



2021
WEST VIRGINIA
CORPORATION NET INCOME TAX



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IMPORTANT INFORMATION FOR 2021

For periods beginning on or after January 1, 2021, annual returns will have a due date of April 18, 2022 and an extended due date of October 15, 2022. Fiscal and 52/53-week returns will be due on the 15th day of the fourth month following the end of the period with an extension period of six months.

TAX RATES

- The Corporation NetIncome Tax Rate is 6.5% (§11-24-4).
- Effective January 1, 2019, taxpayers who had annual remittance of any single tax equal to or greater than \$50,000 during the fiscal year are required to electronically file returns and make payments using Electronic Funds Transfer (EFT) for periods beginning on or after January 1.
- Failure to comply with the requirement to remit payments by EFT without first obtaining a waiver may result in a civil penalty of three (3) percent of each payment which was to be paid by EFT. Visit our website www.tax.wv.gov for additional information.

RETURNED PAYMENT CHARGE

The Tax Department will recover a \$15.00 fee associated with any returned bank transactions. These bank transactions include but are not limited to the following:

- Direct Debit (payment) transactions returned for insufficient funds.
- Stopped payments.
- Bank refusal to authorize payment for any reason.
- Direct Deposit of refunds to closed accounts.
- Direct Deposit of refunds to accounts containing inaccurate or illegible account information.

Checks returned for insufficient funds will incur a \$28.00 fee.

The fee charged for returned or rejected payments will be to recover only the amount charged to the State Tax Department by the financial institutions.

Important: There are steps that can be taken to minimize the likelihood of a rejected financial transaction occurring:

- Be sure that you are using the most current bank routing and account information.
- If you have your tax return professionally prepared, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information with your tax preparer by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return at home using tax preparation software, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return by hand using a paper return, be sure that all numbers requesting a direct deposit of refund entered are clear and legible.
- If making a payment using MyTaxes, be sure that the bank routing and account number being used is current.
- If scheduling a delayed debit payment for an electronic return filed prior to the due date, make sure that the bank routing and account number being used will be active on the scheduled date.
- Be sure that funds are available in your bank account to cover the payment when checks or delayed debit payments are presented for payment.

TAXPAYER RESPONSIBILITIES

FILING YOUR CORPORATE RETURNS

Returns should be filed by the due date. You may obtain forms by calling 1-800-982-8297. Forms may also be obtained from any of our regional field offices or from the State Tax Department website at tax.wv.gov.

Failure to file returns will result in your account being referred to our Compliance Division for corrective action. Please file all required tax returns even if you owe no tax for the reporting period. All applicable pages of the return must be filed.

PAYMENT OF THE TAX

The full amount of tax owed is due and payable on the original due date of the tax return. Failure to pay the full amount of tax by the due date will result in interest and penalties being added to any unpaid amount of tax. If you are unable to pay the full amount of tax on the due date, you should file your tax return along with a written explanation of why you are unable to pay and when you will pay the tax due.

REFUNDS

You are entitled to a refund of any amount that you overpaid. All or part of any overpayment may be applied as a credit against your liability for such tax for other periods. A claim for refund (usually a tax return showing an overpayment) must be filed within three years of the due date of the return or two years from the date the tax was paid, whichever expires later. The overpayment will be used by the Tax Department against other tax liabilities due.

If the Tax Department does not respond to your request within six months of the due date or the extended due date on overpayment of Corporation Net Income Tax, you may submit in writing a request for an administrative hearing to present your reasons why you feel you are entitled to the refund. Interest is allowed and paid on any refund upon which the Department has failed to timely act and which is final and conclusive.

If the Tax Department denies or reduces a request for a refund, a written request for an administrative hearing may be submitted. Failure to respond to a denial or reduction within sixty days will result in the denial/reduction becoming final and conclusive and not subject to further administrative or judicial review.

SELLING OR DISCONTINUING YOUR BUSINESS

If you sell or discontinue your business, notify the Tax Department in writing as soon as possible after your business is sold or discontinued. All final tax returns should be filed.

GENERAL INFORMATION

The information in this booklet is for calendar year 2021 returns and for fiscal year returns beginning in 2021 and ending in 2022. The information in this book is intended to help you complete your returns and is not a substitute for tax laws and regulations.

Starting in tax year 2020, the forms have been redesignated, changing “CNF” to “CIT”.

ASSISTANCE

Address questions to the West Virginia State Tax Department, Taxpayer Services Division, PO Box 3784, Charleston, WV 25337-3784 or by telephone at (304) 558-3333, toll free at 1-800-982-8297.

CORPORATION NET INCOME TAX

The Corporation Net Income Tax is a tax on the West Virginia taxable income of every domestic or foreign corporation which enjoys the benefits and protections of the government and laws in the State of West Virginia or derives income from property, activity or other sources in West Virginia. The term “corporation” includes a joint stock company and any association or other organization which is taxable as a corporation under federal income tax laws.

The West Virginia Corporation Net Income Tax is a federal conformity tax in that the starting point in computing West Virginia taxable income is the federal taxable income of the corporation. Certain increasing and decreasing adjustments, as required by state law, must be made to federal taxable income to arrive at West Virginia taxable income. Corporations are required to allocate certain types of nonbusiness income to West Virginia and apportion their remaining income. The Corporation Net Income Tax rate is six and one-half percent (.065).

EXEMPT ORGANIZATIONS

Any corporation exempt from federal income tax is also exempt from West Virginia Corporation Net Income Tax. In addition, certain insurance companies, certain production credit associations, trusts established under 29 U.S.C. 186, and other organizations specifically exempt under the laws of West Virginia are also exempt.

If you are a tax-exempt organization with unrelated business income that is subject to federal tax, you must pay the West Virginia Corporation Net Income Tax.

PAYMENT OF TAX

DUE DATE: A corporation’s annual West Virginia Corporation Net Income Tax Return is due on or before the 15th day of the fourth month after the close of the taxable year. The filing of returns is required whether any tax is due. A tax-exempt organization’s annual West Virginia Corporation Net Income Tax Return is due on or before the 15th day of the fifth month after the close of the taxable year. Make your remittance payable to the West Virginia State Tax Department.

PAYMENT OPTIONS: Effective January 1, 2021, taxpayers who had annual remittance of any single tax equal or greater than \$50,000 during calendar year 2020 or fiscal year 2019 are required to electronically file returns and make payments using Electronic Funds Transfer (EFT) for periods beginning on or after January 1, 2021. Returns filed with a balance due may use any of the following payment options: Check or Money Order made payable to the West Virginia State Tax Department, Electronic Funds Transfer or Payment by Credit Card. Visit tax.wv.gov for additional payment information.

EXTENSION OF TIME TO FILE

An extension of time to file a federal return is automatically accepted by West Virginia as an extension of time to file the West Virginia return. A copy of the federal extension form must be attached to the West Virginia return when filed and the extended due date must be entered on top of the return. Returns filed after the due date, without supporting documents and extended due date entered on the top of the return, will be processed as late filed and interest and penalties will be assessed.

A state extension of time to file may be obtained, even if a federal extension has not been requested. An extension of time to file does not extend the time for payment of any tax due. If you have an extension of time to file, payment of any tax due may be made by filing a West Virginia extension form (see instructions for Form CIT-120EXT). To avoid interest and penalties, payment must be received on or before the due date of the return.

Entities that need an additional filing extension (one to two months) beyond the 6 month original extension may submit a request to taxcit@wv.gov with an explanation of the reason for request. Requests will be reviewed and if approved; confirmation will be emailed back to the entity requesting the extension and a copy will be sent by mail.

WHERE TO FILE

West Virginia State Tax Department
Tax Account Administration Division
Corporate Tax Unit
PO Box 1202
Charleston, WV 25324-1202

ESTIMATED TAXES

Estimated Corporation Net Income Tax payments are required for any corporation which can reasonably expect its West Virginia taxable income to be more than \$10,000 (which equals a tax liability after tax credits of more than \$650) and are due in four equal installments on the 15th day of the fourth, sixth, ninth, and twelfth months of the tax year.

RETURN CHANGES

The following Schedules are new or have been updated in the 2021 tax period:

- Revised – UB-CR
- New Credits added to CIT-120TC

FILING METHOD

The following filing methods may be used for filing your Corporation Net Income Tax (WV Code §11-24-13a).

SEPARATE ENTITY BASED: Use this method if filing a separate return and you are not engaged in a unitary business with one or more other corporations.

Forms and schedules you may/will need to complete for a separate entity-based corporation return:

CIT-120 pages 1 & 2	CIT-120 Schedule C
CIT-120 Schedule 1	CIT-120 Schedule D
CIT-120 Schedule 2	CIT-120 Schedule NOL
CIT-120 Schedule TC	CIT-120 APT Schedules A1, A2
CIT-120 Schedule U	CIT-120 APT Schedule B
CIT-120 Schedules B, B-1	

What are the filing requirements? Corporations that are members of the same unitary business group must file a combined report including all required information of every business engaging in the unitary business with the corporation. This report must be filed with each members' separate return unless the group elects to designate a corporation as surety and file a combined return.

SEPARATE COMBINED: Use this method if filing a combined report but a separate return. Forms and schedules you may/will need to complete a separate combined return are the same as required for Separate Entity Filers except that the Schedule UB-CR is required.

