



2010

# WEST VIRGINIA

## INCOME/BUSINESS FRANCHISE TAX FOR S CORPORATION

### AND PARTNERSHIP INSTRUCTIONS & FORMS

#### NEW FOR TAX YEAR 2010

##### Tax Law Changes

West Virginia Code §11-24-3 is updated to bring the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act into conformity with their meaning for federal income tax purposes (Senate Bill 214).

##### Tax Rates

For tax years beginning on or after January 1, 2010, the Business Franchise Tax rate is the greater of \$50 or 0.41%. The Business Franchise Tax rate will phase-down to 0.34% in 2011, 0.27% in 2012, 0.20% in 2013, 0.10% in 2014 and 0% thereafter (§11-23-6).

##### Amended Return

If you are filing an amended return, enter the amount of tax due and paid from the original return on line 13 of WV/SPF-100. Enter the overpayment previously refunded or credited on line 15 of WV/SPF-100.

##### Administrative Changes

1. Electronic filing is available on-line for filing the Income/Business Franchise Tax for S Corporation and Partnership estimated payment (Form WV/SPF-100ES) and tentative payments (Form WV/SPF-100T).
2. Due to the excessive volume of federal K-1's received, we no longer require a filed copy. However, the K-1's shall be made available upon request.  
  
The K-1's required to be filed are those that have nonresident withholding tax when claimed as a payment if the NRW-2 is not supplied.
3. If you are a 52/53 week filer, check the box and enter the day of the week you started the business (ex. Monday, Tuesday, etc)  
  
See web site [www.wvtax.gov/electronicFilingForBusinesses.html](http://www.wvtax.gov/electronicFilingForBusinesses.html)

**\*\*Please read the instructions and include all supporting documents with the return. An incomplete return will not be accepted as timely filed.\*\***



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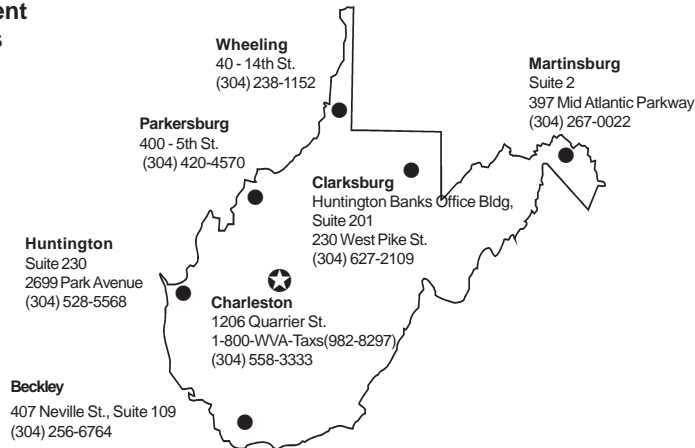
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|-------------|--|---|---|---|---|
| WV/SPF-100  | X  | X   | X   | X   |   |
| WV/SPF-100U | X  | X   | X   | X   |   |
| WV/SPF-100T | X  | X   | X   | X   |   |
| WV/NRW-2    |  | X   |   | X   |   |
| WV/NRW-4    |  | X   |   | X   | X   |

### West Virginia State Tax Department Taxpayer Assistance Locations



**If you have any questions concerning the S Corporation, Partnership or Business Franchise Tax contact:**

**West Virginia State Tax Department  
Taxpayer Services Division  
PO Box 3784  
Charleston, WV 25337-3784**

**Telephone: (304) 558-3333 or Toll free within West Virginia and area code (614): 1-800-982-8297  
TDD service for the hearing impaired: 1-800-282-9833**

**TO ORDER FORMS OR PUBLICATIONS CALL: (304) 344-2068 or  
Toll free within West Virginia and area code (614): 1-800-422-2075**

**Internet Address: <http://www.wvtax.gov>**

## TAXPAYER RESPONSIBILITIES

**FILING YOUR BUSINESS TAX RETURNS.** Returns must be filed by the due date. You may obtain forms by calling the automated form ordering system at 1-800-422-2075. Forms may also be obtained from any of our regional field offices listed on page 2 of this booklet, or from our home page on the internet at <http://www.wvtax.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 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 on overpayment of Business Franchise 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.

**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.

**SOFTWARE PROGRAM.** If you use a software program, the form must be approved by the West Virginia State Tax Department. Email forms to [sara.m.hughes@wv.gov](mailto:sara.m.hughes@wv.gov) for approval.

## GENERAL INFORMATION

Use the returns in this booklet for calendar year 2010 and for fiscal years beginning in 2010 and ending in 2011. The information in this book is intended to help you complete your returns and is not a substitute for tax laws and regulations.

**BUSINESS FRANCHISE TAX.** The Business Franchise Tax is a tax on the privilege of doing business in West Virginia. Any domestic corporation, any corporation that has its commercial domicile in West Virginia, and every corporation and partnership that owns or leases real or tangible personal property in West Virginia or is doing business in West Virginia is subject to the Business Franchise Tax.

The term "doing business" means any activity of a corporation or partnership which enjoys the benefits and protection of the government and laws of this state. Doing business does not include those engaged in the activity of agriculture or farming.

The term "corporation" includes any corporation, S Corporation, joint stock company, and any association or other organization which is taxable as a corporation under federal income tax laws or the income tax laws of this state. The term "partnership" includes a syndicate, group, pool, joint venture, limited liability company not taxable as a corporation under federal laws, or other unincorporated organization by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation, or a sole owner.

For corporations, the measure of the tax is the capital of the corporation and is defined as the average of the beginning and ending balances of: 1) the value of common and preferred stock, 2) plus paid in or capital surplus, 3) plus retained earnings, 4) less treasury stock. S Corporations will also include the average of the accumulated adjustment account, other adjustment account, and shareholders undistributed taxable income. For partnerships, the capital is the average of the beginning and ending balances of the partner's capital accounts. These items of capital are taken from the balance sheet of the taxpayer's federal income tax return as filed with the Internal Revenue Service. Multistate businesses will apportion their capital to West Virginia using a four factor formula consisting of payroll, property and double weighted sales factors.

The tax rate is .0041 of taxable capital with a minimum tax of \$50.

**EXEMPT ORGANIZATIONS.** Any S Corporation or partnership exempt from federal income tax is also exempt from West Virginia Income Tax and Business Franchise 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.

**PAYMENT OF TAX. DUE DATE.** A partnership's annual Business Franchise Tax Return is due on or before the 15th day of the 4th month after the close of the taxable year. The filing of returns is required whether or not any tax is due. An S Corporation's annual Business Franchise Tax return is due on or before the 15th day of the 3rd month after the close of the taxable year. The filing of returns is required whether or not any tax is due. Make your remittance payable to the West Virginia State Tax Department.

**PAYMENT OF TAX WITHHELD:** The entire tax withheld from the non-resident shareholder is required to be paid on or before the 15th day of the 3rd month following the close of the taxable year and must accompany this tax return, Form WV/SPF-100.

**WHO MUST FILE:** The following partnerships are required to file a partnership return: (a) Resident partnerships; (b) Nonresident partnerships having a partner who is a resident of this State; or (c) Nonresident 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 this State; or (b) a business, trade, profession, or occupation carried on in this State including income from intangible personal property employed in such business, trade, profession or occupation.

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 this State whose principal office, place of business, or other activity is within the borders of this State. It may also carry on its business or other activities in other states. "**Nonresident 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.

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

**WHEN TO FILE.** The partnership return is due on or before the 15th day of the 4th month following the close of the taxable year. The taxable year for West Virginia is the same as the one used for federal tax purposes.

The West Virginia S Corporation Return is due on or before the 15th day of the 3rd month following the close of the taxable year. A federal extension of time to file will automatically extend the time for filing the West Virginia return. Be sure to attach a copy of your federal extension to each tax return to avoid any penalty for late filing.

**EXTENSION OF TIME TO FILE.** Any partnership or S Corporation needing an extension of time to file and/or that expects to owe Nonresident Withholding Tax must file Form WVSPF-100T, Extension of Time to File Information Returns, on or before the due date of the return. Any partnership granted an extension of time to file their federal return is granted the same extension of time to file their West Virginia return. 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 WV/SPF-100T to make a tentative 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 WV/SPF-100T 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 WV/SPF-100 and Form WV/NRW-2 or Form WV/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 \$100,000.00.

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 of 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 to 1-800-982-8297.

**NONRESIDENT PARTNER/SHAREHOLDER WITHHOLDING.** Partnerships and S Corporations are required to withhold West Virginia Income Tax from each nonresident partner/shareholder that has not provided the partnership or S Corporation a WV Nonresident Income Tax Agreement, Form WV/NRW-4. The amount to be withheld is six and one-half percent (.065) of the nonresident partner's/shareholder's share of the Federal Taxable Income or portion thereof that is derived from or attributable to West Virginia sources, whether such amount is actually 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/Business Franchise Tax Return for S Corporation and Partnership. The individual nonresident partners/shareholders may claim the amount withheld as a credit against their WV Income Tax liability by attaching a copy of the information statement provided by the Partnership/S Corporation to their WV Income Tax Return.

**Information Statement of Tax Withheld.** Every S Corporation or partnership required to deduct and withhold tax on nonresident shareholders/partners must provide an information statement to each nonresident shareholder/partnership on or before the date it files its WV Income Tax Return. The information statement shall show the amount of WV income subject to withholding and the amount of WV Income Tax withheld. The S Corporation or partnership may satisfy this requirement by indicating this information on Form WV/NRW-2, Statement of WV Income Tax Withheld for Nonresident Individual or Organization (reproducible copy included in this packet) or in the supplemental information area of the nonresident shareholder's copy of Federal Schedule K-1 or by an attachment to the Federal Schedule K-1 listing the same information. The nonresident shareholder/partnership must attach their copy of Form WV/NRW-2 or Federal Schedule K-1 including the information statement of WV Income Tax Withheld to their WV Income Tax Return to claim credit for the tax withheld.

**Composite Return.** An S Corporation or partnership, instead of withholding tax on distributions of West Virginia source income to its nonresi-

dent shareholders/partners, may opt instead to satisfy the nonresident withholding requirements by filing a WV Nonresident COMPOSITE Income Tax Return (Form IT-140NRC) for one or more of its nonresident shareholders. A composite return is a return filed on a group basis as though there was only one taxpayer. A list setting forth the name, address, taxpayer identification number, and percent of ownership of each nonresident shareholder/partner included in the return must be maintained. The list should NOT be submitted with the composite return, but should be made available to the Department upon request. The return does not have to be signed by each nonresident shareholder provided it is signed by a corporate officer. When filing a composite return, no personal exemptions may be utilized and the rate of tax is six and one half percent (.065) of the taxable income. The S Corporation or partnership is responsible for collecting and remitting all income tax due at the time the return is filed. The due date for a composite return is the 15th day of the 4th month following the close of the taxable year. A \$50.00 processing fee must also accompany the composite return.

Any nonresident shareholder/partner included in a composite return that has income from any other West Virginia source, must file a separate Nonresident Personal Income Tax Return for the taxable year to report and pay Personal Income Tax on all of their West Virginia source income. The nonresident may claim credit for their share of West Virginia income tax remitted with the composite return.

**S CORPORATION INCOME (LOSS) OR PARTNERSHIP INCOME (LOSS).** Line 1, Schedule A of Form WV/SPF-100 is used to report all income (loss) from all activity of the S Corporation, but only to the extent that it is taxable and allocable to the shareholders. If the S Corporation has income (loss) from activity in more than one state, Schedule B of Form WV/SPF-100APT must also be completed.

If an S Corporation has income (loss) from activity in more than one state, and they are able to separately identify and account for items of income and deductions as being directly allocable to WV, they may separately account for their WV business activity on Lines 1 through 5. Generally, income derived from the ownership of real or tangible personal property in this State 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 clearly reflect that portion, the allocation must be made by the apportionment formula provided in Schedule B of Form WV/SPF-100APT.

