



2022
WEST VIRGINIA
S CORPORATION & PARTNERSHIP INCOME TAX
(PASS-THROUGH ENTITIES)



IMPORTANT INFORMATION FOR 2022

Starting for Tax Year 2020, the West Virginia S Corporation & Partnership Income Tax Return has been redesignated from SPF-100 to PTE-100. This will impact any form that previously had the “SPF” label.

For periods beginning on or after January 1, 2022, annual returns will have a due date of March 15, 2023 and an extended due date of September 15, 2023. Fiscal and 52/53-week returns will be due on the 15th day of the third month following the close of the taxable year with an extension period of six months.

TAX RATES

- The withholding rate on West Virginia source income continues to be 6.5% (§11-21-71a(b)(1)).
- 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 3 percent of each payment which was to be paid by EFT. Visit our website at 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.

COVER PHOTO PHOTOGRAPH BY KENNY BERRY

TAXPAYER RESPONSIBILITIES

FILING YOUR BUSINESS TAX RETURNS

Returns must 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 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 for any reason 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 three (3) months of the due date or the extended due date on overpayment of Withholding 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 (60) 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 2022 returns and for fiscal year returns beginning in 2022 and ending in 2023. The information in this book is intended to help you complete your returns and is not a substitute for tax laws and regulations.

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.

EXEMPT ORGANIZATIONS

Any S Corporation or Partnership exempt from federal income tax is also exempt from West Virginia 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.

WHEN TO FILE AND PAY

For periods beginning on or after January 1, 2022, annual returns will have a due date of March 15, 2023 and an extended due date of September 15, 2023. Fiscal and 52/53-week returns will be due on the 15th day of the third month following the close of the taxable year with an extension period of six months.

WHO MUST FILE

The following Partnerships are required to file an Income Tax Return:

- Resident Partnerships,
- Non Resident Partnerships having a partner who is a resident of West Virginia, or
- Non Resident Partnerships having any income from or connected with West Virginia sources regardless of the amount of such income.

Income from or connected with West Virginia is those items attributable to (a) the ownership of any interest in real or tangible personal property in West Virginia; or (b) a business, trade, profession, or occupation carried on in West Virginia including income from intangible personal property employed in such business, trade, profession, or occupation unless it elects to be taxed under subchapter S of the Internal Revenue Code.

The term **“Partnership”** includes syndicates, pools, joint ventures or any other unincorporated organization of two or more persons through which any business, trade, profession, occupation or venture is carried on. **“Resident Partnership”** means any partnership organized under the laws of West Virginia whose principal office, place of business, or other activity is within the borders of West Virginia. It may also carry on its business or other activities in other states. **“Non Resident Partnership”** means any partnership other than a resident partnership.

A **Limited Liability Company** which is treated like a Partnership for federal income tax purposes will also be treated as such for West Virginia income tax purposes. If it is not treated like a Partnership, it will be taxed as a C Corporation unless it elects to be taxed under subchapter S of the Internal Revenue Code.

Every corporation electing to be taxed under subchapter S of the Internal Revenue Code that engages in business in West Virginia or that derives income from property, activity, or other sources in West Virginia must file a West Virginia return.

EXTENSION OF TIME TO FILE

Any S Corporation or Partnership needing an extension of time to file and/or that expects to owe Non Resident Withholding Tax must file Form PTE-100EXT, Extension of Time to File Information Returns, on or before the due date of the return. Any S Corporation or Partnership granted an extension of time to file their federal return is granted the same extension of time to file their West Virginia return. Be sure to attach a copy of your federal extension to each tax return to avoid any penalty for late filing. An extension of time for filing does not extend the time for payment. To avoid interest and additions to tax for late payment, use Form PTE-100EXT to make an extension payment pending the filing of the annual return.

A state extension of time to file may be obtained, even if a federal extension has not been requested, provided Form PTE-100EXT is filed prior to the due date of the West Virginia return.

WHERE TO FILE

West Virginia State Tax Department
Tax Account Administration Division
PO Box 11751
Charleston, WV 25339-1751

USE OF FEDERAL FIGURES

All items of income and deductions to be reported on this return are the same as for federal tax purposes and the meaning of all terms are the same, unless otherwise defined.