ALL COMBINED FILERS: Must complete UB-CR and electronically file with return.

GROUP COMBINED: Corporations use this method if they are members of the same unitary business group and elect to designate a surety. Taxpayer must designate surety FEIN in space provided.

Forms and schedules you may/will need to complete a group combined return:

CIT-120 pages 1 & 2	CIT-120 Schedule U
CIT-120 Schedule C	CIT-120 Schedule NOL
CIT-120 Schedule D	CIT-120 Schedule UB
CIT-120 Schedule TC	CIT-120 Schedule UB-CR

TAXABLE YEAR/METHOD OF ACCOUNTING

You must use the same taxable year and method of accounting as you use for federal tax purposes.

SUPPORTING FEDERAL INFORMATION

Attach a copy of pages 1 through 5 of your signed federal income tax return and any applicable supporting documents/schedules, as filed with the Internal Revenue Service to the West Virginia tax return. If you attach a pro forma federal income tax return, the following consolidated return data is also required: a copy of pages 1 through 5 of the consolidated federal return plus supporting schedules showing the consolidation income statement, balance sheet, eliminations and adjustments; a copy of federal Form 851; and a signed statement explaining the differences, if any, between the income statement and balance sheet reported for federal consolidated filing and that reported for West Virginia purposes. Include Schedule M-3 when applicable.

Corporations shall attach the federal documents to the West Virginia Corporation Net Income Tax Return.

INTEREST

The entire tax due must be paid on or before the due date of the tax return (determined without regard for an extension of time to file). If the entire tax due is not paid on or before the due date, you must pay interest on the amount of the underpayment from the due date to the date paid. Interest is always due, without exception, on any underpayment of tax.

Interest is imposed by an adjusted rate established by the Tax Commissioner. The interest rate will be determined and in effect for periods of six months. Interest rates in effect for various periods are:

7/1/02 to 12/31/16	9.5%
1/1/17 to 12/31/17	8%
1/1/18 to 12/31/18	8.75%
1/1/19 to 12/31/19	9.75%
1/1/20 to 12/31/20	9.25%
1/1/21 to 12/31/21	7.75%

Contact the West Virginia State Tax Department, Taxpayer Services Division at 1-800-982-8297, for the interest rate in effect for other periods. Also, Administrative Notices may be found online at tax.wv.gov notifying of adjusted interest rates.

ADDITIONS TO TAX

LATE FILING. Additions to tax are imposed for failure to file a return on or before the due date (determined with regard to an extension of time to file). On any amount of tax shown to be due on the return, the additions to tax for late filing is five percent (.05) per month or any part of a month not to exceed twenty-five percent (.25).

LATE PAYMENT. Additions to tax are imposed for failure to pay all tax shown to be due on a return on or before the due date (determined without regard to an extension of time to file). The additions to tax for late payment is imposed at the rate of one half of one percent (.005) per month or part of a month not to exceed twenty-five percent (.25).

When both the five percent (.05) additions to tax for late filing and the one half of one percent (.005) additions to tax for late payment are imposed, the maximum monthly percent is five percent (.05) not to exceed fifty percent (.50) of the tax due.

FAILURE TO PAY ESTIMATED TAX. Corporations that are required to make estimated payments of their tax liability are subject to additions to tax for failing to pay at least ninety percent (.90) of their annual tax liability. The additions are imposed at the same rate as interest is imposed. See Form CIT-120U for more information on the additions to tax for underpayment of estimated tax.

COMPLETION AND SIGNATURE

All applicable sections of the return must be completed and all required supporting documents must be attached. An incomplete return will not be accepted as timely filed. The return must be signed by an authorized officer. If the return is prepared by someone other than the taxpayer, the preparer must also sign the return and enter his or her complete address.

CHANGES MADE BY THE IRS TO FEDERAL RETURN

Any corporation whose reported income or deductions are changed or corrected by the Internal Revenue Service or through renegotiation of a contract with the United States is required to report the change or correction to the West Virginia State Tax Department. This report must be made within ninety days of the final determination by filing an amended/RAR return and attaching a copy of the revenue agent's report detailing such adjustments.

CORPORATE AMENDED RETURNS

A corporation that filed an amended return with the Internal Revenue Service must file an amended return with the West Virginia State Tax Department within ninety days of filing the amended federal return.

- File Form CIT-120, pages 1 and 2, completing all appropriate lines and checking the Amended box under "Return Type" on page 1. Because WV uses barcodes on tax forms it is important to use the appropriate forms for the tax year being amended.

Example: If amending a tax return for the period ending 12-31-2018; use the 2018 CNF-120 forms.

Note: Tax forms for different years may use different line numbers; read the line instructions carefully.

- If you received a refund, or had an amount credited on the original return, enter that amount on Line 14 of Form CIT-120, page 2. For 2021, years prior to 2020 should file CNF-120, and enter any refund or amount credited on line 14, page 2.
- Attach all schedules that have amended figures in order to verify the changes made to the return.

Example: There was a change made to your Adjustments to Federal Taxable Income; be sure to attach Schedule B with the amended figures.

Amended Returns filed for the purpose of obtaining a refund of an overpayment must be filed within three years of the due date of the return (with regard to an extension of time to file), or two years from the date the tax was paid, whichever expires later. If your Amended Return has a balance due, send the payment along with the tax return.

CONSISTENCY IN REPORTING

In completing your West Virginia Corporation Net Income Tax Return, if you depart from or modify past procedures for classifying business income and nonbusiness income, valuing property or including or excluding property in the property factor, treating compensation paid in the payroll factor, including or excluding gross receipts in the sales factor, you must disclose by attaching a separate schedule detailing the nature and extent of the variances or modifications.

If a corporation makes sales of tangible personal property which are shipped into a state in which the corporation is not taxable, you must identify the state to which the property is shipped and report the total amount of sales assigned to such state.

CONFIDENTIAL INFORMATION

Tax information which is disclosed to the West Virginia State Tax Department, whether through returns or through department investigation, is held in strict confidence by law. The State Tax Department, the United States Internal Revenue Service and other states have agreements under which tax information is exchanged. This is to verify the accuracy and consistency of information reported on federal, other state, and West Virginia tax returns.

REPORTING WEST VIRGINIA INCOME TAX WITHHOLDING CREDIT

A West Virginia Income Tax Withholding Credit is created when a payment is made by another entity for the benefit of the Corporation filing this return.

ELECTRONIC FILED RETURNS

If you are claiming a withholding credit you must submit Form WVK-1C, WVK-1, NRW-2, or 1099 as part of your electronic return. **Only electronically submitted data is acceptable. No PDF attachments will be accepted for claiming a withholding credit.** These documents will be used to verify the withholding credits claimed on your return. If withholding is claimed as a result of the Nonresident Sale of Real Estate, the form WV/NRSR and all supporting documentation should be on file with the State tax Department prior to filing the CIT-120. **No PDF attachments will be accepted for claiming a NRSR withholding credit.** Failure to file the required WV/NRSR, federal Schedule D and other supporting documents prior to filing the CIT-120 will result in return processing delays.

PAPER FILED RETURNS

Enter the total amount of West Virginia tax withheld on your behalf by another entity on your return. A completed Form WVK-1C, WVK-1, NRW-2, or 1099 must be enclosed with your paper return. Failure to submit these documents will result in the disallowance of the withholding credit claimed.

Note: Local or municipal fees cannot be claimed as West Virginia income tax withheld. If the withholding source is for a nonresident sale of real estate transaction, a form WV/NRSR must be completed and on file with the State Tax Department prior to submitting a tax return. Additionally, a Federal Schedule D must be submitted. If withholdings are related to form WV/NRSR, please indicate in the box provided on line 12.

FORM CIT-120 INSTRUCTIONS

Enter beginning and ending tax year dates covered by this return. Clearly print or type your name and address. If filing under extension, enter the extended due date. In the "Check Applicable Boxes" section, mark all that apply to the corporate return being filed.

Attachments and statements required: Attach all additional information and statements required as they apply to your filing method.

Attach a copy of pages 1 through 5 of your signed federal return (Form 1120), and Schedule M-3 if applicable. If filing separate West Virginia and consolidated federal, attach your pro forma federal, consolidated federal Form 851 (Affiliation Schedule), plus spreadsheets of the income and expenses, and balance sheet entries for EVERY corporation included in the consolidated federal return.

Attach a schedule of other states in which you have property or paid salaries during the taxable year. Indicate those states in which you are filing corporate tax returns based on, or measured by, net income for this taxable year.

Attach a schedule of other states in which you have sales of tangible personal property during the taxable year and in which you are not taxed (e.g. P.L.86-272). Indicate by state the amount of sales not subject to tax.

If filing as a Separate Filer, complete Schedule 1 if you are a wholly WV corporation or Schedule 2 if you have multistate activity.

SCHEDULE 1—SEPARATE ENTITY FILER WEST VIRGINIA CORPORATIONS WHOLLY IN WV

Line 1 – Enter total taxable income from your federal income tax return Form 1120 or your pro forma return.

Line 2 – Enter total increasing adjustments from Form CIT-120, Schedule B, line 12.

Line 3 – Enter total decreasing adjustments from Form CIT-120, Schedule B, line 25.

Line 4 – West Virginia adjusted taxable income. Add line 1 plus line 2 minus line 3.

