

Update to Instructions as a Result of 2021 Wisconsin Act 156

On March 7, 2022, Governor Tony Evers signed [2021 Wisconsin Act 156](#). The law provides the following change to the 2021 tax year:

Grants Received from the Federal Restaurant Revitalization Fund

Income received in the form of a grant issued by the restaurant revitalization fund under section 5003 of [Public Law 117-2](#) (American Rescue Plan Act of 2021), is exempt from Wisconsin income and franchise taxes.

While the income is also excluded from federal gross income under sec. 9673 of Public Law 117-2, Wisconsin has not adopted sec. 9673 of Public Law 117-2. Partnerships exclude the grants from Wisconsin taxable income by following steps 1 and 2 below:

Step 1 – On Schedule 3K-1, Part V, line 7, make an adjustment to add back the amount of the grant that was excluded from federal gross income. Use a description similar to "Schedule I adjustment - restaurant revitalization grant".

Step 2 – On Schedule 3K-1, Part V, line 15, make a subtraction modification to exclude the grant from Wisconsin taxable income. Use a description similar to "restaurant revitalization grant".

Partnerships should amend their Wisconsin returns (Form 3 and related Schedules 3K-1) if they have already filed and included these amounts in income.

Expenses paid for with the grants and deducted in the computation of federal adjusted gross income are not required to be added back on the Wisconsin return.

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General Instructions

Important Notice

For taxable years beginning January 1, 2019, provisions in [2017 Wis. Act 368](#), provide partnerships an election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats. If a partnership makes the election to pay tax at the entity level, the partners may not include any items of income, gain, loss, or deduction on their Wisconsin tax return. Instead, the entity must compute and pay the tax due on Schedule 3-ET, *Entity-Level Tax Computation*. For more information detailing the entity-level tax election, see the section titled *Partner Reporting of Schedule 3K-1 Items from a Partnership Electing to Pay Tax at the Entity Level* of these instructions and the Common Questions on the department's website at revenue.wi.gov/Pages/FAQS/ise-passthroughpartnr.aspx.

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. All Schedule 3K-1's must be submitted with Form 3 – *Wisconsin Partnership Return*. Keep a copy as part of the partnership's records, and give each partner a 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 "Instructions for 2021 Schedule 3K-1."

Similar to federal Schedule K-1, the partnership uses Schedule 3K-1 to report your share of the partnership's income, deductions, credits, etc., for Wisconsin purposes. Please keep it for your records. You must also include a copy of Schedule 3K-1 with your tax return if:

- You are claiming a tax credit passed through from the partnership,
- You are filing an amended return based on an amended Schedule 3K-1, or
- The partnership withheld tax on your share of the partnership's distributable income (applicable if you are not a Wisconsin resident).
- Box 3 of Item C is checked indicating the partnership made an election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats. See "Item C" under *Information About the Partner* later in these instructions, or
- Box 4 of Item C is checked indicating an election to pay tax at the entity level was made by a lower-tier entity of the partnership. A lower-tier entity is a pass-through entity that is directly or indirectly owned by the partnership.

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, if a partnership did not make an election to pay tax at the entity level under sec. 71.21(6)(a), Wis. Stats., and none of the partnership's lower-tier entities made an election to pay tax at the entity level, the partnership 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), the partnership may use federal 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), the partnership may use federal Schedules K-1 for **full-year Wisconsin resident** partners.

A partnership that files federal Schedules K-1 instead of Wisconsin Schedules 3K-1 *must state on the partner's federal Schedule K-1 that there are no Wisconsin adjustments or credits*.

You are liable for Wisconsin franchise or income tax on your share of the partnership income, whether or not distributed, and you must include your share on your Wisconsin franchise or income tax return if a return is required.

Inconsistent Treatment of Items – Generally, you must report partnership items shown on your Schedule 3K-1 and any accompanying schedules the same way that the partnership treated the items on its return. If your treatment is (or may be) inconsistent with the partnership's treatment, you must include a statement with your return to identify and explain any inconsistency.

Errors – If you believe the partnership has made an error on your Schedule 3K-1, notify the partnership and ask for a corrected Schedule 3K-1. Don't change any items on your copy. Be sure that the partnership sends a copy of the corrected Schedule 3K-1 to the department.

Elections – Generally, the partnership decides how to figure taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use. However, certain elections are made by you separately on your tax return and not by the partnership. These include elections under Internal Revenue Code section 59(e)(2), relating to the deduction of certain qualified expenditures ratably over the period of time specified in that section. For more information, see [Wisconsin Tax Bulletin 214](#) (July 2021, page 8).

Limitations on Losses, Deductions and Credits

Caution: The amount of loss and deduction that you may claim on your Wisconsin return may be less than the amount reported on Schedule 3K-1. It is the partner's responsibility to consider and apply any applicable limitations.

There are three separate potential limitations on the amount of partnership losses that you may deduct on your return. These limitations and the order in which you must apply them are as follows:

1. The basis rules,
2. The at-risk limitations, and
3. The passive activity limitations.

Other limitations may apply to specific deductions. These limitations on specific deductions generally apply before the basis, at-risk, and passive loss limitations.

1. Basis Rules –

Generally, you may **not** claim your share of a partnership loss (including a capital loss) to the extent that it is greater than the adjusted basis of your partnership interest at the end of the partnership's taxable year. Compute the Wisconsin adjusted basis of your partnership interest by adding items that increase your basis and then subtracting items that decrease your basis.

Items that **increase** your basis include:

- Money and your adjusted basis in property contributed to the partnership.
- Your share of the increase in the partnership's liabilities.
- Your share of the partnership's income as computed under Wisconsin law.

Items that **decrease** your basis, but not below zero, include:

- Money and the adjusted basis of property distributed to you.
- Your share of the decrease in the partnership's liabilities.
- Your share of the partnership's losses as computed under Wisconsin law.
- Your share of the partnership's section 179 expense deduction.
- Your share of the partnership's nondeductible expenses.
- Your share of the supplement to the federal historic rehabilitation tax credit, early stage seed investment credit, or angel investment credit computed.

When figuring the Wisconsin adjusted basis in a multistate partnership, use your share of the total partnership amounts, as computed under Wisconsin law, rather than just the income, losses, and deductions attributable to Wisconsin activities.

Note: If the partnership made the election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats., the adjusted basis of a partner's interest in the electing partnership is determined as if the election was not made as provided in sec. 71.21(6)(d)4., Wis. Stats.

2. At-Risk Limitations –

For federal purposes, if you have a loss or other deduction from any activity carried on as a trade or business or for the production of income by the partnership, and you have amounts in the activity for which you are not at risk, you generally will have to figure the allowable loss. The at-risk rules generally limit the amount of loss (including loss on disposition of assets) and other deductions (such as the section 179 expense deduction) that you can claim to the amount you could actually lose in the activity. The at-risk rules also apply for Wisconsin purposes.