PENALTY FOR LATE FILING AND FAILURE TO INCLUDE CORRECT INFORMATION

Any S Corporation or Partnership that fails to file and/or include all the correct information on Form PTE-100, and on Form NRW-2, WVK-1 or Form NRW-4 when applicable, by the required filing date is subject to a penalty of \$50.00 for each information return that they failed to file or include correct information on, not to exceed \$100,000.

Provisions for the reduction of the penalty amount exist if the partnership corrects the failure or error within specified time frames. If the failure is due to intentional disregard for the filing requirements or the correct information reporting requirement, the penalty is \$100.00 or ten percent (.1) of the aggregate amount of the items required to be reported correctly, whichever is greater.

For additional information about this penalty, request a copy of Publication TSD-391 by calling Taxpayer Services at (304) 558-3333 or toll free at 1-800-982-8297. Also, the Publication can be found online at www.tax.wv.gov.

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 entity filing this return.

Electronic Filed Returns – If you are claiming a withholding credit you must submit Form 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 PTE-100. 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 PTE-100 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 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 non resident 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 14.

NONRESIDENT SHAREHOLDER/PARTNER WITHHOLDING TAX

S Corporations and Partnerships are required to withhold West Virginia Income Tax for each non resident shareholder/partner that has not provided the S Corporation or Partnership a WV Non Resident Income Tax Agreement, Form NRW-4. The amount to be withheld is six and one-half percent (.065) of the non resident shareholder's/partner's share of the Federal Taxable Income or portion thereof that is derived from or attributable to West Virginia sources, whether such amount is distributed or is deemed to have been distributed for Federal Income Tax purposes. The entire tax withheld is required to be remitted with the WV Income Tax Return for S Corporation and Partnership.

INFORMATION STATEMENT OF TAX WITHHELD

Every S Corporation or Partnership required to deduct and withhold tax on non resident shareholders/partners must provide a WVK-1 or WV/NRW-2 to each non resident shareholder/partner on or before the date it files its West Virginia S Corporation/Partnership Tax Return. The information statement shall show the amount of WV income subject to withholding and the amount of WV Income Tax withheld by the S Corporation or Partnership on behalf of the shareholder/partner.

The S Corporation or Partnership is required to submit all income and withholding information as it relates to the individual shareholders/partners of the S Corporation or Partnership on Schedule SP, Summary of K-1 Shareholders/Partners Ownership and Computation of Withholding Tax, when filing their annual PTE-100.

SATISFYING NONRESIDENT PERSONAL INCOME TAX REPORTING REQUIREMENTS

IT-140 WEST VIRGINIA PERSONAL INCOME TAX RETURN

The individual non resident shareholder/partner must enclose the withholding documents supplied by the S Corporation or Partnership, WVK-1 or WV/NRW-2, when filing the IT-140 West Virginia Personal Income Tax Return on paper. If filing electronically, this information will be entered in the tax software program and it will not be necessary to submit any additional paper forms.

IT-140NRC NONRESIDENT COMPOSITE TAX RETURN

If the only West Virginia source income for the shareholders/ partners is derived from the S Corporation or Partnership, the shareholders/partners may elect to satisfy the non resident income tax reporting requirements using the IT-140NRC Non Resident Composite Tax Return in lieu of the IT-140 West Virginia Personal Income Tax Return. This permits the group to file as a single entity with the only signature requirements being of a partner in the case of a Partnership or a corporate officer in the case of a S Corporation.

The S Corporation or Partnership will file the IT-140NRC and is responsible for collecting and remitting all withholding tax due. A copy of Schedule SP as submitted with the PTE-100 filed by the S Corporation or Partnership indicating which shareholders/ partners have elected to be part of the composite return must be submitted with the IT-140NRC return. A processing fee of \$50.00 is also required to be remitted at the time of filing.

S CORPORATION/PARTNERSHIP INCOME (LOSS)

Form PTE-100, Schedule A is used to report all income (loss) from all activity of a S Corporation or Partnership, but only to the extent that it is taxable and allocable to the shareholders/partners. If the S Corporation or Partnership has income (loss) from activity in more than one state, Form PTE-100APT, Schedule B must also be completed.

If an S Corporation or Partnership has income (loss) from activity in more than one state, and they can separately identify and account for items of income and deductions as being directly allocable to WV, they may separately account for the WV business activity on PTE-100, Schedule A, lines 1 through 6. Supporting Federal documents must be attached to the PTE-100. If direct allocation is used add PTE-100, Schedule A, lines 9 and 12, and enter the total on line 13. Generally, income derived from the ownership of real or tangible personal property in West Virginia lends itself to direct allocation, whereas income from a business carried on within and without the State would preferably be allocated by apportionment. Unless the books and records of the S Corporation or Partnership clearly reflect their West Virginia portion, the allocation must be made by the apportionment formula provided in form PTE-100APT, Schedule B.