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

**PARTNERSHIP INCOME (LOSS).** Line 1, Schedule A of Form WV/SPF-100 is used to report all income (loss) from all activity of the partnership, but only to the extent that it is taxable and allocable to the partners. If the partnership has income (loss) from activity in more than one state, Schedule B of Form WV/SPF-100APT must also be completed.

**Shareholder Information.** Nonresident withholding Lines 1 through 4 of WV Form WV/SPF-100 plus Schedule SP are used to identify all shareholders and to account for each shareholder's share of the S Corporation's income. It is also used to calculate the amount of withholding that is required on the nonresident shareholder's share of the S Corporation's income. All shareholders are subject to WV Personal Income Tax under the provisions of WV Code Chapter 11, Article 21. Also, the S Corporation is required to withhold Income Tax on the nonresident shareholder's share of the S Corporation's WV source income under the provisions of Chapter 11, Article 21, Section 71a.

**PARTNER INFORMATION.** Nonresident withholding Lines 1 through 4 of Form WV/SPF-100 plus Schedule SP are used to identify all partners and to account for each partner's share of the partnership's income. It is also used to calculate the amount of withholding that is required on the nonresident partner's share of the partnership's income.

**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 Federal Form 1120S or 1065, Schedule K, and any support documents must be attached to the 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 annual rate will never be less than eight percent (.08). The interest rate will be determined and in effect for periods of six months. Interest rates in effect for various periods are:

|                          |                           |
|--------------------------|---------------------------|
| 7/1/90 to 12/31/91 - 10% | 1/1/98 to 12/31/98 - 9%   |
| 1/1/92 to 6/30/92 - 9%   | 1/1/99 to 6/30/00 - 8%    |
| 7/1/92 to 12/31/95 - 8%  | 7/1/00 to 12/31/01 - 9%   |
| 1/1/96 to 12/31/96 - 9%  | 1/1/02 to 6/30/02 - 8%    |
| 1/1/97 to 12/31/97 - 8%  | 7/1/02 to 12/31/10 - 9.5% |

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 1-800-422-2075. Request message number 510.

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

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

When both the five percent (.05) additions to tax for late filing and the one half of one percent (.005) additions to tax for late payment are imposed, the maximum monthly percent is five percent (.05) not to exceed forty-seven and one-half of one percent (.475) of the tax due.

**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, partner, or member. 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 ON 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 amended return and attaching a copy of the revenue agent's report detailing such adjustments.

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 of the amended federal return.

**AMENDED RETURNS.** S Corporations and partnerships may amend their return by filing Form WV/SPF-100 (check "Amended") and attaching a schedule detailing the differences in the amended and original returns. Amended returns filed for the purpose of obtaining a refund of an overpayment of tax 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.

**CONSISTENCY IN REPORTING.** In completing your Combined West Virginia Income/Business Franchise Tax Return for S Corporation and Partnership, 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, 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 tax returns.

## TAX CREDITS

Several West Virginia tax credits can be used to offset Business Franchise Tax liabilities. A credit schedule order form is on page 18 of this tax booklet. Computation schedules must be attached to your tax return, otherwise the credit(s) will not be allowed. For information about tax credits not described here, obtain a copy of Publication TSD-110, West Virginia Tax Credits, from our Taxpayer Services Division or our home page at <http://www.wvtax.gov>.

**CREDIT FOR RESEARCH AND DEVELOPMENT PROJECTS (§11-13D)** A research and development projects credit is available to manufacturers, natural resource producers, and electric power generators making eligible investments in land and depreciable property for their qualified research projects, and for their qualified research expenses. "Qualified research" is research and development conducted in this State, for purposes relating to

the technical, economic, financial, engineering, or marketing aspects of expanding markets for, and increasing sales of, West Virginia natural resources products or industrial products, or both. This credit may be claimed in combination with the Industrial Expansion and Revitalization and Residential Housing Development Project Credits against up to fifty percent (.5) of Business Franchise Tax liability remaining after subtractions of Subsidiary and Business and Occupation Tax Credits. **CREDIT EXPIRED 12/31/02 EXCEPT GRANDFATHER PROJECTS.**

### **STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT (§11-13R)**

This credit is available to a taxpayer engaging in qualified research and development activities (on or after January 1, 2003) within West Virginia.

The credit equals the higher of three percent (.03) of all qualified expenses and qualified investment, or ten percent (.1) of the excess of qualified expenses and qualified investment for the taxable year over the average for a base period. The base period is generally the three year period prior to the taxable year.

Research and development includes, but is not limited to, design, refinement and testing of prototypes of new or improved products, and of manufacturing processes before commercial sales relating thereto have begun. Research and development does not include market research; sales research; efficiency surveys; consumer surveys; product market testing; product testing by product consumers; quality control testing; management studies; advertising; promotions; the acquisition of another's patent, model, production or process or investigation or evaluation of the value or investment potential related thereto; research in connection with literary or historical topics or similar activities; research in social sciences, economics, humanities or psychology and other nontechnical activities; and the providing of sales services or other services.

All taxpayers wishing to qualify for the Strategic Research and Development Tax Credit must first file an application for credit certification (Form WV/SRDTC-A) with the Tax Commissioner. No tax credit may be claimed until the Tax Commissioner affirmatively certifies the project. The application must set forth a written research and development program plan generally describing the nature of the research and development to be undertaken and the projected time frame for the project. The application for credit certification is due by no later than the due date, including lawful extensions of time to file, of the taxpayer's annual State Income Tax return for the tax year in which the qualified research and development activity occurred. Any taxpayer failing to timely file the credit application form will automatically lose one hundred percent (1.0) of the value of any Strategic Research and Development Tax Credit sought for the time periods during which the failure to file the application continues. Note that one application (Form WVSRDTC-A) must be filed for each separate project undertaken. The Tax Commissioner may require the filing of separate yearly applications for certifications.

Strategic Research and Development Tax Credit may be used to offset up to one hundred percent (1.0) of the Taxpayer's annual liability for Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax (tax on flow through business profits only) in the order stated. Excess credit may be carried forward for a period not to exceed ten tax years.

### **HIGH-GROWTH BUSINESS INVESTMENT TAX CREDIT (§11-13U-4)**

Beginning July 1, 2005, eligible taxpayers that have made a qualified investment in a qualified research and development company that maintains its corporate headquarters in West Virginia may take a tax credit based on that investment. An "eligible taxpayer" is a person subject to the West Virginia Business Franchise Tax or West Virginia Income tax that has received certification from the Economic Development Authority allocating a portion of the annual available credit to the taxpayer as a result of the eligible taxpayer's qualified investment in the qualified research and development company. A qualified research and development company is an entity which has been certified by the Tax Commissioner as eligible for the West Virginia Strategic Research and Development Credit under West

Virginia Code Chapter 11, Article 13R, and which has annual gross receipts of less than \$20 million and annual payroll of less than \$2.5 million on a controlled group basis. The High-Growth Business Investment Tax Credit is equal to fifty percent (.5) of the total value of the qualified investment made in the taxable year. No credit is allowed for investment made after June 13, 2008.

The High-Growth Business Investment Tax Credit is first applied in the taxable year the investment was made, to offset the taxpayer's Business Franchise Tax liability. Any unused credit is next applied against the taxpayer's Corporation Net Income Tax liability. If the eligible taxpayer is an LLC, electing small business corporation, or a partnership, the unused remaining credit is then applied against the Corporation Net Income Tax liability of the eligible taxpayer's owners. Following the application of the credit against Business Franchise Tax and Corporation Net Income Tax liability, any remaining credit is next applied against the eligible taxpayer's Personal Income Tax liability. If the eligible taxpayer is an LLC, electing small business corporation or a partnership, the unused credit is applied against the Personal Income Tax liability of the eligible taxpayer's owners. The total amount of credit that may be used in any taxable year by an eligible taxpayer in combination with its owners may not exceed \$50,000.00. Any unused remaining credit may be carried forward for four taxable years until the remaining amount is used. Any unused remaining credit at the end of the fourth taxable year is forfeited. Taxpayers must complete and file Schedule HGBITC-1 when claiming this credit on their tax returns.

The Economic Development Authority may allocate no more than \$1 million in tax credits in any fiscal year, and allocation is to be made in the order the applications are received. The EDA has responsibility for determining eligibility for the credit. The application for the credit must be made and filed with that agency, not the Tax Commissioner.

The credit shall offset one hundred percent (1.0) of the Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax, and certain other taxes as attributable to a qualified investment in a high technology manufacturing business and shall be applied for a period of twenty consecutive years.

**CREDITS FOR BUSINESS INVESTMENT AND JOBS EXPANSION (§11-13C), HEADQUARTERS RELOCATION (§11-13C-4a), OR SMALL BUSINESS (§11-13C-7a) - SUPER CREDITS** - These super credits are available to any taxpayer making qualified investments in a new or expanded manufacturing, information processing, warehousing, goods distribution, or destination oriented recreation business in West Virginia resulting in the creation of at least 50, 15, or 10 new jobs, respectively.

Any taxpayer placing qualified investment into service or use must file an application for supercredit (Form WV/BCS-A) for such investment and receive an affirmative written response from the Tax Division prior to claiming the credit. The application must be received by the due date of the taxpayer's annual Corporation Net or Personal Income Tax Return for the tax year the investment was placed into service or use without regard to any extension of time to file. Failure to timely file the credit application form will result in the loss of fifty percent (.5) of the value of any super credit sought for the time period in question. Form BCS-A must be filed for each year qualified investment creates new credit.

Super credits can be used to offset a portion of the amount of taxes attributable to the new investment for the following West Virginia taxes in the order stated: eighty percent (.8) of Business and Occupation Taxes, eighty percent (.8) of Severance Taxes (generally for investment placed into service prior to January 1, 1990 only), eighty percent (.8) of Telecommunication Taxes, eighty percent (.8) of Business Franchise Taxes, eighty percent (.8) of Corporation Net Income Taxes, and eighty percent (.8) of Personal Income Taxes. Any remaining credit may be applied as a rebate of eighty percent (.8) of ad valorem Property Taxes, eighty percent (.8) of Unemployment Taxes, and twenty percent (.2) of Worker's Compensation Premiums. The rebate amounts may only be used to offset the remaining twenty percent (.2) of the other taxes. If any rebate remains it may be carried forward from year to year until used in the twelfth year subsequent to the tax year the qualified investment was first placed in service in West Virginia. The amount of taxes attributable to the new investment are determined by multiplying the total tax liability by a fraction, the numerator of which is the compensation paid to the employees hired as a result of the

new investment and the denominator of which is the compensation paid to all West Virginia employees of the taxpayer. The Tax Commissioner may require methods other than payroll apportionment to determine the taxes attributable to the qualified investment. Taxpayers must defer twenty percent (.2) of the value of their annual credit applications until tax years 2011 & 2013. Taxpayers paying the minimum Coal Severance Tax may "free-up" any super credit value lost as the result of the additional 75 cent minimum Coal Severance Tax for use against other current year tax liabilities attributable to the qualified investment. **CREDIT EXPIRES 12/31/02 EXCEPT GRANDFATHER PROJECTS.**

Form WV/BCS-1 is used by all taxpayers claiming either the regular super credit or the corporate headquarters relocation super credit. Form WV/BCS-Small is used to claim the small business super credit. Along with Publication TSD-110, West Virginia Tax Credits, these forms provide the necessary information and instructions regarding credit constraints.

**ECONOMIC OPPORTUNITY TAX CREDIT (§11-13Q)**-These credits are to qualified businesses that make a qualified investment (on or after January 1, 2003) in a new or expanded business in West Virginia and, as a result of this investment, create at least twenty new jobs. Qualified businesses include only those engaged in the activities of manufacturing, information processing, warehousing, non-retail goods distribution, qualified research and development, the relocation of a corporate headquarters, or destination-oriented recreation and tourism.

The credit can offset a portion of the tax attributable to qualified investment for the Business and Occupation Tax (electric power generation taxes only), Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax (tax on flow through business profits only) in the order stated.

