
2003

Nebraska Partnership Return of Income



Questions?

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Assistance

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(toll free in NE or IA)

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Included in this Booklet:

Form 1065N, Schedules I,
ELP, II, and III and
Business Classification
Codes.

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2003 Nebraska Partnership Return of Income

INSTRUCTIONS

A Nebraska Partnership Return of Income, Form 1065N, is NOT required when all the partners are Nebraska individual residents AND all the partnership income is from Nebraska. The partners report their share of the partnership income and any bonus depreciation or enhanced Section 179 expense deduction on their Nebraska income tax returns.

BONUS DEPRECIATION AND ENHANCED SECTION 179 EXPENSE DEDUCTION. Due to passage of LB 596 by the 2003 Nebraska Legislature, partnerships must report any federal bonus depreciation and enhanced Section 179 expense deduction to their partners. The partners will have to add back 85 percent of their share of such depreciation and 100 percent of their share of the enhanced Section 179 expense deduction on their individual income tax returns. Any amount added back may be reclaimed in a later year. Twenty percent of the 2003 add-back may be subtracted in the first taxable year beginning on or after January 1, 2006, and 20 percent in each of the next four taxable years.

Reminder: For tax years 2001 and 2002 partners must add back 85 percent of their share of the partnership's bonus depreciation claimed in those years. Twenty percent of the tax year 2001 and 2002 bonus depreciation added back may be subtracted in the first taxable year beginning on or after January 1, 2005, and 20 percent in each of the next four taxable years.

The passage of LB 608 changed several provisions of the Employment Expansion and Investment Incentive Act (LB270). Beginning January 1, 2004, entities wishing to receive benefits under this Act must submit an application and a \$500 fee with this department. Applications will be reviewed in the order they are received. Qualifying projects will be approved provided the total expected credits for all approved projects under this Act are less than \$2,500,000. For additional information visit our Web site at www.revenue.state.ne.us and click on Tax Incentives.

NOTE: The department has changed its method of distributing Partnership Income Tax booklets. **If you wish to receive a printed booklet from the department next year, you must check the box at the top of Form 1065N.** Otherwise, you may obtain a copy from your accountant, at any of our offices throughout Nebraska, or you may download the forms and instructions from our Web site: www.revenue.state.ne.us.

PARTNERSHIP DEFINED. The term "partnership" includes a limited partnership, electing large partnership, limited liability company, syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the Internal Revenue Code, a corporation, trust, estate, or sole proprietorship. **For the remainder of these instructions, the term "partner" means a partner of a partnership or a member of a limited liability company.**

WHO MUST FILE. The Nebraska Partnership Return of Income, Form 1065N, must be completed by every partnership, unless all partners are residents of Nebraska and all income is derived from Nebraska sources. Form 1065N must also be filed by a limited liability company which has elected to be treated as a partnership for federal income tax purposes and which derives income from Nebraska sources.

A limited partnership conducting business entirely outside this state which has Nebraska resident partners, none of whom are general partners charged with the management responsibility of the partnership, is not required to file Form 1065N.

Only one return is required to be filed for each partnership. If copies of the form are furnished to each partner, they should be clearly identified as "Duplicate" or "Copy."

This department does not provide for the filing of "composite" income tax returns submitted on behalf of the nonresident individual partners. Partnerships with nonresident partners are required to either obtain a Nebraska Nonresident Income Tax Agreement, Form 12N, from the nonresident individual or to withhold and remit Nebraska income tax on the nonresident's share of Nebraska income.

WHEN AND WHERE TO FILE. This return must be filed on or before the 15th day of the fourth month following the close of the taxable year. The return must be filed with the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818.

PERIOD TO BE COVERED BY RETURN. This return must be filed for the calendar year 2003, or a fiscal year beginning in 2003. A partnership filing for a fiscal year or filing a short-period return must enter the beginning and ending dates of the taxable year in the space provided at the top of the return. The taxable year for Nebraska purposes must be the same as the year used for federal income tax purposes. If the partnership changes its federal taxable year, it must change its Nebraska taxable year accordingly. A copy of the approval from the Internal Revenue Service to change accounting periods must accompany the first return that reflects the change. Check the box "Final Return" at the top of the return if the partnership ceased to exist during the 2003 tax year.

