



2008

Nebraska

Fiduciary Income

Tax Booklet

Included in this Booklet:

Form 1041N, and
Schedules I, II, and III.

Questions?

www.revenue.ne.gov

(800) 742-7474 (toll free in NE or IA) or (402) 471-5729

2008 Nebraska Fiduciary Income Tax

INSTRUCTIONS

WHAT'S NEW

BIODIESEL TAX CREDIT. Due to the passage of LB 343 (2007), estates and trusts may establish a credit for investing in a Nebraska biodiesel facility. The credit cannot be taken by the estate or trust, but may be distributed to its beneficiaries in the same manner as income.

Although a fiduciary pays tax on any income not distributed to the beneficiaries, LB 343 did not provide for the fiduciary entity to use the Biodiesel tax credit.

IMPORTANT REMINDERS

Estates, trusts, and beneficiaries are no longer required to add back bonus depreciation or any enhanced Section 179 expense deduction on their Nebraska income tax returns. Estates, trusts, and beneficiaries may reclaim 20 percent of the bonus depreciation previously added back in tax years 2000 through 2002 on their 2008 Nebraska income tax return. Estates, trusts, and beneficiaries may also reclaim 20 percent of the bonus depreciation and enhanced Section 179 expense deduction previously added back in tax years 2003 through 2005 on their 2008 Nebraska income tax return. See specific instructions.

NEBRASKA CHARITABLE ENDOWMENT TAX CREDIT. A resident estate or trust may qualify for a nonrefundable credit, not to exceed \$5,000, for a planned or outright gift to a qualified endowment. Any portion of the credit not used by the estate or trust may be distributed to its beneficiaries in the same manner as income. For additional information see page 5 or visit www.revenue.ne.gov.

NOTE: Beginning with the 2009 tax year, the Department will no longer complete a mass mailing of printed Fiduciary Income Tax Booklets. The fiduciary forms and instructions continue to be available at www.revenue.ne.gov. If you are unable to access them electronically a printed copy may be obtained from either the Department or your accountant.

FIDUCIARY DEFINED. The term "fiduciary" means a trustee, personal representative, executor, administrator, or any person acting in a similar capacity for another person.

WHO MUST FILE. Every fiduciary of a resident estate or trust must file a Nebraska Fiduciary Income Tax Return, Form 1041N, if the estate or trust is required to file a federal income tax return for the taxable year.

A fiduciary return is not required, however, for a **simple trust** if all of the trust's beneficiaries are residents of the state of Nebraska, all of the trust's income is derived from sources in this state, the trust has no federal taxable income, and the trust is not an electing small business trust.

The fiduciary of a nonresident estate or trust must file a Nebraska Fiduciary Income Tax Return, Form 1041N, if the estate or trust is required to file a federal income tax return for the taxable year and the estate or trust had income derived from Nebraska sources. The fiduciary shall be responsible for filing the return for the estate or trust, whether the income is taxable to the estate or trust or to the beneficiaries. If the income is taxable to the beneficiaries, the fiduciary must include a statement of each beneficiary's distributive share of net income.

A trust which is taxable as a corporation for federal income tax purposes must file a Nebraska Corporation Income Tax Return, Form 1120N.

Electing Small Business Trust. An electing small business trust which reports and pays a federal income tax pursuant to I.R.C. §641(c) on income from an S corporation doing business in Nebraska must report and pay Nebraska income tax on such income. See line 11 instructions for further information.

Bankruptcy Estate for an Individual. The bankruptcy trustee or debtor in possession must file Form 1041N for the estate of an individual involved in bankruptcy proceedings under Chapter 7 or 11 of Title 11 of the United States Code where a fiduciary income tax return is required under the provisions of the Internal Revenue Code (IRC). Figure the tax for the bankruptcy estate on Form 1040N using the tax rate schedule for a married person filing separately and subtracting one personal exemption credit. Enter the tax on line 28 of the Form 1040N and on line 10 of Form 1041N. Complete the remaining lines of Form 1041N. Attach Form 1040N to Form 1041N.

Bankruptcy Estate for Corporations and Partnerships.

Unlike the situation for an individual in bankruptcy, the commencement of bankruptcy proceedings for a corporation or partnership does not create a separate taxable entity. Therefore, there is no federal filing requirement for the bankruptcy trustee and no Nebraska filing requirement.

Exempt Trusts. A trust, which by reason of its purposes and activities is exempt from federal income tax, is also exempt from Nebraska income tax.

Exempt trusts filing an Exempt Organization Business Income Tax Return, Federal Form 990-T, to report unrelated business income must file a Nebraska return and pay tax to Nebraska. If the federal tax was computed at the corporate rates, the fiduciary must file a Form 1120N. If the federal tax was computed at the fiduciary rates, the fiduciary must file a Form 1041N.

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 of the estate or trust. If this return is being filed by an exempt organization which has unrelated business income, the due date is the 15th day of the fifth month following the close of the taxable year of such exempt organization.

File the return with the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818. For assistance, see the back cover of this booklet.

RESIDENCE OF ESTATES AND TRUSTS. The residence of an estate or trust is the same as the domicile of the deceased at the time of death, or of the creator of the trust at the time the trust or a portion of the trust became irrevocable. The residence of a trust is not changed by a change in the domicile of the creator or a change in location of the property of the trust. The residence of the fiduciary does not affect the residence of the estate or trust.

