2019 Schedule OS Instructions

General Instructions

Purpose of Schedule OS

Schedule OS is used by individuals, estates, and trusts to compute the credit for net income tax paid to another state.

For additional information on this credit, get Publication 125, *Credit for Tax Paid to Another State*, from any department office or our website at revenue.wi.gov.

Who Is Eligible For the Credit

You may be eligible for the credit for net income tax paid to another state if:

- You were a Wisconsin resident for all or part of 2019, and
- You paid 2019 income tax to Wisconsin and to another state or the District of Columbia on the same income. “State” does not include the Commonwealth of Puerto Rico or the several territories organized by Congress.

You may **not** claim credit for any tax paid to a local unit of government that is not paid directly to the state (such as a city, county, or school district) or for any tax that is not an income tax (such as a severance tax, personal property tax, real estate tax, or sales and use tax).

Limitations The following limitations apply for 2019:

- The credit cannot be more than the amount of net tax paid to Wisconsin on income that is taxable to both Wisconsin and the other state. This limitation does not apply to income that is taxable to both Wisconsin and to Minnesota, Iowa, Illinois, or Michigan.
- You may not claim a credit for the manufacturing and agriculture credit based on eligible qualified production activities income used to compute the credit for net income tax paid to another state.
- You may not claim the credit for net income tax paid to another state if you are a shareholder, partner, or member of a tax-option (S) corporation, partnership, or limited liability company (LLC) treated as a partnership, and the tax-option (S) corporation, partnership, or LLC elected to be taxed at the entity level.

Military Spouses If you are a spouse of a servicemember and you were in another state solely to be with the servicemember serving in that state under military orders, you may not claim a credit for tax paid on wages earned in that state. Federal law prohibits states from taxing wages earned by a nonresident spouse of a servicemember. If tax was withheld from your wages, you must file a return with that state to obtain a refund.

If you are a resident of Wisconsin and the spouse of a nonresident military service member, and make an election under the federal Veterans Benefits and Transition Act of 2018 to change legal residency to your spouse’s state of residence during 2019, you may not claim a credit for tax paid to another state. You are considered a nonresident of Wisconsin during 2019. However, see “Nonresidents” below for a limited circumstance in which you may claim the credit.

Wisconsin residents working in Illinois, Indiana, Kentucky, or Michigan If you had 2019 state income tax withheld for Illinois, Indiana, Kentucky, or Michigan from income earned as an employee you received from working in one of those states, do **not** use Schedule OS. You can get a refund of the tax withheld for the period you were a Wisconsin resident by filing that other state’s income tax return with that state. Income earned as an employee includes wages, salaries, tips, commissions, bonuses, etc. For more information, get Wisconsin Publication 121, *Reciprocity,* from any department office or on our website at revenue.wi.gov.

If you paid a 2019 net income tax to one of those states on income other than from wages, salaries, tips, commissions, bonuses, etc. (such as from a business, unemployment compensation, rental property, or from the sale of real property), you may be eligible for the credit based on that income. Complete Schedule OS.

Part-year residents To be eligible, you must have been a Wisconsin resident when you received the income that was taxed by both states.

Nonresidents You generally must be a full-year or part-year Wisconsin resident to claim the credit. There is a limited circumstance in which a nonresident may claim the credit. If you are a shareholder of a tax-option (S) corporation, member of a limited liability company treated as a partnership (LLC), or partner of a partnership that files its return on a fiscal-year basis, you may claim a credit for tax paid by such entity for a period during which you were a Wisconsin resident.

New **Caution:** This exception does not apply if the tax-option (S) corporation, LLC, or partnership made an election to be taxed at the entity level.

Credit computed by a tax-option (S) corporation, limited liability company treated as a partnership (LLC), or partnership You may claim the credit based on your share of income taxes paid to another state by a tax-option (S) corporation, LLC, or partnership if the income from the entity is included in Wisconsin income.