EXTENSION OF TIME. It is not necessary to request a Nebraska extension of time when the partnership has been granted an extension of time to file the federal return. The Nebraska Department of Revenue will accept an approved federal extension of time, provided a copy of the approval is attached to the Nebraska return when filed.

An extension of time to file may be obtained from the Nebraska Department of Revenue even though you do not request an extension of time in which to file the federal return. The extension must be requested on Nebraska Application for Extension of Time to File, Form 2688N, on or before the due date of the return.

NONRESIDENT PARTNER WITHHOLDING. A nonresident individual partner should forward a completed

Nebraska Nonresident Income Tax Agreement, Form 12N, to the partnership before the original filing of the Nebraska Partnership Return of Income, Form 1065N. The completed Form 12N is an agreement by the nonresident individual partner to file a Nebraska individual income tax return. When the Form 12N is filed by the partner and attached to the Form 1065N, the partnership is not required to withhold Nebraska income tax from the nonresident individual partner. Corporations and other entities that are partners are not subject to withholding and do not file Forms 12N.

The partnership is required to withhold Nebraska income tax from each nonresident **individual** partner for whom a completed Form 12N is not attached. The amount to be withheld is 6.84 percent of the nonresident partner's share of bonus depreciation and enhanced Section 179 expense deduction add-back, and income which was derived from or attributed to sources within Nebraska. The partnership must report the amount withheld from each nonresident partner on the Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N. Attach the white copy of each Form 14N to the partnership return.

The nonresident individual partner may claim the amount withheld as a credit against his or her Nebraska income tax liability by attaching a copy of the Form 14N to the Nebraska Individual Income Tax Return, Form 1040N.

Nonresident individual partners do not have to file a return if their only connection with the state is conduct of the business activities of the partnership, and the partnership has withheld tax from all the Nebraska income and bonus depreciation and enhanced Section 179 expense deduction add-back attributable to the nonresident's share of the organization's income. The full amount of the withholding is, at the taxpayer's option, retained in lieu of the filing of an individual income tax return. Any nonresident who so desires can still file a Form 1040N and claim a refund if one is due. Any nonresident who files Form 12N to avoid withholding must file Form 1040N.

PAYMENT OF TAX WITHHELD. The entire tax withheld from the nonresident partners is required to be paid on or before the original due date of the return. Make check or money order payable to the Nebraska Department of Revenue. Write the Nebraska identification number and tax year on the face of the remittance. An extension of time to file Form 1065N does not extend the date for payment of tax. Checks written to the Department of Revenue may be presented for payment electronically.

PENALTIES AND INTEREST. Penalties may be imposed for failure to file a complete return, failure to file a timely return, or failure to file an amended return when required. Any unpaid tax is subject to the statutory interest rate from the original due date to the date the tax is paid.

AMOUNTS INCLUDED IN THE RETURN OF THE PARTNER. Resident, nonresident, and corporate partners are subject to Nebraska income tax on their share of the partnership's bonus depreciation, enhanced Section 179 expense deduction, and income derived from or attributed to sources within Nebraska.

REPORT OF NEBRASKA SOURCE INCOME TO PARTNERS. A partnership must provide all partners with a schedule listing the amount and type of income, deductions, bonus depreciation, and enhanced Section 179 expense deduction, that are to be included in each partner's Nebraska tax return.

A Federal Schedule K-1 may be used for each partner, provided it is modified to include the partner's share of U.S. government interest, state and local obligations, bonus depreciation, and enhanced Section 179 expense deduction. The amounts reported on the K-1 must be calculated in the same manner as income is distributed.

For partnerships apportioning income, the amount of **Nebraska** income, bonus depreciation and enhanced Section 179 expense deduction must also be provided to each partner together with a copy of the Nebraska Schedule I, Form 1065N.