3. Passive Activity Limitations –

Internal Revenue Code section 469 limits the deduction of certain losses. The rules apply to partners who are individuals, estates, trusts, closely held corporations, or personal service corporations and have a passive activity loss for the taxable year. Passive activities include trade or business activities in which you didn't materially participate and rental activities, as defined in the federal regulations. Rental real estate activities in which you materially participated are not passive activities if you meet certain eligibility requirements. The partnership will identify separately each activity that may be passive to you. You must determine whether your losses are limited by the passive activity rules.

The passive activity loss limits also apply for Wisconsin purposes. However, if there are differences between your federal and Wisconsin income, you may have to recompute the amount of passive activity loss deductible for Wisconsin.

There are three types of differences between federal and Wisconsin income:

- a. Schedule I adjustments.
- b. Differences resulting from making different elections for federal and Wisconsin purposes. For more information, see [Wisconsin Tax Bulletin 214](#) (July 2021, page 8).
- c. Modifications to federal adjusted gross income prescribed in sec. 71.05(6) to (12), (19), (20), and (24) to (26), Wis. Stats.

A Schedule I adjustment may arise if a provision of the Internal Revenue Code doesn't apply for Wisconsin or if a federal law change becomes effective at a different time for Wisconsin than for federal purposes. Modifications to federal adjusted gross income include the addition of state and local government bond interest income and the subtraction of the capital gain deduction.

For differences resulting from Schedule I adjustments or different elections, you must recompute the passive activity loss limits for Wisconsin. However, you may not recompute the loss limits for modifications. The partnership should tell you the reason for any adjustment in column (c) so that you will know whether you must recompute the passive activity loss limits.

Part I – Information About the Partnership:

Enter the information about the partnership from the partner's federal Schedule K-1.

Part II – Information About the Partner:

Enter the information about the partner from the partner's federal Schedule K-1.

If the partnership is aware that the partner is a disregarded entity or grantor trust, in the first section of Part II requesting partner information (i.e., name, address, etc.), enter the information of the taxpayer/owner of the disregarded member or trust to whom the income on Schedule 3K-1 will be reported. In the second section of Part II requesting partner information, enter the information of the disregarded member or trust. If you enter this information, it is less likely that the department will need to contact you or the partner to verify that the proper amount of income is reported.

- **Item A.** Check the appropriate box to indicate the partner's type of entity structure.
- **Item B.** Check all appropriate boxes that apply to the partner.
- **Item C.**
 - If the partnership ceased to exist or withdrew from Wisconsin or if the partner terminated their 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, the partnership must file an amended Schedule 3K-1, check the "Amended 3K-1" box, and include Schedule AR detailing the changes made.
 - If the partnership made the election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats., check box number 3. If this box is checked, partners should not include in their Wisconsin adjusted gross income their proportionate share of all items of income, gain, loss, or deduction of the electing partnership.

For more information, see the instructions for Schedule 3-ET and the section titled *Partner Reporting of Schedule 3K-1 Items from a Partnership Electing to Pay Tax at the Entity Level* of these instructions.

- If the partnership is a member of a multi-tier pass-through entity structure and any of the lower-tiered entities made an election to pay tax at the entity level, check box number 4.
- If box number 4 is checked and the partnership is **not** making the election to pay tax at the entity level, the partnership must provide each partner a supplement statement with the Schedule 3K-1 detailing the amount of the partner's items of income, gain, loss, and deduction that have been taxed by a lower-tier entity.
- **Items D and E.** Enter the information about the partner from the partner's federal Schedule K-1.
 - **Item F.** Enter the information about the partner's capital account from the partner's federal Schedule K-1.
 - **Item G.** 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 F represent tax basis, submit a schedule describing any differences between the Wisconsin and federal tax basis.

Note: If the partnership made the election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats., the adjusted basis of a partner's interest in the electing partnership is determined as if the election was not made as provided in sec. 71.21(6)(d)4., Wis. Stats.

- **Item H.** 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 I.** If the partner is not a full-year Wisconsin resident individual, estate, or trust, and the partnership is a unitary, multistate partnership using apportionment, complete the appropriate Wisconsin apportionment Schedule A-01 through A-11. Enter the partnership's apportionment percentage from the Wisconsin apportionment Schedule A-01 through A-11, as appropriate.
- **Item J.** Check this box if the partnership is a nonunitary, multistate partnership using the separate accounting method. Prepare and submit Form C, *Wisconsin Allocation and Separate Accounting Data*, that shows the allocation of the amount of each applicable share item under Wisconsin law, column (d) on Schedule 3K of Form 3, to Wisconsin and outside Wisconsin.

- **Item K.** Check this box if the partner is a nonresident who has received an approval letter from the department to claim exemption from pass-through entity withholding or received a continuous exemption letter from the department. Both the partnership and partner must keep a copy of the approved exemption letter 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 L.** Check this box if a qualifying partner elects to be included on Form 1CNP, *Composite Wisconsin Individual Income Tax Return for Nonresident Partners*. The partnership enters the amount of Wisconsin composite tax paid on behalf of the qualifying partner, from Form 1CNP, Schedule 2, Column (H), in the space provided. The composite return (Form 1CNP) replaces the separate Wisconsin income tax return, Form 1NPR, that otherwise would be filed by the qualifying partner. For more information regarding the composite return, see the instructions for Form 1CNP.

Part III – Partner's Share of Current Year Income, Deductions, Credits and Other Items:

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). Prepare Schedule 3K-1 – *Partners' Share of Additions and Subtractions* in Part V of Schedule 3K-1 to account for the additions and subtractions. If the difference arises because a federal law change has not been adopted by Wisconsin, identify it as a "**Schedule I adjustment**" and provide that information to the individual partners on Schedule 3K-1. 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 I. See the section later in these instructions titled, "*Determining the Wisconsin Income of Nonresident Partners.*"

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 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

Depending on the type of income, 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). See the section in these instructions titled *Determining the Wisconsin Income of Nonresident Partners*.

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 to enter in column (e), except as provided later in these instructions in the section titled *Determining the Wisconsin Income of Nonresident Partners*.

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) of each share item is the partner's amount from column (d) that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate.

If the partnership is a unitary, multistate partnership, compute the Wisconsin source amount of each share item by multiplying the amount in column (d) for that item by the apportionment percentage from Item I.

If the partnership has nonapportionable income (loss) on Form N, line 14, compute the Wisconsin source amount in column (e) of any affected share item by multiplying the amount of the nonapportionable share item from column (d) on Schedule 3K of Form 3 that is attributed to Wisconsin on Form N by the nonresident partner's percentage of ownership interest.

If the partnership is a nonunitary, multistate partnership, compute the Wisconsin source amount in column (e) of each share item by multiplying the amount from column (d) on Schedule 3K of Form 3 that is allocated to Wisconsin on Form C by the nonresident partner's percentage of ownership interest.

Note: In determining the situs of a partner's or member's share of the partnership income, a partner or member shall disregard all provisions in partnership or limited liability company agreements that do any of the following:

- Characterize the consideration for payments to the partner or member as services or the use of capital.
- Allocate to the partner or member, as income from or gain from sources outside this state, a greater proportion of the partner's or member's distributive share of partnership or limited liability company income or gain than the ratio of partnership or company income or gain from sources outside this state to partnership or company income or gain from all sources.
- Allocate to a partner or member, a greater proportion of a partnership or limited liability company item of loss or deduction from sources in this state than the partner's or member's proportionate share of total partnership or company loss or deduction.
- Determine a partner's or member's distributive share of an item of partnership or limited liability company income, gain, loss, or deduction for federal income tax purposes if the principal purpose of that determination is to avoid or evade the tax under this chapter.