Line 5 – Enter the total from column 6 of Schedule NOL.

Line 6 – Subtract line 5 from line 4.

Line 7 – REIT Inclusion and other Taxable income.

Line 8 – Add lines 6 and 7.

Line 9 – 2021 WV Corporate Tax Rate .065.

Line 10 – Multiply line 8 by the Corporation NetIncome Tax Rate in line 9.

Line 11 – Enter the result from column 2, TOTAL CREDITS Line of completed Form CIT-120TC. The total amount of credits cannot exceed the net income tax on line 10.

Line 12 – Subtract line 11 from line 10. This is your Adjusted Corporation NetIncome Tax. Enter this amount on CIT-120, page 2, line 9.

SCHEDULE 2 – SEPARATE ENTITY FILER WITH MULTISTATE ACTIVITY

- Line 1** – Enter total taxable income from your federal income tax return Form 1120 or your pro forma return.
- Line 2** – Enter total increasing adjustments from Form CIT-120, Schedule B, line 12.
- Line 3** – Enter total decreasing adjustments from Form CIT-120, Schedule B, line 25.
- Line 4** – West Virginia adjusted taxable income. Add line 1 plus line 2 minus line 3.
- Line 5** – Total nonbusiness income allocated everywhere (Form CIT-120APT, Schedule A-1, line 9, column 3).
- Line 6** – Subtract line 5 from line 4. This is your total income subject to apportionment.
- Line 7** – Complete Form CIT-120APT Schedule B and enter the result of part 1, line 8; part 2 or part 3, column 3.

**** IMPORTANT NOTE REGARDING LINE 7 ****

FORM CIT-120APT SCHEDULE B MUST BE COMPLETED AND ATTACHED.

FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA.

- Line 8** – Line 6 multiplied by line 7
- Line 9** – Enter the total allocation of nonbusiness income allocated to West Virginia from CIT-120APT, Schedule A2, line 13.
- Line 10** – Add lines 8 and 9.
- Line 11** – Enter the total from column 6 of Schedule NOL.
- Line 12** – Subtract line 11 from line 10.
- Line 13** – REIT Inclusion and other Taxable income.
- Line 14** – Add lines 12 and 13.
- Line 15** – 2021 WV Corporate Tax Rate .065.
- Line 16** – Multiply line 14 by the Corporation Net Income Tax Rate in line 15.
- Line 17** – Enter the result from column 2, TOTAL CREDITS Line of completed Form CIT-120TC. The total amount of credits cannot exceed the net income tax on line 16.
- Line 18** – Subtract line 17 from line 16. This is your Adjusted Corporation Net Income Tax. Enter this amount on CIT-120, page 2, line 9.

CIT-120, PAGE 2

- Line 9** – Enter the adjusted Corporation Net Income Tax amount from either Schedule 1, line 12, Schedule 2, line 18 or Schedule UB-CR, total of all groups.
- Line 10** – Prior year carry forward credit from your previous Corporation Net Income Tax return.
- Line 11** – Enter total estimated tax payments and any extension payment made with Form CIT-120EXT.
- Line 12** – Enter the total amount of withholding credit from Form WVK-1C, NRW-2, and/or 1099. Check box if withholding is from NRSR (nonresident sale of real estate).
- Line 13** – Add lines 10 through 12. This total MUST match the total payments on Schedule C.
- Line 14** – If this is an amended return, enter the amount of any overpayment previously refunded or credited.
- Line 15** – Subtract line 14 from line 13. This is your company's total payments.
- Line 16** – If line 15 is larger than line 9 enter your overpayment here.
- Line 17** – Enter the amount of the overpayment on line 16 to be credited to next year's taxes.
- Line 18** – Enter the amount of the overpayment on line 16 to be refunded (subtract line 17 from line 16).
- Line 19** – If line 15 is smaller than line 9, enter the tax due on this line.
- Line 20** – Determine the amount of interest due. For information regarding interest, see the general information on page 8 of this instruction booklet.
- Line 21** – Determine additions to tax due. For information regarding additions to tax, see the general information on page 8 of this instruction booklet.
- Line 22** – Enter the amount of penalty for underpayment of estimated tax from Form CIT-120U, line 6.
- Line 23** – Add lines 19 through 22. This is the balance due with this return. Make checks payable to the West Virginia State Tax Department or see www.tax.wv.gov for other payment options.

SCHEDULE B: ADJUSTMENTS TO FEDERAL TAXABLE INCOME

ADJUSTMENTS INCREASING FEDERAL TAXABLE INCOME

- Line 1** – Enter exempt interest or dividends from any state or local bonds or securities from your federal return Form 1120, Schedule K or on Schedule M-1.
- Line 2** – Enter the amount of US Government obligation interest or dividends not exempt from state tax, less any related expenses not deducted on the federal return. Attach supporting documentation.
- Line 3** – Attach an itemized schedule of taxes based upon income from line 17 of your federal income tax return, Form 1120 or pro forma Form 1120.
- Line 4** – Taxpayers can elect to expense the cost of certain air and water pollution control facilities located in West Virginia in the year in which the cost of acquisition, construction or development was paid or incurred. Eligible air and water pollution control facilities are those located in West Virginia that are “certified pollution control facilities” as defined by Section 169 of the Internal Revenue Code. If this election is made, the total amount of any federal deduction for depreciation or amortization of such facilities is disallowed. The election is made on the return for the year in which the cost is paid or incurred. Once made, the election or non-election is irrevocable.
- A taxpayer who reports all income to this state will make the adjustments for the cost of the facilities on CIT-120 Schedule B, line 20. The depreciation or amortization on the facilities, including that attributable to cost expensed this year as well as prior years, deducted on the federal return, is entered on CIT-120 Schedule B, line 4. A taxpayer who is subject to allocation and apportionment makes the adjustment for the cost of the facilities on Form CIT-120APT Schedule A-2, line 10, column 3. The depreciation or amortization on the facilities deducted on the federal return for this year as well as previous years, is entered on Form CIT-120APT Schedule A-2, lines 11 and 12 of column 3.
- Line 5** – Corporations which are exempt from federal income tax are also exempt from West Virginia Corporation Net Income Tax. If such a corporation has unrelated business taxable income (as defined by Section 512 of the Internal Revenue Code), they must pay West Virginia Corporation Net Income Tax on the unrelated business taxable income. Enter the unrelated business taxable income as reported on Federal Form 990T.
- Line 6** – Enter the amount of Federal Net Operating Loss from Federal Form 1120, line 29a.
- Line 7** – If you claim the West Virginia Neighborhood Investment Program Tax Credit, any deduction, decreasing adjustment, or decreasing modification taken on your federal return for any charitable contribution made to such Neighborhood Investment Program and for which the West Virginia credit is claimed, must be added back on this line.
- Line 8** – Taxpayers with foreign source income must adjust their federal taxable income by the amount of their taxable income or loss from sources outside the United States. In determining foreign source income, the provisions of Sections 861, 862, and 863 of the Internal Revenue Code apply.

Complete the following worksheet.

FOREIGN SOURCE INCOME WORKSHEET PETITIONING FOR AN ALTERNATIVE METHOD OF APPORTIONMENT

- | | |
|--|--|
| 1. Taxable income from sources outside the United States | |
| 2. LESS foreign dividend gross-up | |
| 3. LESS subpart F income | |
| 4. West Virginia adjustment | |

If the amount on line 4 of the worksheet is a positive figure, enter it on CIT-120, Schedule B, line 19. If it is a negative figure, enter the amount of the loss on CIT-120, Schedule B, line 8 without the negative sign.

Attach copies of Federal Form 1118 to support your calculation. If you did not file Federal Form 1118, you must prepare and file a pro forma Federal Form 1118 to support your adjustment. If you filed a consolidated Federal Form 1118 and file separate or unitary West Virginia returns, attach both the true consolidated and a pro forma Federal Form 1118 to support your adjustment.

Line 9 – Enter the amount of foreign taxes as deducted on your Federal Form 1120.

Line 10 – Add back for expenses related to certain REIT's and regulated investment companies and certain interest and intangible expenses (WV Code §11-24-4b).

Line 11 – Other increasing adjustments. Enter a brief description of any adjustment in the space provided.
Submit a statement for any adjustment entered.

Line 12 – Add lines 1 through 11. Enter the total on Form CIT-120, Schedule 1, line 2 or CIT-120, Schedule 2, line 2.

ADJUSTMENTS DECREASING FEDERAL TAXABLE INCOME

Line 13 – Enter the amount of refund or credit of income taxes or taxes based upon net income imposed by this state or any other jurisdiction included in federal taxable income. Attach supporting documentation.

Line 14 – Enter the amount of interest expense on obligations or securities of any state or its political subdivisions disallowed in determining federal taxable income. Attach supporting documentation.

Line 15 – Enter the amount of US Government obligation interest or dividends included in federal but exempt from state tax, less related expenses deducted on your federal return. Attach supporting documentation.

Line 16 – Enter total salary expense not allowed on your federal return due to claiming the federal jobs credit and include a copy of Federal Form 3800 or 5884. Note: this decreasing adjustment is only applicable to the Work Opportunity Credit from Federal Form 5884.

Line 17 – Enter the total foreign dividend gross-up (IRC Section 78) from Federal Form 1120.

