

# 2021 Form 1CNS Instructions

A tax-option (S) corporation having two or more qualifying nonresident shareholders uses Form 1CNS to report and pay the Wisconsin income tax owed by those shareholders. In order to file Form 1CNS, the corporation and its shareholders must agree to the rules prescribed by the Wisconsin Department of Revenue set forth in these instructions.

The composite return replaces the separate Wisconsin income tax return, Form 1NPR, that otherwise would be filed by each of the qualifying and participating nonresident shareholders.

**Note:** Filing the Form 1CNS does not relieve the entity from filing tax returns; the entity is still required to file Wisconsin income or franchise tax returns.

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## General Instructions for Form 1CNS

### Who May Participate in Composite Return

A tax-option (S) corporation that derives income from business transacted, services performed, or property located in Wisconsin may file Form 1CNS on behalf of its nonresident shareholders who derive no taxable income or deductible loss from Wisconsin other than their pro rata shares of the Wisconsin tax-option (S) corporation income or loss.

### Who May Not Participate in Composite Return

A tax-option (S) corporation cannot file Form 1CNS on behalf of its nonresident shareholders in a taxable year that the tax-option (S) corporation makes an election to pay tax at the entity level under sec. 71.365(4m)(a), Wis. Stats.

A shareholder cannot participate in this composite return in any of the following cases:

- The shareholder is an entity and not an individual. However, if the shareholder is an LLC treated as a disregarded entity or a grantor trust that is not required to file Form 1041 for federal income tax purposes, the single member of the LLC or grantor of the grantor trust is deemed to be the shareholder for purposes of the Form 1CNS eligibility requirements.
- The shareholder is an electing small business trust (ESBT).
- The shareholder files their individual income tax return on a fiscal year basis.
- The shareholder is a Wisconsin resident during any part of 2021.
- The shareholder derives taxable income from Wisconsin in 2021 other than their pro rata share of income or loss from one tax-option (S) corporation.
- The shareholder wishes to claim any tax credits or amounts deductible as itemized deductions.
- The shareholder is required to file Wisconsin Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, to report interest expenses, rental expenses, management fees, and intangible expenses that result from related party transactions between the shareholder and corporation.
- The shareholder filed Form PW-2 and has been approved by the department to be exempt from pass-through withholding for the tax-option (S) corporation's current taxable year.

Shareholders who are full-year Wisconsin residents must file Wisconsin Form 1. Part-year resident shareholders and nonresident shareholders who may not participate in Form 1CNS must file Wisconsin Form 1NPR to report their own income.

### What Income Is Reportable on Form 1CNS

Report each qualifying and participating shareholder's pro rata share of taxable income or loss for the tax-option (S) corporation's taxable year ending between January 1, 2021, and December 31, 2021, on a 2021 Form 1CNS. (**Note:** For a tax-option (S) corporation on a 52-53 week taxable year, the taxable year is considered to end on the last day of the month closest to the end of the period.)

### When to File

Form 1CNS is due April 18, 2022. A late filing fee of \$50 will be charged for returns not filed timely; however, the following extensions of time to file are available:

- Any extension allowed by the Internal Revenue Service for filing the tax-option (S) corporation's federal return automatically extends the due date of Form 1CNS to 30 days after the federal extended due date, provided a copy of the federal extension is filed with Form 1CNS.
- The corporation may receive an extension of time to file Form 1CNS by filing a statement with Form 1CNS which includes the following information: The federal extension provision being used and the name, address, and signature of each shareholder covered by the extension.
- **Disaster Relief Extension.** If you are filing under extension because of a federal or state disaster, include a statement indicating which disaster extension you are using and attach it to your return.
- Extensions to file allowed by the Internal Revenue Service to individual shareholders will also give Wisconsin extensions to those particular shareholders, provided a copy of the federal extension is filed with Form 1CNS. Other shareholders who don't have an extension may be subject to late filing fees and delinquent interest if Form 1CNS is filed after April 18, 2022. A separate \$50 late filing fee may be imposed on each shareholder who doesn't have an extension.