PERIOD TO BE COVERED BY RETURN. This return must be filed for the 2008 calendar year or a fiscal year beginning in 2008. An estate or trust 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 must be the same as the taxable year used for federal income tax purposes. If the estate or trust changes the federal taxable year, it must change the Nebraska taxable year accordingly. A copy of the approval

from the Internal Revenue Service (IRS) must accompany the first return which reflects the change.

Check the box "Final Return" at the top of the return if the estate or trust ceased to exist during the 2008 tax year.

EXTENSION OF TIME. It is not necessary to request a Nebraska extension of time when the estate or trust has been granted an extension of time to file the federal return. Attach a copy of Federal Form 7004 or an approved federal extension to the Nebraska return. When a federal extension of time has been granted and additional time is necessary to file the Nebraska return, the Nebraska Form 7004N needs to be filed on or before the date the federal extension expires.

An extension of time to file may be obtained from the Nebraska Department of Revenue even though the estate or trust does not request a federal extension of time. The extension must be requested on Application for Automatic Extension of Time to File Nebraska Corporation, Fiduciary, or Partnership Return, Form 7004N, on or before the due date of the return. All extensions are limited to a total of seven months.

ESTIMATED TAX PAYMENTS. Nebraska does not provide estimated payment vouchers for fiduciary income tax. If an estimated tax payment is being made, specifically identify it as a fiduciary estimated tax payment. Also indicate the Nebraska fiduciary identification number and the tax year. Report the estimated tax payments on line 22.

PAYMENT OF TAX. The balance of tax due must be paid with the return. Make the check or money order payable to the Nebraska Department of Revenue. An amount due of less than \$2.00 need not be remitted, unless that amount includes penalty, interest, or withholding from nonresident beneficiaries. An overpayment in the amount of \$2.00 or more will be refunded. Checks written to the Department of Revenue may be presented for payment electronically.

An extension of time granted to file Form 1041N does not extend the date for payment of tax. If a payment was made with a request for Nebraska extension of time to file, report the payment on line 22.

PENALTIES AND INTEREST. Penalties and interest are imposed when a return is not timely filed or the tax is not paid by the due date. Reporting the amounts on the federal return will not prevent imposition of penalties for negligence or for filing a false or fraudulent return.

Income tax not paid by the due date will accrue interest at the statutory rate until paid.

AMOUNTS INCLUDED IN THE RETURN OF THE BENEFICIARY. Beneficiaries are subject to Nebraska income tax on their share of the fiduciary's distributed income derived from or attributable to sources within Nebraska.

AMOUNTS REPORTABLE AS NEBRASKA INCOME BY THE BENEFICIARIES. A fiduciary must provide all beneficiaries with a schedule listing the amount and type of income and deductions that are to be included in each beneficiary's Nebraska tax return.

A Federal K-1 may be used for each beneficiary, provided it is modified to include the beneficiaries' share of any U.S. government interest and state and local obligations. The amounts reported on the K-1 must be calculated in the same manner as income is distributed.

Accumulation Distribution. If the accumulation distribution is included in the beneficiaries' federal adjusted gross income, it should be included in the beneficiaries' Nebraska taxable income.

NONRESIDENT BENEFICIARY WITHHOLDING. The fiduciary is required to remit Nebraska income tax for each nonresident individual beneficiary for whom a properly executed, Nebraska Nonresident Income Tax Agreement, Form 12N, is not attached to the original fiduciary return. The

amount withheld is 6.84 percent of the nonresident individual beneficiary's share of distributable net income derived from or attributable to sources within Nebraska. When calculating the amount subject to withholding from each nonresident individual beneficiary the fiduciary **must not deduct** bonus depreciation added back in calculating the withholding for such individuals in tax years 2000 through 2005. Instead, the nonresident beneficiary may recover twenty percent of the bonus depreciation previously added back for tax years 2000 through 2005 by filing a 2008 Nebraska individual income tax return. The fiduciary must report the amount withheld from each individual beneficiary on the Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N.

The nonresident individual beneficiary may claim the amount withheld as a credit against his or her Nebraska income tax liability by attaching a copy of Form 14N to the Form 1040N. Withholding is not calculated for resident individuals, or for corporations, estates, trusts (except grantor trusts), or any other entities. Nebraska statutes do not provide for the remittance of tax by an estate or trust on behalf of these entities.

NONRESIDENT BENEFICIARY – NO WITHHOLDING REQUIREMENT. Withholding is not required to be remitted by an estate or trust on behalf of any nonresident individual beneficiary that submits a properly executed Nebraska Nonresident Income Tax Agreement, Form 12N, to the estate or trust before the original filing of the Nebraska Fiduciary Income Tax Return, Form 1041N. To be properly executed the Form 12N must be completed with **all the requested information** and be **signed and dated** by either the **beneficiary** agreeing to file a Nebraska Individual Income Tax Return, Form 1040N, or his or her duly authorized representative. **The estate or trust will be held responsible for withholding related to each nonresident individual beneficiary for whom a properly executed Form 12N is not attached to the original fiduciary return.**

The Form 12N is an agreement by the nonresident individual beneficiary to file a Nebraska individual income tax return. Form 12N is not completed for corporations, estates, or trusts (except grantor trusts) or partnerships that are beneficiaries. These entities must file the respective Nebraska income tax return to report the estate or trust income derived from Nebraska.