Line 18 – Enter the total subpart F income (IRC Section 951) from Federal Form 1120.

Line 19 – See instructions for CIT-120 Schedule B, line 8. If Foreign Source Income from worksheet line 4 is positive, enter the amount here.

Line 20 – See instructions for CIT-120 Schedule B, line 4. Multistate corporations must use CIT-120APT, Schedule A2, line 10.

Line 21 – A decreasing adjustment to federal taxable income is allowed for employer contributions to a medical savings account established pursuant to WV Code §33-16-15, to the extent included in federal taxable income, less any portion of the employer's contributions withdrawn for purposes other than payment of medical expenses. The amount taken as a decreasing adjustment may not exceed the maximum amount that would have been deducted from the corporation's federal taxable income if the aggregate amount of the corporation's contributions to individual medical savings accounts established under WV Code §33-16-15 had been contributions to a qualified plan as defined under the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

Line 22 – Qualified Opportunity Zone business income. You must include a copy of IRS 8996.

Line 23 – Other decreasing adjustments. Enter a brief description of any adjustment in the space provided.
Submit a statement for any adjustment entered.

Line 24 – Taxpayers that own certain tax-exempt government obligations and/or obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income. Complete Form CIT-120, Schedule B-1 to determine the amount of the allowance.

Line 25 – Add lines 13 through 24. Enter the amount here and on CIT-120, Schedule 1, line 3 or CIT-120, Schedule 2, line 3.

SCHEDULE B-1 ALLOWANCE FOR GOVERNMENTAL OBLIGATIONS/ OBLIGATIONS SECURED BY RESIDENTIAL PROPERTY (§ 11-24-6 (F))

Taxpayers that own certain tax-exempt government obligations and obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income. Complete CIT-120 Schedule B-1 to determine the amount of the allowance. The value of these obligations and loans is determined using the average of the monthly beginning and ending account balances. These account balances are determined at cost in the same manner that such obligations, investments and loans are reported on the balance sheet of your federal tax return.

Lines 1 through 4 - Attach copy of worksheets supporting the calculation of average monthly balance.

Line 6 – Average the beginning and ending balance of Federal Form 1120, Schedule L, line 15.

Line 8 – CIT-120, Schedule 1, line 1 or Schedule 2, line 1 plus CIT-120, Schedule B, line 12 minus the sum of lines 13 through 23, plus Form CIT-120APT, Schedule A2, lines 10, 11, and 12.

SCHEDULE C – SCHEDULE OF TAX PAYMENTS

If the number of payments reported on Schedule C exceeds 10, you must file electronically.

Column 1 – Enter the name of the entity making the payment or issuing the withholding credit.

Column 2 – Enter the FEIN of the entity making the payment or issuing the withholding credit.

Column 3 – Enter the date of any payments made by, or on behalf of, the entity.

Column 4 – Enter a description of the type of payment made by, or on behalf of, the entity,

Column 5 – Enter the amount of the payment made by, or on behalf of, the entity.

Total Line – Sum of the payments shown in Column 5.

The total amount of payments must equal the amount reported on Form CIT-120, line 13.

SCHEDULE D – REPORTABLE ENTITIES

If any box is checked in the Reportable Entities Section of page 1, the name and FEIN of each reportable entity must be entered on Schedule D.

If the number of entities exceeds ten (10) you must file electronically.

Column 1 – Enter the name of the reportable entity.

Column 2 – Enter the FEIN of the reportable entity.

Column 3 – Enter the name of the reportable entity's parent.

Column 4 – Enter the FEIN of the parent.

Column 5 – Enter the Alpha Character designation for the explanation of the relationship between reportable entity and entity submitting this West Virginia Return.

A Pass through entity you are a partner, member, or shareholder doing business in WV

B Entity you own 80% of voting stock

C Entity that owned more than 80% of your stock

D Disregarded entity or QSUB

E Controlled Foreign Corporation

If the number of entities reported on Schedule D exceeds 10, you must file electronically.

CIT-120TC: SUMMARY OF CORPORATION NET INCOME TAX CREDITS

The CIT-120TC, Summary of Corporation Net Income Tax Credits, is a form used by corporations to summarize the tax credits that they claim against their Corporation Net Income Tax liability. In addition to completing the CIT-120TC, each tax credit has a schedule or form that is used to determine the amount of credit that can be claimed. Please note that some tax credit schedules require a completed application to be submitted and approved before the tax credit schedule can be filed. Both the CIT-120TC and the appropriate credit calculation schedule(s) or form(s) must be attached to your return in order to claim a tax credit.

Line 19 – Total credits: Add column 2, lines 1 through 18.

Note: The amount of credit used cannot be greater than the Corporation Net Income Tax assessed on the return. For additional information and a copy of the tax credit schedules and applications please visit tax.wv.gov.

SCHEDULE NOL: WV NET OPERATING LOSS CARRYFORWARD CALCULATION (§11-24-6(d))

WHO SHOULD COMPLETE SCHEDULE NOL?

All corporations claiming a West Virginia net operating loss carry forward deduction on Form CIT-120, Schedule 1, line 5, CIT-120, Schedule 2, line 11 or Schedule UB-CR, column 16 must complete this schedule to support their net operating loss deduction. Schedule NOL is not a claim for refund. It is a calculation schedule to support the net operating loss carryforward deduction.

Any amount claimed as a federal net operating loss deduction must be added back to federal taxable income on West Virginia Form CIT-120, Schedule B, line 6 for a separate filer or column 2f (entity specific of applicable group) if a combined filer. The West Virginia net operating loss carryforward deduction is entered on Form CIT-120, Schedule 1, line 5, Schedule 2, line 11 or Schedule UB-CR, column 16 of each applicable group.

West Virginia NOL generated in periods after 2017 can be carried forward indefinitely. Any WV Net Operating Loss deduction is limited to 80% of taxable income starting in the 2021 taxable year. Note that rules for pre-2018 WV NOL remain the same.

A net operating loss deduction of a multistate corporation is subject to West Virginia allocation and apportionment rules.

The West Virginia net operating loss deduction is limited to net operating losses incurred by a corporation which performed business in West Virginia and filed Corporation Net Income Tax Returns in prior taxable years.

The amount of net operating loss deduction available to an affiliated group, which elects for the first time to file a consolidated return for a taxable year ending after July 1, 1988, is limited to the net operating losses incurred by members of the affiliated group which did business in West Virginia and filed separate West Virginia returns in prior years.

A West Virginia net operating loss deduction will not be allowed for net operating losses of those members of the affiliated group which did no business in West Virginia in prior taxable years and were not required to file West Virginia Corporation Net Income Tax Returns.

SRLY RULES.

The separate return limitation years (SRLY) rules set forth in Treasury Regulation §1.1502 apply in determining the allowable West Virginia net operating loss deduction.

When the SRLY rules apply, a member of an affiliated group's net operating loss carried forward from its separate return year can only offset that portion of the taxable income attributable to that member of the group.

Schedule NOL is designed to support the claiming of a West Virginia net operating loss carryforward deduction by providing information on the year of the loss and how the loss was/is being used. Enter the year of loss for each NOL in Column 1 and the FEIN of the entity incurring the loss in Column 2. Columns 3 through 6 will determine current available amounts and amounts eligible for carryforward.

Column 1 – Year of loss. Enter in column 1 the applicable tax year ending date(s) for the year(s) that you had net operating loss(es).

Column 2 – Enter name and FEIN of the Consolidated Parent Corporation if you filed a consolidated return prior to 2009 and had a West Virginia Net Operating Loss or enter name and FEIN of all separate members' West Virginia net operating losses that filed separately prior to 2009.

Column 3 – Amount of West Virginia net operating loss. Enter the amount of West Virginia net operating loss that corresponds to the year of the loss shown in Column 1.

Column 4 – Amount carried back to years prior to loss year. Enter the total amount of loss for the taxable year entered in column 1 that was carried back to a year, or years prior to the year of the actual loss.

Column 5 – Amount carried forward to years prior to this year. Enter the total amount of loss for the taxable year entered in column 1 that was carried forward to a year, or years, prior to the current taxable year.

Column 6 – Amount being used this year. Enter the amount of loss for the taxable year entered in column 1 that is being used to offset West Virginia taxable income for the current taxable year.

Column 7 – Remaining unused net operating loss. Enter the amount of loss for the tax year entered in column 1 that remains to be carried to a taxable year subsequent to the current taxable year.

TOTAL NET OPERATING LOSS CARRYFORWARD DEDUCTION FOR CURRENT TAXABLE YEAR.

The amount of the West Virginia net operating loss carryforward deduction claimed on Form CIT-120, Schedule 1, Schedule 2 or Schedule UB-CR of the current year's tax return must equal the sum of Form CIT-120, Schedule NOL, column 6. The West Virginia net operating loss carryforward deduction cannot reduce West Virginia taxable income below zero.

CIT-120 APT – ALLOCATION AND APPORTIONMENT FOR MULTISTATE CORPORATIONS

SCHEDULES A1 & A2 – ALLOCATION OF NONBUSINESS INCOME

If the corporation's business activities take place both within and without West Virginia and the corporation is also taxable in another state, certain items of nonbusiness income that are included in federal taxable income are directly allocated. All other income must be apportioned.

