

State of Wisconsin
Department of Revenue

Pass-Through Entity-Level Tax: Partnership Partner Reporting Questions

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

Effective for taxable years beginning on or after January 1, 2019

1. How will making the election impact a partner's adjusted basis in the interest of an electing partnership?
2. Can partners use the Wisconsin manufacturing and agriculture credit from an electing partnership to offset their Wisconsin individual income tax liability for the same taxable year?
3. If a partnership makes the entity-level tax election, can an individual Wisconsin resident partner claim a credit for taxes paid to another state on the income from the electing partnership?
4. If a partnership makes the entity-level tax election, are the individual partners required to file a Wisconsin individual income tax return if they have no income reportable to Wisconsin?
5. Are partners of an electing partnership required to attach their Schedule 3K-1 to their Wisconsin individual income tax returns?
6. If a nonresident of Wisconsin is a partner of two partnerships and only one makes the entity-level tax election, can the nonresident partner participate in the Wisconsin composite return, Form 1CNP, of the non-electing partnership?
7. What items reported on a Schedule 3K-1 from an electing partnership can be claimed on a partner's income tax return?
8. What items reported on a Schedule 3K-1 from an electing partnership may not be reported on a partner's income tax return?
9. If the election is made, how should a partner filing a Wisconsin tax return remove the proportionate share of the electing partnership's income that is taxed at the entity level?
10. Can the removal of an electing partnership's income from the partner's individual income tax return create a Wisconsin net operating loss (NOL) if the partner does not have a federal NOL?
11. When an individual partner is determining household income for purposes of claiming the homestead credit, must the individual partner include income from a partnership making the

entity-level tax election?**1. How will making the election impact a partner's adjusted basis in the interest of an electing partnership?**

The adjusted basis of a partner's interest in an electing partnership is determined as if the election was not made as provided in sec. 71.21(6)(d)4., Wis. Stats.

2. Can partners use the Wisconsin manufacturing and agriculture credit from an electing partnership to offset their Wisconsin individual income tax liability for the same taxable year?

No, a partner may only use the manufacturing and agriculture credit to offset a partner's tax liability resulting from the partner's prorated share of the partnership's income as provided in sec. 71.07(5n)(c)3., Wis. Stats. Since a partner of an electing partnership does not have income and resulting tax from the partnership in the year of the election, the partner cannot use the credit to offset income tax liability from other sources of income. The partner may carry forward the credit for 15 years and use the credit to offset tax liability resulting from the partner's prorated share of taxable income from the partnership for a year in which the election is not made.

3. If a partnership makes the entity-level tax election, can an individual Wisconsin resident partner claim a credit for taxes paid to another state on the income from the electing partnership?

No, an individual resident partner may not claim a credit for taxes he or she paid to another state against Wisconsin income taxes paid by the entity.

4. If a partnership makes the entity-level tax election, are the individual partners required to file a Wisconsin individual income tax return if they have no income reportable to Wisconsin?

No, individual partners of an electing partnership that do not have any income reportable to Wisconsin are not required to file a Wisconsin individual tax return. However, partners must timely file a Wisconsin income tax return to claim credits or refunds.

5. Are partners of an electing partnership required to attach their Schedule 3K-1 to their Wisconsin individual income tax returns?

Yes, the instructions for Wisconsin Form 1 and Form 1NPR require individuals to attach a copy of the Schedule 3K-1, regardless of whether the election is made. **Note:** The processing of a partner's tax return may be delayed if the Schedule 3K-1 is not included with the return.

6. If a nonresident of Wisconsin is a partner of two partnerships and only one makes the entity-level tax election, can the nonresident partner participate in the Wisconsin composite return, Form 1CNP, of the non-electing partnership?

The partner may participate in the Wisconsin composite return if its only source of Wisconsin income is from the non-electing partnership, the partner is not filing a separate Wisconsin income tax return for the same taxable year, and otherwise qualifies to participate in the composite return as provided in the Form 1CNP instructions.

7. What items reported on a Schedule 3K-1 from an electing partnership can be claimed on a partner's income tax return?

A partner may claim credits passed through from the electing partnership reported on Schedule 3K-1 lines 15a through h.