If a nonresident individual beneficiary's only source of Nebraska income was his or her share of the estate's or trust's Nebraska income and a Form 12N was not filed, the nonresident has an option **not** to file a Nebraska individual income tax return. If this option is taken, then the amount of tax withheld by the estate or trust is retained by the state in satisfaction of the nonresident's Nebraska income tax liability.

ACCOUNTING METHODS. The method of accounting used for federal income tax purposes must also be used for Nebraska income tax purposes. An estate or trust cannot change the method of accounting used in reporting income in prior years unless the change is approved by the IRS. A copy of this approval must accompany the first return which reflects the change in the method of accounting.

ROUND TO WHOLE DOLLARS. The amounts on the return and schedules are to be shown in 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.

FEDERAL RETURN. A copy of the actual federal return and supporting schedules filed with the IRS **must** be attached to this return.

CHANGES OR CORRECTIONS IN FEDERAL RETURN. Any estate or trust whose reported income or deductions are

changed by the IRS, or through renegotiation of a contract with the U.S. is required to report the change or correction to the Nebraska Department of Revenue. The report must be made within 60 days of the federal determination.

Any fiduciary which filed an amended return with the IRS which will result in a credit or refund must report the change or correction within 60 days **after receiving proof that the IRS accepted the federal return.**

Any estate or trust which files a federal amended return with the IRS which will **not** result in a credit or refund must file an amended return with the Nebraska Department of Revenue within 60 days of the filing of the federal amended return. Attach a copy of the federal amended return to the Nebraska amended return.

If another state's return is amended or changed by the other state, an "Amended" Form 1041N must be filed to report the change in the credit for tax paid to another state. Attach a copy of the corrected Nebraska Schedule III and a copy of the amended return filed with the other state or a copy of a letter or statement from the other state showing the corrected tax paid. All returns filed to report a change or correction in the amounts previously reported to the Nebraska Department of Revenue must use a Nebraska Fiduciary Income Tax Return, Form 1041N, and check the box "Amended Return" at the top of the return. The amended return must be mailed separately from the annual return of the fiduciary.

NEBRASKA CHARITABLE ENDOWMENT TAX CREDIT. A resident estate or trust may qualify for a nonrefundable credit for a planned or outright gift to a qualified endowment. See page 5 (line 16 instructions) for more details.

FINANCIAL INSTITUTION TAX CREDIT. An estate or trust may take a nonrefundable credit against its tax liability for Nebraska financial institution tax. The credit is limited to 50 percent of the estate or trust's share of the Nebraska financial institution tax paid by a financial institution electing to be taxed under the IRC as an S corporation. This credit is claimed on line 17 of Form 1041N.

The amount of financial institution tax credit taken by the estate or trust is an adjustment increasing federal taxable income. The amount of this credit claimed on line 17, Form 1041N, is to be included in the amounts reported on line 5, Form 1041N and on line 34 of Nebraska Schedule I, Form 1041N.

COMMUNITY DEVELOPMENT ASSISTANCE ACT (CDA) CREDIT. A fiduciary for an estate which operates a business is allowed a credit for a contribution made to a community betterment organization recognized by the Nebraska Department of Economic Development. The Nebraska Community Development Assistance Act Credit Computation, Form CDN, and a copy of Form 1099NTC must be attached to the Form 1041N. Further information on this credit is available at www.neded.org/content/view/97/227/ or by contacting the Nebraska Department of Economic Development, Community and Rural Development Division, P.O. Box 94666, Lincoln, Nebraska 68509-4666; or by calling (800) 426-6505, extension 6587 or (402) 471-6587.

FORM 3800N CREDITS. Nebraska provides several tax incentive credits that may be earned by estates and trusts conducting business in this state. For additional information on each of the tax credits available, see Form 3800N, www.revenue.ne.gov, or contact the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818, or call the Lincoln regional office at (402) 471-5729, or (800) 742-7474 (toll free in Nebraska and Iowa).

BEGINNING FARMER CREDIT. Owners of agricultural assets which are rented to qualifying beginning farmers or livestock producers are allowed a refundable income tax credit

based on the rental income. The credits must be approved by the Beginning Farmer Board. For additional information see www.agr.state.ne.us/division/med/begfrm.htm or contact the Nebraska Department of Agriculture P.O. Box 94947, Lincoln, Nebraska 68509-4947, or call (800) 446-4071 or (402) 471-6890.

SIGNATURES. This return must be signed by the fiduciary or officer of the organization receiving, having custody of, or controlling and managing the income of the estate or trust. If the fiduciary authorizes another person to sign this return, there must be a power of attorney on file with the Department. Include your phone number and e-mail address in case the Department needs to contact you about your account. **By including your e-mail address you are agreeing that the Department may use it to transmit confidential information.**

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

SPECIFIC INSTRUCTIONS

GRANTOR TYPE TRUST. If all income, deductions, and credits are reported by the grantor, his or her spouse, or other person under IRC §§ 671-678, and such person is not the trustee, lines 1 through 27 of the Form 1041N need not be completed. A copy of the federal return need not be attached. Write "Schedule Attached" on line 1, and attach a separate statement showing the items of income, deduction, and credit. The name, address, and identifying number of the grantor, spouse, or other person to whom the income is taxed must be included in the separate statement.