## Filing Methods

Tax-option (S) corporations are required to file Form 1CNS electronically. See article, *Certain Wisconsin Tax Forms Must Be Filed Electronically*, on page 16 of [Wisconsin Tax Bulletin 212](#) (February 2021).

Form 1CNS can be filed electronically through the [Federal/State E-Filing Program](#) or through [My Tax Account](#), the department's free electronic filing application.

If the requirement to file electronically causes an undue hardship, you may request an electronic filing waiver by filing [Form EFT-102, Electronic Filing or Electronic Payment Waiver Request](#). If the waiver is approved, mail your return to: Wisconsin Department of Revenue, PO Box 8965, Madison WI 53078-8965.

## Internal Revenue Service Adjustments and Amended Returns

Wisconsin law requires the following information to be provided to the department:

- Adjustments made to a shareholder's federal tax return by the Internal Revenue Service that affect the Wisconsin net tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward must be reported within 180 days after they become final.
- Changes made on a shareholder's amended return filed with the Internal Revenue Service that affect the Wisconsin net tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward must be reported on an amended Wisconsin return within 180 days after the filing of the amended federal return.

Either the corporation or the shareholder must report this information as follows:

**When corporation must report this information.** The corporation must file an amended Form 1CNS to report federal adjustments or amendments to a shareholder's federal return that affect the amount of the shareholder's income or tax reported on the shareholder's original Form 1CNS.

To amend Form 1CNS, file another Form 1CNS and check the space at the top of the form indicating that it is an amended return. File with the amended return a copy of the final federal audit report if the amended return is being filed as a result of a federal audit. Otherwise, include Schedule AR to explain the changes made and the reasons for the changes.

**When shareholder must report this information.** The shareholder must file an amended Form 1NPR to report federal adjustments or amendments to the shareholder's federal return that affect Wisconsin items of income, loss, or credit other than the tax-option (S) corporation income or loss reported on Form 1CNS.

To amend Form 1NPR, file a Form 1NPR and check the designated line indicating that it is an amended return. Include any tax-option (S) corporation income or loss previously reported on Form 1CNS. Include with the amended return a copy of the final federal audit report if the amended return is being filed as a result of a federal audit. Otherwise, include Schedule AR explaining the changes made and the reasons for the changes. If claiming credit for taxes previously paid on your behalf on Form 1CNS, include a statement indicating the corporation's name and federal employer identification number and amount of tax paid.

## Refunds, Assessments, and Correspondence

By filing Form 1CNS, the signing shareholder declares that the tax-option (S) corporation has a power of attorney or other written authorization from each qualifying and participating shareholder to file a composite return. The department may mail refund checks, assessments, and all correspondence to the corporation at the address indicated on Form 1CNS.

If an issue cannot be resolved between the tax-option (S) corporation and the department, the corporation must agree to be responsible for the payment of any additional tax due, interest, and penalties, as finally determined. The department may contact the individual shareholders.

### **Additional Information and Forms**

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

- E-mail your question to: [DORAuditPassThrough@wisconsin.gov](mailto:DORAuditPassThrough@wisconsin.gov).
- Send a FAX to (608) 267-1030.
- Call (608) 266-2772 (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.)

Forms or publications are available on the department's website at: [revenue.wi.gov](http://revenue.wi.gov).

## **Wisconsin Taxation of Tax-Option (S) Corporation Income for Nonresidents**

### **Nonresident Individual Filing Requirements**

Nonresidents of Wisconsin having \$2,000 or more of Wisconsin gross income during 2021 must file a Wisconsin income tax return. A nonresident who is married has a Wisconsin filing requirement if the combined Wisconsin gross income of both spouses is \$2,000 or more.

Gross income means all income (before deducting expenses) reportable to Wisconsin which is received in the form of money, property, or services. Gross income includes a pro rata share of tax-option (S) corporation gross income (before deducting expenses) as reported on Wisconsin Schedule 5K-1, line 20, column e.

If gross income (or the combined gross income of spouses) is less than \$2,000, a Wisconsin income tax return is not required. However, if the shareholder has tax withheld by the corporation, the shareholder should file a Wisconsin income tax return (Form 1NPR or Form 1CNS) to obtain a refund of the amount withheld.