If you have determined your WV Income entirely by direct allocation, you are not eligible to apportion.

SHAREHOLDER/PARTNER INFORMATION

Form PTE-100, lines 5 through 10, and the Schedule SP are used to identify all shareholders/partners and to account for each shareholder/partner's share of the S Corporation/Partnership's income. They are also used to calculate the amount of withholding that is required on the non resident shareholder/partner's share of the S Corporation's/Partnership's income. All individual shareholders/partners are subject to West Virginia personal income tax under the provisions of WV Code Chapter 11, Article 21. The S Corporation/Partnership is required to withhold income tax on the non resident shareholder's/partner's share of the S Corporations/Partnership's West Virginia source income under the provisions of Chapter 11, Article 21, Section 71a of the West Virginia Tax Code.

TAXABLE YEAR/METHOD OF ACCOUNTING

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

FEDERAL RETURN INFORMATION

A signed, true copy of the first five pages of Federal Form 1120S or 1065, and any supporting documents must be attached to the PTE-100 return when filed.

INTEREST

You must pay the entire tax due on or before the due date of the tax return (determined without regard for an extension of time to file). If you do not pay the entire tax due 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 at 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:

07/01/02/-/12/31/16	9.5	%	01/01/20 – 12/31/20	9.25	%
01/01/17 – 12/31/17	8	%	01/01/21 – 12/31/21	7.75	%
01/01/18 – 12/31/18	8.75	%	01/01/22 – 12/31/22		%
01/01/19 – 12/31/19	9.25	%			

Contact the West Virginia State Tax Department Taxpayer Services Division for the interest rate in effect for other periods. The telephone number is (304) 558-3333 or toll free within West Virginia 1-800-982-8297.

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 of the return 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).

COMPLETION AND SIGNATURE

All appropriate sections of the return must be completed. All required supporting documents must be attached. An incomplete return will not be accepted as timely filed. The returns must be signed by an authorized officer or partner. 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 S Corporation or Partnership 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 90 days of the final determination by filing an RAR Amended Return and attaching a copy of the revenue agent's report detailing such adjustments.

PASS-THROUGH AMENDED RETURNS

An S Corporation or Partnership that filed an amended return with the Internal Revenue Service **must** file an amended return with the West Virginia State Tax Department within **90 days** of filing the amended federal return.

- File Form PTE-100, completing all appropriate lines and checking the **Amended** box under "RETURN TYPE" on page 1. Because West Virginia now uses barcodes on tax forms it is important to use the appropriate forms for the tax year being amended. **Example:** You are amending a tax return for the period ending 12-31-2020; be sure to use the 2020 PTE-100 forms.
- NOTE: Tax forms from different years may have different line numbers; read the line instructions carefully.
- Any amount paid with the original return should be entered on the estimated and extension payments line of the return on page 2.
- If you received a refund or had an amount credited on the original return, enter that amount on the Overpayment previously refunded or credited (amended return only) line of the return on page 2.
- Attach all schedules previously submitted and make any appropriate amended changes.

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 Income Tax Return for S Corporations and Partnerships, if you depart from or modify past procedures for classifying business income and nonbusiness income, for valuing property or including or excluding property in the property factor, for treating compensation paid in the payroll factor, or for including or excluding gross receipts in the sales factor, you must disclose by separate attached schedule the nature and extent of the variance or modification.

If you make sales of tangible personal property which are shipped into a state in which you are 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 investigations, 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 returns.

SCHEDULE SP

SUMMARY OF K-1 SHAREHOLDERS/PARTNERS OWNERSHIP AND COMPUTATION OF WITHHOLDING TAX THIS SCHEDULE MUST BE COMPLETED AND SUBMITTED WITH ALL S CORPORATION AND PARTNERSHIP RETURNS.

If an entity has more than 12 shareholders/partners, the taxpayer should submit their PTE-100 return electronically.

COLUMN A

Enter the name of each shareholder/partner that the S Corporation or Partnership had during its taxable year.

If an entity has more than 12 shareholders/partners, the taxpayer must submit their PTE-100 return electronically.