If the fiduciary is not required to file a federal return, do not file Form 1041N.

ESTATES AND IRREVOCABLE TRUSTS.

LINE 3. Enter the portion of interest or dividends from U.S. government obligations not distributed to beneficiaries.

FIDUCIARIES WITH UNDISTRIBUTED FEDERAL BOND INTEREST. Undistributed U.S. government bond interest is subtracted from the Nebraska tax base. U.S. government interest or dividend income includes, but is not limited to, U.S. Savings Bonds and U.S. Treasury Bills. See Regulation 23-004 for a listing of U.S. government interest or dividend income deductible for Nebraska income tax purposes. Interest income from repurchase agreements involving U.S. government obligations is **not** deductible as U.S. government interest.

LINE 5. FIDUCIARIES WITH UNDISTRIBUTED STATE AND LOCAL BOND INTEREST. Undistributed state or local bond interest exempt from federal taxation is an addition to the Nebraska tax base and is reported on line 5 of Nebraska Form 1041N. Interest from Nebraska source bonds is not added back.

The portion of the estate tax deduction claimed on Federal Form 1041 for income that is not subject to Nebraska income tax must be added back. The total of the amounts on line 3 and line 8 of Form 1041N, divided by the total income used to determine the estate tax deduction, is multiplied by the estate tax deduction to determine the portion to add back.

LINE 6. UNDISTRIBUTED BONUS DEPRECIATION SUBTRACTION. Estates and trusts are allowed to deduct 20 percent of the total bonus depreciation previously added back on their 2000 through 2005 tax year returns. Attach a schedule identifying the bonus depreciation previously added back in each tax year.

LINE 8. Except for non-Nebraska LLC and S Corporation income, estates and trusts are not allowed to deduct income earned or derived outside Nebraska. However, a resident estate or trust may be entitled to a credit for income tax paid to another state. See the instructions for Credit for Tax Paid

to Another State for Resident Estate or Trust Only, Nebraska Schedule III. A nonresident estate or trust must complete Computation of Nebraska Tax for Nonresident Estate or Trust Only, Nebraska Schedule I, to determine Nebraska income tax on total Nebraska source income.

Nonresident estates and trusts may deduct income amounts included in federal taxable income but not included in federal distributable net income. The nonresident estate or trust must then attach Schedule B, Federal Form 1041, to its Nebraska Form 1041N and include an explanation of the deduction.

Adjustments for the Nebraska College Savings Plan. Fiduciaries may deduct from federal taxable income **gifts, grants, and donations** made to the endowment fund of the Nebraska College Savings Plan Trust (Trust) to the extent not already deducted for federal income tax purposes. Attach a copy of the letter from the State Treasurer's Office acknowledging receipt of the donation or contribution. Fiduciaries making **contributions** as participants in the Trust may deduct contributions on line 8 up to \$5,000 per tax year.

NOTE: Federal income taxes paid cannot be deducted as an adjustment decreasing federal taxable income for state purposes.

LINE 10. Figure the tax using the schedule below. Enter the tax on line 10. Nonresident estates and trusts should use this tax rate schedule to compute line 29 of Nebraska Schedule I.

2008 NEBRASKA TAX RATE SCHEDULE FOR FIDUCIARY INCOME TAX RETURN			
If taxable income is:		The Nebraska tax is:	
over —	but not over		
\$ 0	\$ 500	2.56% of the income	
500	4,700	\$ 12.80 + 3.57% of the excess over \$500	
4,700	15,150	\$162.74 + 5.12% of the excess over \$4,700	
15,150	—	\$697.78 + 6.84% of the excess over \$15,150	

LINE 11. The Nebraska minimum or other tax is the sum of: (1) federal alternative minimum tax, and (2) federal tax on lump-sum distributions of pensions, multiplied by 29.6 percent (.2960).

USE THE WORKSHEET BELOW to compute your line 11 entry. Nonresident estates and trusts should use this worksheet to compute line 30 of Nebraska Schedule I.

NEBRASKA MINIMUM OR OTHER TAX WORKSHEET (Use to compute line 11, Form 1041N. Keep for your records.)	
1. Alternative minimum tax, amount on Federal Form 1041, Schedule I, recalculated for Nebraska in accordance with Nebraska Revenue Ruling 23-08-1	_____
2. Tax on lump-sum distributions of pensions (enter amount from Federal Form 4972)	_____
3. SUBTOTAL (Add lines 1 and 2)	_____ x .2960
4. TOTAL (Subtotal multiplied by 29.6%)	_____
Enter this total on line 11, Form 1041N Attach a copy of your Federal Form 4972 and/or recomputed Federal Form 1041, Schedule I, to your return.	

A credit for prior year minimum tax is available. The federal credit is recalculated for Nebraska in accordance with Revenue Ruling 23-08-2, which is available at www.revenue.ne.gov.