Business income arises from transactions and activities in the regular course of the corporation's trade or business and includes income from tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the corporation's trade or business.

Nonbusiness income includes all income that is not properly classified as business income less all expenses attributable to the production of this income. Nonbusiness income is allocated to West Virginia if (1) the corporation's commercial domicile, the principal place from which the trade or business is managed is located in West Virginia; or (2) property creating the nonbusiness income is utilized in West Virginia. Nonbusiness income from real property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia, or, in the case of patents or copyrights, if they are used in West Virginia.

For additional information regarding the nonbusiness income, you may request a copy of Publication TSD-392, "Corporation Net Income Tax Nonbusiness Income", by contacting our Taxpayer Services Division or online at tax.wv.gov.

Determine nonbusiness income allocated to West Virginia and outside West Virginia by completing Form CIT-120APT, Schedules A1 and A2. Only those types of nonbusiness income listed on Form CIT-120APT, Schedules A1 and A2 can be allocated. Any other types of income that the corporation classifies as nonbusiness must be apportioned.

Line 9 – Enter the amount from Form CIT-120APT, Schedule A1, column 3, line 9 on Form CIT-120, Schedule 2, line 5.

Line 13 – Enter the amount from Form CIT-120APT, Schedule A2, column 3, line 13 to Form CIT-120, Schedule 2, line 9.

SCHEDULE B – APPORTIONMENT FORMULA

If the corporation's business activities take place both within and without West Virginia and the corporation is also taxable in another state, all net income, after deducting those items of nonbusiness income allocated on Form CIT-120APT, Schedules A1 and A2 must be apportioned to West Virginia by using the appropriate apportionment formula. Completion of CIT-120APT, Schedule B is required even if apportionment is zero.

Special apportionment formulas apply to motor carriers and to financial organizations. If you are filing for a financial organization, follow the apportionment instructions for Form CIT-120APT, Schedule B, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Form CIT-120APT Schedule B, Part 2.

All other multistate corporations will use the standard apportionment formula of payroll, property, and sales, with the sales factor double weighted, and will complete CIT-120APT, Schedule B Parts 1 through 3 as applicable.

MULTISTATE CORPORATIONS – FOUR FACTOR FORMULA

PART 1

To determine your West Virginia apportionment percentage, first determine the following factors:

PROPERTY FACTOR.

Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income. Property used in connection with the items of nonbusiness income allocated in Form CIT- 120APT, Schedule A1 and A2 shall be excluded from the factor.

Property must be included in the property factor if it is actually used or is available for or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must be included. Property or equipment under construction (except goods in process that can be inventoried) must be excluded until it is actually used to generate business income. Movable property, such as tools, construction equipment and trucks, used both within and without

West Virginia, shall be included in the numerator of the fraction on the basis of total time within the state during the taxable year.

Property owned is valued at original cost. Property rented is valued at eight times the net annual rental rate. Leasehold improvements are considered property owned and are included at their original cost. Generally, original cost is the basis of the property for federal income tax purposes at the time of acquisition and adjusted by subsequent capital additions of improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its value at the beginning and ending of the taxable period. The Tax Commissioner may require or allow averaging by monthly values if such a method is required to properly reflect the average value of the taxpayer's property for the taxable year.

Line 1 – Divide column 1 by column 2 and enter the result in column 3. State the result as a decimal and round to six (6) places after the decimal.

PAYROLL FACTOR.

The payroll factor shall include the amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation may be included in the payroll factor by use of the cash basis only if you have permission from the Tax Commissioner for an alternate method of apportionment. Compensation means wages, salaries, commissions, and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. **Only amounts paid directly to employees are included in the payroll factor.** Do not include compensation paid to employees engaged exclusively in an activity that generates nonbusiness income that you allocated on Form CIT-120APT, Schedules A1 and A2.

The denominator (column 2) of the payroll factor is the total compensation paid by the taxpayer during the taxable year, as shown on the federal income tax return filed with the Internal Revenue Service Internal Revenue Service. This should also be reflected in the schedule of wages and salaries and the portion of cost of goods sold that reflect compensation..

The numerator (column 1) of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met:

- a. The employee's service is performed entirely within this state;
- b. The employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state;
- c. If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:
 1. If the employee's base of operations is in this state;
 2. If there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or
 3. If the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state.

Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

Determine the payroll factor by entering the appropriate amounts on line 2. Enter West Virginia payroll in column 1 and payroll everywhere in column 2.

Line 2 – Divide column 1 by column 2 and enter the result in column 3. State the result as a decimal and round to six (6) places after the decimal

SALES FACTOR.

The term "sales" means all gross receipts of the taxpayer that are business income. The sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not

include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced nonbusiness income that you allocated on Form CIT-120APT, Schedules A1 and A2.

The denominator (column 2) of the sales factor includes all gross receipts derived from transactions and activity in the regular course of the corporation’s trade or business that was reflected in the corporation’s gross income reported and as appearing on the federal income tax return unless otherwise excluded. Sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. under Public Law 86-272) are to be excluded from the denominator.

The numerator (column 1) of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of the corporation’s trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

SALES OF TANGIBLE PERSONAL PROPERTY.

Gross receipts from sales of tangible personal property are within West Virginia (1) if the property is received in West Virginia by the purchaser (except sales to the United States government) regardless of the F.O.B. point or other conditions of sales; or (2) if the property is shipped from an office, store, warehouse, factory, or other place of storage in West Virginia and the purchaser is the United States government.

Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received, after all transportation is completed, is the place where the sale took place. Direct delivery in West Virginia, other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where title passes or other conditions of sale. Direct delivery without West Virginia, to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

OTHER SALES.

Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia if (1) the income producing activity which gives rise to the receipts is performed entirely in West Virginia; (2) the income producing activity is performed both within and without West Virginia and a greater portion of the income producing activity is performed in this state than in any other state, based on cost of performance; or (3) if the sale constitutes business income to the taxpayer, or the taxpayer is a financial organization subject to the special apportionment rules. Refer to West Virginia Code §11-24-7 for a discussion of income producing activity and cost of performance.

Gross receipts from the sale, lease, rental, or licensing of real property are within West Virginia if the real property is located in this state. Gross receipts from the rental, lease or licensing of tangible personal property are in West Virginia if the property is located in this state. If such property is both within and without West Virginia during the rental, lease or licensing period, gross receipts attributable to West Virginia shall be determined based upon the total time within the state during the taxable year. Gross receipts for the performance of personal services are in West Virginia if such services are performed in this state.

Determine the sales factor by entering the appropriate amount on line 3. Enter West Virginia sales in column 1 and sales everywhere in column 2.

Line 3 – Column 2. Total Sales. This amount when added to the total gross nonbusiness income as shown on CIT-120APT, Schedule A1, line 9, must equal the sum of gross income as reported on your federal income tax return. Any differences must be noted and explained in an attachment to your return.

\$	Sum of gross income items on federal return
\$	Less total allocated income (CIT-120APT, Schedule A1, line 9)
\$	Equals Form CIT-120APT, Schedule B, line 3, column 2

Line 4 – Enter the total gross receipts from sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. Public Law 86-272). This is the throw out rule per WV Code §11-24-7(e)(11)(B) and §11-23-5(l)(2).

Line 5 – In column 1, enter the amount from line 3. In Column 2, subtract line 4 from line 3 and enter the difference. Divide column 1, line 5 by column 2, line 5 and enter the result in column 3, line 5. State the result as a decimal and round to six (6) places after the decimal.

Line 6 – Enter line 5 again.

Line 7 – Add column 3, lines 1, 2, 5, and 6 and enter the sum in column 3.

Line 8 – Divide the six (6) digit decimal from column 3, line 7 by the number 4, reduced by the number of factors, if any, showing zero in column 2, lines 1, 2, 5, and 6. Enter the six (6) digit decimal fraction here and on Form CIT-120, Schedule 2, line 7.

MOTOR CARRIERS – SPECIAL SINGLE FACTOR FORMULA

PART 2 – VEHICLE MILES.

Motor carriers of property or passengers are subject to special apportionment rules. Motor carriers must apportion their business income by using a single factor formula of vehicle miles.

A motor carrier is any person engaged in the transportation of passengers and/or property for compensation by a motor propelled vehicle over roads in West Virginia, whether on a scheduled route or otherwise. The term “vehicle miles” means the operations of a motor carrier over one mile.

The special apportionment formula for motor carriers does NOT apply if:

- a. The motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, has made no pickups or deliveries within West Virginia, and has traveled less than 50,000 miles in West Virginia during the taxable year; or
- b. The motor carrier neither owns nor rents any tangible personal property located in West Virginia except vehicles and makes no more than 12 trips into or through West Virginia during the taxable year.

Under either (A) or (B), the mileage traveled in West Virginia may not be more than five percent (.05) of the total vehicle miles traveled in all states during the taxable year.

Determine the apportionment factor by entering the appropriate vehicle miles for West Virginia in column 1, and vehicle miles everywhere in column 2.

Divide column 1 by column 2 and enter the result in column 3. State the result as a decimal fraction and round to six (6) places after the decimal. Enter the six (6) digit decimal fraction from column 3 on CIT-120, Schedule 2, line 7.

FINANCIAL ORGANIZATIONS – SPECIAL SINGLE FACTOR FORMULA

PART 3 – GROSS RECEIPTS.

Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula.

A financial organization is any holding company or regulated financial corporation or subsidiary thereof, or any corporation deriving more than fifty percent (.5) of its gross receipts from one or more of the following:

1. Making, acquiring, selling, or servicing loans or extensions of credit.
2. Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of an extension of credit.
3. Operating a credit card business.
4. Rendering estate or trust services.
5. Receiving, maintaining, or otherwise handling deposits.
6. Engaging in any other activity with an economic effect comparable to any of the above.

Financial organizations regularly engaging in business in West Virginia shall apportion their business income by means of a single factor of gross receipts apportionment formula. A financial organization not having its commercial domicile in West Virginia is presumed to be regularly engaging in business in West Virginia if during any year it obtains or solicits business with 20 or more persons within West Virginia, or the sum of its gross receipts attributable to sources in West Virginia equals or exceeds \$100,000.00.

Gross receipts from the following ownership interest (and certain related activities) will not be considered in determining whether a financial organization is subject to taxation.

1. An interest in a real estate mortgage investment conduit, a real estate investment, or a regulated investment company;
2. An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates or interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates;
3. An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial loan or a secured commercial loan, and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner; or an interest in the right to service or collect income from such a loan or asset; or
4. An amount held in an escrow or trust account with respect to property described above.

However, if a financial organization is subject to taxation when gross receipts from these interests are not considered, such receipts must then be included when determining the amount of taxes owed.

Neither the numerator nor the denominator of the gross receipts factor should include gross receipts from obligations and certain loans on which you claim the special allowance on Form CIT-120, Schedule B-1.

Divide column 1 by column 2 and enter in column 3. State the result as a decimal fraction and round to six places after the decimal. Enter the six (6) digit decimal fraction from column 3 on Form CIT-120, Schedule 2, line 7.

PETITIONING FOR AN ALTERNATIVE METHOD OF APPORTIONMENT

To use an alternate method of allocation and apportionment to determine your taxable net income, you must petition the Tax Commissioner. Your petition for an alternate method must be filed no later than the normal due date of your return. You must have written permission to use an alternate apportionment method before filing your return. Permission will only be granted if you can show that the statutory formula does not properly reflect your taxable income, and if the alternate method properly and fairly shows your West Virginia taxable income.

Your petition should include your name and address, state of incorporation and principal place of business, a description of the kind(s) of business in which you are engaged, a detailed statement of how sales are made in West Virginia, a computation of your West Virginia taxable income using the statutory apportionment formula and using your proposed alternate formula, and a summary of the facts that support your position.

Send your petition to the West Virginia State Tax Department, Tax Account Administration Division, Corporate Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

CIT-120U

Use this form to determine if any penalty for underpayment of estimated West Virginia Corporation Net Income Tax is due.

Who must pay the penalty? A corporation is required to file a declaration of estimated corporation net income tax and make estimated tax payments on Form WV/CIT-120ES if its West Virginia taxable income can reasonably be expected to exceed \$10,000.00, which equals a tax liability after tax credits of more than \$650.00 (Code §11-24-16). Estimated tax is a corporation's expected income tax liability minus its tax credits. A taxpayer is required to remit, in equal installments on the 15th day of the 4th, 6th, 9th, and 12th months of their taxable year, at least ninety percent (.90) of the tax due for the filing period.

If a corporation did not pay enough estimated tax by the due dates, it will be assessed the penalty. The penalty is figured separately for each installment due date. The corporation may owe the penalty for an earlier installment due date, even if it paid enough tax later to make up the underpayment. The underpayment of estimated tax penalty rate will be 9.25% in 2021.

PART 1: ALL FILERS MUST COMPLETE THIS PART

- Line 1** – Enter your Corporation Net Income Tax after credits (Form CIT-120, line 9). If this amount is less than \$650.00, skip lines 2 and 3 and enter 0 on line 5.
- Line 2** – Multiply the amount on line 1 by ninety percent (.9) and enter the result here. This is the amount the corporation should have paid in estimated tax for this taxable year.
- Line 3** – Enter the Corporation Net Income Tax after credits from your 2019 return. If the corporation did not file a 2019 return leave this line blank.
- Line 4** – Enter the smaller of line 2 or line 3. If line 3 is blank enter the amount from line 2. This is the amount the corporation should have paid in estimated tax for this taxable year.
- Line 5** – Enter the amount from line 4. This is the amount of estimated Corporation Net Income Tax that should have been paid.

DETERMINE THE PENALTY BY COMPLETING PART II, III, AND IV

Part II: Annualized Installment Worksheet

If the taxable income varied during the year, the corporation may be able to lower or eliminate the amount of one or more required installments by using the annualized installment worksheet. To use the annualized installment method to figure the penalty, complete Part I, Part II, Part III, and Part IV of Form CIT-120U. Follow the line by line instructions entered on Form CIT-120U.

PART III: CALCULATE THE UNDERPAYMENT

- Line 23** – In column A, enter the estimated tax payments deposited by the 15th day of the 4th month of your tax year.
- In column B, enter payments made after the 15th day of the 4th month through the 15th day of the 6th month of your tax year.
- In column C, enter payments made after the 15th day of the 6th month through the 15th day of the 9th month of your tax year.
- In column D, enter payments made after the 15th day of the 9th month through the 15th day of the 12th month of the tax year.

- Line 29** – If any of the columns in line 29 shows an underpayment, complete Part IV to figure the penalty for that period.

PART IV: CALCULATE THE PENALTY

Complete lines 31 through 42 to determine the amount of the penalty. The penalty is figured for the period of underpayment determined under West Virginia Code §11-10-18a using the rate of interest determined under West Virginia Code §11-10-17 or 17a, whichever is appropriate for the taxable year. For underpayments involving periods after January 1, 2022, see the instructions for lines 39 and 40.

Line 31 – Enter the date on which the installment payment was made or the original due date of the annual return, whichever is earlier. The due date of the return is the 15th day of the 4th month following the close of the taxable year for corporations. The due date of the annual return of an exempt organization with unrelated business taxable income is the 15th day of the 5th month following the close of the taxable year. The payment of estimated tax is applied against underpayments of required installments in the order that installments are required to be paid, regardless of which installment the payment pertains to.

For example, a corporation has an underpayment for the April 15th installment of \$1,000. The June 15th installment requires a payment of \$2,500. On June 10th, the corporation deposited \$2,500 to cover the June 15th installment. \$1,000 of this payment is considered to be for the April 15th installment. The penalty for April 15th installment is figured to June 10th (56 days). The payment to be applied to the June 15th installment will then be \$1,500.

If the corporation made more than one payment for a required installment, attach a separate computation for each payment.

Lines 39 & 40 - For underpayments involving periods after January 1, 2022, use the interest rate established by the State Tax Commissioner. You can contact the West Virginia State Tax Department, Taxpayer Services Division, at 1-800-982-8297 to get rate information. Administrative Notices adjusting interest rates may also be found online at tax.wv.gov.

Line 42 – If you have completed this form to determine the penalty for underpaying the corporation's estimated Corporation Net Income Tax, enter the amount on line 6 on Form CIT-120, line 22.

COMBINED REPORTING

COMBINED CORPORATION NET INCOME REPORTING REQUIRED (§11-24-13A(j)).

For tax years beginning on or after January 1, 2009, any taxpayer engaged in a unitary business with one or more other corporations shall file a combined report which includes the income, allocation, and apportionment of income of all corporations that are members of the unitary business. Notwithstanding any provision to the contrary in this article, the income of an insurance company, the allocation or apportionment related thereto, and the apportionment factors of an insurance company shall not be included in a combined report filed under this article unless specifically required to be included by the Tax Commissioner.

Net operating loss (NOL) carryovers earned during a year in which the taxpayer filed a consolidated tax return (§11-24-13c). West Virginia computes net operating losses on a post-apportionment basis, including business and nonbusiness income adjustments. NOLs can only be carried forward (or backwards) to be applied against West Virginia source income of the combined group members to which it is attributable. NOLs that were incurred by an entity in a period in which the entity filed separately, cannot be used by other members of the combined group. There is an exception for NOLs earned when the taxpayer was filing on a consolidated basis. Those NOLs can be carried over and applied against the income of any former member of the consolidated (controlled) group. (see NOL Calculation instructions on page 14)

WATER'S-EDGE REPORTING.

Water's-Edge Reporting is mandated absent an affirmative election to report based upon a worldwide unitary combined report. Members of the Water's-Edge Reporting group include:

1. Any unitary member incorporated in the United States or formed under the laws of any state, the District of Columbia or any territory or possession of the United States;
2. Any unitary member whose average property, payroll and sales factors within the United States is twenty percent or more;
3. Any unitary member which is a domestic international sales corporation, a foreign sales corporation, or an export trade corporation as defined by federal law;
4. Any unitary member with effectively connected income with the conduct of a trade or business within the United States to the extent of that effectively connected income;
5. Any unitary member that is a "controlled foreign corporation", to the extent of the members' Subpart F income, unless that income is subject to an effective rate of tax that is greater than ninety percent of the maximum federal rate;
6. Any unitary member that earns more than twenty percent of its income from intangible property or service-related activities that are deductible against the business income of other members of the Water's-Edge group; and
7. Any unitary member doing business in a tax haven.