If a single Shareholder or Partner has 100% ownership, mark the checkbox provided and provide the information of the single entity

COLUMN B

Enter either the social security number or federal employer's identification number of each shareholder/partner listed in Column A.

COLUMN C

Check only one Box:

- **Box 1** – If the shareholder/partner is a resident of West Virginia, check the box in this column.
- **Box 2** – If the shareholder/partner is a non resident of West Virginia and has elected to be a member of the non resident composite group, check the box in this column. These are the non resident shareholders/partners who will be included in the Non Resident Composite Tax Return filing.
- **Box 3** – If the shareholder/partner is a non resident of West Virginia and has elected **not** to be a member of the composite group and has not signed Form NRW-4, check the box in this column. These non resident shareholders/partners will file a West Virginia Income Tax Return as required.
- **Box 4** – If the S Corporation/Partnership has received Form NRW-4 from the non resident shareholder/partner or if the shareholder/partner is tax exempt, check the box in this column. Attach any NRW-4 agreement signed in this tax period to your return when filed. If Form NRW-4 was filed and submitted in a previous period, and has not been revoked, it is not necessary to file additional copies with your return in subsequent years. Please make available upon request a list of tax exempt entities on Schedule SP.

COLUMN D

Enter the income distribution percentage of each shareholder/partner carried out to the sixth decimal place.

COLUMN E

Multiply the income distribution percentage of each shareholder/partner in Column D by the amount shown in the Total West Virginia Income box at the bottom of the page. The amount in Column E is the WV Distributive Income of each shareholder/partner. A state of explanation must be submitted if the West Virginia Distributive Income of the shareholder/partner is not equal to their ownership percentage times the entity's West Virginia income.

COLUMN F

If Box 2 in Column C (Non Resident Composite) was checked - multiply the dollar amount in Column E by the tax rate of .065 and enter the result in Column F.

COLUMN G

If Box 3 in Column C (Non Resident) was checked - multiply the dollar amount in Column E by the tax rate of .065 and enter the result in Column G.

SCHEDULE SP GRAND TOTAL LINE

Total the amount in Column F and Column G.

TOTAL WV INCOME

The amount in this box must match the amount shown on Schedule A, line 13.

Special Note: S Corporations/Partnerships with non resident shareholders/partners must review the following forms:

NRW-2 – Statement of West Virginia Income Tax Withheld for Non Resident Individual or Organization

WVK-1 – Schedule of WV Partner/Shareholder/Member/Beneficiary Income, Loss, Modification, Credits, and Withholding

These forms contain important information about the non resident withholding requirements. You may find these forms online at www.tax.wv.gov.

EXTENSION PAYMENTS

Extension requests and tentative payments of non resident withholding tax, for both shareholders/partners who are included on the Non Resident Composite Return and for those who will be filing individual returns, must be submitted by the S Corporation/ Partnership on Form PTE-100EXT.

PTE-100EXT – Extension of Time to File Information Returns

INSTRUCTIONS

On page 1, enter the beginning and ending tax year dates covered by this return. Clearly print or type your name and address. If filing under extension, enter extended due date.

CENTRALIZED AUDIT REGIME - If you elected out of the Centralized Audit Regime under IRC Section 6221(b), check the “yes” box. If not, check the “no” box and complete the Representative information in the designated area on page 1.

In the “**CHECK ALL APPLICABLE BOXES**” section, check all boxes that apply to the return being filed.

Part 1 – ENTITY TYPE – check either S Corporation or Partnership

Part 2 – RETURN TYPE – check all that apply (more than one box may be selected).

Part 3 – IF FINAL/SHORT PERIOD/INITIAL RETURN – check all that apply.

Part 4 – ACTIVITY DESCRIPTION – check applicable box. **Do not check Wholly WV if you are not a WV based entity.**

Part 5 – REPORTABLE ENTITIES – check all that apply. Note: if any box is checked in this section, information about the reportable entity must be entered on Schedule D

Attach a copy of the **first five pages** of your **signed** federal return (Form 1120S or 1065), and schedule M-3 if applicable.

Please attach any additional information and/or statements as required.

All S Corporations/Partnerships must complete PTE-100 Schedule SP before completing lines 6 through 11.

Line 6, Column A – Income – Enter the amount of WV Distributive Income of WV residents from Schedule SP. This amount will be equal to the sum of the amount in Column E for each shareholder/partner who had Column C, Box 1 marked.