New **Caution:** If the tax-option (S) corporation, LLC, or partnership made an election to be taxed at the entity level, the income from the pass-through entity is not included in your Wisconsin income. Therefore, you may not claim a credit for tax paid to another state.

If the tax-option (S) corporation, LLC, or partnership filed a composite income tax return with another state and paid tax on your behalf to that state, complete lines 1-24 and 30-41. Use a separate column for each state to which tax was paid. Do not complete lines 25-29 to report the tax paid to the other state on your behalf. You may have to contact the entity to determine the state to which the tax was paid, your distributive share of the entity's income on which tax was paid on your behalf, and the type of income on which the tax was paid (e.g., ordinary income from trade or business activities, long-term capital gain, interest income, etc.). You will need this information when completing Schedule OS.

If the tax-option (S) corporation, LLC, or partnership filed its own income tax return with another state and paid tax on its income to that state, complete lines 24-41. Use a separate column for each state to which tax was paid. Do not complete lines 1-23 to report the tax paid by the entity on its income. You may have to contact the entity to determine the state to which the tax was paid, your pro rata share of the amount of income taxable to the other state, and the type of income on which the tax was paid (for example, ordinary income from trade or business activities, long-term capital gain, interest, etc.). You will need this information when completing lines 24-41.

If You Paid Tax To More Than Two Other States

If you paid a 2019 net state income tax on the same income to Wisconsin and to more than two other states:

1. Complete additional Schedules OS, as needed, through line 39,
2. Add the amounts from line 39 from any additional Schedules OS, and
3. Fill in the total on line 40 of your first Schedule OS.

Line Instructions

First complete your income tax return for the other state. The credit is computed using amounts from that other state's return.

Note: Be sure to enter the postal abbreviation for the state at the top of each column.

Part I - Income from Other State

Lines 1 – 17 Complete a separate column for each state to which tax was paid for 2019. Fill in the amount of each income and adjustment item that was taxed by the other state. These amounts are generally shown on a nonresident or part-year resident return or a schedule showing the other state source income attached to the other state return.

These line descriptions correspond to lines used for reporting income and adjustments for federal tax purposes. Do **not** fill in your federal income on these lines, even in those cases where the other state computes tax based on federal income and then prorates the tax based on the amount of that state source income to federal income. Fill in only the other state source income and adjustments.

Note: All items of income or adjustment shown on the other state's return must be listed on lines 1–10 and 12–16. If there is not a specific line on Schedule OS, include any income item on line 10 and any adjustment item on line 16. Enter a description of the item on the line provided. If the amount on line 10 or 16 includes more than one item, provide a schedule detailing each item.

If a tax-option (S) corporation, LLC, or partnership filed a composite income tax return with another state and paid tax to that state on your behalf, fill in the income on which tax was paid by the entity. For example, if the entity paid tax on your behalf on $10,000 of business income and $5,000 of long-term capital gain, fill in $10,000 on line 2 and $5,000 on line 3.

Line 18 For each state, fill in the total income taxed by that state. This will generally be the amount on line 11 less the amount on line 17.

Part II – Calculation of Credit (Individual, Estate, or Trust Income Tax)

Line 19 Fill in the amount of income taxable by both Wisconsin and the other state on line 19.

Note: If you computed the manufacturing and agriculture credit on Schedule MA-A or MA-M, do not include in the income taxable to both Wisconsin and the other state the amount of qualified production activities income used to compute the credit.

CAUTION Wisconsin taxes only 70% of the net gain on the sale of assets held more than one year (40% for net gain on the sale of farm assets). Most states tax 100% of such gain. When the credit is claimed for tax paid to another state for gain on the sale of property that was held more than one year, the amount of income taxable by Wisconsin is generally less than the amount taxed by the other state.

Example 1: You filed an Illinois income tax return and reported a $10,000 gain on the sale of property held more than one year. For Wisconsin tax purposes, you claim the 30% capital gain exclusion. The amount of income taxable by both Wisconsin and the other state is $7,000 ($10,000 less the $3,000 capital gain exclusion).