### **Shareholder's Share of Income Taxable to Wisconsin**

All tax-option (S) corporation income earned in Wisconsin is taxable to nonresidents of Wisconsin. If a corporation does business only in Wisconsin, a nonresident's share of its entire net income is taxable by Wisconsin. If a corporation does business in more than one state, the amount attributable to Wisconsin based on apportionment or separate accounting, as appropriate, is taxable. A unitary, multistate corporation generally must determine the amount attributable to Wisconsin using the apportionment method. A nonunitary, multistate corporation must use separate accounting.

Because all tax-option (S) corporation items retain their character as business income or loss, a nonresident shareholder's share, as well as a resident's share, of a tax-option (S) corporation's intangible income, with certain exceptions, is taxable by Wisconsin.

Interest on United States government obligations, bonds issued by the government of Puerto Rico, Guam, the Virgin Islands, or (for bonds issued after October 16, 2004) the Government of American Samoa, and certain state and local government bonds isn't taxable to the shareholders for Wisconsin purposes.

### **Withholding Requirement for Tax-Option (S) Corporations Having Nonresident Shareholders**

In general, a tax-option (S) corporation that has one or more nonresident shareholders is required to withhold income or franchise tax on the income allocable to the nonresident shareholders. However, withholding is not required on behalf of the following nonresident shareholders:

- A shareholder that is exempt from Wisconsin income taxation. In this case, the tax-option (S) corporation may rely on a written statement from a shareholder explaining why the shareholder is exempt from Wisconsin tax.
- The shareholder's share of income from the tax-option (S) corporation attributable to Wisconsin is less than \$1,000.
- The shareholder completes Form PW-2, *Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Pass-Through Withholding Exemption Affidavit*, and provides a copy of the exemption letter to the tax-option (S) corporation.
- The shareholder provides a Continuous PW-2 Exemption Letter that it received from the department.

Tax-option (S) corporations are required to make quarterly estimated withholding tax payments. In addition to the quarterly estimated payments, a tax-option (S) corporation is still required to file PW-1, *Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income*, on an annual basis and pay any additional withholding tax due. Form PW-1 is due (with payment, if any) by the 15th day of the 3rd month following the close of the corporation's taxable year. See the Form PW-1 instructions for details of the filing procedures.

## **Specific Instructions for Form 1CNS**

### **Line-by-Line Instructions**

**Fill in Schedule 2 of Form 1CNS first; then enter the totals from Schedule 2 on Schedule 1.**

The name and address information should be written on single lines. Do not stack the information on the lines. If more room is needed, abbreviate where possible. Exception: The information may be stacked in column (A) of Schedule 2.

Do not write "None" on the amount lines if there is not an entry for the lines. Instead, leave the lines blank.

### **Schedule 2 Instructions**

■ **Columns A Through C. Name and Address, Social Security Number, and Pro Rata Share** – Enter the information requested concerning the nonresident shareholders who are participating in this composite return. Complete names, addresses, and social security numbers are required. Prepare and submit a separate schedule, if necessary, if there are not enough lines provided on Schedule 2.

**Note:** If both spouses are shareholders and they wish to compute their tax jointly, use only one entry line in Schedule 2. Enter both names on that line in column A, list both social security numbers in column B, both ownership interests in column C, and combine their amounts in columns D1, D2, and E for purposes of determining the tax to enter in column G.

■ **Column D1. Shareholder's Share of Wisconsin Tax-Option (S) Corporation Income (Loss)** – Using the amounts entered on Schedule 5K-1, column e, compute each shareholder's Wisconsin net income or loss to enter on Schedule 2, column D1.