Each partnership will determine the Nebraska portion of income, bonus depreciation, and enhanced Section 179 expense deduction subject to tax by either apportionment formula or an approved alternative method. Corporate partners are to refer to Corporate Income Tax Regulation 24-056 for information on calculating their apportionment factors.

Any agreement that allocates the Nebraska portion of income or expenses to a particular partner is void for the purpose of determining the income tax due from the partners. When apportioning income, the amount of income or deductions reportable to the partners is the amount on each line of the Federal Schedule K-1 multiplied by the apportionment factor determined on Apportionment of Income, Nebraska Schedule I.

For partnerships using an alternative method to determine income attributable to Nebraska, the amount reportable to the partners will be determined in accordance with the method approved by the State Tax Commissioner.

Electing large partnerships will complete Schedule ELP in order to calculate income to be reported to nonresident or corporate partners.

ACCOUNTING METHODS. The method of accounting used for federal income tax purposes must be used for Nebraska income tax purposes. A taxpayer may not change the method of accounting used in reporting income in prior years unless the change is approved by the Internal Revenue Service. A copy of this approval must accompany the first return which reflects the change in the method of accounting.

ROUND TO WHOLE DOLLARS. Round any amount from 50 cents through 99 cents to the next higher dollar. Round any amount less than 50 cents to the next lower dollar. The amounts on the return and schedules must be shown in whole dollars.

FEDERAL RETURN. A copy of the actual federal return and supporting schedules as filed with the Internal Revenue Service must be attached to this return. Copies of the K-1's may be provided to the department on microfiche or other approved method.

CHANGES OR CORRECTIONS IN FEDERAL RETURN OR ANOTHER STATE'S RETURN. Any

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 Nebraska Department of Revenue. The report must be made within 90 days of the determination by filing a Nebraska Partnership Return of Income, Form 1065N, and by checking the box "Amended Return" at the top of the return. In addition, any partnership whose reported income or allowed tax credits in another state are changed or corrected by that state, or any other competent authority, in a way material to the tax liability owed to Nebraska, is required to report the change or correction within 90 days after it becomes final by filing a Form 1065N, marking the box "Amended Return" at the top of the return.

Any partnership which files an amended return with the Internal Revenue Service, or which filed an amended return with another state involving a change or correction material to its Nebraska tax liability, must file an amended return with the Nebraska Department of Revenue within 90 days of the filing of the amended federal or state return.

Any amended return must be mailed separately from the annual return of the partnership.

NONHIGHWAY USE MOTOR VEHICLE FUELS. A partnership which purchases nonhighway use motor vehicle fuels will distribute its qualified gallons to the partners. Computation of qualified gallons and distribution to the partners is done on the Nebraska Nonhighway Use Motor Vehicle Fuels Credit Computation, Form 4136N, which may be obtained from the Nebraska Department of Revenue, and most banks and savings and loan associations. Attach Form 4136N to the return.

A Nebraska Partnership Return of Income, Form 1065N, is **not** required when all the partners are Nebraska resident individuals, **and** all the partnership income is from Nebraska sources, even though the partnership has a Nonhighway Use Motor Vehicle Fuels Credit to distribute to its partners. The partners will report their share of the partnership income or nonhighway motor vehicle fuels credit by filing their own Nebraska income tax return and attaching a copy of the partnership's Form 4136N. For more information, contact Taxpayer's Assistance at 1-800-742-7474 in Nebraska and Iowa, or 1-402-471-5729.

NEBRASKA COMMUNITY DEVELOPMENT ASSISTANCE ACT CREDIT. This credit is allowable for contributions to approved projects of community betterment organizations recognized by the Nebraska Department of Economic Development. Attach the Nebraska Community Development Assistance Act Credit Computation, Form CDN, and a copy of Form 1099NTC to the Form 1065N and provide each partner a copy of Form 1099NTC. Each partner shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership income.

More detailed information on this credit can be obtained by contacting the Nebraska Department of Economic Development, Community and Rural Development Division at 1-402-471-4169 or 1-800-426-6505, extension 4169.