Example 2: You filed a California income tax return and reported a $20,000 gain on the sale of property held more than one year. For Wisconsin tax purposes, a portion of the gain was offset by a $4,000 capital loss. You claim the 30% capital gain exclusion on the remaining $16,000 resulting in taxable capital gain of $11,200 for Wisconsin. The amount of income taxable by both Wisconsin and the other state is $15,200 ($4,000 which is included in Wisconsin income but offset by the capital loss plus $11,200 which is taxable after the capital gain exclusion is applied). **Note:** In this example, if you had more than one long-term capital gain, a portion of the loss would be allocated to each gain. See Wisconsin Publication 125, *Credit for Tax Paid to Another State*, for more information.

Line 20 For each state, fill in the total income taxed by the other state **before** subtracting any standard or itemized deductions or personal exemptions. This will generally be the amount on line 18.

Note: If you computed the manufacturing and agriculture credit on Schedule MA-A or MA-M, do not include in the total income taxed by the other state the amount of qualified production activities income used to compute the credit.

Line 22 For each column, from the income tax return of the other state, fill in the net tax amount after any required proration and after subtracting all credits (both nonrefundable and refundable credits).

CAUTION Do not include tax withheld or estimated tax payments as a credit.

Example: Your income tax return from the other state shows the following:

Gross tax	$ 1,000.
Less nonrefundable credit	100.
	900.
Tax withheld.	600.
Estimated tax payment	400.
Refundable credit.	100.
Refund	$ 200.

The amount to fill in on line 22 is $800. This consists of $1,000 gross tax less $100 nonrefundable credit and less $100 refundable credit.

Note: If you computed the manufacturing and agriculture credit on Schedule MA-A or MA-M, do not include in the net tax paid to the other state the amount of tax paid on the qualified production activities income used to compute the credit.

Part III – Calculation of Credit (Tax-option (S) Corporation, Limited Liability Company, and Partnership Income and Franchise Tax)

New **Caution:** If the tax-option (S) corporation, LLC, or partnership made an election to be taxed at the entity level, the income from the pass-through entity is not included in your Wisconsin income. Therefore, you may not claim a credit for tax paid to another state.

Line 24 Fill in the 2-letter postal abbreviation for the state to which tax was paid. Failure to fill in the postal abbreviation may result in the credit being denied or a delay in the processing of your return.

Line 25 Fill in your pro rata share of the amount of income taxable to the other state that is also taxable to Wisconsin (for example, ordinary income from trade or business activities, long-term capital gain, interest, etc.). You may have to contact the entity to determine this amount.

Note: If the entity computed the manufacturing and agriculture credit on Schedule MA-A or MA-M, do not include in the income taxable to both Wisconsin and the other state the amount of qualified production activities income used to compute the credit.

CAUTION Wisconsin taxes only 70% of the net gain on the sale of assets held more than one year (40% for net gain on the sale of farm assets). Most states tax 100% of such gain. When the credit is claimed for tax paid to another state for gain on the sale of property that was held more than one year, the amount of income taxable by Wisconsin is generally less than the amount taxed by the other state. See the two examples under the line 19 instructions.

Line 26 For each state, fill in your pro rata share of the amount of income that is taxed by the other state **before** subtracting any standard or itemized deductions or personal exemptions. You may have to contact the entity to determine this amount.

Note: If the entity computed the manufacturing and agriculture credit on Schedule MA-A or MA-M, do not include in the total income taxed by the other state the amount of qualified production activities income used to compute the credit.

Line 28 For each column, from the income or franchise tax return of the other state, fill in the pro rata share of the net tax amount after any required proration and after subtracting all credits (both nonrefundable and refundable credits). You may have to contact the entity to determine this amount.