Line 7, Column A – Income – Enter the amount of WV Distributive Income of non residents filing on an IT-140NRC Non Resident Composite Tax Return from Schedule SP. This amount will be equal to the sum of the amount in Column E for each shareholder/partner who had Column C, Box 2 marked.

Line 7, Column B-Withholding – Enter the amount of withholding tax due for non residents filing on an IT-140NRC Non Resident Composite Tax Return from Schedule SP. This amount will be equal to the sum of the amount in Column F for each shareholder/partner who had Column C, Box 2 marked.

Line 8, Column A-Income – Enter the amount of WV Distributive Income of non residents filing on an IT-140 WV Personal Income Tax Return from Schedule SP. This amount will be equal to the sum of the amount in Column E for each shareholder/partner who had Column C, Box 3 marked.

Line 8, Column B-Withholding – Enter the amount of withholding tax due for non residents filing on an IT-140 WV Personal Income Return from Schedule SP. This amount will be equal to the sum of the amount in Column G for each shareholder/partner who had Column C, Box 3 marked.

Line 9, Column A-Income – Enter the amount of WV Distributive Income of non residents filing with a signed NRW-4, or that are tax exempt, from Schedule SP. This amount will be equal to the sum of the amount in Column E for each shareholder/partner who had Column C, Box 4 marked.

Line 10, Column A-Income – Enter the sum of Column A, lines 6, 7, 8, and 9. The total WV income amount must match the amount shown on Schedule SP (Grand Total of Column E) and the amount shown on Schedule A, line 13.

Line 11, Column B-Withholding – Enter the sum of Column B, lines 7 and 8. The amount of withholding tax due must match the amount shown on Schedule SP (Grand Total of Column F plus Grand Total of Column G).

- Line 12** – Enter the credit carried forward from the prior tax year here.
- Line 13** – Enter estimated and extension payments here. Also, if this is an amended return enter any amount paid with the original return here.
- Line 14** – Enter the amount of withholding credit from any WVK-1, NRW-2, or 1099 submitted with your return. Check the box if any withholdings are from NRSR (non resident sale of real estate).
- Line 15** – Add lines 12 through 14. Must match the total payments shown on Schedule C.
- Line 16** – Overpayment previously refunded or credited (amended return only).
- Line 17** – Total payments. Subtract line 16 from line 15
- Line 18** – Tax Due – If line 17 is smaller than line 11, enter the amount owed. If line 17 is larger than line 11 skip to line 22.
- Line 19** – Calculate interest due. See the general information on page 7 of this booklet for additional information regarding interest.
- Line 20** – Calculate additions to tax due. See the general information on page 8 of this booklet for additional information regarding additions to tax.
- Line 21** – Remit this amount. If paying by check, make the check payable to the West Virginia State Tax Department. For other payment options see www.tax.wv.gov.
- Line 22** – Amount of overpayment. An overpayment may be credited to next year's tax or refunded, either in whole or part.
- Line 23** – The amount of overpayment to be credited to next year's tax.
- Line 24** – The amount of overpayment to be refunded.

PTE-100 SCHEDULE A

Please note that if the S Corporation or Partnership has income from sources both within and without West Virginia, they must complete the PTE-100APT Schedules to determine how much of their income is from a West Virginia source.

Line 1 – An S Corporation will enter the ordinary income (loss) as shown on Federal Form 1120S. A Partnership will enter the ordinary income (loss) as shown on Federal Form 1065.

Line 2 – Enter the amount of all other gross income (loss) of the S Corporation as shown on Federal Form 1120S, Schedule K, that is not included on line 1. Enter the amount of all other gross income (loss) of the Partnership as shown on Federal Form 1065, Schedule K, that is not included on line 1.

Line 3 – S Corporations will enter the amount of any expenses or deductions as shown on Federal Form 1120S, Schedule K, that are not included on line 1. Partnerships will enter the amount of any expenses or deductions as shown on Federal Form 1065, Schedule K, that are not included on line 1.

Line 5 – Modifications increasing Federal income: S Corporations and Partnerships enter the amount from PTE-100, Schedule B, line 6.

Line 6 – Modifications decreasing Federal income: S Corporations and Partnerships enter the amount from PTE-100, Schedule B, line 12.

Line 7 – Line 4 plus line 5 minus line 6.