BEGINNING FARMER CREDIT, is the credit available to owners of agricultural assets which are rented to qualifying beginning farmers or livestock producers. Each partner eligible for the credit will receive a copy of the Statement of Nebraska Tax Credit, Form 1099 BFC, from the Nebraska Department of Agriculture. To claim their share of the credit, eligible partners must file Form 1099 BFC with their income tax return. **Form 1099 BFC is not filed with Form 1065N.** For detailed information on this credit, contact the Nebraska Department of Agriculture, P.O. Box 94947, Lincoln, NE 68509-4947, or call 1-402-471-6890 or 1-800-446-4071.

EMPLOYMENT AND INVESTMENT GROWTH CREDIT. Legislation has created allowable credits designed to encourage additional investment and employment in Nebraska.

More detailed information on these credits can be obtained by contacting the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818, or by calling 1-800-742-7474 in Nebraska and Iowa, or 1-402-471-5729.

SIGNATURES. This return must be signed by a partner. If a partner authorizes another person to sign the return, there must be a power of attorney on file with the Nebraska Department of Revenue.

Any person who is paid for preparing a partnership return must also sign the return as the preparer.

DEFINITIONS.

1. **Apportionment** means the process of determining the portion of income derived from sources within a state. The entire federal taxable income of a unitary business operating within and without Nebraska is presumed subject to apportionment.
2. **Bonus depreciation** means the special depreciation allowance for certain property pursuant to provisions of the Internal Revenue Code. See specific instructions for **BONUS DEPRECIATION ADD-BACK** on Nebraska Schedule II, line 7.
3. **Enhanced Section 179 expense deduction** means the expense in excess of \$25,000 allowed pursuant to provisions of the Internal Revenue Code. See specific instructions for **ENHANCED SECTION 179 EXPENSE DEDUCTION ADD-BACK** on Nebraska Schedule II, line 8.
4. **Sales** means the gross receipts of the taxpayer.
5. **State** means any state of the United States, District of Columbia, Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

SPECIFIC INSTRUCTIONS

BUSINESS CLASSIFICATION CODE. Enter the number from the inside back cover of this booklet that best describes your principal business activity. **Please review your code carefully.**

PARTNERSHIPS WITH ONLY NEBRASKA RESIDENT INDIVIDUAL PARTNERS. Partnerships which only have Nebraska income and Nebraska resident individual partners do not need to file a Nebraska partnership

return. Partnerships, except electing large partnerships and limited liability companies, must only complete lines 1 through 6 of Form 1065N and Nebraska Schedule II if their partners are all Nebraska resident individuals. Electing large partnerships which only have Nebraska resident individual partners must only complete lines 5 and 6 of Form 1065N and Nebraska Schedule ELP. Limited liability companies which only have Nebraska resident individual members only need to complete lines 1 through 6 and Nebraska Schedules I and II.

PARTNERSHIPS WITH NONRESIDENT PARTNERS.

A partnership with nonresident partners must complete lines 1 through 16, and Nonresident or Corporate Partner's Share of Nebraska Income and Deductions, Nebraska Schedule III. If any of the nonresident individual partners do not furnish a Form 12N to the partnership, the partnership must withhold income tax from each of those partners, attach a Form 14N to the Form 1065N, and remit the tax as computed on line 11 of Form 1065N to the Nebraska Department of Revenue.

If the income is derived from sources both within and without Nebraska, complete Nebraska Schedule I before completing lines 7 through 16 and Nebraska Schedule III.

LINE 1. Enter the ordinary income or loss as shown on the Federal Form 1065. Electing large partnerships will enter zero (0) on lines 1 through 4, and complete Nebraska Schedule ELP in order to complete line 5.

LINE 5. Electing large partnerships enter line 10 from Schedule ELP.

LINE 6. If all income is derived from sources within Nebraska, enter the amount from line 5, Form 1065N.

Partnerships including electing large partnerships deriving income from sources within and without Nebraska and having nonresident or corporate partners shall enter the amount from line 3, Nebraska Schedule I.

