.

Use Form 3U, *Underpayment of Estimated Recycling Surcharge by Partnerships*, to determine if the partnership is subject to underpayment interest and, if so, to figure the amount owed.

■ **Line 10. Amount Due** – Pay by electronic funds transfer. If you choose to file Form 3S on paper, **paper clip your check to the front of Form 3S.**

■ **Line 12. 2010 Estimated Recycling Surcharge** – Enter the amount of any overpayment on line 11 that is to be credited to the partnership’s 2010 estimated recycling surcharge. The balance of any overpayment will be refunded.

■ **Signatures** – A general partner of the partnership or an LLC member must sign Form 3S. If the form is prepared by someone other than an employee of the partnership, the preparer’s signature and federal employer identification number are also required. If the preparer is self-employed, the preparer must enter “SSN” or “PTIN” and the social security number or preparer tax identification number in the space for the preparer’s federal employer identification number.