AN ELECTING (QUALIFYING) SMALL BUSINESS TRUST (ESBT) must compute Nebraska income tax on income received from S corporations doing business in Nebraska which is taxed federally under I.R.C. §641(c). Under federal law, an ESBT is required to calculate its tax liability as a separate trust. Nebraska also requires an ESBT to calculate its Nebraska tax liability as a separate trust. An estate or trust with ESBT income should complete the Electing Small Business Trust Tax Calculation Worksheet, Form 1041N, or a similar schedule to calculate the Nebraska tax liability on

its ESBT income. In completing the worksheet, the ESBT is to adjust its federal taxable income in the same manner as an estate or trust which is not an ESBT. This includes, but is not limited to, an adjustment to federal income for non-Nebraska S corporation income or loss. In addition, a nonresident ESBT will compute its Nebraska source income and tax liability on the ESBT income in the same manner as a nonresident estate or trust which is not an ESBT.

The tax computed on the ESBT income is based on the Nebraska tax rate schedule found in the line 10 instructions. Add this amount to any tax computed on the Nebraska minimum or other tax worksheet and enter the total on line 11. To obtain an Electing Small Business Trust Worksheet see www.revenue.ne.us or contact Taxpayer's Assistance at (402) 471-5729 or (800) 742-7474 (toll free in Nebraska and Iowa).

LINE 12. Nonresident estates and trusts do **not** enter amounts on lines 10 and 11 to determine the line 12 entry. Nonresident estates and trusts must complete Nebraska Schedule I to determine the line 12 entry.

LINE 13. Enter the amount of Nebraska income tax withheld from the nonresident beneficiaries not completing Form 12N. This is the total amount from column G, Schedule II. A Form 14N for each nonresident beneficiary who did not complete Form 12N must be attached to the Nebraska fiduciary return.

CREDITS. Enter the allowable credits only if the fiduciary does not distribute its income currently.

LINE 16. Enter the allowable Nebraska charitable endowment tax credit amount. The credit must be taken in the year the gift is made, cannot exceed \$5,000, and is limited to the tax imposed on the fiduciary. This credit cannot be used to offset any of the Nebraska withholding for nonresident individuals reported on line 13. Any unused credit may be distributed to the beneficiaries, but cannot be utilized in other tax years. Visit our Web site for more detailed information on this credit.

To claim this credit, the estate or trust must attach a statement to its Form 1041N which includes:

1. The name, address, and federal identification number of the qualified endowment;
2. The value of the planned gift as determined under Federal guidelines or, if not a planned gift, the total amount of the contribution;
3. The date the gift or contribution was made;
4. A list of all beneficiaries, their social security numbers or federal identification numbers, and the amount of credit distributed to each beneficiary; and
5. Type of planned gift must be one of the following: Charitable remainder trusts; pooled income fund trust; charitable lead trust; charitable gift annuity; charitable life estate agreement; paid-up life insurance; or outright gift.

An estate or trust which distributes this credit to its beneficiaries must also supply each beneficiary with a statement that includes the information as indicated in items 1 through 3 above, the beneficiary's distributive share of the credit, and identifies the estate or trust and the beneficiary by name and social security number or federal identification number.

Since most taxpayers will not qualify for this credit, please review the detailed information on our Web site, www.revenue.ne.gov, or contact us at one of our taxpayer assistance locations listed on the back cover to determine who is eligible.

LINE 17. Attach the CDAA Credit Computation, Form CDN, **and** a copy of Statement of Nebraska Tax Credit,

Form 1099 NTC. Attach a copy of the Statement of Nebraska Financial Institution Tax Credit, Form NFC, received from the financial institution.

LINE 23. Attach a copy of the Statement of Nebraska Tax Credit, Form 1099 BFC, to Form 1041N to claim the Beginning Farmer credit.

LINE 24. Enter Nebraska income tax withheld on salary or wage checks included in the income of the estate and attach the Nebraska copy of the Wage and Tax Statement, Federal Form W-2. Enter any withholding shown on Federal Forms 1099-R or W-2G if the income is included.

LINE 26. Enter the balance of tax due, line 20 minus line 25. Make check or money order payable to the Nebraska Department of Revenue. An amount due of less than \$2.00 need not be remitted unless that amount includes penalty, interest, or income tax which has been withheld. Checks written to the Department of Revenue may be presented for payment electronically.

LINE 27. Enter the amount of overpayment, line 25 minus line 20. An overpayment of less than \$2.00 will not be refunded.

SCHEDULE I – Computation of Nebraska Tax for Nonresident Estate or Trust Only

Nonresident estates and trusts must complete Nebraska Schedule I, Form 1041N, to determine the tax on their taxable income derived from or connected with Nebraska sources.

LINE 29. Enter the Nebraska income tax on the taxable income shown on line 9, Form 1041N. See line 10 instructions and the tax rate schedule.

LINE 30. Enter the Nebraska minimum and any other applicable taxes. See line 11 instructions and complete the worksheet provided.

LINE 32. NEBRASKA INCOME. Enter the total amount of taxable income derived from Nebraska sources. Include the Nebraska portion of taxable income reported on lines 1, 2a, 3, 5, 6, and 8 of the U.S. Fiduciary Income Tax Return, Federal Form 1041. Attach a schedule listing the income amounts.