Limited liability companies deriving income from sources within and without Nebraska shall enter the amount from line 3, Nebraska Schedule I.

LINE 12. If there is recapture of Employment Expansion and Investment Incentive Act (LB 270) credits entered on line 36 of Form 3800N, also enter that amount on line 12 of Form 1065N.

LINES 7 THROUGH 16 relate to Nebraska Schedule III and pertain to the percent of ownership by nonresident partners who are individuals. Percent of ownership by other nonresident partners which are corporations or other entities are not included in the withholding tax calculation.

INSTRUCTIONS FOR NEBRASKA SCHEDULE I Apportionment of Income

Nebraska Schedule I must be completed by all partnerships that have federal bonus depreciation or enhanced Section 179 expense deduction or that derive income from sources both within and without Nebraska and have at least one nonresident or corporate partner. Limited liability companies must complete Nebraska Schedule I when income is derived from sources both within and without Nebraska without regard to the residence of its members. The factor on this schedule must be calculated to five decimal places and rounded to four.

Income and the bonus depreciation and enhanced Section 179 expense deduction add-back apportioned to Nebraska are determined by multiplying these items by the apportionment factor. Nebraska uses a single factor, sales only formula to apportion income.

A partnership using an alternative method of apportionment must attach a copy of the approval of the alternative method and a computation of the apportionment factor. Enter the factor on line 2, Nebraska Schedule I.

SALES FACTOR. The sales factor is a fraction. The numerator is the total sales of the partnership in Nebraska during the taxable year; and the denominator is the total sales of the partnership everywhere during the taxable year. Total sales include gross sales of real and tangible personal property less returns and allowances, and all other items of gross receipts. Gross receipts, if substantial in amount, realized from an incidental or occasional sale of a fixed asset used in connection with the partnership's regular trade or business are excluded from the sales factor if the inclusion of such receipts would not fairly reflect the extent of the partnership's business activity in Nebraska.

The following sales are included as Nebraska sales in the sales factor:

1. Sales of property which are delivered or shipped to a purchaser, other than the U.S. government, within Nebraska regardless of the f.o.b. point or other conditions of the sale; and
2. Sales to the U.S. government of property shipped from an office, store, warehouse, factory, or other place of storage in this state.

Sales of other than tangible personal property are in Nebraska if:

1. The income-producing activity is performed in Nebraska; or
2. The income-producing activity is performed both within and without Nebraska and a greater proportion of the income-producing activity is performed in Nebraska during the income year than in any other state, based on cost of performance. The application of this paragraph is limited to those transactions which will result in an equitable apportionment of the partnership's income, e.g., the servicing of industrial equipment. This paragraph does not apply to sales which constitute a principal source of income from the partnership's regular trade or business.

Sales or receipts not specifically assigned by the preceding paragraphs shall be assigned as follows:

1. Gross receipts from the sale, rental, or lease of real property are in Nebraska if the real property is located in Nebraska.
2. Gross receipts from the rental, lease, or licensing of tangible personal property are in Nebraska if the property is in Nebraska. If the property was both within and without Nebraska during the taxable year, then gross receipts attributable to the period, or the percentage of time, the property was used in Nebraska, are considered in Nebraska.

3. Gross receipts from the performance of services are in Nebraska if the services are performed in Nebraska. If such services are performed partly within and partly without Nebraska, a portion of the gross receipts from performance of the services shall be attributed to Nebraska based on the ratio which the direct costs incurred in Nebraska bear to the total direct costs of the services.
4. Gross receipts from interest or service charges arising from the sale of tangible personal property are attributable to Nebraska if the sale is attributed to Nebraska.

LINE 6, SALES TO THE U.S. GOVERNMENT. The U.S. government is the purchaser when it makes direct payment to the seller. A sale to the U.S. government of tangible personal property is in Nebraska if it is shipped from an office, store, warehouse, or other place of storage in Nebraska. For other sales made to the U.S. government, use the rules stated above for sales of other than tangible personal property.