The amount of tax attributable to qualified investment is generally determined by use of a payroll factor. The taxpayer multiplies total tax liability by a fraction, the numerator of which is the compensation paid to the employees hired as a result of the new qualified investment, and the denominator of which is the compensation paid to all West Virginia employees of the taxpayer. The result of this computation is tax attributable to qualified investment. Excess credit remaining after application of the credit against current year taxes may be carried forward for up to twelve years following the year of initial credit claim attributable to the placement of qualified investment into service.

The year of initial credit claim is either the tax year qualified investment was first placed into service, or, at the election of the taxpayer, the next succeeding tax year.

All taxpayers wishing to qualify for the Economic Opportunity Tax Credit must file an application for such credit (Form WV/EOTC-A). This application is due by no later than the due date of the taxpayer's annual Corporation Net or Personal Income Tax return for the tax year the investment was placed into service or use, including lawful extensions of time to file. Any taxpayer failing to timely file the credit application form will automatically lose up to fifty percent (.5) of the value of any Economic Opportunity Tax Credit sought for the time periods during which the failure to file the application continues. Note that one application (Form WV/EOTC-A) must be filed for each year during which qualified investment is placed in service or use. Taxpayers must also complete and file Schedule EOTC-1 when claiming this credit on annual tax returns.

A taxpayer that moves its corporate headquarters to West Virginia from a location outside of West Virginia may be entitled to an Economic Opportunity Tax Credit if the relocation creates at least fifteen (15) new West Virginia jobs. If the relocation creates at least fifteen (15), but less than twenty (20) new jobs, then the amount of credit is equal to ten percent (.1) of the taxpayer's adjusted qualified investment. The "adjusted qualified investment" means the qualified investment of the taxpayer in real and tangible personal property purchased for the corporate headquarters, plus the cost of the reasonable and necessary expenses incurred by the taxpayer to relocate the corporate headquarters from its out of state location to West Virginia. Generally, the credit may be used to offset tax liabilities in the same manner

described above for the general Economic Opportunity Tax Credit. The only significant difference concerns a slightly different application against the Corporation Net Income Tax. At a minimum, the Economic Opportunity Tax Credit for a corporate headquarters relocation may be used to offset the sum of one hundred percent (1.0) of tax on allocated Corporation Net Income and eighty percent (.8) of the tax attributable to qualified investment on apportioned Corporation Net Income.

Certain small businesses may also be entitled to an Economic Opportunity Tax Credit. The term "small business" means a business or a controlled group of foreign and domestic affiliated businesses with annual gross sales of not more than \$7,000,000. Beginning on January 1, 2004, the maximum gross sales qualification is increased each year by a percentage reflecting the cost of living increase for the prior year. The ceiling on gross sales is \$7,159,600 in 2004, \$7,324,500 in 2005, \$7,552,050 in 2006, \$7,846,850 in 2007, \$8,026,350 in 2008, \$8,368,450 in 2009 and \$8,384,000.00 in 2010. This constraint must be met by the small business only during the year qualified investment is first placed into service or use. The small business must create at least 10 new West Virginia jobs within twelve months, rather than 20 new jobs. If the qualified small business creates at least 10 qualified new jobs, the small business may receive a credit equal to ten percent (.1) of its qualified investment.

**CREDIT FOR INDUSTRIAL EXPANSION AND/OR REVITALIZATION (§11-13D)** - A credit is allowed against Business and Occupation Tax, Severance Tax, and Business Franchise Tax to certain industrial taxpayers who make capital investment in a new or expanded industrial facility in this State or who replace or modernize buildings, equipment, machinery and other tangible personal property used in the operation of an industrial facility located in this State, including the acquisition of any real property necessary to the expansion or revitalization. The amount of Industrial Expansion and Revitalization Credit claimed may not exceed fifty percent (.5) of the pre-credit tax remaining after the subtraction of both the Subsidiary Credit and the Business and Occupation Tax Credit. Note that the fifty percent (.5) limitation also applies to the sum of all Industrial Expansion, Industrial Revitalization, Research and Development, and Residential Housing Development Credits claimed by the taxpayer. **CREDIT EXPIRED 12/31/02 EXCEPT GRANDFATHER PROJECTS.**

**MANUFACTURING INVESTMENT TAX CREDIT (§11-13S)** - Manufacturers that make qualified investments for industrial expansion or industrial revitalization in West Virginia may be eligible for the Manufacturing Investment Tax Credit for qualified investment made on or after January 1, 2003. The term "manufacturing" means any business activity classified as having a sector identifier, consisting of the first two digits of the six-digit North America Industry Classification System code number, of thirty-one, thirty-two, or thirty-three. Eligible investments include real property and improvements thereto and tangible personal property constructed or purchased for use as part of a new or expanded business of a qualified industrial taxpayer. Eligible investments may also include replaced or refurbished buildings, equipment, machinery, and other tangible personal property used in the operation of a qualified facility located in West Virginia. Eligible investment may also include real tangible personal property acquired by written lease for a primary term of ten years or longer, if used as a component part of a new, expanded or revitalized industrial facility. The credit is equal to five percent (.05) of the taxpayer's qualified investment prorated over a ten-year period at a rate of ten percent (.1) per year.

All taxpayers wishing to qualify for the Manufacturing Investment Tax Credit must file an application for such credit (Form WV/MITC-A) on or before the due date of the Personal Income Tax Return or Corporation Net Income Tax Return filed for the tax year the investment was placed in service or use, including lawful extensions of time to file. Any taxpayer failing to timely file the credit application form will automatically lose up to fifty percent (.5) of the value of any Manufacturing Investment Tax Credit sought for the time period in question. Note that one application (Form WV/MITC-A) must be filed for each year during which qualified investment is placed in service or use. Manufacturing Investment Tax Credit may be used to offset up to fifty percent (.5) of the taxpayer's annual liability for Business Franchise Tax, Severance Tax and Corporation Net Income Tax for a period of 10 years. Also, for tax years beginning on or after January 1, 2009, the maximum offset of the Manufacturing Investment Tax Credit will increase from 50 percent (.5) of state tax liability to 60 percent (.6).

Any portion of a particular year's annual credit that remains after application against these taxes for the taxable year is forfeited. Taxpayers must complete and file Schedule WV/MITC-1 when claiming this credit.

**CREDIT FOR RESIDENTIAL HOUSING DEVELOPMENT PROJECTS (§11-13D)** - A credit has been enacted, equal to ten percent (.1) of the cost of a qualified residential housing development project for property purchased after June 30, 1986. A qualified residential housing development project is one which is composed of at least five single-family units, whether such units are five or more single-family residential houses, five or more apartments units, or five or more townhouses. The amount of the credit is applied over a ten year period at the rate of one percent (.01) per year. The amount of residential housing development projects credit claimed may not exceed fifty percent (.5) of pre-credit tax remaining after the subtraction of both the Subsidiary Credit and the Business and Occupation Tax Credit. Note that the fifty percent (.5) limitation also applies to the sum of all Industrial Expansion, Industrial Revitalization, Research and Development, and Residential Housing Development Credits claimed by the taxpayer. **CREDIT EXPIRED 12/31/02 EXCEPT GRANDFATHER PROJECTS.**

**CREDIT FOR COAL LOADING FACILITIES (§11-13E)** - This credit is available to taxpayers subject to Severance Tax and Business Franchise Tax who purchase real or personal property or combination thereof, for the purpose of building or constructing a new or expanded coal loading facility or who revitalize an existing coal loading facility. The facility is to be used solely for the purpose of transferring coal from a coal processing or preparation facility, or from a coal storage facility, or both, or from any means of transportation, to any means of rail or barge transportation used to move coal, including such land as is directly associated with and solely used for the coal loading facility. This definition applies only when the transfer is to any means of rail or barge transportation and specifically excludes the transfer to any other form of transportation. The amount of coal loading facilities credit claimed may not exceed fifty percent (.5) of the pre-credit tax remaining after the subtraction of both the Subsidiary Credit and the Business and Occupation Tax Credit.

**WEST VIRGINIA NEIGHBORHOOD INVESTMENT CREDIT (§11-13J)** A credit is available to private sector businesses which make eligible contributions to community based nonprofit organizations that establish projects to assist neighborhoods and local communities. The allowed credit is fifty percent (.5) of the eligible contribution to a qualified charitable organization that has received approval from the Neighborhood Investment Advisory Board and has been certified by the West Virginia Development Office. The credit is taken within a five year period, beginning with the tax year in which the taxpayer irrevocably transfers its eligible contribution to the project. The aggregate annual credit allowance for the current tax year is an amount equal to the sum of the part allowed for eligible contributions placed in service or use during a prior year, plus the part allowed for an eligible contribution placed in service or use during the current tax year. No taxpayer is allowed more than \$100,000 of tax credits during any taxable year, whether the contributions are made pursuant to one or more certified project plans.

The minimum contribution of a taxpayer that would qualify for the credit during a tax year is \$500 and the maximum contribution is \$200,000. The total amount of tax credits allowed pursuant to project plans certified by the Development Office during any fiscal year is limited to \$2 million. Additional entitlement to the Neighborhood Investment Program Credit pursuant to eligible contributions made to certified projects expires on July 1, 2008. Taxpayers which have gained entitlement to the credit prior to the expiration date retain that entitlement and may apply the credit in due course.

**TAX CREDIT FOR APPRENTICESHIP TRAINING (§11-13W)** After December 31, 2007, a tax credit is allowed equal to \$1 per hour multiplied by the total number of hours worked by apprentices in the construction trades, provided that the credit may not exceed \$1,000 or fifty percent (.5) of actual wages paid with respect to each apprentice.



**WEST VIRGINIA FILM INDUSTRY TAX CREDIT (§11-13X)** Eligible film production companies may claim a tax credit in an amount equaling up to thirty-one percent (.31) of direct production and post production expenditures made in West Virginia. For eligible expenditures occurring on or after December 31, 2007 and for tax years beginning prior to January 1, 2010, the base credit percentage is twenty-seven percent (.27) with an additional four percent (.04) available if certain hiring levels are obtained. For tax years beginning on or after January 1, 2010, the base credit percentage is twenty-two percent (.22) with an additional four percent (.04) available if certain hiring levels are obtained. The credit may be applied to Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax liabilities. The eligible claimants would not be able to receive a refund of any credit amount in excess of tax liability and no more than \$10 million in credit may be allocated in any tax year.

**FINANCIAL ORGANIZATION GOODWILL TAX CREDIT (§11-23-5a(g))** A Business Franchise Tax credit is available to any Financial Organization related to additional goodwill added to the balance sheet on or after January 1, 2008 that is attributable to the purchase of a non-domiciled financial organization. The tax credit equals fifty percent (.5) of the qualified additional goodwill multiplied by the Business Franchise Tax rate. In 2009, the tax credit equals 0.48% multiplied by 50 percent (.5) of the additional goodwill value.

**MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT (§11-13Y)** Beginning in 2009, manufacturers may claim a non-refundable tax credit against Business Franchise Tax and Corporation Net Income Tax equal to the amount of local property taxes paid on West Virginia manufacturing inventory. This credit is expected to save manufacturers roughly \$11 million per year.

Effective January 1, 2009, the West Virginia Manufacturing Property Tax Adjustment Act declares that there shall be a tax credit available first against the Business Franchise Tax and then the Corporation Net Income Tax. The credit amount is the amount of ad valorem Property Tax paid on the value of manufacturing inventory of the eligible taxpayer during the tax reporting year.

There is no provision for a carry forward credit. In order to claim this credit, an annual schedule showing the amount of tax paid for the taxable year and the amount of the allowable credit must be submitted with the tax return.

**SCHEDULE SP- SHAREHOLDER INFORMATION AND NON-RESIDENT WITHHOLDING**

Enter the name, address, city, state, and zip code of each shareholder/partner that the S Corporation or partnership had during its taxable year. If additional space is needed, attach additional copies of Schedule SP.

**Column A.** Enter the social security number or federal employers identification number of the shareholder listed on the same numbered line in the top part of Schedule SP.