If there was business activity in more than one state and any such activity had income from Nebraska sources, only a portion of the fiduciary's income is included on line 32. The portion included will be based on the same ratio that income from Nebraska bears to total income for that business activity. A separate calculation is required for each separate business activity.

Also attach a copy of any K-1 or K-1 equivalent reporting **Nebraska source** income distributed to the fiduciary by a partnership, LLC, or S corporation.

LINE 33. Enter the taxable amount of Nebraska capital and ordinary gain or loss reported on lines 4 and 7 of Federal Form 1041, and attach a schedule. The reportable gains (losses) may include those from the sale of the following properties located in Nebraska: real property; trade or business property; depreciable and amortizable property; oil, gas, geothermal, or other mineral properties; IRC § 126 property; and tangible personal property located in Nebraska at the time of sale.

LINE 34. The adjustments must relate to the Nebraska income amounts reported on lines 32 and 33. Include a schedule specifically identifying the adjustments claimed.

Estates and trusts are allowed to deduct 20 percent of the total bonus depreciation added back on their 2000 through 2005 tax year returns.

LINE 36. The factors computed in the division calculation of this line must be calculated to five digits and rounded to four digits. For example, if the numerator divided by the denominator equals .12345, round to .1235 (12.35%) before

multiplying by line 31. The ratio computed in line 36 cannot be more than 100 percent.

SCHEDULE II – Nonresident Beneficiary's Share of Nebraska Income, Deductions, and Credits

Enter the name, address, and social security number (Nebraska identification number) of each nonresident beneficiary. If additional space is needed, attach another schedule using the same format as Nebraska Schedule II. The information included on each specific line number of the upper and lower portions of the schedule must be for the same taxpayer.

If a simple trust with out-of-state beneficiaries has only portfolio income to report, Schedule II need not be completed. Instead check the box under the Schedule II title.

Where the nonresident beneficiary is an entity instead of an individual, omit columns D, E, and G. Only individuals are subject to the Form 12N or Form 14N filing requirements.

COLUMN B. Enter the nonresident beneficiary's share of the distributable net income which was derived from or attributable to sources within Nebraska. Include only current earnings distributions, not accumulation distributions. Passive income, such as non-business related interest, is not included in Nebraska income.

Do not reduce the current year Nebraska income reported in Column B by any portion of the bonus depreciation previously added back in calculating the withholding for nonresident individuals in tax years 2000 through 2005. The nonresident beneficiary may reclaim twenty percent of the total bonus depreciation previously added back for tax years 2000 through 2005 by filing a 2008 Nebraska individual income tax return.

COLUMN C. Enter the nonresident individual beneficiary's share of the deductions related to the income included in column B.

COLUMN D. If you check this column and Forms 12N are attached, omit columns E and G.

COLUMN E. Enter the nonresident beneficiary's share of Nebraska income subject to withholding. Subtract column C from column B, and enter the difference or zero, whichever is greater.

COLUMN G. Enter 6.84 percent of column E. This is the amount of Nebraska income tax to be withheld for each nonresident individual beneficiary who did not complete Form 12N. Report the amount withheld from each nonresident individual beneficiary on a Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N.

SCHEDULE III – Credit for Tax Paid to Another State for Resident Estate or Trust Only

A resident estate or trust may claim a credit for income tax paid to another state, political subdivision of another state, or the District of Columbia.

LINE 4. Attach a copy of the income tax return filed with the other state, or a copy of a letter or statement from the other state or city stating the amount of income and the tax paid. If the estate or trust is claiming credit for income tax paid to a political subdivision of another state in which no annual income tax return is required, then attach a Federal Form W-2 statement to support the claimed credit. Prepare a separate Nebraska Schedule III for each state in which income tax was paid. However, if some income is subject to income tax in both another state and a city within that state, complete only one Nebraska Schedule III and combine the city and state taxes paid.

LINE 5. The maximum tax credit is the smallest of the computed tax credit, the tax due and paid to the other state, or the Nebraska income tax.



Nebraska Fiduciary Income Tax Return
for the taxable year January 1, 2008 through
December 31, 2008 or other taxable year

FORM 1041N
2008

beginning , 2008 and ending , 20

FOR OFFICE USE ONLY

PLEASE DO NOT WRITE IN THIS SPACE

Please Type or Print

Name of Estate or Trust

Name and Title of Fiduciary

Street or Other Mailing Address of Fiduciary

Nebraska Identification Number

Federal Identification Number

23--

City

State

Zip Code

Type of Trust (If Grantor Type, See Instructions)

Is this your final return?

Testamentary Inter Vivos Grantor Type

YES NO

Status of Estate or Trust

Type of Return

(1) Resident (2) Nonresident

Estate Simple Trust Complex Trust ESBT Bankruptcy Estate Amended Return

Does the estate or trust have nonresident individual beneficiaries?

Is the trust a pooled income fund?

YES (Complete Schedule II) NO

YES NO

Table with 9 rows and 3 columns. Rows include: 1 Total federal income (Federal Form 1041), 2 Federal taxable income (Federal Form 1041), 3 Undistributed income from U.S. government bonds or other U.S. obligations, 4 Line 2 minus line 3, 5 Undistributed income from non-Nebraska state and local bond interest and other Nebraska adjustments increasing federal taxable income, 6 Undistributed bonus depreciation subtraction, 7 Line 4 plus line 5 minus line 6, 8 Nebraska adjustments decreasing federal taxable income, 9 Nebraska taxable income (line 7 minus line 8).