Worldwide Unitary Combined Reporting: A corporation may choose to file Worldwide Unitary Combined Reporting. To do so, please fill out and sign West Virginia Form CIT-120 OPT and attach to your return. This election is binding for 10 years unless a written request to withdraw for reasonable cause has been sent to the commissioner and granted.

GENERAL INFORMATION

What is the purpose of the UB Schedules? The purpose of the UB Schedules is to enable a unitary business group to determine the amount of its unitary business income that is attributable to West Virginia. A unitary business group's business income includes all income that may be apportioned by formula among the states in which the group is doing business without violating the Constitution of the United States.

What is a unitary business group? The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon, and contribute to each other. In the case of a corporation, common ownership is defined as the direct or indirect ownership or control of more than fifty percent (.5) of the outstanding voting stock. For further instructions see WV Code 11-24-13f (a) waters-edge reporting-subdivision (1) through (7).

What are the filing requirements? Corporations that are members of the same unitary business group must file a combined report including all required information of every business engaging in the unitary business with the corporation. This report must be filed with each member's separate return unless the group elects to designate a corporation as surety and file a combined return.

SPECIFIC INSTRUCTIONS

SCHEDULE UB – LIST OF MEMBERS IN A UNITARY COMBINED GROUP.

List all members of the unitary business group including group number (1-3), name, FEIN, month and year ending, total tax from UB-CR, total payments, and prior year credits. Make copies of the blank Schedule UB as needed. The following list defines the group numbers:

Group 1 – Regular entities

Group 2 – Motor carriers

Group 3 – Financial organizations

SCHEDULE UB-CR. COMBINED REPORT.

The purpose of the Schedule UB-CR Combined Report is to provide a method of reporting the separate business income of multiple companies within a unitary group onto one statement. The business income is reported and apportioned for each company as if it were filed separately. The income for all companies is then combined, after eliminations, to allow the business income of the unitary group to be filed on one CIT-120 return.

The UB-CR MUST be used when filing a combined report and/or combined return. Taxpayers who file combined returns must file their West Virginia CIT-120 return electronically. The UB-CR must be supported within the electronic filing software in order to file a combined return.

For most filers, the unitary business structure will be in one of the following groups: Regular Entities, Motor Carriers, or Financial Organizations. Therefore, the Combined row of the appropriate WV Net Income Tax group from Schedule UB-CR will be what is transferred to the CIT-120, page 2, line 9. In the event of multiple groups, add the Taxable Income from each group together and enter on CIT-120, page 2, line 9.

Group 1 - Regular Entities

Group 2 – Motor Carriers

Group 3 – Financial Organizations

Note: The spreadsheet for each Group type is the same except for the way the WV apportionment is calculated.

Enter Name of each entity on the appropriate Group tab

Enter the FEIN of each entity on the appropriate Group tab

Column 1 – Enter the Federal taxable income for each entity in the appropriate group

PART 1 – INCREASING ADJUSTMENTS TO FEDERAL INCOME

- Column 2a Enter the interest or dividends on obligations or securities from any state or political subdivision not exempt from state tax.
- Column 2b Enter US obligation interest/dividends not exempt from state tax
- Column 2c Enter income/other taxes based upon net income, imposed by this state or any other jurisdiction, deducted on your federal return
- Column 2d Enter federal depreciation/amortization for wholly WV corporation water/air pollution facilities
- Column 2e Enter unrelated business taxable income of a corporation exempt from federal tax (IRC Sec 512)
- Column 2f Enter federal net operating loss
- Column 2g Enter contributions to NIPA
- Column 2h Enter net operating losses from sources outside the US
- Column 2i Enter foreign taxes deducted on your federal return
- Column 2j Enter add back for expenses related to certain REIT's and Regulated Investment Companies and certain interest and intangible expenses (WV Code §11-24-4b)
- Column 2k Enter other increasing adjustments (you must include a statement of explanation with your return)
- Column 3 Sum of the increasing adjustments

PART 2 – DECREASING ADJUSTMENTS TO FEDERAL INCOME

- Column 4a Enter refund/credit on taxes based upon net income included in federal taxable income
- Column 4b Enter interest expense on obligations/securities of any state or political subdivision disallowed in determining federal taxable income
- Column 4c Enter salary expense not allow on federal return due to claiming Work Opportunity Credit
- Column 4d Enter foreign dividend gross-up (IRC Sec 78)
- Column 4e Enter Subpart F income (IRC Sec 951)
- Column 4f Enter taxable income from sources outside the US
- Column 4g Enter cost of wholly WV water/air pollution control facilities
- Column 4h Enter federal taxable income employer contributions to medical savings accounts withdrawn for nonmedical purposes
- Column 4i Qualified Opportunity Zone business income
- Column 4j Enter allowance for obligations/investments
- Column 4k Enter other decreasing adjustments (you must include a state of explanation with your return)
- Column 5 Sum of the decreasing adjustments

PART 3 – TAXABLE INCOME CALCULATION

- Column 6 Adjusted taxable income of each entity
- Column 7 Total nonbusiness income from everywhere of each entity
- Column 8 Total non-unitary business income everywhere of each entity
- Column 9 Income subject to apportionment per entity
- Column 10 Group income subject to apportionment
- Column 11 WV apportionment factor per entity
- Column 12 WV apportioned income
- Column 13 Enter nonbusiness income allocated to WV
- Column 14 Enter total non-unitary business income apportioned to WV
- Column 15 WV Taxable Income

APPORTIONMENT FACTOR CALCULATIONS

GROUP 1 - REGULAR ENTITIES:

WV Property Enter the amount of WV property owned by each entity

WV Payroll Enter the amount of WV payroll for each entity

WV Sales Enter the amount of WV sales for each entity

WV Sales Enter the amount of WV sales for each entity (will be the same as the previous entry)

Everywhere Property – Enter the amount of property owned by each entity in all locations (WV plus all others). This amount will be summed in the “Everywhere all entities” row. That sum will be used as the denominator in the apportionment factor calculation.

Everywhere Payroll – Enter the amount of payroll by entity in all locations (WV plus all others). This amount will be summed in the “Everywhere all entities” row. That sum will be used as the denominator in the apportionment factor calculation.

Everywhere Adjusted Sales – Enter the amount of the Adjusted Sales by each entity in all locations (WV plus all others). This is the difference between sales everywhere less sales to purchasers in a state where you are not subject to tax. This amount will be summed in the “Everywhere all entities” row. That sum will be used as the denominator in the apportionment factor calculation.

Everywhere Adjusted Sales – Same as previous column

Sales to purchasers in a state where you are not subject to tax – Enter the amount of sales in a state where you are not subject to tax.

GROUP 2 – MOTOR CARRIERS

WV Vehicle Mileage – Enter the WV vehicle mileage for each entity

Everywhere Vehicle Mileage – Enter the amount of vehicle mileage in all locations (WV and all others). This amount will be summed in the “Combined entities” row. That sum is the amount that will be used in the apportionment factor calculation.

GROUP 3 – FINANCIAL ORGANIZATIONS

WV Gross Receipts – Enter the WV gross receipts for each entity

Every Gross Receipts – Enter the amount of gross receipts in all locations (WV and all others). This amount will be summed in the “Combined entities” row. That sum is the amount that will be used in the apportionment factor calculation.

PART 4 – WV NOL SECTION

NOL1 NOL generated as the result of filing a consolidated return prior to 2009

NOL 2 NOL carryforward generated by the entity from an individual return or a combined report from 2009 to 2017

NOL 3 NOL carryforward generated by the entity from an individual return or a combined report after 2017

NOL 4 Total WV NOL available for use in the tax period per entity

NOL 5 NOL generated by entity in this period

NOL 6 NOL available for use in future periods by entity

Column 16 (NOL 7) WV Net Operating Loss used this tax period per entity

Column 17 Subtotal (See NOL pg 8)

Column 18 REIT inclusion and other WV taxable income

Column 19 WV net taxable income per entity

Column 20 Tax rate in 2021 tax period (.065)

Column 21 WV income tax before credits per entity

PART 5 – CREDITS SECTION

- C1. a Economic Opportunity Tax Credit (§11-13Q) Schedule WV/EOTC-1
- C1. b Manufacturing Investment Tax Credit (§11-13S) Schedule WV/MITC-1
- C1. c Historic Rehabilitated Buildings Investment Credit (§11-24-23a) Schedule RBIC
- C1. d West Virginia Neighborhood Investment Program Credit (§11-13J) Form WV/NIPA-2
- C1. e Environmental Agricultural Equipment Tax Credit (§11-13k) Form WV/AG-1
- C1. f Electric, Gas, and Water Utilities Rate Reduction Credit (§11-24-11) Schedule L
- C1. g West Virginia Military Incentive Credit (§11-24-12) Schedule J
- C1. h Apprentice Training Tax Credit (§11-13w) Schedule WV/ATTC-1
- C1. i Film Industry Tax Credit (§11-13x) Schedule WVFIIA-TCS
- C1. j Manufacturing Property Tax Adjustment Credit (§11-13Y) Schedule WV/MPTAC-1
- C1. k Alternative Fuel Tax Credit (§11-6d) Schedule AFTC-1
- C1. l Innovative Mine Safety Technology Tax Credit (§11-13BB) Schedule IMSTTC-1
- C1.m Farm to Food Bank Tax Credit (§11-13DD)
- C1.n Post Coal Mine Site Business Credit (§11-28) Schedule PCM-1
- C1.0 Down Stream Natural Gas Manufacturing Investment Tax Credit (§11-13GG) Schedule DNG-1
- C1.p Natural Gas Liquids (§11-13HH) Schedule NGL-1
- C1.q Donation or Sale of Vehicle to charitable Organizations (§11-13FF) Schedule DSV-1
- C1.r Small Arms And Ammunition Manufacturers Credit (§11-13KK) Schedule SAAM-1
- C2. Total credits claimed
- C3. Total credits available for use by each entity this period

PART 5 – WV NET INCOME

- C4 WV Net Income Tax per entity (enter the sum of the Combined Total row of this column for Regular Entities, plus the Combined Total row of this column for Motor Carriers plus the sum of the Combined Total row of this column for Financial Organizations on the CIT-120, page 2, line 9).