**Column B.** If the shareholder/partner is a resident of West Virginia, enter their percent of ownership in this column. **Do not complete Columns C through H for West Virginia resident shareholders/partners.**

**Column C.** If the shareholder/partner is a nonresident of West Virginia and the S Corporation will satisfy the nonresident withholding requirements by filing a composite return for its shareholders/partners, enter their percent of ownership in this column. **Do not complete Columns D through H if you are filing a composite return for your nonresident shareholders/partners.**

**Column D.** If the shareholder/partner is a nonresident of West Virginia and the S Corporation is not filing a composite return for its nonresident shareholders/partners, enter the percent of ownership in this column. **Do not complete Columns F through H if you have received Form WV/NRW-4 from the nonresident shareholder/partner.** Instead, attach a copy of Form WV/NRW-4 to your Form WV/SPF-100 when filed and check the box in Column E.

**Column E.** If you have received Form WV/NRW-4 from the nonresident shareholder/partner, check this box and attach the agreement to your return when filed. Also, if you received Form WV/NRW-4 from the nonresident shareholder/partner during a prior tax year and previously filed the agreement with your return for that year and it has not been revoked, check this box. If the agreement was previously filed with the Department and it has not been revoked, it is not necessary to file additional copies with your return for subsequent years.

**Column F.** Enter your West Virginia Income for S Corporations from Schedule A, Line 12 of Form WV/SPF-100. For partnerships, enter your West Virginia income from Schedule A, Line 10 of Form WV/SPF-100.

**Column G.** Multiply the dollar amount in Column F by the percent of ownership from Column D and enter the result in Column G.

**Column H.** Multiply the dollar amount in Column G by the tax rate and enter the result in Column H.

**Line 11.** Total the columns. If you have attached additional copies of Schedule SP enter the grand total of the columns from all the copies of Schedule SP on the first Schedule SP and label the figures as "grand total". Transfer the appropriate column totals to the front of the return (WV/SPF-100).

**SPECIAL NOTE.** S Corporations/partnerships with nonresident shareholders/partners are strongly encouraged to review the following forms which are included in this packet.

**WV/NRW-4** - Nonresident Income Tax Agreement

**WV/NRW-2** - Statement of West Virginia Income Tax Withheld for Nonresident Individual or Organization

**WV/SPF-100T** - Extension of Time to File Information Returns

These forms contain important information about the nonresident withholding requirements. You may copy or make facsimiles of these forms as your needs require.

**EXTENSION PAYMENTS.** Extension requests and tentative payments of the nonresident withholding tax for S Corporations/Partnerships are to be submitted on Form WV/SPF-100T. There is a detachable copy of Form WV/SPF-100T on page 12 of this booklet.

## INSTRUCTIONS FORM WV/SPF-100

Enter 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. Check applicable box for the return being filed.

**BUSINESS DATA SECTION:** You must complete the questions asked in this section before going to Line 1.

**ATTACHMENTS AND STATEMENTS REQUIRED** Attach the additional information and statements required as part of your form WV/SPF-100 if they apply to your filing method.

Attach a copy of pages 1 through 5 of your signed federal return (Form 1120S or 1065), and schedule M-3 if applicable. If filing separate West Virginia and consolidated federal, attach your pro forma federal, consolidated federal, Form 851 (Affiliation Schedule), plus spreadsheets of the income and expense, and balance sheet entries for EVERY corporation included in the consolidated federal return.

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

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

**S CORPORATIONS/PARTNERSHIPS WITH NONRESIDENT SHAREHOLDERS/PARTNERS MUST COMPLETE SCHEDULE SP BEFORE COMPLETING LINES 1 THROUGH 4.**

**Line 1.** Enter the total percentage from Line 11, Column C, Schedule SP.

**Line 2.** Enter the total percentage from Line 11, Column D, Schedule SP.

**Line 3.** Enter the total dollar amount from Line 11, Column G, Schedule SP.

**Line 4.** Enter the total dollar amount from Line 11, Column H, Schedule SP.

### INSTRUCTIONS

**Line 5.** Enter West Virginia taxable capital from Business Franchise Tax Schedule B, Line 16.

**Line 6.** Multiply Line 5 by tax rate and enter result or \$50.00 whichever is greater.

When your federal taxable year is a short taxable year, the tax is prorated based on the number of months that are in the short taxable year divided by the number 12.

When your first taxable year for Business Franchise Tax purposes includes a period of time during which you were not subject to the West Virginia Business Franchise Tax, the tax is prorated based on the number of months during the taxable year that you did business in West Virginia divided by the number 12. Neither the minimum tax of \$50.00 nor the capital base can be prorated.

**Line 7.** Enter result from Line 18 from completed Business Franchise Tax Credits Schedule, WV/SPF-100TC. Total amount of credit cannot exceed the tax on Line 6.

**Line 8.** Subtract Line 7 from Line 6 and enter result on Line 8.

**Line 12.** Enter any previous payments made (withholding only)

**Line 13.** Amount paid with original return (amended return only)

**Line 15.** Overpayment previously refunded or credited (amended return only)

**Line 16.** Total payments, line 14 minus line 15

**Line 18.** Determine interest due. See the general information on page 5 of this booklet for additional information regarding interest.

**Line 19.** Determine additions to tax due. See the general information on page 5 of this booklet for additional information regarding additions to tax.

**Line 21.** Remit this amount by check made payable to the West Virginia State Tax Department.

**Lines 22-24.** An overpayment may be credited to next year's tax or refunded, either in whole or in part. Enter on Line 23 the amount of overpayment to be credited to next year's tax. Enter on Line 24 the amount of overpayment to be refunded.

### SPECIFIC INSTRUCTIONS - SCHEDULE A (INCOME/LOSS)

S Corporations and partnerships with nonresident shareholders must complete Lines 1 through 12 and all applicable parts of Schedule SP.

All S Corporations and partnerships must complete Lines 1 through 12 and Schedule SP through Column D. If the S Corporation or partnership has income from sources both within and without West Virginia, they must complete Form WV/SPF-100APT to determine how much of their income is from a West Virginia source.

**Line 1.** S Corporation enter the ordinary income (loss) as shown on Federal Form 1120S. Partnership 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, and K-1, 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, and K-1, that is not included on Line 1.

**Line 3.** S Corporation enter the amount of any expenses or deductions as shown on Federal Form 1120S, Schedule K, that are not included on Line 1. Partnership 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.** Net modifications to federal income for S Corporation or Partnership.

**Line 7 and 11.** If the S Corporation has income derived from sources within and without West Virginia, and some of it can be classified as nonbusiness income, complete Schedule A of Form WV/SPF-100APT to properly determine how much of the nonbusiness income is from West Virginia. See the instructions for Schedule A of Form WV/SPF-100APT found in this booklet for how to classify income as nonbusiness income.

**Line 9.** If income is derived from sources within and without West Virginia enter the apportionment factor from Schedule B of Form WV/SPF-100APT found in this booklet.

### SCHEDULE A-1 - MODIFICATIONS TO FEDERAL PARTNERSHIP INCOME

West Virginia law requires certain items of income and deductions to be added to or subtracted from the partnership's federal partnership income. Enter the appropriate increasing and decreasing modifications as indicated on Lines 13 through 21.

### SCHEDULE A-2 - MODIFICATIONS TO FEDERAL S CORPORATION INCOME

**Line 1.** Enter exempt interest or dividends from any state or local bonds or securities from your federal return Form 1120S Schedule K or Schedule M-1.

**Line 2.** Attach supporting documentation.

**Line 3.** Attach an itemized schedule of taxes and licenses from your federal income tax return Form 1120S or pro forma.

(CONTINUED ON PAGE 11)

**WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX  
RETURN FOR S CORPORATION AND PARTNERSHIP  
(PASSTHROUGH)**

FEIN \_\_\_\_\_

TAX YEAR BEGINNING MM DD YYYY ENDING MM DD YYYY EXTENDED DUE DATE MM DD YYYY

|                           |   |
|---------------------------|---|
| BUSINESS NAME AND ADDRESS | PRINCIPAL PLACE OF BUSINESS IN WV   |
|                           | TYPE OF ACTIVITY IN WV  |
|                           | <input type="checkbox"/> 52/53 WEEK FILER _____<br><i>day of week started</i> |

**CHECK APPLICABLE BOXES**

|  |                                      |                                  |   |                                  |   |                               |
|--|--------------------------------------|----------------------------------|---|----------------------------------|---|-------------------------------|
| S CORPORATION <input type="checkbox"/> | PARTNERSHIP <input type="checkbox"/> | INITIAL <input type="checkbox"/> | TYPE OF RETURN:<br>FINAL <input type="checkbox"/> | AMENDED <input type="checkbox"/> | FEDERAL RETURN ATTACHED<br>1120S <input type="checkbox"/> | 1065 <input type="checkbox"/> |
|--|--------------------------------------|----------------------------------|---|----------------------------------|---|-------------------------------|

**NONRESIDENT WITHHOLDING - COMPLETE SCHEDULE SP BEFORE COMPLETING THIS SECTION**

|   |   |   |     |
|---|---|---|-----|
| 1. Percent of nonresidents filing composite personal income tax returns (from Schedule SP, Column C, Line 11).....    | 1 | • |     |
| 2. Percent of nonresidents filing nonresident personal income tax returns (from Schedule SP, Column D, Line 11).....  | 2 | • |     |
| 3. Income subject to withholding (from Schedule SP, Column G, Line 11).....   | 3 |   | .00 |
| 4. West Virginia income tax withheld for nonresident shareholders/partners (from Schedule SP, Column H, Line 11)..... | 4 |   | .00 |

**BUSINESS FRANCHISE TAX/WITHHOLDING TAX**

|  |    |  |     |
|--|----|--|-----|
| 5. West Virginia taxable capital (Schedule B, Line 16)   | 5  |  | .00 |
| 6. West Virginia business franchise tax (Line 5 x 0.0041 or \$50.00, whichever is greater).....  | 6  |  | .00 |
| 7. Tax credits (Schedule WV/SPF-100TC, Line 18).....   | 7  |  | .00 |
| 8. Adjusted business franchise tax (Line 6 less Line 7).....   | 8  |  | .00 |
| 9. Combined withholding/business franchise tax (add Line 4 and Line 8).....  | 9  |  | .00 |
| 10. Prior year carryforward credit.....  | 10 |  | .00 |
| 11. Tax payments.....  | 11 |  | .00 |
| 12. Withholding payments.....  | 12 |  | .00 |
| 13. Amount paid with original return (Amended Return Only)   | 13 |  | .00 |
| 14. Payments (add Lines 10 through 13) Must match total of Schedule of Tax Payments...   | 14 |  | .00 |
| 15. Overpayment previously refunded or credited (Amended Return Only).....   | 15 |  | .00 |
| 16. Total Payments (Line 14 minus Line 15).....  | 16 |  | .00 |
| 17. Tax Due- If Line 16 is smaller than Line 9, enter amount owed.<br>If Line 16 is larger than Line 9, enter -0- and skip to Line 22.....                                       | 17 |  | .00 |
| 18. Interest for late payment.....   | 18 |  | .00 |
| 19. Additions to tax for late filing and/or late payment.....  | 19 |  | .00 |
| 20. Penalty for underpayment of business franchise estimated tax.....<br>Attach Form WV/SPF-100U - Check if requesting waiver/annualized worksheet used <input type="checkbox"/> | 20 |  | .00 |
| 21. Total due with this return (add Lines 17 through 20).....<br>Make check payable to West Virginia State Tax Department  | 21 |  | .00 |
| 22. Overpayment (Line 16 less Line 9).....   | 22 |  | .00 |
| 23. Amount of Line 22 to be credited to next year's tax  | 23 |  | .00 |
| 24. Amount of Line 22 to be refunded.....  | 24 |  | .00 |

**WV/SPF-100 WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX - 2010**  
**RETURN FOR S CORPORATION AND PARTNERSHIP**