LINE 15, NEBRASKA APPORTIONMENT FACTOR. To calculate the Nebraska apportionment factor, divide line 14, NEBRASKA column, by line 14, TOTAL column; calculate to five decimal places and round to four.

INSTRUCTIONS FOR NEBRASKA SCHEDULE ELP

Electing large partnerships complete Nebraska Schedule ELP to compute the amount to report on line 5, Form 1065N, Nebraska Adjusted Income. Use Parts I and II, and Schedule K of Federal Form 1065-B as the source for the income and deductions.

LINE 7. Enter all state and local bond interest which is exempt from federal tax and is not issued by Nebraska sources.

LINE 8. Enter income from obligations of the United States government exempt from state taxation. See line 11, Nebraska Schedule II instructions for more information.

INSTRUCTIONS FOR NEBRASKA SCHEDULE II

Adjustments to Ordinary Income

Complete Nebraska Schedule II to compute adjustments to federal ordinary income. Use Schedule K, Federal Form 1065, as the source for the amounts of income and deductions.

LINE 6. Enter all state and local bond interest which is exempt from federal tax and is not issued by Nebraska sources.

LINE 7. BONUS DEPRECIATION ADD-BACK. Multiply the total bonus depreciation claimed on the federal return by 85 percent (.85) and enter the result on line 7. This will allow the partnership to withhold and remit the additional tax due for all nonresident individual partners who do not provide a completed Form 12N to the partnership.

LINE 8, ENHANCED SECTION 179 EXPENSE DEDUCTION ADD-BACK. Subtract \$25,000 from the total Section 179 expense deduction claimed on the federal return and enter the result on line 8. This will allow the partnership to withhold and remit the additional tax due for

all nonresident individual partners who do not provide a completed Form 12N to the partnership.

LINE 9. Enter any other additions to income for the partnership that are includible in the partner's federal income but are not reflected in lines 1 through 8 above (attach schedule).

LINE 11. Enter income from obligations of the U.S. government exempt from state taxation. A listing of those U.S. government securities that are exempt may be obtained by reviewing Individual Income Tax Regulation 22-002. Interest income from repurchase agreements involving U.S. government obligations is **not** deductible as U.S. government interest.

LINE 20. Enter any other deductions to income for the partnership that are deductible in the partner's federal income but are not reflected in lines 11 through 19 above (attach schedule).

INSTRUCTIONS FOR NEBRASKA SCHEDULE III Nonresident or Corporate Partner's Share of Nebraska Income, Bonus Depreciation and Enhanced Section 179 Expense Deduction Add-Back, and Deductions

A Nebraska Schedule III must be completed when a partnership has federal bonus depreciation or enhanced Section 179 expense deduction or has income derived from or attributable to sources within Nebraska, and has nonresident or corporate partners. A nonresident partner may be a corporation which must file a corporate return if any partnership income is from Nebraska sources, but such corporation is not subject to Form 12N or Form 14N filings.

Enter the name, address, and social security number or Nebraska identification number of each nonresident or corporate partner. If additional space is needed, attach a schedule using the same format as Nebraska Schedule III.

The lower half of this schedule is completed for nonresident individual partners only.

COLUMN B. Determine the individual partner's share of income by adding any guaranteed payments received by the partner to the partner's share of other income. Divide this amount by the amount listed on line 5 of Form 1065N and express as a percent in column B.

COLUMN D. If a signed Nebraska Nonresident Income Tax Agreement, Form 12N, is attached, do not complete columns E and G.

COLUMN E. Enter the nonresident individual partner's distributive share of bonus depreciation and enhanced Section 179 expense deduction add-back and Nebraska income reported by the partnership. This amount is determined by multiplying column B by column C.

COLUMN G. Enter 6.84 percent of column E. This is the amount of Nebraska income tax to be withheld for each nonresident individual partner who did not complete Form 12N. Report the amount withheld from each nonresident individual partner on a Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N. **The total of column G must equal the amount entered on line 11, Form 1065N.**