Determining the Wisconsin Income of Nonresident Partners

Apportionable Income:

A partnership that is engaged in a unitary business in Wisconsin and at least one other state or foreign country (known as "nexus") must determine the amount of income/loss attributable to Wisconsin for purposes of figuring the share of partnership income/loss taxable to partners that are nonresident or part-year resident individuals or fiduciaries. See [sec. Tax 2.82, Wis. Adm. Code](#), to determine what constitutes nexus and [sec. Tax 2.62, Wis. Adm. Code](#), for a description of what constitutes a unitary business.

All business income of a partnership is apportionable income, except as provided in the section below titled, *Income Not Subject to Apportionment Formula*. All apportionable business income is taxable to nonresident partners based on the apportionment formula regardless of whether the nonresident partner performs services in Wisconsin.

The Wisconsin source amount in column (e) is the amount from column (d) multiplied by the partnership's apportionment percentage from the Wisconsin apportionment Schedules A-01 through A-11. Include this schedule when filing Form 3, *Wisconsin Partnership Return*.

Income not Subject to Apportionment Formula:

For items of business income not subject to apportionment under sec. 71.04(4), Wis. Stats., a nonresident partner's distributive share of partnership income from the following sources is attributable to Wisconsin as described below:

- Income derived from rentals and royalties from business or nonbusiness real estate or tangible personal property, or from the operation of any farm, mine or quarry, or from the sale of business or nonbusiness real property or tangible personal property, are allocated to the location of the property from which derived.
- Intangible income such as interest and dividends, and gains and losses resulting from the sale of intangible property such as stocks, bonds, and securities which are passed through to nonresident partners aren't taxable by Wisconsin because the income follows the residence of the individual.
- 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 are allocated to Wisconsin.
- Income derived from casinos, bingo halls, and pari-mutuel winnings in Wisconsin are allocated to Wisconsin.
- Income derived from a covenant not to compete is taxable to the extent that the covenant was based on a Wisconsin-based activity.
- Partnership income derived from personal services, including income from professions, follow the location of the services:
 - 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 the partner 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. If a partnership derives business income from services other than personal and professional services, nonresident partners must apportion their distributive share of such income to Wisconsin using the partnership's apportionment formula.

The Wisconsin source amount of column (d) is determined similarly 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. Using the apportionment formula, the partnership derives 40% of its income from business activities in Wisconsin. 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 their proportionate share of the partnership income earned in Wisconsin.

- A partnership engaged in a nonunitary business (one in which the operations in Wisconsin are not dependent upon or contributory to the operations outside Wisconsin) in and outside Wisconsin must determine the amount of income attributable to Wisconsin by separate accounting. Under separate accounting, the partnership must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business. Use Form C, *Wisconsin Allocation and Separate Accounting Data*, to compute the income allocable in and outside Wisconsin. Include the schedule when filing Form 3, *Wisconsin Partnership Return*.

- Except for nonunitary income, and except for income/loss items not requiring apportionment as explained above, a unitary business may use separate accounting only with the approval of the department. A request for 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 3-107, PO Box 8906, Madison, WI 53708-8906 before the end of the taxable year for which the use of separate accounting is desired.

Part III – Partner's Share of Current Year Income, Deductions, Credits, and Other Items - Line Instructions:

Lines 1 through 13, and 20:

The entries on these lines show your share of the federal amount (column (b)), adjustment (column (c)), and amount reportable under Wisconsin law (column (d)) for each of the items. For nonresident and part-year resident partners, the entries also show your share of the amount attributed to Wisconsin (column (e)). For additional information about the taxation of nonresident and part-year resident partners, see the 2021 Form 3 instructions.

These amounts don't take into account limitations on losses or other items that may have to be adjusted because of the basis rules, the at-risk limitations, or the passive activity limitations.

If the amount under Wisconsin law for any share item on lines 1 through 13, and 20 differs from the federal amount, Schedule 3K-1 will have an amount in column (c). This difference must be accounted for on the partner's Wisconsin franchise or income tax return. How to account for the difference depends on the return being filed, the share item, and the reason for the difference.

Note: If the partner is a qualifying partner included on Form 1CNP, *Composite Wisconsin Individual Income Tax Return for Nonresident Partners*, only separately stated deductions of the partnership that are deductible by the partners in computing federal adjusted gross income are allowed as deductions on Form 1CNP. For example, charitable contributions reported on Schedule 3K-1 are not allowed as deductions on Form 1CNP. Use the Wisconsin apportionment percentage to allocate allowable deductions to Wisconsin.

Column (c) for Individuals, Estates, and Trusts. If the difference in column (c) arises because a provision of the Internal Revenue Code doesn't apply for Wisconsin (e.g. bonus depreciation has not been adopted by Wisconsin) or a federal law change becomes effective for Wisconsin at a different time, you must complete Wisconsin Schedule I (Form 2, Schedule B for estates and trusts) before filling in your Wisconsin income tax return. These adjustments are often called "Schedule I adjustments" because individuals must report them on Wisconsin Schedule I. Identify the adjustments and provide that information to the individual partners on Schedule 3K-1.

If the difference results from the partnership making different elections for federal and Wisconsin purposes, you must recompute the federal adjusted gross income that you report on your Wisconsin return. See the instructions for Part V – Schedule 3K-1 *Partner's Share of Additions and Subtractions* for more information. For more information, see [Wisconsin Tax Bulletin 214](#) (July 2021, page 8).

If the difference is a modification allowed in computing Wisconsin adjusted gross income, the treatment depends on which share item is affected and the return you are filing.

Modifications on Lines 1, 2, 3, 4, 6, 7, 11, 12, and 20:

- If you are filing Form 1, account for any modification to one of these share items by combining the amount from Schedule 3K-1, column (c), with any other Wisconsin modification and entering the total on the appropriate line of Schedule AD, *Form 1 – Additions to Income*, or Schedule SB, *Form 1 – Subtractions from Income*.
- If you are filing Form 1NPR, include in column B on the appropriate line of Form 1NPR, along with any other Wisconsin income or loss, the Wisconsin amount from column (e) of any share item reported on one of these lines.
- If you are filing Form 2 as a full-year resident estate or trust, account for any modification to one of these share items by entering the amount from Schedule 3K-1, column (c), on Form 2, Schedule A. If you are filing Form 2 as a part-year or nonresident estate or trust, enter the appropriate amount from Schedule 3K-1 on Schedule NR.

Lines 4a and 4b. Guaranteed Payments:

Enter guaranteed payments for services performed by partners on line 4a and guaranteed payments for use of partners' capital on line 4b.

Interest Income Modifications on Lines 5 and 18a:

Interest income that is exempt from federal income taxes but taxable by Wisconsin, such as state and local government bond interest, is shown as an **addition** on line 5, column (c), and as a **subtraction** on line 18a, column (c).