REV 08-10 B

**SCHEDULE A - INCOME/LOSS**

|   |    |     |
|---|----|-----|
| 1. Income/Loss: S Corporation use Federal Form 1120S; Partnership use Federal Form 1065.....  | 1  | .00 |
| 2. Other income: S Corporation use Federal Form 1120S, Schedule K and K-1, supplemental income; Partnership use Federal Form 1065, Schedule K and K-1 supplemental income.....                                      | 2  | .00 |
| 3. Other expenses/deductions: S Corporation use Federal form 1120S, Schedule K; Partnership use Federal Form 1065, Schedule K.....  | 3  | .00 |
| 4. TOTAL FEDERAL INCOME: Add Lines 1 and 2 minus Line 3 - Attach federal return.....  | 4  | .00 |
| 5. Net modifications to federal income (from Schedule A-1, Line 21 or Schedule A-2, Line 24).....   | 5  | .00 |
| 6. Modified federal income (sum of Lines 4 and 5). Wholly WV business go to Line 12; Multistate Corporation go to Line 7. Modified federal Partnership income (sum of Lines 4 and 5), go to Line 8.....             | 6  | .00 |
| 7. Total nonbusiness income allocated everywhere: S CORPORATION ONLY use Form WV/SPF-100APT, Schedule A1, Column 3, Line 8.....   | 7  | .00 |
| 8. Income subject to apportionment (Line 6 less Line 7).....  | 8  | .00 |
| 9. West Virginia apportionment factor: (Round to 6 decimal places) from WV/SPF-100APT, S Corporation use Schedule B, Line 8; or Part 2, Column 3; or Part 3, Column 3; Partnership use Schedule B, Line 8.....      | 9  | .00 |
| 10. West Virginia apportioned income (Line 8 multiplied by Line 9) If Line 10 shows a loss, omit Page 1, Lines 1 through 4. However you must complete Schedule SP. S Corporations complete Lines 11 and 12.....     | 10 | .00 |
| 11. Nonbusiness income allocated to West Virginia; S CORPORATION ONLY. Use Form WV/SPF-100APT, Schedule A2, Line 12.....  | 11 | .00 |
| 12. West Virginia income (wholly WV S-Corporations enter Line 6; Multistate Corporations add Lines 10 and 11). If Line 12 shows a loss, omit Page 1, Lines 1 through 4. However, you must complete Schedule SP..... | 12 | .00 |

**SCHEDULE A-1 - MODIFICATIONS TO FEDERAL PARTNERSHIP INCOME**

|   |    |     |
|---|----|-----|
| <b>INCREASING</b>   |    |     |
| 13. Interest income from obligations or securities of any state, or political subdivision other than this state.....  | 13 | .00 |
| 14. US Government obligation interest or dividends exempt from federal but not exempt from state tax, less related expenses not deducted on federal return..... | 14 | .00 |
| 15. Interest expenses deducted on your federal return on indebtedness to purchase or carry securities exempt from West Virginia income tax.....                 | 15 | .00 |
| 16. Total increasing modifications - Add Lines 13 through 15.....   | 16 | .00 |
| <b>DECREASING</b>   |    |     |
| 17. Interest or dividends from US government obligations, included on your federal return.....  | 17 | .00 |
| 18. US Government obligation interest or dividends subject to federal but exempt from state tax, less related expenses deducted on your federal return.....     | 18 | .00 |
| 19. Refund or credit of income taxes or taxes based upon income, imposed by this state or any other jurisdiction, included on your federal return.....          | 19 | .00 |
| 20. Total decreasing modifications - Add Lines 17 through 19.....   | 20 | .00 |
| <b>NET</b>  |    |     |
| 21. Net modifications to federal partnership income - Line 16 less Line 20. Enter here and on Schedule A, Line 5  | 21 | .00 |

**DIRECT DEPOSIT OF REFUND**

TYPE:  CHECKING  SAVINGS

ROUTING NUMBER:

ACCOUNT NUMBER:

Under penalties of perjury, I declare that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true and complete. All appropriate sections of the return must be completed. An incomplete return will not be accepted as timely filed. Checking this box indicates waiver of my/our rights of confidentiality for the purpose of contacting the preparer regarding this return.

|  |   |       |      |                         |
|--|---|-------|------|-------------------------|
| Signature of Officer/Partner or Member | Name of Officer/Partner or member-print | Title | Date | Business Phone Number   |
| Paid preparer's signature              |   |       |      | Firm's name and address |
| Date                                   |   |       |      | Preparer phone number   |

**MAIL TO:**  
**WEST VIRGINIA STATE TAX DEPARTMENT**  
**TAX ACCOUNT ADMINISTRATION DIVISION**  
**PO BOX 11751**  
**CHARLESTON, WV 25339-1751**

\*b54201002A\*

**WV/SPF-100 WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX 2010**  
 REV 08-10 **B** **RETURN FOR S CORPORATION AND PARTNERSHIP**

FEIN \_\_\_\_\_

**SCHEDULE A-2 - MODIFICATIONS TO FEDERAL S CORPORATION INCOME**

| <b>S CORPORATION INCOME TAX - CALCULATION OF WEST VIRGINIA TAXABLE INCOME (11-24-6 and 6a)</b>   |    |     |
|--|----|-----|
| 1. Interest or dividends from any state or local bonds or securities.....  | 1  | .00 |
| 2. U.S. Government obligation interest or dividends not exempt from state tax, less related expenses not deducted on federal return.....                           | 2  | .00 |
| 3. Income taxes or taxes based upon net income, imposed by this state or any other jurisdiction, deducted on your federal return.....                              | 3  | .00 |
| 4. Federal depreciation/amortization for WV water/air pollution control facilities - wholly WV corporations only.....  | 4  | .00 |
| 5. Unrelated business taxable income of a corporation exempt from federal tax (IRC 512).....   | 5  | .00 |
| 6. Federal net operating loss deduction.....   | 6  | .00 |
| 7. Federal deduction for charitable contributions to Neighborhood Investment Programs if claiming the WV Neighborhood Investment Programs Tax credit.....          | 7  | .00 |
| 8. Net operating loss from sources outside the United States.....  | 8  | .00 |
| 9. Foreign taxes deducted on your federal return.....  | 9  | .00 |
| 10. Deduction taken under IRC 199 (WV Code §11-24-6a).....   | 10 | .00 |
| 11. Add back for expenses related to certain REIT's and Regulated Investment Companies (WV Code §11-24-4b) .....   | 11 | .00 |
| 12. TOTAL INCREASING ADJUSTMENTS - add Lines 1 through 11.....   | 12 | .00 |
| 13. Refund or credit of income taxes or taxes based upon net income, imposed by this state or any other jurisdiction, included in federal taxable income.....      | 13 | .00 |
| 14. Interest expense on obligations or securities of any state or its political subdivisions, disallowed in determining federal taxable income.....                | 14 | .00 |
| 15. Salary expense not allowed on federal return due to claiming the federal jobs credit.....  | 15 | .00 |
| 16. Foreign dividend gross-up (IRC Section 78).....  | 16 | .00 |
| 17. Subpart F income (IRC Section 951).....  | 17 | .00 |
| 18. Taxable income from sources outside the United States.....   | 18 | .00 |
| 19. Cost of West Virginia water/air pollution control facilities - wholly WV only.....   | 19 | .00 |
| 20. Employer contributions to medical savings accounts (WV Code §33-16-15) included in federal taxable income less amounts withdrawn for non-medical purposes..... | 20 | .00 |
| 21. SUBTOTAL of decreasing adjustments - add Lines 13 through 20.....  | 21 | .00 |
| 22. Allowance for governmental obligations/obligations secured by residential property (from Schedule A-3, Line 9).....  | 22 | .00 |

**WV/SPF-100 WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX 2010**  
**RETURN FOR S CORPORATION AND PARTNERSHIP**

REV 08-10 B

FEIN

|  |    |   |  |
|--|----|---|--|
| 23. TOTAL DECREASING ADJUSTMENTS - add Lines 21 and 22.....  | 22 |   | <b>.00</b>                                       |
| 24. Net modifications to Federal S Corporation Income - Line 12 less Line 23. Enter here and on Schedule A, Line 5.....  | 23 |   | <b>.00</b>                                       |
| <b>SCHEDULE A-3 - ALLOWANCE FOR GOVERNMENTAL OBLIGATIONS/OBLIGATIONS SECURED BY RESIDENTIAL PROPERTY (11-24-6(f))</b>  |    |   |  |
| 1. Federal obligations and securities.....   | 1  |   | <b>.00</b>                                       |
| 2. Obligations of WV and any political subdivision of WV.....  | 2  |   | <b>.00</b>                                       |
| 3. Investments or loans primarily secured by mortgages or deeds of trust on residential property located in WV.....  | 3  |   | <b>.00</b>                                       |
| 4. Loans primarily secured by a lien or security agreement on a mobile home or double-wide located in WV.....  | 4  |   | <b>.00</b>                                       |
| 5. TOTAL - add Lines 1 through 4.....  | 5  |   | <b>.00</b>                                       |
| 6. Total assets as shown on Schedule L, Federal Form 1120S.....  | 6  |   | <b>.00</b>                                       |
| 7. Line 5 divided by Line 6 (round to six (6) decimal places).....   | 7  | ● | <b>COMPLETED SCHEDULE B<br/>MUST BE ATTACHED</b> |
| 8. Adjusted income - Add Schedule A, Line 4 and Schedule A-2, Line 12 minus Schedule A-2 Line 21 plus total from Form WV/SPF-100APT, Schedule A2, Lines 10 through 13..... | 8  |   | <b>.00</b>                                       |
| 9. ALLOWANCE - Line 7 x Line 8, disregard sign - enter here and on Schedule A-2 Line 22.....   | 9  |   | <b>.00</b>                                       |

| <b>SCHEDULE OF TAX PAYMENTS</b>  |   |                 |    |      |                 |  |                   |
|--|---|-----------------|----|------|-----------------|--|-------------------|
| Name of business   | West Virginia Account Identification Number | Date of Payment |    |      | Indicate if EFT | Type: withholding, estimated, extension, other pmts or prior year credit | Amount of payment |
|  |   | MM              | DD | YEAR |                 |  |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
|  |   |                 |    |      |                 | <b>.00</b>   |                   |
| TOTAL - This amount must agree with the amount on Line 14, on front of return..... |   |                 |    |      |                 |  | <b>.00</b>        |

**WV/SPF-100 WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX 2010**  
**RETURN FOR S CORPORATION AND PARTNERSHIP**

REV 08-10 B

FEIN \_\_\_\_\_

| <b>SCHEDULE B - BUSINESS FRANCHISE TAX - CALCULATION OF WEST VIRGINIA TAXABLE CAPITAL (11-23-3(b)(2))</b>  |  |  |   |
|--|--|--|---|
|  | Column 1<br>Beginning Balance                              | Column 2<br>Ending Balance             | Column 3 - Average<br>(Col 1 + Col 2) divided by 2    |
| 1. Dollar amount of common stock & preferred stock   | .00  | .00                                    | .00   |
| 2. Paid-in or capital surplus.....   | .00  | .00                                    | .00   |
| 3. Retained earnings appropriated & unappropriated   | .00  | .00                                    | .00   |
| 4. Adjustments to shareholders equity.....   | .00  | .00                                    | .00   |
| 5. Shareholders undistributed taxable income.....  | .00  | .00                                    | .00   |
| 6. Accumulated adjustments account.....  | .00  | .00                                    | .00   |
| 7. Other adjustments account.....  | .00  | .00                                    | .00   |
| 8. Add Lines 1 through 7 of Column 3.....  |  |  | .00   |
| 9. Less: Cost of Treasury Stock.....   | .00  | .00                                    | .00   |
| 10. Dollar amount of partner's capital accounts.....   | .00  | .00                                    | .00   |
| 11. Capital - Column 3, Line 8 less Column 3, Line 9.....  |  |  | .00   |
| 12. Multiplier for allowance for certain obligations/investments -<br>Schedule A-3, Line 7.....  |  | •                                      |   |
| 13. Allowance - Line 10 or 11 multiplied by Line 12.....   |  |  | .00   |
| 14. Adjusted capital - subtract Line 13 from Line 10, or 11. If taxable only in West Virginia check here <input type="checkbox"/><br>and enter this amount on Line 16..... |  |  | .00   |
| 15. Apportionment factor - Form WV/SPF-100APT, Schedule B, Line 8 or<br>Part 3, Column 3.....  |  | •                                      | <b>COMPLETED FORM<br/>MUST BE ATTACHED</b>            |
| 16. TAXABLE CAPITAL - Line 14 multiplied by Line 15 - Enter on front of return, Line 5.....  |  |  | .00   |
| <b>BUSINESS FRANCHISE TAX - SUBSIDIARY CREDIT (11-23-17(e))</b>  |  |  |   |
| Column 1<br>Account number and name<br>of Subsidiary or Partnership  | Column 2<br>Recomputed Business<br>Franchise Tax Liability | Column 3<br>Percentage<br>of Ownership | Column 4<br>Allowable Credit<br>(Column 2 x Column 3) |
| FEIN _____<br>NAME _____   | .00  | •                                      | .00   |
| FEIN _____<br>NAME _____   | .00  | •                                      | .00   |
| FEIN _____<br>NAME _____   | .00  | •                                      | .00   |
| 17. TOTAL - (Enter here and on Schedule WV/SPF-100TC, Line 1) attach additional sheets if needed.....  |  |  | .00   |
| <b>BUSINESS FRANCHISE TAX - TAX CREDIT FOR PUBLIC UTILITIES AND ELECTRIC POWER GENERATORS (11-23-17(b))</b>  |  |  |   |
| 18. Gross income in West Virginia subject to the STATE Business and Occupation Tax.....  |  |  | .00   |
| 19. Total gross income of taxpayer from all activity in West Virginia.....   |  |  | .00   |
| 20. Line 18 divided by Line 19 (Round to 6 decimal places).....  |  | •                                      |   |
| 21. Business Franchise liability - From front of return, Line 6, reduced by any Subsidiary Credit.....   |  |  | .00   |
| 22. Allowable credit - Line 21 multiplied by line 20 - Enter here and on Schedule WV/SPF-100TC, Line 2.....  |  |  | .00   |