The net income or loss may not agree with the total of the amounts on Schedule 5K-1, column e, for the following reasons:

- Only those separately stated deductions of the tax-option (S) corporation that are deductible by the shareholders in computing federal adjusted gross income are allowed as deductions on Form 1CNS. For example, contributions reported on Schedule 5K-1, line 12a are not allowed. Use the Wisconsin apportionment percentage to allocate allowable deductions to Wisconsin.
- Passive activity losses may be limited as provided in the Internal Revenue Code.
- 30% of the net capital gains realized on assets held more than 1 year is excludable from income, except that 60% of net capital gains realized on certain assets used in farming (i.e., farm livestock, farm real property, depreciable farm property, or farm equipment) is excludable from income.
- The net capital loss deduction is limited to \$500.
- A lower-tier entity made an election to pay tax at the entity level under sec. 71.21(6)(a), Wis. Stats. A lower-tier entity is a pass-through entity (i.e. partnership) that is directly or indirectly owned by the tax-option (S) corporation.

If any of these differences apply, submit a schedule with Form 1CNS showing the computation of net income.

If the shareholder is claiming a net operating loss carryforward, prepare a schedule showing the computation of the carryforward and submit it with your Form 1CNS. **Caution:** An individual generally must have a federal net operating loss in order to have a Wisconsin net operating loss. For exceptions, see the tax release titled "Wisconsin Net Operating Loss When There Is No Federal Net Operating Loss" in [Wisconsin Tax Bulletin 70](#) (January 1991, page 19).

■ **Column D2. Shareholder's Share of Wisconsin Gross Income** – For each shareholder, fill in the amount reported on Schedule 5K-1, line 20, column e. If the amount on Schedule 5K-1, line 20, column e, is \$2,000 or more, the shareholder has a Wisconsin filing requirement and must file using either Form 1CNS or Form 1NPR.

■ **Column E. Federal Adjusted Gross Income** – For each shareholder, enter the shareholder's federal adjusted gross income from federal Form 1040 on Schedule 2, column E.

**Note:** If this information is not available, you must compute the shareholder's Wisconsin tax using the alternate method described in the instructions below for Schedule 2, column G.

■ **Column F. Filing Status** – For each shareholder whose federal adjusted gross income was reported in column E, enter the appropriate designation for the shareholder's filing status in 2021: S for single, H for head of household, MFJ for married filing a joint return, and MFS for married filing a separate return.

**Note:** To use the joint return filing status, the shareholder's spouse cannot have any income taxable by Wisconsin other than income or loss from this same tax-option (S) corporation. If both spouses are shareholders and they wish to compute their tax jointly, combine their net incomes for purposes of determining the tax to enter in column G.

Do not fill in column F for any shareholder whose tax must be computed under the alternate method explained below.

**Column G. Tax** – If the shareholder’s federal adjusted gross income has been entered on Schedule 2, column E, figure the tax on the income in column D1 by using the tax computation worksheet on the last page of these instructions. Don’t use the tax tables in the Form 1 or Form 1NPR booklets. No standard deduction or itemized deductions will be allowed for purposes of this composite filing.

**Alternate method of computing column G.** If the shareholder’s federal adjusted gross income is unknown, multiply the Wisconsin income in column D1 by 7.65% (0.0765) and enter the result on Schedule 2, column G.

■ **Column H. Tax Withheld from Form PW-1** – Enter the amount of pass-through entity withholding paid by the tax-option (S) corporation on behalf of each shareholder, as reported on Form PW-1. If this is an amended return, report the tax previously assessed on the original return.

■ **Column I. Balance Due or Overpayment** – Compute the balance due or overpayment for each shareholder (column G - column H).

### Schedule 1 Instructions

■ **Lines 1 through 9.** Fill in the amounts as instructed on the form. If you have an overpayment on line 9, you will not be able to carry over that overpayment to your 2022 Form 1CNS. Instead, the overpayment will automatically be refunded to you.

■ **Line 4: Amended Return Only - Amount Previously Paid** - If you have already filed a Form 1CNS for the taxable year and are filing an amended Form 1CNS, you must check the space provided at the top of the form and include Schedule AR.

Fill in the amount of tax you paid with your original Form 1CNS plus any additional amounts paid after it was filed. If you did not pay the full amount shown on your original Form 1CNS, fill in only the portion that you actually paid. Also, include any additional tax that may have resulted if your original return was changed or audited. This includes additional tax paid with a previously filed 2021 amended return and additional tax paid as a result of a department adjustment to your return. Do not include payments of interest or penalties.