- If you are filing Form 1, combine the interest income amount from Schedule 3K-1, column (c), with any other interest modification and enter the total on the appropriate line of Schedule AD, *Form 1 – Additions to Income*, or Schedule SB, *Form 1 – Subtractions from Income*.
- If you are filing Form 1NPR, include in column B on Form 1NPR, along with any other Wisconsin interest income, the Wisconsin source amount of interest income from Schedule 3K-1, column (e).
- If you are filing Form 2 as a full-year resident estate or trust, account for any modification to one of these share items by entering the amount from Schedule 3K-1, column (c), on Form 2, Schedule A. If you are filing Form 2 as a part-year or nonresident estate or trust, enter the appropriate amount from Schedule 3K-1 on Schedule NR.

Capital Gain Modifications on Lines 8 and 9:

Partners enter the Wisconsin amounts from column (d) (column (e) for nonresidents and part-year residents) of these share items on the appropriate lines of Wisconsin Schedule WD (Schedule 2WD for estates and trusts).

Section 1231 Gain/Loss Modifications on Line 10a:

Partners see the instructions for Part II of Wisconsin Schedule T and recompute a federal Form 4797 as instructed.

Portion of gain on Line 10a Attributable to Gains on Sale of Farm Assets on Line 10b:

Partnerships enter on line 10b, the portion of net gain on line 10a attributable to the sales of farm assets held more than one year. Neither include amounts treated as ordinary income for federal income tax purposes because of recapture of depreciation, or for any other reason, nor amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. "Farm assets" means livestock, farm equipment, farm real property, and farm depreciable property.

Line 11. Other Income (Loss):

Partnership uses a separate line for each type of income (loss).

If there are more than two types of other income (loss), the partnership enters "See Attached" on line 11a, column (a), and the appropriate totals in columns (b), (c), (d), and (e). The partnership submits a separate attachment listing each type and amount of other income (loss).

Line 13. Other Deductions:

Partnership uses a separate line for each type of deduction.

If there are more than two types of deductions, the partnership enters "See Attached" on line 13a, column (a), and the appropriate totals in columns (b), (c), (d), and (e). The partnership submits a separate attachment listing each type and amount of deduction.

Itemized Deduction Modifications on Lines 13 and 20:

Individual partners adjust the deduction items from federal Schedule A when figuring the Wisconsin itemized deduction credit (Form 1, Schedule 1, or Form 1NPR, Schedule 1). Increase or decrease, as appropriate, the amount from federal Schedule A by the amount on Schedule 3K-1, column (c).

Column (c) for Partnerships. If you are filing Form 3, account for any difference between the Wisconsin and federal amount of a share item that is allowable in computing Wisconsin net income by entering the amount from Schedule 3K-1, column (c), on the appropriate line of Form 3, Schedule 3K, column (c).

Column (c) for Corporations. If you are filing Form 4 or 6, account for any difference between the Wisconsin and federal amount of a share item that is allowable in computing Wisconsin net income by entering the amount from Schedule 3K-1, column (c), on Schedule 4V or 4W, as appropriate if filing Form 4; otherwise enter the amounts on Form 6, Part II.

Column (c) for Tax-Option (S) Corporations. If you are filing Form 5S, account for any difference between the Wisconsin and federal amount of a share item by entering the amount from Schedule 3K-1, column (c), on the appropriate line of Form 5S, Schedule 5K, column (c).

Credits on Lines 15a through 15h:

Partnerships compute the credits on lines 15a through 15h in the same manner for partners who are full-year, part-year, or nonresidents of Wisconsin.

Note: Do not multiply the partner's proportionate or specially allocated share of the credits by the partner's apportionment percentage. Nonresidents and part-year residents are eligible for the full amount of credits similar to a full-year resident.

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 and supplement to the federal historic rehabilitation credits may be specially allocated. See the Schedule VC and HR instructions for details.) Enter the abbreviation of the credit you are claiming next to the word "schedule" on line 15. The abbreviation for each credit is located in the upper left-hand corner of the credit schedule and in the instructions for Schedule 3K. See exceptions below.

For the following credits, enter the code indicated below instead of the abbreviation from the credit schedule:

- Angel Investment Credit – **VCA**
- Early Stage Seed Investment Credit – **VCE**
- Regular Research Credit – **R**
- Research credit related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles – **RIC**
- Research credit related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use - **REE**

Use a separate line for each credit you are claiming. For example, if you are claiming the enterprise zone jobs credit, enter "EC" next to the "Schedule" line.

Line 15i. Credit for Tax Paid to Other States:

Partnerships 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 15i. For a part-year resident, enter in column (d) the amount computed by multiplying the credit on Schedule 3K, line 15i, 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.

If a tax-option (S) corporation, limited liability company, or partnership filed its own income or franchise tax return with another state and paid tax on its income to that state, an individual uses Part III of Schedule OS to calculate their credit for net taxes paid to other states. The amount of income to include in the computation of Part III would be the individual's pro rata share of the amount of income the entity paid tax to the other state. The entity should provide this information to the individual so that they may compute the appropriate amount of credit for net tax paid to other states.

Note: The amount of eligible qualified production activities income that may be claimed in computing the manufacturing and agriculture credit is reduced by the amount of the qualified production activities income taxed by another state upon which a credit for taxes paid to the other state is claimed. The partnership will need to provide the partners with the amount of eligible qualified production activities income upon which their share of the credit for tax paid to another state was computed so they may use this information when completing their tax returns.

Caution: If the partnership makes an election to be taxed at the entity level under sec. 71.21(6)(a), Wis. Stats., it must leave line 15i blank. The partner may not claim a credit for net tax paid to another state on income taxed on the electing partnership's Wisconsin tax return or taxes paid on the partner's behalf on a composite return. In addition, a resident partner may not claim a credit for taxes the partner paid to another state on income taxed at the entity level in Wisconsin. If the partnership paid a tax to another state on a partnership return or on a composite return on behalf of the partners, the entity may claim a credit on Schedule ET-OS, *Entity-Level Credit for Net Tax Paid to Another State*. See the instructions for this schedule for information on computing the credit.

Line 15j. Wisconsin Tax Withheld:

Partners enter the amount from line 15j, column (d), on the "Wisconsin income tax withheld" line of your Wisconsin income or franchise tax return. Unless you elect to be included in a composite return (Form 1CNP), you must include a complete copy of Schedule 3K-1 with your Wisconsin income or franchise tax return if you claim this credit.

If the partnership was required to file Form PW-1 to withhold tax on behalf of its nonresident partners, it enters in column (d) the tax withholding allocated to the partner, as reported on the filed Form PW-1, Part 2, Column H.

Caution: Partners do not enter their share of pass-through entity withholding as an estimated tax payment on the partner's Wisconsin return.

Caution: Partnerships may not include withholding on line 15j already claimed on line 5, page 1 of Form 3.

Line 16. Federal Schedule K-3:

If the partnership has items of international tax relevance, check this box and include federal Schedule K-3 with Schedule 3K-1. If there are differences between the federal and Wisconsin amounts reported on Schedule K-3, include a statement to explain the differences.

The partner must account for the differences appropriately on the partner's Wisconsin franchise or income tax return.