**\*\*IMPORTANT NOTE REGARDING LINE 15\*\***  
**FORM WV/SPF-100APT, SCHEDULE B MUST BE COMPLETED AND ATTACHED**  
**FAILURE TO ATTACH COMPLETED FORM**  
**WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA**

\* b54201005A \*

Name \_\_\_\_\_

FEIN \_\_\_\_\_

This form is used by businesses to summarize the tax credits that they claim against their business franchise tax liability. In addition to completing this summary form, each tax credit has a schedule or form that is used to determine the amount of credit that can be claimed. Both this summary form and the appropriate credit calculation schedule(s) or form(s) must be attached to your return in order to claim a tax credit.

| <b>TAX CREDITS</b>   |     |
|--|-----|
| <i>THE TOTAL AMOUNT OF CREDIT CANNOT EXCEED THE TAX LIABILITY</i>  |     |
| 1. Subsidiary Credit (§11-23-17(c)).....   | .00 |
| 2. Business & Occupation Tax Credit (§11-23-17(b)) .....   | .00 |
| 3. Research and Development Projects Credit (§11-13D-3(f)) Schedule R & D * .....                            | .00 |
| 4. High-Growth Business Investment Tax Credit (§11-13U-4) Schedule WV/HGBITC-1.....                          | .00 |
| 5. Business Investment & Job Expansion Credit (§11-13C) Form WV/BCS-A, & WV/BCS-1 or WV/BCS-Small*, ** ..... | .00 |
| 6. Economic Opportunity Tax Credit (§11-13Q) Schedule WV/EOTC-A and WV/EOTC-1.....                           | .00 |
| 7. Industrial Expansion/Revitalization Credit (§11-13D) Schedule I*.....                                     | .00 |
| 8. Manufacturing Investment Tax Credit (§11-13S) Schedule WV/MITC-1.....                                     | .00 |
| 9. Residential Housing Development Projects Credit (§11-13D) Schedule O*.....                                | .00 |
| 10. Coal Loading Facilities Credit (§11-13E) Schedule C.....   | .00 |
| 11. West Virginia Neighborhood Investment Program Credit (§11-13J) Form WV/NIPA-2.....                       | .00 |
| 12. Aerospace Industrial Facility Investment Credit (§11-13D-3f) Form WV/AIF-1 *.....                        | .00 |
| 13. Strategic Research and Development Tax Credit (§11-13R) Schedule WV/SRDTC-1.....                         | .00 |
| 14. Apprentice Training Tax Credit (§11-13W) Schedule WV/ATTC-1.....   | .00 |
| 15. Film Industry Investment Tax Credit (§11-13X) Schedule WV/FIIA-TCS.....                                  | .00 |
| 16. Goodwill Tax Credit (§11-23-5a(g)) Schedule WV/FOGW-1.....   | .00 |
| 17. Manufacturing Property Tax Adjustment Credit (§11-13Y) Schedule WV/MPTAC-1.....                          | .00 |
| 18. TOTAL CREDITS - Add Lines 1 through 17. Enter on front of return, Line 7.....                            | .00 |

\* No credit is available to any taxpayer for Investment placed in service or use after December 31, 2002. Taxpayers who gained entitlement to the tax credit prior to January 1, 2003, retain that entitlement and may apply the credit in due course pursuant to the requirements and limitations of the original credit entitlement period.

\*\*Transition rules may apply.



**WV/SPF-100APT ALLOCATION AND APPORTIONMENT 2010**  
**FOR MULTISTATE BUSINESSES**

REV 08-10 B

FEIN \_\_\_\_\_

This form is used by corporations that are subject to tax in more than one state to allocate and apportion their income and/or capital to the State of West Virginia. Complete and attach to Form WV/SPF-100. See instructions and information for Schedule A and Schedule B, Part 1, 2, & 3.

| <b>SCHEDULE A 1 EVERYWHERE - ALLOCATION OF NONBUSINESS INCOME FOR MULTISTATE BUSINESSES (11-24-7)</b>                     |                              |                                  |                            |
|---|------------------------------|----------------------------------|----------------------------|
| <b>Types of allocable income</b>  | <b>Column 1 GROSS INCOME</b> | <b>Column 2 RELATED EXPENSES</b> | <b>Column 3 NET INCOME</b> |
| 1. Rents.....   | .00                          | .00                              | .00                        |
| 2. Royalties.....   | .00                          | .00                              | .00                        |
| 3. Capital gains/losses....   | .00                          | .00                              | .00                        |
| 4. Interest.....  | .00                          | .00                              | .00                        |
| 5. Dividends.....   | .00                          | .00                              | .00                        |
| 6. Patent/copyright royalties.....  | .00                          | .00                              | .00                        |
| 7. Gain - Sale of natural resources IRC Sec. 631 (a)(b).....  | .00                          | .00                              | .00                        |
| 8. Nonbusiness income/loss - Sum of Lines 1 through 7, Column 3.<br>Enter Column 3 on WV/SPF-100, Schedule A, Line 7..... |                              |                                  | .00                        |

| <b>SCHEDULE A 2 WEST VIRGINIA - ALLOCATION OF NONBUSINESS INCOME FOR MULTISTATE BUSINESSES (11-24-7)</b> |                              |                                  |                            |
|--|------------------------------|----------------------------------|----------------------------|
| <b>Types of allocable income</b>   | <b>Column 1 GROSS INCOME</b> | <b>Column 2 RELATED EXPENSES</b> | <b>Column 3 NET INCOME</b> |
| 1. Rents.....  | .00                          | .00                              | .00                        |
| 2. Royalties.....  | .00                          | .00                              | .00                        |
| 3. Capital gains/losses....  | .00                          | .00                              | .00                        |
| 4. Interest.....   | .00                          | .00                              | .00                        |
| 5. Dividends.....  | .00                          | .00                              | .00                        |
| 6. Patent/copyright royalties.....   | .00                          | .00                              | .00                        |
| 7. Gain - Sale of natural resources IRC Sec. 631 (a)(b).....   | .00                          | .00                              | .00                        |

(CONTINUED ON NEXT PAGE)

**WV/SPF-100APT ALLOCATION AND APPORTIONMENT 2010**  
**FOR MULTISTATE BUSINESSES**

REV 08-10 B

FEIN

| <b>SCHEDULE A 2 WEST VIRGINIA - ALLOCATION OF NONBUSINESS INCOME FOR MULTISTATE BUSINESSES (11-24-7) (cont)</b>                                    |                        |
|--|------------------------|
|  | Column 3<br>NET INCOME |
| 8. Nonbusiness income/loss - Sum of Lines 1 through 7, Column 3.....   | .00                    |
| 9. Cost of West Virginia water/air pollution control facilities this year.....   | ( .00)                 |
| 10. Federal depreciation/amortization on those facilities this year.....   | .00                    |
| 11. Federal depreciation/amortization on such facilities expensed in a prior year.....   | .00                    |
| 12. Net nonbusiness income/loss allocated to West Virginia - Sum of Lines 8 through 11, Column 3.<br>Enter on WV/SPF-100, Schedule A, Line 11..... | .00                    |

**SCHEDULE B APPORTIONMENT FACTORS FOR MULTISTATE BUSINESSES/PARTNERSHIPS (11-24-7, AND 11-23-5)**

**LINES 1 & 2: Divide Column 1 by Column 2 and enter six (6) digit decimal in Column 3**  
**LINE 5: Column 1 - Enter Line 3. Column 2- Line 3 less Line 4. Divide Column 1 by Column 2 and enter six (6) digit decimal in Column 3.**

| <b>PART 1 -<br/>REGULAR FACTOR</b>   | Column 1<br>West Virginia | Column 2<br>Everywhere | Column 3<br>Decimal Fraction (6 digits) |
|--|---------------------------|------------------------|---|
| 1. Total Property.....   | .00                       | .00                    | •                                       |
| 2. Total Payroll.....  | .00                       | .00                    | •                                       |
| 3. Total Sales.....  | .00                       | .00                    |   |
| 4. Sales to purchasers in a state where you are not taxable.   |                           | .00                    |   |
| 5. Adjusted sales.....   | .00                       | .00                    | •                                       |
| 6. Adjusted sales - Enter Line 5 again.....  | .00                       | .00                    | •                                       |
| 7. TOTAL: Add Column 3, Lines 1, 2, 5, and 6.....  |                           |                        | •                                       |
| 8. APPORTIONMENT FACTOR - Line 7 divided by the number 4, reduced by the number of factors showing zero in Column 2, Lines 1, 2, 5, and 6. Enter six (6) digits after the decimal. Enter on WV/SPF-100, Schedule A, Line 9 and on WV/SPF-100, Schedule B, Line 15..... |                           |                        | •                                       |

**PART 2 - MOTOR CARRIER FACTOR (11-24-7a)**  
**VEHICLE MILEAGE -Use for Corporate Income Tax only. Use Part 1 for Franchise Tax. Enter Column 3 on Form WV/SPF-100, Schedule A, Line 9**

| Column 1<br>West Virginia | Column 2<br>Everywhere | Column 3<br>Decimal Fraction (6 digits) |
|---------------------------|------------------------|---|
|                           |                        | •                                       |

**PART 3 - FINANCIAL ORGANIZATION FACTOR (11-24-7b and 11-23-5a)**  
**GROSS RECEIPTS - Enter Column 3 on WV/SPF-100, Schedule A, Line 9 and on WV/SPF-100, Schedule B, Line 15**

| Column 1<br>West Virginia | Column 2<br>Everywhere | Column 3<br>Decimal Fraction (6 digits) |
|---------------------------|------------------------|---|
|                           |                        | •                                       |