Line 8 – See the instructions for Form PTE-100APT, Schedules A1 and A2 for proper classification of nonbusiness income. For entities with nonbusiness income from sources within and without West Virginia, enter the amount from PTE-100APT, Schedule A1, line 9 here.

Line 9 - Income subject to Apportionment Line 7 minus Line 8

****IMPORTANT NOTE REGARDING LINE 10****

**Form PTE-100APT SCHEDULE B must be completed and attached if you are not a wholly WV company.
Failure to attach completed form will result in 100% apportionment to West Virginia.**

Line 10 – If income is derived from sources within and without West Virginia, enter the apportionment factor from Form PTE-100APT, Schedule B, part 1 or part 2 or part 3 as applicable.

Line 12 – For entities with nonbusiness income from sources within West Virginia, enter the amount from PTE-100APT, Schedule A2, line 9 here.

Line 13 – Amount of West Virginia income.

INCREASING ADJUSTMENTS

- Line 1** – Enter the amount of US Government obligation interest or dividends not exempt from state tax, less related expenses not deducted on your federal return. Attach supporting documentation.
- Line 2** – Interest or dividends on state and local bonds other than from WV sources.
- Line 3** – Interest on money borrowed to purchase bonds earning income exempt from WV tax.
- Line 4** – Qualifying 402(e) lump-sum income not included in federal adjusted gross income but subject to state tax.
- Line 5** – Other increasing adjustments. Enter a brief description of any adjustment in the space provided. **Submit a statement for any adjustment entered.**

DECREASING ADJUSTMENTS

- Line 7** – Interest or dividends on US or WV obligations included in Federal AGI but exempt from state tax.
- Line 8** – Refunds of state and local income taxes received and reported as income to the IRS.
- Line 9** – Qualified Opportunity Zone business income (Must include copy of Federal IRS Form 8996)
- Line 10** – Other decreasing adjustments. Enter a brief description of any adjustment in the space provided. **Submit a statement for any adjustment entered.**
- Line 11** – Allowance for governmental obligations/obligations secured by residential property (from Schedule B-1).

SCHEDULE B-1

- Line 1** – Enter the amount of federal obligations and securities.
- Line 2** – Enter the amount of obligations of West Virginia and the political subdivision of West Virginia.
- Line 3** – Enter investment or loans primarily secured by mortgages or deeds of trust on residential property located in West Virginia.
- Line 4** – Enter loans primarily secured by a lien or security agreement on a mobile home or doublewide located in West Virginia.
- Line 5** – Total - add lines 1 through 4
- Line 6** – Enter total assets as shown on Schedule L Federal Form 1120S or Federal Form 1065.
- Line 7** – Enter the amount of line 5 divided by line 6 and round to six decimal places.
- Line 8** – Enter the sum of Schedule A line 4 and Schedule B line 6 and subtract the sum of Schedule B lines 7 through 10.
- Line 9** – Enter the amount of line 7 multiplied by line 8.

PTE-100 SCHEDULE C

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 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. This amount must match the amount on PTE-100, line 15.

PTE-100 SCHEDULE D

If any boxes are checked in the REPORTABLE ENTITIES Section on page 1, then the names and FEINs of Reportable Entities must be entered on this schedule.

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

SUMMARY OF TAX CREDITS

The PTE-100TC, Summary of Tax Credits, is a form used by Pass Through Entities to summarize the tax credits that are available to pass on to their shareholders/partners so these credits can be used against their net income tax liability from this entity. In addition to completing the PTE-100TC, each tax credit has a schedule or form that is used to determine the amount of credit that can be distributed. 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 PTE-100TC and the appropriate credit calculation schedule(s) or form(s) must be attached to your return. Your shareholders/partners will need to submit the required documentation to claim their percentage of the available credits.

SCHEDULES A1 & A2: ALLOCATION OF NONBUSINESS INCOME FOR MULTISTATE BUSINESSES

If your business activities take place both within and without West Virginia and you are 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 entity's trade or business.

Nonbusiness income includes all income that is not classified as business income, less all expenses attributable to the production of this income. Nonbusiness income is allocated to West Virginia if (1) the entity'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 if the property is located in West Virginia. Nonbusiness income from tangible personal property is allocated to West Virginia if the property is utilized in West Virginia or the property was located in West Virginia at the time of its sale. Nonbusiness income from intangible personal property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia or, in the case of patents and copyrights, if they are used in West Virginia.