Line 17. Alternative Minimum Tax Items:

Wisconsin does not have an alternative minimum tax for taxable years beginning on or after January 1, 2019.

Partnerships fill in column (b) with the amount from federal Schedule K-1. Do not report any amounts under columns (c), (d), and (e).

Lines 18a through 18c. Tax Exempt Interest and Nondeductible Expenses:

Differences in the amount of income that is exempt for federal and Wisconsin purposes are shown on lines 18a and 18b, column (c). Increases or decreases in the amount of nondeductible expenses are shown on line 18c, column (c).

Use the amount from column (d) when computing the Wisconsin basis of your partnership interest. Partners that are partnerships and tax-option (S) corporations enter the amounts from column (c) on the appropriate lines of Schedule 3K or Schedule 5K, column (c).

Line 19. Distributions:

Reduce the Wisconsin basis of your partnership interest by the Wisconsin distributions shown on line 19, column (d). If these distributions exceed the Wisconsin basis of your partnership interest and you were a Wisconsin resident when you received the distributions, treat the excess as a gain from the sale or exchange of property. Enter any Wisconsin gain on the appropriate line of Wisconsin Schedule WD or Schedule 2WD for estates and trusts.

Line 20. Other Information:

If applicable, the partnership has provided supplemental information or has listed in the space provided or on attached schedules your share of items not included on lines 1 through 19. Account for these items as necessary to include the taxable or deductible amount of each item as computed under Wisconsin law in your Wisconsin income.

For individuals, estates, and trusts, if line 20 includes interest income from United States government obligations, you must make an adjustment on your Wisconsin return because this income is not taxable for Wisconsin income tax purposes. If you are filing Form 1, subtract this interest income on line 2 of Schedule SB, *Form 1 – Subtractions from Income*. If you are filing Form 1NPR, don't include this interest income on Form 1NPR, line 2, column B. If you are filing Form 2, subtract the United States government interest on Schedule A, line 8.

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.
- The amount deducted under the Internal Revenue Code as moving expenses, as defined in sec. 71.01(8j), Wis. Stats., paid or incurred during the taxable year to move the taxpayer's Wisconsin business operation, in whole or in part, to a location outside Wisconsin or to move the taxpayer's business operations outside the United States, must be added back to Wisconsin income.
- 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 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 credit based on their proportionate shares of the partnership's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC and FC-A instructions. 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.

Manufacturing and agriculture credit information: If the partnership computed the manufacturing and agriculture credit on Schedule MA-M and/or MA-A, include on line 20 the amount of income that was used to compute the manufacturing and agriculture credit so that the partners can use this information when completing Schedule MA-M or MA-A, Part II, *Computation of Business Income Limitation for individuals and fiduciaries*, if required.

Note: The amount of eligible qualified production activities income that may be claimed in computing the manufacturing and agriculture credit is reduced by the amount of the qualified production activities income taxed by another state upon which a credit for taxes paid to the other state is claimed. The partnership will need to provide the partners with the amount of eligible qualified production activities income upon which their share of the credit for tax paid to another state was computed so they may use this information when completing their tax returns.

Caution: If a partnership makes the election to pay tax at the entity level under sec. 71.21(6)(a), Wis. Stats., the partner may only use the credit to offset tax liability resulting from the partner's prorated share of taxable income from the partnership for a year in which the election is not made.

Line 21. Foreign taxes paid or accrued:

The partnership enters the partner's proportionate share of the federal amount, adjustment, and amount determined under Wisconsin law from Schedule 3K.

Lines 22a and 22b. Related Entity Expenses:

If the partnership paid, accrued, or incurred management fees or interest, rental or intangible expenses to a related person or entity, the partnership completes lines 22a and 22b, as appropriate, to separately disclose the modifications it made to those items under the Wisconsin law requiring “addback” of related entity expenses. The amounts on lines 22a and 22b should already be included in column (c) corresponding to one or more other lines of Schedule 3K-1.

Instructions for lines 22a and 22b depend on the type of partner:

- **Resident Individuals** must enter these amounts on line 8 of Schedule AD, *Form 1 – Additions to Income*, and on line 33 of Schedule SB, *Form 1 – Subtractions from Income*.
- **Nonresident and Part-Year Individuals** must enter these amounts on lines 15 and 28 of Form 1NPR.
- **Partnerships and tax-option (S) corporations** must enter these amounts on lines 22a and 22b of Schedule 3K or lines 18a and 18b of Schedule 5K.
- **Corporations** must enter the amount from line 22a on Schedule 4V if filing Form 4, or Form 6, Part II, line 2c (if not already included) and the amount from line 22b on Schedule 4W if filing Form 4, or Form 6, Part II, line 4b (if not already included), even if the net total of those amounts is zero.

Line 23. Income (Loss):

For each of columns (d) and (e), combine lines 1 through 11. From the result, subtract the sum of lines 12 and 13. Add or subtract, as appropriate, any income or deductions reported on line 20 that affect the computation of taxable income.

If you reported on line 20 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 24. Gross Income:

Individuals combine the amount from column (d) or (e), as appropriate, with gross income from other sources (if any) that is reportable to Wisconsin to determine whether they must file a Wisconsin income tax return. See the instructions for Form 1 or Form 1NPR for information about the filing requirements.

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.

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 2021. Partner B was an Illinois resident during all of 2021. Partner C was a resident of Wisconsin until moving to Florida on April 1, 2021. 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, 2021, shows the following amounts on the lines indicated:

(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
20 U.S. Government interest included on line 5, column (d)			\$100

The Partner's 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. Government interest included on line 5, column (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. Government interest included on line 5, column (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. Government interest included on line 5, column (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	$\$3,200 \times 90/365$	= \$789
Period of nonresidence	$\$3,200 \times .7 \times \frac{275}{365}$	= \$1,688
Total		= \$2,477

Partner C’s Line 5: Interest Income		
Period of residence	$\$333 \times 90/365$	= \$82
Period of nonresidence		-0-
Total		= \$82

Partner C’s U.S. Government Interest for Line 20		
Period of residence	$\$100 \times .3333 \times 90/365$	= \$8
Period of nonresidence		-0-
Total		= \$8

Part IV – Partner's Share of Apportionment Factors:

Partnerships, corporations, and tax-option (S) corporations must generally include their share of the numerator and denominator of the partnership’s apportionment factors in the numerator and denominator of their apportionment factors, even if the election to pay tax at the entity level was made. Include these amounts using the Wisconsin apportionment Schedules A-01 through A-11, as appropriate. For a corporation or another partnership that is a partner, enter on line 25 or lines 26 through 28 the partner’s proportionate share of the partnership’s apportionment factors from the Wisconsin apportionment Schedule A-01 through A-11 (if applicable).

Line 25. Wisconsin Single Sales Factor Method:

Use line 25 to report the Wisconsin single sales factor apportionment method data if filing apportionment Schedule A-01, A-02, A-05, A-06, or A-08. **Note:** If completing line 25, do **not** enter data on lines 26 through 28.