Enclose a copy of the Wisconsin Schedule 3K-1 or 5K-1 you received. If the partnership, LLC, or tax-option (S) corporation did not file a Wisconsin return, submit federal Schedule K-1 plus a statement from the partnership, LLC, or tax-option (S) corporation listing the states where tax was paid, the type of income that was taxed, and the amount of each state's tax allocable to you.

CAUTION Do not include tax withheld or estimated tax payments as a credit.

Note: If the entity claimed the manufacturing and agriculture credit, do not include in the net tax paid to the other state the amount of tax paid on the qualified production activities income used to compute the credit.

Part IV – Credit Allowed

Line 30 Fill in the amount of income taxable to both Wisconsin and the other state. This should include amounts entered on lines 19 and 25, but do not include the same amount twice.

Example: The income which is taxable to another state for which you paid an individual income tax and the entity paid an income tax is as follows:

Type of Income	Individual	Entity
Ordinary income	$40,000	$20,000
Interest		5,000

You paid an individual income tax to the other state on $40,000 of ordinary income of which the full amount was taxable to Wisconsin. The entity paid an income tax to the other state on a portion of this income. The entity also paid an income tax to the other state on the $5,000 of interest income of which the full amount was taxable to Wisconsin and reported on your individual income tax return. This interest was exempt from taxation to the other state at the individual level. The amount to enter on line 30 is $45,000 ($40,000 of ordinary income plus $5,000 of interest income).

Line 31 Enter Wisconsin income as reported on line 13 of Form 1 or line 31 of Form 1NPR.

For Form 2:

- If the amounts on Form 2, line 5, and Schedule ESBT, line 18, are equal to or greater than 0 (zero), add Form 2, line 5, and Schedule ESBT, line 18, and enter this amount on line 31.

- If the amount on Form 2, line 5, is a negative amount and Schedule ESBT, line 18, is a positive amount, enter the amount from Schedule ESBT, line 18, on line 31.
- If the amount on Schedule ESBT, line 18, is a negative amount and Form 2, line 5, is a positive amount, enter the amount from Form 2, line 5, on line 31.

Line 41 Fill in the amount of your credit from line 41 on line 26 of Form 1, line 51 of Form 1NPR, or line 8 of Form 2. Also fill in the 2-letter postal abbreviation for the state to which you paid the tax in the space to the left of the entry line on Form 1, 1NPR, or 2 (see **Exceptions** below). For example, if you paid tax to California, you would fill in CA in the space.

Exceptions

- If you paid tax to more than one other state, fill in the number **99** in the space instead of a 2-letter postal abbreviation.
- If you have an amount on line 3 of Schedule OS (capital gain/loss), fill in the number **88** in the space instead of the 2-letter postal abbreviation.
- If you have an amount on line 29 of Schedule OS (tax paid by a tax-option (S) corporation, LLC, or partnership on its income), fill in the number **77** in the space instead of the 2-letter postal abbreviation.
- If you meet the conditions above to fill in both 77 and 88, fill in the number **99** in the space.

Note: Failure to fill in the correct numerical code may result in an incorrect computer adjustment to the amount of your credit.

Enclosures Enclose Schedule(s) OS (both pages 1 and 2) with Form 1, 1NPR, or 2. You must also enclose a copy of your income tax return(s) from the other state(s) and your W-2 form(s) (wage statement) or other withholding statement(s) from the other state(s).

If you are claiming credit for tax paid to other states by a partnership, LLC, or tax-option (S) corporation, enclose a copy of the Wisconsin Schedule 3K-1 or 5K-1 you received. If the partnership, LLC, or tax-option (S) corporation did not file a Wisconsin return, submit federal Schedule K-1 plus a statement from the partnership, LLC, or tax-option (S) corporation listing the states where tax was paid, the type of income that was taxed, and the amount of each state's tax allocable to you.

CAUTION Processing of your return and any refund will be delayed if you do not submit both pages 1 and 2 of Schedule OS and a copy of your return from the other state and any withholding statements. Failure to submit these items will require the department to contact you.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 4, 2019: 50 USC 4001 and ch. 71, Wis. Stats.