MULTISTATE CORPORATIONS – FOUR FACTOR FORMULA

- Part 1 To determine the corporation's West Virginia apportionment percentage, first determine the following factors for each member of the unitary groups:

PROPERTY FACTOR.

Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income. Property used in connection with the items of nonbusiness income shall be excluded from the factor.

Property must be included in the property factor if it is actually used or is available for or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must be included. Property or equipment under construction (except goods in process that can be inventoried) must be excluded until it is actually used to generate business income. Movable property, such as tools, construction equipment and trucks, used both within and without West Virginia, shall be included in the numerator of the fraction on the basis of total time within the state during the taxable year.

Property owned is valued at original cost. Property rented is valued at eight times the net annual rental rate. Leasehold improvements are considered property owned and are included at their original cost. Generally, original cost is the basis of the property for federal income tax purposes at the time of acquisition and adjusted by subsequent capital additions

of improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its value at the beginning and ending of the taxable period. The Tax Commissioner may require or allow averaging by monthly values if such a method is required to properly reflect the average value of the taxpayer's property for the taxable year.

Divide column 1 by column 2 and enter result in column 3. State the result as a decimal and round to six (6) places after the decimal.

Neither the numerator nor the denominator of the gross receipts factor should include gross receipts from obligations and certain loans on which you claim the special allowance on Form CIT-120, Schedule B-1.

Divide column 1 by column 2 and enter in column 3. State the result as a decimal fraction and round to six places after the decimal.

PAYROLL FACTOR.

The payroll factor shall include the amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation may be included in the payroll factor by use of the cash basis only if you have permission from the Tax Commissioner for an alternate method of apportionment. Compensation means wages, salaries, commissions, and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Do not include compensation paid to employees engaged exclusively in an activity that generates nonbusiness income.

The denominator (column 2) of the payroll factor is the total compensation paid by the taxpayer during the taxable year, as shown on the federal income tax return filed with the Internal Revenue Service and as reflected in the schedule of wages and salaries and that portion of the cost of goods sold which reflect compensation.

The numerator (column 1) of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met:

- a. The employee's service is performed entirely within this state;
- b. The employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state (the word incidental means any service which is temporary or transitory in nature or which is rendered in connection with an isolated transaction);
- c. If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:
 1. if the employee's base of operations is in this state;
 2. if there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or
 3. if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state.

Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

Determine the payroll factor by entering the appropriate amounts on line 2. Enter West Virginia payroll in column 1 and payroll everywhere in column 2.

Divide column 1 by column 2 and enter the result in column 3. Round to six (6) places after the decimal.

SALES FACTOR.

The term “sales” means all gross receipts of the taxpayer that are business income. The sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced nonbusiness income.

The denominator (column 2) of the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business that was reflected in your gross income reported and as appearing on your federal income tax return unless otherwise excluded. Sales of tangible personal property delivered or shipped to a purchaser within a state in which the corporation is not taxed (e.g. under Public Law 86-272) are to be excluded from the denominator.

The numerator (column 1) of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of your trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

SALES OF TANGIBLE PERSONAL PROPERTY.

Gross receipts from sales of tangible personal property are within West Virginia (1) if the property is received in West Virginia by the purchaser (except sales to the United States government) regardless of the F.O.B. point or other conditions of sales; or (2) if the property is shipped from an office, store, warehouse, factory, or other place of storage in West Virginia and the purchaser is the United States government. Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received after all transportation is completed is the place where the sale took place. Direct delivery in West Virginia, other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where the title passes or other conditions of sale. Direct delivery outside West Virginia, to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

OTHER SALES.

Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia if (1) the income producing activity which gives rise to the receipts is performed entirely in West Virginia; (2) the income producing activity is performed both in and outside West Virginia and a greater portion of the income producing activity is performed in this state than in any other state, based on cost of performance; or (3) if the sale constitutes business income to the taxpayer, or the taxpayer is a financial organization subject to the special apportionment rules. Refer to West Virginia Code §11-24-7 for a discussion of income producing activity and cost of performance.

Gross receipts from the sale, lease, rental, or licensing of real property are within West Virginia if the real property is located in this state. Gross receipts from the rental, lease or licensing of tangible personal property are in West Virginia if the property is located in this state. If such property is both within and without West Virginia during the rental, lease or licensing period, gross receipts attributable to West Virginia shall be determined based upon the total time within the state during the taxable year. Gross receipts for the performance of personal services are in West Virginia if such services are performed in this state.

Determine the sales factor by entering the appropriate amount on line 3. Enter West Virginia sales in column 1 and sales everywhere in column 2.

Column 2. Total Sales. This amount, when added to the total gross nonbusiness income, must equal the sum of your items of gross income as reported on your federal income tax return. Any differences must be noted and explained in an attachment to your return.

Enter the total gross receipts from sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. Public Law 86-272). This is the throw out rule per WV Code §11-24-7(e)(11)(B) and §11-23-5(l)(2).

In column 1, enter the amount from line 3. In Column 2, subtract line 4 from line 3 and enter the difference. Divide column 1, line 5 by column 2, line 5 and enter the result in column 3, line 5. State the result as a decimal and round to six (6) places after the decimal.

Enter line 5 again.

Add column 3, lines 1, 2, 5, and 6 and enter the sum in column 3.

Divide the six (6) digit decimal from column 3, line 7 by the number 4, reduced by the number of factors, if any, showing zero in column 2, lines 1, 2, 5, or 6. Enter the six (6) digit decimal fraction.

MOTOR CARRIERS – SPECIAL SINGLE FACTOR FORMULA

PART 2 – VEHICLE MILES.

Motor carriers of property or passengers are subject to special apportionment rules. Motor carriers must apportion their business income by using a single factor formula of vehicle miles.

A motor carrier is any person engaged in the transportation of passengers and/or property for compensation by a motor propelled vehicle over roads in West Virginia, whether on a scheduled route or otherwise. The term “vehicle miles” means the operations of a motor carrier over one mile.

The special apportionment formula for motor carriers does NOT apply if:

- A. The motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, has made no pickups or deliveries within West Virginia, and has traveled less than 50,000 miles in West Virginia during the taxable year; or
- B. The motor carrier neither owns nor rents any tangible personal property located in West Virginia except vehicles and makes no more than 12 trips into or through West Virginia during the taxable year.

Under either (A) or (B), the mileage traveled in West Virginia may not be more than five percent (.05) of the total vehicle miles traveled in all states during the taxable year.

Determine the apportionment factor by entering the appropriate vehicle miles for West Virginia in column 1, and vehicle miles everywhere in column 2.

Divide column 1 by column 2 and enter the result in column 3. State the result as a decimal fraction and round to six (6) places after the decimal. Enter the six (6) digit decimal fraction from column 3 on CIT-120, Schedule 2, line 7.

FINANCIAL ORGANIZATIONS – SPECIAL SINGLE FACTOR FORMULA

PART 3 – GROSS RECEIPTS.

Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula.

A financial organization is any holding company or regulated financial corporation or subsidiary thereof, or any corporation deriving more than fifty percent (.5) of its gross receipts from one or more of the following:

1. Making, acquiring, selling, or servicing loans or extensions of credit.
2. Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of an extension of credit.
3. Operating a credit card business.

4. Rendering estate or trust services.
5. Receiving, maintaining, or otherwise handling deposits.
6. Engaging in any other activity with an economic effect comparable to any of the above.

Financial organizations regularly engaging in business in West Virginia shall apportion their business income by means of a single factor of gross receipts apportionment formula. A financial organization not having its commercial domicile in West Virginia is presumed to be regularly engaging in business in West Virginia if during any year it obtains or solicits business with 20 or more persons within West Virginia, or the sum of its gross receipts attributable to sources in West Virginia equals or exceeds \$100,000.00.

Gross receipts from the following ownership interest (and certain related activities) will not be considered in determining whether a financial organization is subject to taxation.

1. An interest in a real estate mortgage investment conduit, a real estate investment, or a regulated investment company;
2. An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates or interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates;
3. An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial loan or a secured commercial loan, and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner; or an interest in the right to service or collect income from such a loan or asset; or
4. An amount held in an escrow or trust account with respect to property described above.

However, if a financial organization is subject to taxation when gross receipts from these interests are not considered, such receipts must then be included when determining the amount of taxes owed.