■ **Line 6: Amended Return Only - Amount Previously Refunded** - Complete this line only if this is an amended 2021 Form 1CNS. Fill in the refund from your original 2021 return.

If your refund was reduced because you owed any interest or penalties, fill in the amount of your refund before the reduction for interest or penalty. If your 2021 return was adjusted by the department, fill in the refund shown on the adjustment notice you received.

### Instructions for Third Party Designee, Signatures, Payment, and Supplemental Schedules

■ **Third Party Designee** – If you want to allow a tax preparer or tax preparation firm, or any other person you choose to discuss your 2021 tax return with the Department of Revenue, check “Yes” in the “Third Party Designee” area of your return. Also, fill in the designee’s name, phone number, and any five digits the designee chooses as their personal identification number (PIN). If you check “Yes,” you are authorizing the department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- Give the department any information missing from your return,
- Call the department for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain department notices about math errors, offsets, and return preparation.

You are not authorizing the designee to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the department. If you want to expand the designee's authorization, you must submit Form A-222 (Power of Attorney). The authorization will automatically end no later than the due date (without regard to extensions) for filing your 2022 tax return.

**Signatures.** An officer of the corporation must sign and date Form 1CNS at the bottom of page 1. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must also sign the form and furnish the preparing firm's federal employer identification number. A self-employed individual preparer must enter "PTIN" and the preparer's tax identification number in the space for the preparer's federal employer ID number.

**Payment.** If you have an amount due on line 8, pay by electronic funds transfer through the department's online filing system, [My Tax Account](#), or [third party software](#).

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

- A copy of any application for an extension of time to file the return.
- If applicable, schedules to substantiate the shareholder's share of Wisconsin tax-option (S) corporation income (loss) reported in column D1.

**Do not** attach federal Form 1120-S, Wisconsin Form 5S, Wisconsin Form PW-1, the federal Schedules K-1, or the Wisconsin Schedules 5K-1.

#### **Applicable Laws and Rules**

This document provides statements or interpretations of the following laws and regulations enacted as of November 15, 2021: subchs. I, III, IV, and XII of ch. 71, [Wis. Stats.](#)



## Tax Computation Worksheet for Form 1CNS

<b>1</b> If your filing status is single or head of household, fill in \$12,120; married filing joint, fill in \$16,160; married filing separate, fill in \$8,080		
<b>2</b> Divide the amount from Schedule 2, column D1, by the amount from Schedule 2, column E, and enter the ratio		
<b>3</b> Multiply line 1 by line 2		
<b>4</b> Fill in the amount from Schedule 2, column D1		
<b>5</b> Fill in the smaller of line 3 or line 4		
<b>6</b> Multiply line 5 by 3.54% (0.0354) (round to the nearest cent)		
<b>7</b> Subtract line 5 from line 4. If the result is zero, skip lines 8 through 20 and go to line 21		
<b>8</b> If your filing status is single or head of household, fill in \$12,130; married filing joint, fill in \$16,170; married filing separate, fill in \$8,080		
<b>9</b> Fill in the ratio from line 2 above		
<b>10</b> Multiply line 8 by line 9		
<b>11</b> Fill in the smaller of line 7 or line 10		
<b>12</b> Multiply line 11 by 4.65% (0.0465) (round to the nearest cent)		
<b>13</b> Subtract line 11 from line 7. If the result is zero, skip lines 14 through 20 and go to line 21		
<b>14</b> If your filing status is single or head of household, fill in \$242,680; married filing joint, fill in \$323,580; married filing separate, fill in \$161,800		
<b>15</b> Fill in ratio from line 2 above		
<b>16</b> Multiply line 14 by line 15		
<b>17</b> Fill in the smaller of line 13 or line 16		
<b>18</b> Multiply line 17 by 5.3% (0.053) (round to the nearest cent)		
<b>19</b> Subtract line 17 from line 13. If the result is zero, skip line 20 and go to line 21		
<b>20</b> Multiply line 19 by 7.65% (0.0765) (round to nearest cent)		
<b>21</b> Add lines 6, 12, 18, and 20. Fill in total here and on Schedule 2, column G		