Lines 26 through 28. Wisconsin Multiple Factor Method:

Use lines 26 through 28 to report the Wisconsin multiple factor apportionment method data if filing apportionment Schedule A-03, A-04, A-07, A-09, A-10, or A-11. **Note:** If completing lines 26 through 28, do **not** enter data on line 25.

Part V – Partners' Share of Additions and Subtractions:

The purpose of this schedule is to provide detail for the amounts entered on lines 1 through 13c, column (c), of Schedule 3K-1, Part III. The total amount from this schedule should equal the amount of the adjustments reported on lines 1 through 13c in column (c) of Schedule 3K-1, Part III.

For many situations, the amounts from the additions/subtractions schedule will be entered in column (c), line 1 or 2 of Schedules 3K and 3K-1.

If a taxpayer only has ordinary income, the net addition/subtraction will be entered on line 1, column (c) of Schedules 3K and 3K-1. Conversely, if the taxpayer only has net rental income, the net addition/subtraction will be entered on line 2, column (c) of those schedules.

If the taxpayer has both ordinary business income and rental real estate income, the net addition/subtraction should be allocated between column (c), lines 1 and 2 of Schedules 3K and 3K-1.

For situations where a taxpayer has multiple sources of income and is required to make numerous adjustments in column (c), the appropriate addition/subtraction adjustment should be made on each income/expense line in column (c) of Schedules 3K and 3K-1. The total adjustments made to column (c) should equal the total adjustment on the new addition/subtraction schedule.

Schedule I adjustments:

Note: If the amounts entered on Part V are the result of a federal law change that has not been adopted by Wisconsin (e.g. bonus depreciation) identify it as a Schedule I adjustment. The individual partners will account for the adjustment on Schedule I instead of Schedule AD or SB.

Line-by-Line Instructions

Additions:

■ **Line 1. State Taxes** – Enter taxes imposed by Wisconsin, any other state, and the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by net income, gross income, gross receipts, or capital stock and that were deducted in computing federal taxable income.

■ **Line 2. Related Entity Expenses** – A partnership must make an addition modification to “add back” expenses attributable to transactions with related parties. The expenses that must be added back include the following, if paid, accrued, or incurred to a related entity:

- Interest expenses
- Rent expenses
- Management fees
- Intangible expenses

Partnerships that are members, or beneficiaries of pass-through entities must include on line 2 their share of the pass-through entity’s related entity expenses shown on line 22a of Schedule 3K-1.

Note: If the partnership meets one of the specific conditions provided in the Wisconsin Statutes, the partnership may take a subtraction modification on line 9 for some or all of the amount added back on this line. See the instructions for line 9 for details.

Definitions Applicable to Line 2. In determining whether an addback of related entity expenses is necessary, the following definitions apply:

“Related entity” – A related person under one of the following sections of the Internal Revenue Code (IRC):

- Section 267(b), which defines relationships through which taxpayers would be considered “related” for purposes of the disallowance of deduction or loss on transactions between related taxpayers
- Section 1563, relating to controlled groups of corporations, which is incorporated into section 267 by reference
- Section 707(b), relating to partners of partnerships, which is also incorporated into section 267 by reference

A “related entity” also includes certain real estate investment trusts (REITs) if they are not “qualified REITs.” For more on qualified REITs, see [Wisconsin Tax Bulletin 158](#) (October 2008), page 17, Questions A2 and A3.

“Interest expenses” – Interest that would otherwise be deductible under section 163 of the IRC and otherwise deductible in the computation of Wisconsin income.

“Rent expenses” – Gross amounts that would otherwise be deductible under the IRC, as modified for Wisconsin purposes, for the use of, or the right to use, real property and tangible personal property in connection with real property, including services rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

“Management fees” – Expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting on compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in determining net income under the IRC as modified for Wisconsin purposes.

“Intangible expenses” – Any of the following, to the extent the amounts would otherwise be deductible in determining net income under the IRC as modified for Wisconsin purposes:

- Expenses, losses, or costs for, related to, or directly or indirectly in connection with, the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property
- Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions
- Royalty, patent, technical, and copyright fees
- Licensing fees

If a partnership purchases an amortizable intangible asset from a related entity, the amortization expenses on that asset are considered intangible expenses and should be added back.

Schedule RT Filing Requirement for Amount on Line 2. If the amount a partnership reports on line 2 exceeds \$100,000, the partnership must include Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its return. However, for partnerships using apportionment, you may multiply the amount on line 2 by the apportionment percentage for purposes of determining whether you meet the \$100,000 threshold for filing Schedule RT.

■ **Line 3. Expenses Related to Nontaxable Income** – Enter expenses included in federal taxable income that are directly or indirectly related to nontaxable income. Include a schedule with your return showing the payers and amounts of nontaxable income and explaining why that income isn’t taxable.

Interest, dividends, and capital gains from the disposition of intangible assets are nontaxable if both of the following are true:

- The operations of the payer are not unitary with those of the payee, and
- The payer and payee are not related as parent company and subsidiary or affiliates and the investment activity from which the income is received is not an integral part of a unitary business.

Income may also be nontaxable under the principles of the U.S. Supreme Court decision in *Allied-Signal v. Director, Div. of Taxation*, 504 U.S. 768 (1992), if the investment is passive and does not serve an operational function.

Examples of expenses related to nontaxable income include taxes, interest, and administrative fees related to the production of nontaxable income.

Also enter on this line any losses included in federal taxable income from disposing of assets, if gains from disposing those assets would have been non-taxable income if the assets were disposed of at a gain.

■ **Line 4. Section 179, Depreciation Difference, Amortization of Assets** –

Section 179 expenses:

Enter the amount by which the Wisconsin section 179 expense exceeds the federal section 179 expense.

For taxable years beginning on or after January 1, 2014, sections 179, 179A, 179B, 179C, 179D, and 179E of the Internal Revenue Code, related to expensing of depreciable business assets, apply for Wisconsin tax purposes. "Internal Revenue Code" means the federal Internal Revenue Code in effect for the year in which the property is placed in service.

For further information about the differences between the limitations for federal and Wisconsin purposes, see the section titled **Conformity with Internal Revenue Code and Exceptions** in the Form 3 instructions.

Depreciation/Amortization (not section 179 expense):

Enter the amount by which the federal deduction for depreciation or amortization exceeds the Wisconsin deduction. Include a schedule showing the computation details.

These differences can happen because of IRC sections not adopted for Wisconsin purposes and also because of differences that existed between Wisconsin and federal law for assets placed in service before January 1, 1987.

For 2014 and beyond, bonus depreciation was reinstated by the federal government, and an adjustment is required to account for the depreciation difference because Wisconsin has not adopted federal bonus depreciation provisions. For Wisconsin purposes, depreciation, depletion, and amortization is computed based on the Internal Revenue Code in effect on January 1, 2014, and bonus depreciation was not in effect on that date.

■ **Line 5. Amount by Which the Federal Basis of Assets Disposed of Exceeds the Wisconsin Basis** – Enter the amount by which the federal basis of assets disposed of exceeds the Wisconsin basis. If more than one asset is disposed of, you may combine the bases of the assets so that you need only one entry on this line. Provide a schedule showing the computation details.