**SCHEDULE SP**

**WEST VIRGINIA INCOME/BUSINESS FRANCHISE TAX RETURN FOR  
S CORPORATIONS AND PARTNERSHIPS**

**2010**

REV 08-10 **B**

FEIN \_\_\_\_\_

| SHAREHOLDER/PARTNER INFORMATION AND NONRESIDENT WITHHOLDING  |   |                  |                         |      |   |                                   |  |   |
|--|---|------------------|-------------------------|------|---|-----------------------------------|--|---|
| SHAREHOLDERS/PARTNERS OWNERSHIP AND COMPUTATION OF WEST VIRGINIA NONRESIDENT SHAREHOLDERS/PARTNERS WITHHOLDING TAX |   |                  |                         |      |   |                                   |  |   |
| (A)<br>SOCIAL SECURITY<br>NUMBER or FEIN   | PERCENT OF OWNERSHIP/<br>WV FILING METHOD |                  |                         | (E)* | (F)<br>S CORPORATION/<br>PARTNERSHIP<br>WV INCOME | (G)<br>COLUMN D<br>TIMES COLUMN F | (H)<br>TAX WITHHELD<br>COLUMN G X 6.5% | NAME<br>MAILING ADDRESS<br>INCLUDING CITY STATE<br>ZIP CODE |
|  | (B)<br>RESIDENT                           | (C)<br>COMPOSITE | (D)<br>NON-<br>RESIDENT |      |   |                                   |  |   |
| 1.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 2.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 3.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 4.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 5.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 6.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 7.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 8.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 9.   | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| 10.  | •   | •                | •                       |      | .00   | .00                               | .00                                    |   |
| <b>11. TOTALS</b>  | •   | •                | •                       |      |   | .00                               | .00                                    |   |

\*COLUMN E - CHECK IF WV/NRW-4 ATTACHED OR FILED  
 TRANSFER TOTAL COLUMN C TO THE FRONT OF THE RETURN LINE 1  
 TRANSFER TOTAL COLUMN D TO THE FRONT OF THE RETURN LINE 2  
 TRANSFER TOTAL COLUMN G TO THE FRONT OF THE RETURN LINE 3  
 TRANSFER TOTAL COLUMN H TO THE FRONT OF THE RETURN LINE 4

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**WV/SPF-100U UNDERPAYMENT OF ESTIMATED BUSINESS FRANCHISE TAX 2010**  
 REV 08-10 **B** WV Code 11-10-18a

NAME \_\_\_\_\_ FEIN \_\_\_\_\_

| <b>PART I - All filers must complete this part</b>                    |   |     |
|---|---|-----|
| 1. Enter your 2010 franchise tax, Line 6 of Form WV/SPF-100.....      | 1 | .00 |
| 2. Enter the credits against your tax, Line 7 of Form WV/SPF-100..... | 2 | .00 |
| 3. Tax after credits (subtract Line 2 from Line 1).....               | 3 | .00 |

**IF LINE 3 IS LESS THAN \$12,000, DO NOT COMPLETE THIS FORM! YOU ARE NOT SUBJECT TO THE PENALTY**

|  |   |     |
|--|---|-----|
| 4. Multiply Line 3 by ninety percent (.90).....  | 4 | .00 |
| 5. Enter the Franchise tax after credits from your 2009 return (see instructions)..... | 5 | .00 |
| 6. Enter the smaller of Line 4 or Line 5.....  | 6 | .00 |

**IF LINE 6 IS ZERO, DO NOT COMPLETE THIS FORM! YOU ARE NOT SUBJECT TO THE PENALTY. REFER TO THE INSTRUCTIONS TO DETERMINE YOUR OPTIONS FOR CALCULATING THE UNDERPAYMENT PENALTY.**

|  |   |     |
|--|---|-----|
| 7. Determine your penalty by completing Part II, Part III, and Part IV below then enter your penalty here and on Line 20 of Form WV/SPF-100..... | 7 | .00 |
| 8. If you are requesting a waiver of the penalty calculated check here <input type="checkbox"/>  |   |     |

**PART II: If you are using the Annualized Income Worksheet to compute your underpayment and penalty, complete Part II Section 1. ANNUALIZED INCOME INSTALLMENT - (Lines 1 and 4 multistate taxpayers use apportioned figures.)**

|   | Column B: 3 months | Column C: 6 months | Column D: 9 months |
|---|--------------------|--------------------|--------------------|
| 1. Enter the WV taxable capital for each Period | .00                | .00                | .00                |
| 2. Annualization amounts                        | 4                  | 2                  | 1.3333             |
| 3. Multiply Line 1 by Line 2                    | .00                | .00                | .00                |

|   | Column A: 3 months | Column B: 5 months | Column C: 8 months | Column D: 11 months |
|---|--------------------|--------------------|--------------------|---------------------|
| 4. Enter the WV taxable capital for each Period | .00                | .00                | .00                | .00                 |
| 5. Annualization amounts                        | 4                  | 2.4                | 1.5                | 1.09091             |
| 6. Multiply Line 4 by Line 5                    | .00                | .00                | .00                | .00                 |

**Line 7: In Column A, enter the amount from Line 6, Column A. In Columns B, C & D, enter the smaller of the amounts in each column from Line 3 or Line 6.**

|   |        |        |        |        |
|---|--------|--------|--------|--------|
| 7. Annualized taxable capital   | .00    | .00    | .00    | .00    |
| 8. Tax Rate   | 0.0041 | 0.0041 | 0.0041 | 0.0041 |
| 9. Annualized Tax. Multiply Line 7 by Line 8.                             | .00    | .00    | .00    | .00    |
| 10. Tax Credits. Enter credits from Line 7 of Form SPF-100 in each column | .00    | .00    | .00    | .00    |
| 11. Subtract Line 10 from Line 9. If zero or less, enter -0-              | .00    | .00    | .00    | .00    |
| 12. Applicable Percentage   | 0.225  | 0.45   | 0.675  | 0.9    |
| 13. Multiply Line 11 by Line 12   | .00    | .00    | .00    | .00    |

**COMPLETE LINES 14 THROUGH 20 FOR ONE COLUMN BEFORE GOING TO THE NEXT COLUMN**

|   | Column A | Column B | Column C | Column D |
|---|----------|----------|----------|----------|
| 14. Add the amounts in all previous columns of Line 20.....                     |          | .00      | .00      | .00      |
| 15. Subtract Line 14 from Line 13. If zero or less, enter -0-....               | .00      | .00      | .00      | .00      |
| 16. Enter 1/4 of Line 6 of Part I in each column.....                           | .00      | .00      | .00      | .00      |
| 17. Enter the amount from Line 19 of the previous column of this worksheet..... |          | .00      | .00      | .00      |
| 18. Add Lines 16 and 17.....  | .00      | .00      | .00      | .00      |
| 19. Subtract Line 15 from Line 18. If zero or less, enter -0-....               | .00      | .00      | .00      | .00      |
| 20. Required Installment. Enter the smaller of Line 15 or Line 18               | .00      | .00      | .00      | .00      |

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| PART III: Compute your underpayment   | Column A | Column B | Column C | Column D |
|---|----------|----------|----------|----------|
| 1. Installment Due Dates, Enter in Columns A - D the 15th day of the 4th, 6th, 9th, and 12th months of your tax year.....   |          |          |          |          |
| 2. If you are using the annualized method, enter the amounts from Part II, Line 20; otherwise, enter 1/4 of Line 6 of Part I in each column.....                                  | .00      | .00      | .00      | .00      |
| 3. Estimated payments (see instructions). If Line 3 is greater than or equal to Line 2 for all columns, stop here. You are not subject to the penalty.....                        | .00      | .00      | .00      | .00      |
| <b>COMPLETE LINES 4 THROUGH 10 FOR ONE COLUMN BEFORE GOING TO THE NEXT COLUMN</b>   |          |          |          |          |
| 4. Enter the amount, if any, from Line 10 of the previous column  |          | .00      | .00      | .00      |
| 5. Add Lines 3 and 4.....   |          | .00      | .00      | .00      |
| 6. Add Lines 8 and 9 of the previous column.....  |          | .00      | .00      | .00      |
| 7. In Column A enter the value from Line 3. In Column B-D, subtract Line 6 from Line 5. If zero or less, enter -0-.....   | .00      | .00      | .00      | .00      |
| 8. If Line 7 is zero, subtract Line 5 from Line 6, otherwise enter -0-.....   |          | .00      | .00      |          |
| 9. UNDERPAYMENT: If Line 2 is equal to or more than Line 7, subtract Line 7 from Line 2. Enter the result here and go to Line 4 of the next column. Otherwise, go to Line 10..... | .00      | .00      | .00      | .00      |
| 10. OVERPAYMENT: If Line 7 is more than Line 2, subtract Line 2 from Line 7. Enter the result here and go to Line 4 of the next column. ....                                      | .00      | .00      | .00      | .00      |
| <b>PART IV: Figure the penalty</b>  |          |          |          |          |
| 11. Enter the date of the installment payment or the unextended due date of your annual return, whichever is earlier.....   |          |          |          |          |
| 12. Enter the number of days from the due date of the installment on Part III, Line 1 to the date shown on Part IV, Line 11.....  |          |          |          |          |
| 13. Enter the number of days on Line 12 before 7/1/2010.....  |          |          |          |          |
| 14. Enter the number of days on Line 12 after 6/30/2010 and before 1/1/2011.....  |          |          |          |          |
| 15. Enter the number of days on Line 12 after 12/31/2010 and before 7/1/2011.....   |          |          |          |          |
| 16. Enter the number of days on Line 12 after 6/30/2011 and before 1/1/2012.....  |          |          |          |          |
| 17. Underpayment on Part III, Line 9 x (number of days on Line 13/365) x 9.5%.....  | .00      | .00      | .00      | .00      |
| 18. Underpayment on Part III, Line 9 x (number of days on Line 14/365) x 9.5%.....  | .00      | .00      | .00      | .00      |
| 19. Underpayment on Part III, Line 9 x (number of days on Line 15/365) x %.....   | .00      | .00      | .00      | .00      |
| 20. Underpayment on Part III, Line 9 x (number of days on Line 16/365) x %.....   | .00      | .00      | .00      | .00      |
| 21. TOTAL: Add Lines 17 through 20.....   | .00      | .00      | .00      | .00      |
| 22. PENALTY DUE - add Columns A - D, Line 21. Enter here and on Line 7 of Part I and on Line 20 of Form WV/SPF-100.....   |          |          |          | .00      |

\*SEE INSTRUCTIONS TO DETERMINE RATES IN EFFECT FOR THESE PERIODS.

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**WV/SPF-100T WEST VIRGINIA**

REV 08-10 **B**

**EXTENSION OF TIME TO FILE INFORMATION RETURNS**

FEIN \_\_\_\_\_

TAX YEAR  
BEGINNING

MM

DD

YYYY

ENDING

MM

DD

YYYY

EXTENDED  
DUE DATE

MM

DD

YYYY

BUSINESS NAME AND ADDRESS

TYPE OF ORGANIZATION:  
(CHECK ONLY ONE)

PARTNERSHIP FILING  
FORM WV/SPF-100

S CORPORATION FILING  
FORM WV/SPF-100

**Part 1: Complete Lines 1 through 3**

1. NONRESIDENT WITHHOLDING TAX DUE  
(DO NOT INCLUDE NONRESIDENT COMPOSITE PAYMENTS)

.00

2. BUSINESS FRANCHISE TAX DUE

.00

3. TOTAL TAX DUE (add Lines 1 and 2)

.00

**Part 2: Signature required**

Under penalties of perjury, I declare that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true and complete.

\_\_\_\_\_  
SIGNATURE OF TAXPAYER

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**MAKE CHECK PAYABLE AND MAIL TO:  
WEST VIRGINIA STATE TAX DEPARTMENT  
TAX ACCOUNT ADMINISTRATION DIVISION  
PO BOX 11751  
CHARLESTON, WV 25339-1751**

**FOR ASSISTANCE CALL (304) 558-3333  
TOLL FREE WITHIN WV 1-800-982-8297  
For more information visit our web site at : [www.wvtax.gov](http://www.wvtax.gov)**

EXTENSION OF TIME TO FILE BUSINESS FRANCHISE TAX  
AND INFORMATION RETURNS

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**NOTE:** *This form is to be used for requesting an extension of time to file the S Corporation, Partnership and/or Business Franchise Tax Return and for making tentative payments for the pass through entities and the nonresident withholding tax. This form is not a substitute for filing the annual tax returns.*

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**WHO MAY FILE** - Any S Corporation or Partnership needing an extension of time to file the West Virginia Income/Business Franchise Tax Return (Form WV/SPF-100) and expecting to owe tax must file Form WV/SPF-100T. Any taxpayer granted an extension of time to file a federal return is granted the same extension of time to file their West Virginia return. An extension of time for filing does not extend the time for payment. To avoid interest and additions to tax for late payment, use this return to make a tentative payment pending the filing of your annual return.