Schedule 3K-1 Credit Exceptions

- Partners may not use the taxes paid by the electing partnership, including taxes paid on the partner's behalf on a composite return, to compute a credit for tax paid to another state. In addition, a resident partner may not claim credit for taxes they paid to another state on income taxed at the entity level in Wisconsin.
- Partners may not claim the manufacturing and agriculture credit passed through from an electing partnership in the year of the election. See common question #2 above.
- Nonresident partners may not claim Wisconsin withholding passed through from an electing partnership, if the partnership claimed a refund of the pass-through withholding or submitted a written request to apply the pass-through withholding against the tax liability at the entity level.

8. What items reported on a Schedule 3K-1 from an electing partnership may not be reported on a partner's income tax return?

All items reported on Schedule 3K-1 other than the items mentioned in common question #7 above.

9. If the election is made, how should a partner filing a Wisconsin tax return remove the proportionate share of the electing partnership's income that is taxed at the entity level?

The partner must report their federal adjusted gross income, using the Internal Revenue Code in effect under Wisconsin law, on the partner's Wisconsin income tax return. The partner may add or subtract from federal adjusted gross income the amount of loss or income reported by the electing partnership that is included in the federal adjusted gross income.

Example:

Facts

- Partner A was a Wisconsin resident for the entire year in 2019
- Partner A owns 50 percent of Partnership
- Partner A's only sources of income are \$15,000 of wages and \$100,000 of federal net ordinary business income from the partnership
- Partnership makes an election under sec. 71.21(6)(a), Wis. Stats., to pay tax at the entity level for 2019
- Partnership's \$100,000 of federal net ordinary business income for 2019 has the following Wisconsin differences:
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 - \$5,000 of Wisconsin manufacturing credit computed in 2018, and
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 - \$10,000 of additional Wisconsin depreciation expense.

How partner A must report income and expense items from the electing partnership's Schedule 3K-1

- Partner A must:
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 - File Form 1, *Income Tax Return*, because Partner A was a full-year Wisconsin resident,
 -
 - Use Schedule I, *Adjustments to Convert Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*, to reduce Form 1, Line 1, Federal adjusted gross income, by \$10,000 to reflect the difference in depreciation between federal and Wisconsin,
 -
 - Report a \$5,000 addition using code 17 on Form 1, Line 4, other additions, to report the addback of the 2018 Wisconsin manufacturing credit, and
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- Report a \$95,000 subtraction using code 52 on Form 1, Line 11, other subtractions, to report the reduction of Wisconsin income taxed at the entity level of the partnership.

Computation of the \$95,000 subtraction for Wisconsin income reported by the partnership

Description	Amount
Partner A's federal adjusted gross income (\$15,000 wages + \$100,000 federal net income from the partnership)	\$115,000
Less: (\$15,000) from wages	(\$15,000)
Federal adjusted gross income from the partnership	\$100,000
Less (\$10,000) Schedule I depreciation difference	(\$10,000)
Add: \$5,000 Wisconsin manufacturing credit addback	\$5,000
Subtraction for Wisconsin income reported by the partnership	\$95,000

10. Can the removal of an electing partnership's income from the partner's individual income tax return create a Wisconsin net operating loss (NOL) if the partner does not have a federal NOL?

No, pursuant to secs. 71.01(3) and (14), Wis. Stats., an individual must have a federal NOL in order to have a Wisconsin NOL. The only exceptions are:

- If a taxpayer is a part-year or nonresident of Wisconsin and a portion of the federal adjusted gross income does not have situs in Wisconsin, or
- If a tax-option (S) corporation shareholder's allowable deduction for his or her pro rata share of the corporation's losses results in a loss on the shareholder's Wisconsin income tax return, the loss generally will be treated in the same manner as other Wisconsin NOLs. However, unlike other Wisconsin NOLs, Wisconsin tax-option (S) corporation losses may be claimed even if the shareholder has no federal NOL.

Note: Wisconsin Publication 120, Net Operating Losses for Individuals, Estates, and Trusts, provides more information regarding NOL.

11. When an individual partner is determining household income for purposes of claiming the homestead credit, must the individual partner include income from a partnership making the entity-level tax election?

No, pursuant to secs. 71.21(6)(b) and 71.52(6), Wis. Stats., income from an electing partnership is not included in the individual partner's Wisconsin adjusted gross income or household income.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 23, 2020: Sections 71.03, 71.07, 71.21 and 71.28, Wis. Stats., and sec. Tax 2.08, Wis. Adm. Code.

Laws enacted and in effect after January 23, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 23, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

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