For example, assume a partnership sold the following assets during the current taxable year:

	Federal Basis	Wisconsin Basis	Difference
Equipment	\$1,500	\$500	\$1,000
Machinery	\$1,000	\$2,000	(\$1,000)
Building	\$20,000	\$10,000	\$10,000
Totals	\$22,500	\$12,500	\$10,000

The amount to enter would be \$10,000. If the Wisconsin bases of the assets had exceeded the federal bases, an entry would be made on line 12.

■ **Line 6. Addition for Credits Computed** – Enter the total amount of credits from the list provided that you computed on your 2021 return. Note: The manufacturing and agriculture credit is the credit computed in 2020.

- **Line 6a.** Business development credit (Schedule BD)
- **Line 6b.** Community rehabilitation program credit (Schedule CM)
- **Line 6c.** Development zones credits (Schedule DC)
- **Line 6d.** Economic development credit (Schedule ED)
- **Line 6e.** Electronics and Information Technology Manufacturing Zone Credit (Schedule EIT)
- **Line 6f.** Employee college savings account contribution credit (Schedule ES)
- **Line 6g.** Enterprise zone jobs credit (Schedule EC)
- **Line 6h.** Jobs tax credit (Schedule JT)
- **Line 6i.** Manufacturing and agriculture credit (2020 Schedule MA-M and MA-A)
- **Line 6j.** Manufacturing investment credit (Schedule MI)
- **Line 6k.** Research credits (Schedule R)

■ **Line 7. Other Additions** – Enter any other additions that have not been accounted for in the preceding lines.

Wisconsin has adopted the Internal Revenue Code (IRC) as amended to December 31, 2020, with exceptions. If the federal amount is affected by an IRC provision not adopted by Wisconsin, an adjustment must be computed. The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. A list of some provisions of federal law can be found in the instructions for Wisconsin Form 3, *Wisconsin Partnership Return*, under the **Conformity with Internal Revenue Code and Exceptions** section.

Subtractions:

■ **Line 9. Related Entity Expenses Eligible for Subtraction** – If the partnership made an addition modification for related entity expenses on line 2, this is where you report the amount that qualifies for a deduction. Enter the amount of the expenses from line 2, that are deductible using the criteria described in *Conditions for Deducting Related Entity Expenses*, below.

For partnerships that are members of another partnership, also include the amount of allowable related entity expense reported on line 22b of Schedule 3K-1.

Conditions for Deducting Related Entity Expenses. Section 71.80(23)(a)3., Wis. Stats., provides that a related entity expense that was added back on line 2, qualifies for a deduction if all of the following conditions are met:

- The primary motivation for the transaction was one or more business purposes other than the avoidance or reduction of state income or franchise taxes;
- The transaction changed the economic position of the taxpayer in a meaningful way apart from tax effects; and
- The expenses were paid, accrued, or incurred using terms that reflect an arm's length relationship.

Factors that may indicate that the expense does not qualify for a deduction include the following:

- There was no actual transfer of funds from the taxpayer to the related entity, or the funds were substantially returned to the taxpayer, either directly or indirectly.
- If the transaction was entered on the advice of a tax advisor, the advisor's fee was determined by reference to the tax savings.
- The related entity does not regularly engage in similar transactions with unrelated parties on terms substantially similar to those of the subject transaction.
- The transaction was not entered into at terms comparable to arm's length as determined by Treas. Reg. 1.482-1(b).
- There was no realistic expectation of profit from the transaction apart from the tax benefits.
- The transaction resulted in improper matching of income and expenses.
- An expense for the transaction was accrued under FIN 48.

The statutes (sec. 71.80(23)(a)1. and 2., Wis. Stats.) provide some additional conditions under which a related entity expense may qualify for a deduction, subject to some important exceptions. Those conditions are:

- If the expense was paid to a related entity that is merely acting as a conduit between the taxpayer and an unrelated entity, or
- If the related entity was subject to a tax measured by net income or receipts and the net income or receipts of the transaction were included in its tax base.

More Information on Related Entity Expenses. For more information on the deductibility of related entity expenses, see the Schedule RT instructions. Even if you weren't required to file Schedule RT for the expenses, the instructions to Schedule RT provide helpful information regarding deductibility of related entity expenses.

■ **Line 10. Income from Related Entities Whose Expenses Were Disallowed** – If the partnership has income from a related entity which paid, accrued, or incurred expenses to the partnership, and that related entity could not deduct those expenses according to the instructions for line 2, the partnership may subtract the corresponding income from its taxable income.

In order to claim a subtraction on line 10, the partnership must obtain Schedule RT-1 from the related entity and submit Schedule RT-1. See the Schedule RT-1 instructions for further details.

■ **Line 11. Section 179, Depreciation Difference, Amortization of Assets –**

Section 179 expenses:

Enter the amount by which the federal section 179 expense exceeds the Wisconsin section 179 expense.

For taxable years beginning on or after January 1, 2014, sections 179, 179A, 179B, 179C, 179D, and 179E of the Internal Revenue Code, related to expensing of depreciable business assets, apply for Wisconsin tax purposes. "Internal Revenue Code" means the federal Internal Revenue Code in effect for the year in which the property is placed in service.

Depreciation/Amortization (not section 179 expense):

Enter the amount by which the Wisconsin deduction for depreciation or amortization exceeds the federal deduction for depreciation or amortization. Include a schedule showing the computation details.

These differences can happen because of IRC sections not adopted for Wisconsin purposes and electing a different depreciation method under the Internal Revenue Code in effect for Wisconsin purposes.

■ **Line 12. Amount by Which the Wisconsin Basis of Assets Disposed of Exceeds the Federal Basis –** Sales of assets with different Wisconsin basis than federal basis will also require you to make adjustments in column (c). For example, a partnership sold the following assets, which had been held more than one year:

	Selling Price	Wisconsin Basis	Federal Basis
Equipment	\$1,000	\$1,500	\$500
Machinery	\$15,000	\$5,000	\$17,500
Building	\$200,000	\$150,000	\$120,000

The gains (losses) realized on these transactions are –

	Wisconsin Gain (Loss)	Federal Gain (Loss)
Equipment	(\$500)	\$500
Machinery	\$10,000	(\$2,500)
Building	\$50,000	\$80,000
Total	\$59,500	\$78,000

The partnership must recompute a federal Form 4797, substituting the Wisconsin depreciation allowed or allowable and Wisconsin basis of the assets for the federal amounts.

For federal purposes, the \$500 gain on the sale of the equipment is determined to be depreciation recapture, which is treated as ordinary gain and included in the partnership's ordinary income or loss on Form 3, Schedule 3K, line 1, column (b).

For Wisconsin purposes, \$5,000 of the gain on the sale of the machinery is determined to be depreciation recapture, which is treated as ordinary gain.

The partnership enters \$4,500 (\$5,000 Wisconsin ordinary gain minus \$500 federal ordinary gain) on Schedule 3K, line 1, column (c). The partnership makes the following entries on Schedule 3K, line 10a: \$77,500 in column (b), \$(23,000) in column (c), and \$54,500 in column (d).

■ **Line 13. Federal Wage Credits –** Enter wages that are not deductible in computing federal income because they are being used in computing the federal wage credits.