NONRESIDENT ESTATES AND TRUSTS SHOULD NOT MAKE ENTRIES ON LINES 10 AND 11.
NONRESIDENT ESTATES AND TRUSTS MUST COMPLETE NEBRASKA SCHEDULE I TO DETERMINE THE LINE 12 ENTRY.

Table with 27 rows and 3 columns. Rows include: 10 Nebraska income tax, 11 Nebraska minimum or other tax, 12 Total Nebraska tax, 13 Nebraska income tax withheld for nonresident beneficiaries, 14 Total Nebraska income tax liability, 15-18 Credits (tax paid by resident estate, Charitable Endowment, CDAA, Form 3800N), 19 Total nonrefundable credits, 20 Subtract line 19 from line 14, 21-24 Other credits (Form 3800N refundable, previous payments, Beginning Farmer, other), 25 Total payments, 26 TAX DUE, 27 Overpayment to be REFUNDED.

Under penalties of perjury, I declare that as taxpayer or preparer I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is correct and complete.

sign here

Signature of Fiduciary or Officer Representing Fiduciary

Date

Signature of Preparer Other Than Fiduciary

Date

Title

Phone Number

Address

Phone Number

E-Mail Address

A COPY OF THE FEDERAL RETURN AND SCHEDULES MUST BE ATTACHED TO THIS RETURN

Mail this return and payment to: NEBRASKA DEPARTMENT OF REVENUE, P.O. BOX 94818, LINCOLN, NE 68509-4818



Name as Shown on Form 1041N

Nebraska Identification Number
23—

Nebraska Schedule I—Computation of Nebraska Tax for Nonresident Estate or Trust Only

28	Nebraska taxable income (line 9, Form 1041N)	28	
29	Nebraska income tax on line 28 amount (see line 10 instructions)	29	
30	Nebraska minimum or other tax (see line 11 instructions)	30	
31	Total Nebraska tax (line 29 plus line 30)	31	
32	Income derived from Nebraska sources, except capital and ordinary gain (loss) (attach schedule) (see instructions)	32	
33	Nebraska capital and ordinary gain (loss) (attach schedule) (see instructions)	33	
34	Adjustments, if any, as applied to Nebraska income (see instructions): List:	34	
35	Nebraska adjusted gross income (line 32 plus or minus lines 33 and 34) (see instructions)	35	
36	Nebraska share of line 31. Compute below, and enter result on line 12, Form 1041N: Calculate the ratio to five decimal places and round to four Line 35 = . <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> x _____ = _____ (Line 1 + Line 5) - (Line 3 + Lines 6 and 8) (ratio) (Line 31)	36	

Nebraska Schedule II—Nonresident Beneficiary's Share of Nebraska Income, Deductions, and Credits

Note: If simple trust with out-of-state beneficiaries and with only portfolio income, Schedule II need not be completed. Instead check this box.

NAME AND ADDRESS OF EACH NONRESIDENT BENEFICIARY

Name	Street or Other Mailing Address	City	State	Zip Code
1				
2				
3				
4				

	(A) Social Security Number or Nebraska Identification Number	(B) Nebraska Income (see instructions)	(C) Nebraska Deductions	(D) Check if Form 12N Attached	COMPUTATION OF NEBRASKA WITHHOLDING TAX		
					(E) Nebraska Income Subject to Withholding (Column B minus Column C)	(F) Rate	(G) Tax Withheld (Attach Form 14N)
1					6.84%		
2					6.84%		
3					6.84%		
4					6.84%		
5	TOTALS (enter total of column G on line 13, Form 1041N)						

Nebraska Schedule III—Credit for Tax Paid to Another State for Resident Estate or Trust Only

A copy of the return filed with another state must be attached. If such return is not attached, credit for tax paid to another state will not be allowed.

1	Nebraska tax (line 12, Form 1041N)	1	
2	Taxable income from another state	2	
3	Computed tax credit (divide line 2, Schedule III by line 9, Form 1041N; then multiply by line 1, Schedule III)	3	
4	Tax due and paid to another state (attachment required) (see instructions)	4	
5	Maximum tax credit (line 1, 3, or 4, whichever is least). Enter amount here and on line 15, Form 1041N	5	

