2008 Schedule OS Instructions

GENERAL INSTRUCTIONS

PURPOSE OF SCHEDULE OS

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

WHO IS ELIGIBLE FOR THE CREDIT

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

- You were a Wisconsin resident for all or part of 2008, and
- You paid 2008 income tax to Wisconsin and to another state or the District of Columbia on the same income. "State" does not include the Commonwealth of Puerto Rico or the several territories organized by Congress.

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

Wisconsin residents working in Illinois, Indiana, Kentucky, Michigan, and Minnesota If you had 2008 state income tax withheld for Illinois, Indiana, Kentucky, Michigan, or Minnesota from personal service income you received from working in one of those states, do **not** use Schedule OS. You can get a refund of the tax withheld for the period you were a Wisconsin resident by filing that other state's income tax return with that state. Personal service income includes wages, salaries, tips, commissions, bonuses, etc. For more information, get Wisconsin Publication 121, *Reciprocity*. This publication is available from any department office or from our Internet website at www.revenue.wi.gov.

If you paid 2008 net income tax to one of those states on income other than from personal services (such as income from operating a business, rental property, or from the sale of real property), you may be eligible for the credit based on this income. Complete Schedule OS.

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

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

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

If the tax-option (S) corporation, LLC, or partnership filed a composite income tax return with another state and paid tax on your behalf to that state, complete lines 1-28 and 30-35. Use a separate column for each state to which tax was paid. Do not complete line 29 to report the tax paid to the other state on your behalf. You may have to contact the entity to determine the state to which the tax was paid, your distributive share of the entity's income on which tax was paid on your behalf, and the type of income on which the tax was paid (for example, ordinary income from trade or business activities, long-term capital gain, interest income, etc.). You will need this information when completing Schedule OS.

If the tax-option (S) corporation, LLC, or partnership filed its own income tax return with another state and paid tax on its income to that state, complete lines 23, 29, and 30-35. Use a separate column for each state to which tax was paid. Do not complete lines 1-22 and 24-28 to report the tax paid by the entity on its income. You may have to contact the entity to determine the state to which the tax was paid, your pro rata share of the amount of income taxable to the other state, and the type of income on which the tax was paid (for example, ordinary income from trade or business activities, long-term capital gain, interest income, etc.). You will need this information when completing lines 23 and 29.

IF YOU PAID TAX TO MORE THAN FOUR OTHER STATES

If you paid 2008 net state income tax on the same income to Wisconsin and to more than four other states:

1. Complete additional Schedules OS, as needed, through line 31,
2. Add the amounts from line 31 from any additional Schedules OS, and
3. Fill in the total on line 32 of your first Schedule OS.

LINE INSTRUCTIONS

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

Lines 1 – 21 Complete a separate column for each state to which tax was paid for 2008. Fill in the amount of each income and adjustment item that was taxed by the other state. These amounts are generally shown on a nonresident or part-year resident return or a schedule showing the other state source income attached to the other state return.

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

If a tax-option (S) corporation, LLC, or partnership filed a composite income tax return with another state and paid tax to that state on your behalf, fill in the income on which tax was paid by the entity. For example, if the entity paid tax on your behalf on $10,000 of business income and $5,000 of long-term capital gain, fill in $10,000 on line 4 and $5,000 on line 5.

Line 22 For each state, fill in the total income taxed by that state. This will generally be the total of the amounts on lines 1-12 less the total of the amounts on lines 13-21.

Line 24 Fill in the amount of income taxable by both Wisconsin and the other state on line 24.

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

Example 1: You filed an Illinois income tax return and reported a $10,000 gain on the sale of property held more than one year. For Wisconsin tax purposes, you claim the 60% capital gain exclusion. The amount of income taxable by both Wisconsin and the other state is $4,000 ($10,000 less the $6,000 capital gain exclusion).

Example 2: You filed a California income tax return and reported a $20,000 gain on the sale of property held more than one year. For Wisconsin tax purposes, a portion of the gain was offset by a $4,000 capital loss. You claim the 60% capital gain exclusion on the remaining $16,000. The amount of income taxable by both Wisconsin and the other state is $10,400 ($4,000 which is included in Wisconsin income but offset by the capital loss plus $6,400 which is taxable after the capital gain exclusion is applied). **Note** In this example, if you had more than one long-term capital gain, a portion of the loss would be allocated to each gain. See Wisconsin Publication 125, *Credit for Tax Paid to Another State*, for more information.

Line 25 For each state, fill in the total income taxed by the other state before subtracting any standard or itemized deductions or personal exemptions. This will generally be the amount on line 22.

Line 26 For each column, from the income tax return of the other state, fill in the net tax amount after subtracting all nonrefundable and refundable credits. Do not include tax withheld or estimated tax payments as a credit.

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

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

The amount to fill in on line 26 is $800. This consists of $1,000 gross tax less $100 nonrefundable credit and less $100 refundable credit.

Line 29 Fill in on line 29 your share of the income and franchise taxes that were measured by income and paid to another state by a tax-option (S) corporation, LLC, or partnership of which you were a shareholder, member, or partner. A credit is available for the tax paid only if the income taxed by the other state is also included in Wisconsin income. (**Note** This is **not** the individual income tax paid on your behalf on a composite income tax return filed by the tax-option (S) corporation, LLC, or partnership. This amount should have been included above.) If you are completing line 29, also fill in on line 23 the postal abbreviation for the state to which the entity paid the tax.

The amount of tax to fill in on this line must be prorated if the income taxed by the other state includes income that is not included in Wisconsin income. For example, only a portion of capital gain on the sale of assets held more than one year is included in Wisconsin income and thus a proration is required. See the CAUTION and examples in the line 24 instructions for information on the taxation of capital gain on assets held more than one year.

If the amount of tax paid to the other state by the tax-option (S) corporation, LLC, or partnership includes tax on long-term capital gain (or on any other income not included in Wisconsin income), use the following formula to determine the amount of credit you may claim:

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Total income taxable by other state}} \times \text{Net income tax paid to other state} = \text{Amount allowable as a credit against Wisconsin tax}$$

For further information on tax paid by a tax-option (S) corporation, LLC, or partnership, see Part VII of Publication 125, *Credit for Tax Paid to Another State*.

Line 35 Fill in the amount of your credit from line 35 on line 33 of Form 1, line 59 of Form 1NPR, or line 14 of Form 2. Also fill in the 2-letter postal abbreviation for the state to which you paid the tax in the space to the left of the entry line on Form 1, 1NPR, or 2 (see Exceptions below). For example, if you paid tax to California, you would fill in CA in the space.

Exceptions

- If you paid tax to more than one other state, fill in the number 99 in the space instead of a 2-letter postal abbreviation.
- If you have an amount on line 5 of Schedule OS (capital gain/loss), fill in the number 88 in the space instead of the 2-letter postal abbreviation.
- If you have an amount on line 29 of Schedule OS (tax paid by a tax-option (S) corporation, LLC, or partnership on its income), fill in the number 77 in the space instead of the 2-letter postal abbreviation.
- If you meet the conditions above to fill in both 77 and 88, fill in the number 99 in the space.

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

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

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