■ **Line 14. Federal Research Credit Expenses –** Enter research expenses that are not deductible in computing federal income because they are being used in computing the federal credit for increasing research activities.

■ **Line 15. Other Subtractions** – Enter any other subtractions that have not been accounted for in the preceding lines.

- For example, the following income is exempt from Wisconsin income and franchise tax:
 - Income received from the state of Wisconsin with moneys received from the coronavirus relief fund authorized under [42 USC 801](#) to be used for any of the following purposes:

<ul style="list-style-type: none"> ▪ Grants to small businesses ▪ A farm support program ▪ Broadband expansion ▪ Privately owned movie theater grants ▪ A nonprofit grant program ▪ A tourism grants program ▪ A cultural organization grant program ▪ Music and performance venue grants 	<ul style="list-style-type: none"> ▪ Lodging industry grants ▪ Low-income home energy assistance ▪ A rental assistance program ▪ Supplemental child care grants ▪ A food insecurity initiative ▪ Ethanol industry assistance ▪ Wisconsin Eye
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- Income received in the form of a grant issued by the Wisconsin Economic Development Corporation during and related to the COVID-19 pandemic under the ethnic minority emergency grant program.

Note: For Wisconsin, expenses paid for with these programs and deducted in the computation of federal adjusted gross income are not required to be added back on the Wisconsin return. Income from these programs is included in federal income pursuant to sec. 61, IRC, unless an exception applies. Income from these programs included in federal income should be excluded for Wisconsin by making a subtraction modification. Use a description similar to "Wisconsin COVID-19 Program Funds."

- Wisconsin has adopted the Internal Revenue Code (IRC) as amended to December 31, 2020, with exceptions. If the federal amount is affected by an IRC provision not adopted by Wisconsin, an adjustment must be computed. The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. A list of some provisions of federal law can be found in the instructions for Wisconsin Form 3, *Wisconsin Partnership Return*, under the **Conformity with Internal Revenue Code and Exceptions** section.

Partner Reporting of Schedule 3K-1 Items from a Partnership Electing to Pay Tax at the Entity Level:

Partner Reporting Requirements:

Pursuant to sec. 71.21(6)(b), Wis. Stats., partners of a partnership making the election to pay tax at the entity level under sec. 71.21(6)(a), Wis. Stats., do not include in their Wisconsin adjusted gross income their proportionate share of all items of income, gain, loss, or deduction of the partnership. Instead, the partnership must report the items and pay tax on the income.

Individual partners filing Form 1, use Schedule AD or Schedule SB to report modifications to their Wisconsin adjusted gross income based on their proportionate share of an electing partnership's items of income, gain, loss, or deduction. For additional details, see the instructions for Schedule AD and SB.

Note:

- **One-half self-employment tax deduction** The federal deduction for one-half of self-employment taxes resulting from a partnership's federal taxable income as provided in sec. 164(f), IRC, may not be claimed by the partnership. However, the partner is allowed the deduction for Wisconsin purposes to the extent allowable under the IRC in effect for Wisconsin.
- **Guaranteed payments** To the extent a partner would include guaranteed payments in Wisconsin taxable income had the election not been made, the electing partnership must include the guaranteed payments in Wisconsin taxable income.

- **Federal section 754 election** The adjustment to partnership income as a result of a section 754 election is included in the electing partnership's calculation of Wisconsin income when determining tax at the entity level. This includes the election applied under both secs. 734(b) and 743(b), IRC.

Partner Basis:

The partner's adjusted basis of interest in a partnership making the election to pay tax at the entity level pursuant to sec. 71.21(6)(a), Wis. Stats. is determined as if the election was not made as provided in sec. 71.21(6)(d)4., Wis. Stats.

Schedule 3K-1 Items Allowed to Be Claimed By the Partner:

- Credits passed through from the electing partnership reported on Schedule 3K-1 lines 15a through 15h.

Caution:

- A partner may only use the manufacturing and agriculture credit to offset tax liability resulting from the partner's prorated share of the partnership's income as provided in sec. 71.07(5n)(c)4., Wis. Stats. Since a partner of an electing partnership does not have income and resulting tax from the partnership in the year of the election, the partner cannot use the credit to offset income tax liability from other sources of income. The partner may carry forward the credit for 15 years and use the credit to offset tax liability resulting from the partner's prorated share of taxable income from the partnership for a year in which the election is not made.
- The partnership may not pass through a credit for taxes paid to other states and partners may not use taxes paid by the partnership, including taxes paid on the partner's behalf on a composite return, to compute a credit for taxes paid to other states. In addition, a resident partner may not claim a credit for taxes the partner paid to another state on income tax at the entity level in Wisconsin.
- Wisconsin tax withheld passed through from the electing partnership reported on Schedule 3K-1, line 15j.

Caution: The partner may only claim the Wisconsin withholding if the electing partnership did not claim a refund of the withholding or submit a written request to apply the withholding against tax liability at the entity level.

Schedule 3K-1 Items Not Allowed to Be Claimed By the Partner:

All items reported on Schedule 3K-1 other than the items mentioned under *Schedule 3K-1 Items Allowed to Be Claimed By the Partner* above.

Proportionate Share of an Electing Partnership's Income:

Partners must report their federal adjusted gross income using the Internal Revenue Code in effect under Wisconsin law on their Wisconsin income tax return.

Partners must add back to federal adjusted gross income the amount of net loss reported by the electing partnership that is included in the federal adjusted gross income. Individual partners filing Form 1 report this on Schedule AD.

Partners must subtract from federal adjusted gross income the amount of income reported by the electing partnership that is included in federal adjusted gross income. Individual partners filing Form 1 report this on Schedule SB.

For an example of reporting Schedule 3K-1 items and computing the Wisconsin subtraction, see Common Questions number 12 on the department's website at revenue.wi.gov/Pages/FAQS/ise-passthrough-reporting.aspx.

Additional Information, Assistance, and Forms

Web Resources:

The department's web page, available at revenue.wi.gov, has a number of resources to provide additional information and assistance, including:

- Related [forms](#) and their instructions
- [Common questions](#): Pass-Through Entity-Level Tax – Partnerships

- [Publications](#) on specific tax topics
- The [Wisconsin Tax Bulletin](#)
- A home page specifically for [combined reporting topics](#)
- Links to the [Wisconsin Statutes and Administrative Code](#)

Contact Information:

If you cannot find the answer to your question on the department's web page, contact the department using any of the following methods:

E-mail your question to: DORAuditPassThrough@wisconsin.gov

- 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).
- Send a fax to (608) 267-0834
- Write to: Wisconsin Department of Revenue, Customer Service Bureau, Mail Stop 5-77, PO Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office

Obtaining Forms:

If you need forms or publications, you may:

- Download them from the department's website at revenue.wi.gov
- Request them online at revenue.wi.gov
- Call (608) 266-1961
- Call or visit any Department of Revenue office

Applicable Laws and Rules:

This document provides statements or interpretations of the following laws and regulations enacted as of March 8, 2022: chs. 71 and 77, Wis. Stats., and chs. Tax 1, 2, 3, and 11, Wis. Adm. Code.