Electing Small Business Trust (ESBT) Tax Calculation Worksheet

Name of Trust

Employer Identification Number

1 Total federal income (ESBT)	1		
2 Federal taxable income (ESBT)	2		
ADJUSTMENTS			
3 ESBT income from U.S. government bonds or other U.S. obligations.....	3		
4 Line 2 minus line 3	4		
5 ESBT income from non-Nebraska state and local bond interest and other Nebraska adjustments increasing federal taxable income. List type(s) and amount _____	5		
6 ESBT bonus depreciation subtraction (attach schedule) (see instructions)	6		
7 Line 4 plus line 5 minus line 6	7		
8 Nebraska adjustments decreasing federal taxable income. List type(s) and amount _____	8		
9 Nebraska taxable income (line 7 minus line 8)	9		
• Nonresident ESBTs should not make entries on lines 10, 11, or 12. Nonresident ESBTs must complete the Computation of Nebraska Tax for Nonresident ESBT (below) to determine their Nebraska tax.			
10 Nebraska income tax on line 9 amount (use the tax rate schedule on page 5 of the Form 1041N instructions).....	10		
11 Nebraska minimum or other tax (Federal Form 1041, Schedule I and Federal Form 4972).....	11		
12 Total Nebraska tax (line 10 plus line 11). Enter here and on Form 1041N, page 1, line 11	12		
COMPUTATION OF NEBRASKA TAX FOR NONRESIDENT ESBT			
13 Nebraska taxable income (line 9 above)	13		
14 Nebraska income tax on line 13 amount (use the tax rate schedule on page 5 of the Form 1041N instructions).....	14		
15 Nebraska minimum or other tax (Federal Form 1041, Schedule I and Federal Form 4972).....	15		
16 Total Nebraska tax (line 14 plus line 15)	16		
17 Income derived from Nebraska sources, except capital gains and ordinary gain (loss)	17		
18 Nebraska capital and ordinary gain (loss).....	18		
19 Adjustments as applied to Nebraska income, if any. List: _____	19		
20 Nebraska adjusted gross income (line 17 plus or minus lines 18 and 19)	20		
21 Nebraska share of line 16. Compute below, and enter result on line 11, Form 1041N: Calculate the ratio to five decimal places and round to four			
$\frac{\text{Line 20}}{(\text{Line 1} + \text{Line 5}) - (\text{Line 3} + \text{Lines 6 and 8})} = . \boxed{} \boxed{} \boxed{} \boxed{} \boxed{} \text{ (ratio)} \times \frac{}{\text{(line 16)}} = $	21		

INSTRUCTIONS

WHO MUST FILE. This worksheet must be filed by an Electing Small Business Trust (ESBT) which receives income from an S corporation doing business in Nebraska and which is taxed under Internal Revenue Code (IRC) §641(c).

WHEN AND WHERE TO FILE. This worksheet must be completed and attached to the Nebraska Fiduciary Income Tax Return, Form 1041N.

SPECIFIC INSTRUCTIONS. Under IRC §641(c), an ESBT receiving income from an S corporation is required to calculate its tax liability as a separate trust. Nebraska also requires such ESBT to calculate its Nebraska tax on the S corporation income as a separate trust. All amounts entered on this Worksheet must be related to the amounts **received from the S corporation** upon which the separate federal tax was calculated. If the separate federal tax was calculated based on distributions received from more than one S corporation, this worksheet should include the aggregate amounts received.

Reminder: ESBTs which receive income or losses from S corporations doing business in more than one state must adjust their federal taxable income as indicated in the instructions for line 5 and line 8 on this worksheet.

LINE 1. Enter the ESBT's share of the total federal income received from the S corporation.

LINE 2. Enter the ESBT's federal taxable income. This amount should be included in the supplemental information of the ESBT's federal income tax return.

LINE 3. U.S. government bond interest is subtracted from federal taxable income. U.S. government interest or dividend income includes, but is not limited to, U.S. Savings Bonds and U.S. Treasury Bills. See Regulation 23-004 for a listing of U.S. government interest or dividend income deductible for Nebraska income tax purposes. Interest income received from repurchase agreements involving U.S. government obligations is **not** deductible as U.S. government interest.

LINE 5. State and local bond interest exempt from federal tax is added to federal taxable income. Interest from Nebraska source bonds is not added back.

A loss from the S corporation that is not related to Nebraska sources is added to federal taxable income.

LINE 6. An ESBT is allowed to deduct 20 percent of the bonus depreciation previously added back on its 2000 through 2005 tax year returns.

LINE 8. The net income received from an S corporation that is not related to Nebraska sources is deducted from federal taxable income. For information on other deductions see Nebraska Fiduciary Income Tax Regulation 23-004.

LINE 10. A resident ESBT will compute and report its tax liability on lines 10 and 11 of the Worksheet and enter the total on line 12 of the Worksheet and on line 11 of Form 1041N.

A nonresident ESBT will not use lines 10, 11, or 12 of the Worksheet. A Nonresident ESBT must complete lines 13 through 21 of the Worksheet to determine its Nebraska tax liability.

Figure the tax using the rate schedule for the appropriate tax year. These rates may be found in the Form 1041N booklet and on our Web site.

LINE 15. Use the worksheet in the Form 1041N booklet to calculate the Nebraska minimum tax.

LINE 17. Enter the entire net income or loss distributed from the S corporation to the ESBT.

If the S corporation has business activity in more than one state, only a portion of the income is included on line 17. The portion included will be based on the S corporation's Nebraska apportionment factor.

LINE 18. Enter the taxable amount of Nebraska capital and ordinary gain and loss distributed from the S corporation.

Line 19. The adjustments must relate to Nebraska income amounts reported on lines 17 and 18. Include a schedule specifically identifying the adjustments claimed.

An ESBT is allowed to deduct 20 percent of the bonus depreciation previously added back on its 2000 through 2005 tax year returns.

Line 21. The factor used in the division calculation of this line must be computed to five digits and rounded to four digits.