For a detailed discussion of allocation of 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 www.tax.wv.gov.

Determine nonbusiness income allocated to West Virginia and outside West Virginia by completing Form PTE-100APT, Schedules A1 and A2. Only those types of nonbusiness income listed on Form PTE-100APT, Schedules A1 and A2 can be allocated. Any other type of income that the entity classifies as nonbusiness must be apportioned.

Schedule A1, Line 9 - Enter the amount from Form PTE-100APT Schedule A1, column 3, line 9, on Form PTE-100, Schedule A, line 8.

Schedule A2, Line 9 - Enter the amount from Form PTE-100APT Schedule A2, column 3, line 9 on Form PTE-100, Schedule A, line 12.

SCHEDULE B: APPORTIONMENT FORMULA

If your business activities take place both within and without West Virginia and you are also taxable in another state, all net income, after deducting those items of nonbusiness income allocated on Form PTE-100APT Schedules A1 and A2, must be apportioned to West Virginia by using the appropriate apportionment formula. **Completion of the PTE-100APT 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 motor carrier, follow the apportionment instructions for Form PTE-100APT, Schedule B, Part 2. If you are filing for a financial organization, follow the apportionment instructions for Form PTE-100APT, Schedule B, Part 3.

Multistate entities will use the standard apportionment formula of payroll, property, and sales, with the sales factor double weighted, and will complete Form PTE-100APT, Schedule B, Parts 1, 2 and 3 as applicable.

MULTISTATE S CORPORATIONS/PARTNERSHIPS – FOUR FACTOR APPORTIONMENT FORMULA

PART 1 – REGULAR ENTITIES

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

SALES FACTOR.

The term “sales” means all gross receipts of the taxpayer that are business income. Thus, 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 in Form PTE-100APT, 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 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 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 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.

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 PTE-100, Schedule A, line 10.

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 a distance of 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 PTE-100, Schedule A, line 10.

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.

PETITIONING FOR AN ALTERNATIVE METHOD OF APPORTIONMENT

To use an alternate method of allocation and apportionment, you must petition the Tax Commissioner to use some other basis to determine your taxable net income. Your petition for an alternate method must be filed by no later than the **normal due date of your return**.

You must receive 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; description of the kind(s) of business in which you are engaged; detailed statement of how sales are made in West Virginia; 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:

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

INSTRUCTIONS**GENERAL**

The partners, members, or shareholders of any Pass Through Entity are liable for tax on their share of the income, whether or not distributed, and must include their share on the individual income tax return.

West Virginia Schedule K-1 provides a reporting mechanism for a pass through entity to report the distributive share of gains, losses, modifications and credits of owners (i.e. partners, shareholders, members, etc.)

Additionally, it is the reporting mechanism for any withholding required to be performed on non resident owners.

This form should be used for any owner that is not a "C" Corporation. The Schedule K-1C should be used for any owner that is a "C" Corporation.

"FROM SP" CHECKED - INFORMATION ONLY K-1

When the entity listed in "Organization Name" submits the K-1 for information purposes, the entity must check the "From SP" box and include the "PARTNER/SHAREHOLDER/MEMBER/BENEFICIARY" on Schedule SP.

WITHHOLDING

This section includes information concerning the entity reporting the information (including the name, address, identification number and type), information concerning the owner to which this information statement relates (including the name, address, and identification number) and a withholding statement.

Line 1 – This section should include the distributive share of income for a non resident owner.

Line 2 – This section should include the amount withheld for the non resident owner.

Percentage of ownership - Enter the percentage of ownership as a decimal. For example, 100% ownership should be written as 1.000000.

DISTRIBUTIVE SHARE

This section includes the owner's distributive share of items of gain, loss, modification and credit applicable to the owner.

Line 1 – This section should include the distributive share of income for a resident owner regardless of source.

Lines 2 through 10: These lines reflect the distributive share of modifications available to the owner reported on the entity's Schedule B.

Lines 11 through 25: These lines reflect the distributive share of tax credits available to the owner reported on the entities Schedule PTE-100TC.

Report by Owners – The WV Schedule K-1 should be provided to all owners that are not "C" Corporations. All such owners must file a WV tax return that includes all WV Schedule K-1's provided to the owner. Include your share of the partnership's income or (loss), credits, deductions, etc., as shown by your Schedule K-1 on your West Virginia income tax return for the year in which the tax year of the entity ends.

SPECIAL RULE FOR PASS THROUGH ENTITIES:

Pass through entity owners of pass through entities should allocate income received from a Pass Through Entity unless such entities are engaged in a unitary business. If a unitary relationship exists, a Pass Through Entity owner of a pass through entity may reapportion its WV income, including the appropriate factors of the subsidiary.

INSTRUCTIONS**GENERAL**

The partners, members, or shareholders of any pass through entity are liable for tax on their share of the income, whether or not distributed, and must include their share on their corporation income tax return.

West Virginia Schedule K-1C provides a reporting mechanism for a pass through entity to report the distributive share of gains, losses, modifications and credits of owners that are treated as “C” Corporations and are thereby subject to the WV income tax. The Schedule K-1 should be used for any owner that is not a “C” Corporation (including individuals, partnerships, LLC’s, and “S” Corporations).

“FROM SP” CHECKED - INFORMATION ONLY K-1C

When the entity listed in “Organization Name” submits the K-1C for information purposes, the entity must check the “From SP” box and include the “PARTNER/SHAREHOLDER/MEMBER/BENEFICIARY” on Schedule SP.

WITHHOLDING

This section includes information concerning the entity reporting the information (including the name, address, identification number and type), information concerning the owner to which this information statement relates (including the name, address, and identification number) and a withholding statement.

Line 1 – This section should include the distributive share of income for a non resident owner.

Line 2 – This section should include the amount withheld for the non resident owner.

Percentage of ownership - Enter the percentage of ownership as a decimal. For example, 100% ownership should be written as 1.000000.

DISTRIBUTIVE SHARE

This section includes the owner’s distributive share of items of gain, loss, modification and credit applicable to the owner.

Line 1 – This section should include the distributive share of income for an owner.

Lines 2 through 15: These lines reflect the distributive share of modifications available to the owner reported on the entity’s Schedule B. Report Line 15 on CIT-120 Schedule B, Line 23

Lines 16 through 33: These lines reflect the distributive share of tax credits available to the owner reported on the entity’s Schedule CIT-120TC.

Report by Owners – The WV Schedule K-1C should be filed with the corporation net income tax return of the corporate owner of a Pass Through entity. All income reported on the K-1C should be income applicable to WV.

INSTRUCTIONS

S-Corporations and Partnerships do not need to complete a WV NRW-2 if the required WV K-1 or WV K-1C has been completed.

WHO MUST FILE

Every partnership, S-corporation, estate or trust (“organization”) deriving income or gain from West Virginia sources must complete a WV/NRW-2, provided a WV K-1 or K-1C has not been completed, for each NONRESIDENT partner, shareholder, or beneficiary, (“Non Resident Distributee”).

GENERAL

The WV NRW-2 provides a reporting mechanism for a partnership, S-Corporation, estate or trust (“organization”) to report the distributive share of gains and losses of NONRESIDENT owners or distributees (i.e. partners, shareholders, members, beneficiary, etc. who’s commercial domicile is located outside West Virginia). The Non Resident Distributees are liable for tax on their share of the income, whether distributed or not, and must include their share on their income tax return. Form WV NRW-2 and remittance must accompany the organization's West Virginia income tax return when it is filed. This form may be copied or a facsimile made and distributed as follows:

- (1) one copy to be attached to the organization’s West Virginia tax return
- (2) one copy for the entity’s records
- (3) two copies must be furnished to each Non Resident Distributee from whom West Virginia income tax is withheld.

“FROM SP” CHECKED - INFORMATION ONLY NRW-2

When the entity listed in “Organization Name” submits the NRW-2 for information purposes, the entity must check the “From SP” box and include the “NON RESIDENT'S NAME” on Schedule SP. On copies furnished to each Non Resident Distributee the “From SP” box should not be checked.

WITHHOLDING

This page includes information concerning the entity reporting the information (including the name, address, identification number and type), information concerning the owner to which this information statement relates (including the name, address, and identification number) and a withholding statement.

TAXABLE YEARS

If the Non Resident Distributee’s taxable year is the same as the taxable year of the Organization, the Distributee is required to report the income and claim withholding on the annual West Virginia income tax return for that taxable year. If the taxable years are different, the Distributee reports the income and claims withholding tax credit on the annual West Virginia income tax return filed for the taxable year during which the Organization’s taxable year ended. A copy of this form must be attached to the annual return.