**PAYMENT OF NONRESIDENT WITHHOLDING TAX** - West Virginia tax law (Code §11-21-71a) requires S Corporations and Partnerships to withhold income tax on distributions of West Virginia source income (whether actual or deemed distributions) to nonresident shareholders and partners. The withholding tax rate is 6.5%.

The nonresident withholding tax is due and payable with this request. You must remit by the unextended due date, 90% of the nonresident withholding tax due for the taxable year or 100% of the tax paid for the prior taxable year, if the prior tax year was a full 12 months and tax was paid. If the balance due on your annual return is paid by the last day of your extension and the amount due is 10% or less of the tax due for the taxable year, no additions to tax will be imposed on the balance remitted. Overpayments may be refunded or credited to next year's withholding.

**WHEN TO FILE** – An S Corporation's annual West Virginia Income/Business Franchise Tax return is due on or before the fifteenth day of the third month following the close of the taxable year. A Partnership's annual West Virginia Income/Business Franchise Tax return is due on or before the fifteenth day of the fourth month following the close of the taxable year.

**CLAIMING OF TENTATIVE PAYMENT** – A tentative payment made by filing form WV/SPF-100T must be claimed on line 11 of your West Virginia Income/Business Franchise Tax return (Form WV/SPF-100).

## Statement Of West Virginia Income Tax Withheld For Nonresident Individual or Organization

Read Instructions On Reverse Side

| ORGANIZATION NAME AND MAILING ADDRESS  |                               | NONRESIDENT'S NAME AND MAILING ADDRESS  |                                     |
|--|-------------------------------|---|-------------------------------------|
| Name (please type or print)  |                               | Name (please type or print)   |                                     |
| Street or Post Office Box  |                               | Street or Post Office Box   |                                     |
| City/Town  | State                         | City/Town   | State                               |
|  | Zip Code                      |   | Zip Code                            |
| West Virginia Identification Number  | Federal Identification Number | Social Security Number  | West Virginia Identification Number |
| Check One:<br><input type="checkbox"/> Trust <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership<br><input type="checkbox"/> Estate <input type="checkbox"/> Limited Liability Company |                               | 1. Income subject to withholding for nonresident as reported on organization's S Corporation, Partnership or Fiduciary Return | \$                                  |
|  |                               | 2. Amount of West Virginia income tax withheld and remitted (See instructions) .....  | \$                                  |

Taxable Year of Organization BEGINNING \_\_\_\_\_ ENDING \_\_\_\_\_  
MM DD YYYY MM DD YYYY

**TO BE FILED IN THE ABSENCE OF FORM WV/NRW-4, WEST VIRGINIA NONRESIDENT INCOME TAX AGREEMENT**

## Statement Of West Virginia Income Tax Withheld For Nonresident Individual or Organization

Read Instructions On Reverse Side

| ORGANIZATION NAME AND MAILING ADDRESS  |                               | NONRESIDENT'S NAME AND MAILING ADDRESS  |                                     |
|--|-------------------------------|---|-------------------------------------|
| Name (please type or print)  |                               | Name (please type or print)   |                                     |
| Street or Post Office Box  |                               | Street or Post Office Box   |                                     |
| City/Town  | State                         | City/Town   | State                               |
|  | Zip Code                      |   | Zip Code                            |
| West Virginia Identification Number  | Federal Identification Number | Social Security Number  | West Virginia Identification Number |
| Check One:<br><input type="checkbox"/> Trust <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership<br><input type="checkbox"/> Estate <input type="checkbox"/> Limited Liability Company |                               | 1. Income subject to withholding for nonresident as reported on organization's S Corporation, Partnership or Fiduciary Return | \$                                  |
|  |                               | 2. Amount of West Virginia income tax withheld and remitted (See instructions) .....  | \$                                  |

Taxable Year of Organization BEGINNING \_\_\_\_\_ ENDING \_\_\_\_\_  
MM DD YYYY MM DD YYYY

**TO BE FILED IN THE ABSENCE OF FORM WV/NRW-4, WEST VIRGINIA NONRESIDENT INCOME TAX AGREEMENT**

## INSTRUCTIONS

**Who Must File:** Every partnership, S Corporation, estate or trust ("Organization") deriving income or gain from West Virginia sources must complete Form WV/NRW-2 for each NONRESIDENT partner, shareholder, or beneficiary, ("Nonresident Distributee") who received distributions (actual or deemed) of West Virginia source income or gain from such Organization unless the Organization shows on its Schedule K-1's for Nonresident Distributees (or as an attachment thereto) the information required by the Tax Commissioner. A corporate partner or beneficiary is a nonresident when its commercial domicile is located outside West Virginia.

**When and Where to File:** Form WV/NRW-2 and remittance must accompany the Organization's West Virginia income tax return when it is filed. Partnerships/ S Corporations mail returns to West Virginia State Tax Department, PO Box 11751, Charleston, WV 25339-1751. Trusts mail returns to West Virginia State Tax Department, PO Box 1071, Charleston, WV 25324-1071. 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 Organization's records, and (3) two copies must be furnished to each nonresident distributee from whom West Virginia income tax is withheld.

**Amount of Withholding:** The withholding tax rate is 6.5% of the amount subject to withholding.

**Nonresident Distributees:** The Nonresident individual named on this Form WV/NRW-2 is required to file a West Virginia Personal Income Tax Return (Form IT-140) with this Department by mailing it to PO Box 1071, Charleston, WV 25324-1071. The amount entered on Line 2, Form WV/NRW-2, is allowed as a credit against the individual's West Virginia personal income tax liability for the taxable year and should be claimed as West Virginia income tax withheld. Attach a copy of Form WV/NRW-2 to the Form IT-140 in the space provided for attaching the Federal withholding form, Federal Form W-2.

If the Nonresident is an entity taxable as a corporation, it is required to file a West Virginia Corporation Net Income/Business Franchise Tax Return (WV/CNF-120) with the Department by mailing it to PO Box 1202, Charleston, WV 25324-1202. The amount entered on Line 2, Form WV/NRW-2, is allowed as a credit against the corporation's West Virginia corporation net income tax liability and should be claimed as estimated tax paid. Attach a copy of WV/NRW-2 to the Form WV/CNF-120.

**Taxable Years:** If the Nonresident 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 Distributee's 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 Distributee's 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 Distributee's annual return.**

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## INSTRUCTIONS

**Who Must File:** Every partnership, S Corporation, estate or trust ("Organization") deriving income or gain from West Virginia sources must complete Form WV/NRW-2 for each NONRESIDENT partner, shareholder, or beneficiary, ("Nonresident Distributee") who received distributions (actual or deemed) of West Virginia source income or gain from such Organization unless the Organization shows on its Schedule K-1's for Nonresident Distributees (or as an attachment thereto) the information required by the Tax Commissioner. A corporate partner or beneficiary is a nonresident when its commercial domicile is located outside West Virginia.

**When and Where to File:** Form WV/NRW-2 and remittance must accompany the Organization's West Virginia income tax return when it is filed. Partnerships/ S Corporations mail returns to West Virginia State Tax Department, PO Box 11751, Charleston, WV 25339-1751. Trusts mail returns to West Virginia State Tax Department, PO Box 1071, Charleston, WV 25324-1071. 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 Organization's records, and (3) two copies must be furnished to each nonresident distributee from whom West Virginia income tax is withheld.

**Amount of Withholding:** The withholding tax rate is 6.5% of the amount subject to withholding.

**Nonresident Distributees:** The Nonresident individual named on this Form WV/NRW-2 is required to file a West Virginia Personal Income Tax Return (Form IT-140) with this Department by mailing it to PO Box 1071, Charleston, WV 25324-1071. The amount entered on Line 2, Form WV/NRW-2, is allowed as a credit against the individual's West Virginia personal income tax liability for the taxable year and should be claimed as West Virginia income tax withheld. Attach a copy of Form WV/NRW-2 to the Form IT-140 in the space provided for attaching the Federal withholding form, Federal Form W-2.

If the Nonresident is an entity taxable as a corporation, it is required to file a West Virginia Corporation Net Income/Business Franchise Tax Return (WV/CNF-120) with the Department by mailing it to PO Box 1202, Charleston, WV 25324-1202. The amount entered on Line 2, Form WV/NRW-2, is allowed as a credit against the corporation's West Virginia corporation net income tax liability and should be claimed as estimated tax paid. Attach a copy of WV/NRW-2 to the Form WV/CNF-120.

**Taxable Years:** If the Nonresident 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 Distributee's 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 Distributee's 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 Distributee's annual return.**

**West Virginia Nonresident Income Tax Agreement**  
Read Instructions on Reverse Side

| Part I:<br>ORGANIZATION NAME AND MAILING ADDRESS   | NONRESIDENT NAME AND MAILING ADDRESS  |
|--|---|
| Name (please type or print)  | Name (please type or print)   |
| Post Office or Street Address  | Post Office or Street Address   |
| City/Town State Zip Code   | City/Town State Zip Code  |
| West Virginia Identification Number Federal Identification Number  | Social Security Number or Federal Identification Number Spouse's Social Security Number   |
| Type of Organization: (check only one)<br><input type="checkbox"/> Partnership <input type="checkbox"/> S Corporation <input type="checkbox"/> Estate<br><input type="checkbox"/> Trust <input type="checkbox"/> Limited Liability Company | Type of Nonresident:<br><input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership |
| Taxable Year of Organization:<br><input type="checkbox"/> Calendar Year<br><input type="checkbox"/> Fiscal Year Ending _____   | Nonresident's Taxable Year:<br><input type="checkbox"/> Calendar Year<br><input type="checkbox"/> Fiscal Year Ending _____            |
| State of Commercial Domicile: _____  | State of Residence or Commercial Domicile: _____  |
| Internal Revenue Service Center Where Organization's Federal Return is Filed:<br>City _____ State _____  | Internal Revenue Service Center Where Nonresident's Federal Return Is Filed:<br>City _____ State _____                                |

**Part II:**  
I declare that the above-named Distributee is a nonresident of West Virginia and that the nonresident Distributee hereby agrees to timely file West Virginia Income Tax Returns (Form IT-140 or WV/CNF-120) and pay any income tax due; that the Distributee will include in that return the portion of the above-named Organization's West Virginia income or gain attributable to the nonresident Distributee's interest in such Organization for the taxable year of the Distributee during which this Form is filed with the Organization and for each succeeding taxable year for which the Distributee receives actual or deemed distributions of West Virginia source income or gain; and that this Agreement remains in effect until it is revoked by either the Distributee or the Tax Commissioner.

**SIGN HERE**  
 \_\_\_\_\_  
 (Signature of Nonresident Partner, Shareholder, or Beneficiary, or of Authorized Corporate Officer)  
 \_\_\_\_\_  
 (Print Name Signed Above)  
 \_\_\_\_\_  
 (Mailing Address if Different from Above) \_\_\_\_\_ (Date)

**Part III: NOTICE OF REVOCATION OF NONRESIDENT INCOME TAX AGREEMENT**  
**WARNING: COMPLETE ONLY IF REVOKING AGREEMENT**  
 Notice is hereby given that the West Virginia Nonresident Income Tax Agreement (Form WV/NRW-4) previously executed by or on behalf of the above-named Nonresident is revoked for taxable years of the above-named Organization (Pass-through entity) that begins after today's date.

**SIGN HERE**  
 \_\_\_\_\_  
 (Signature of Nonresident Partner, Shareholder, or Beneficiary, or of Authorized Corporate Officer)  
 \_\_\_\_\_  
 (Print Name Signed Above)  
 \_\_\_\_\_  
 (Mailing Address if Different from Above) \_\_\_\_\_ (Date)

# WEST VIRGINIA NONRESIDENT INCOME TAX AGREEMENT

## INSTRUCTIONS

**Who May File:** Any Nonresident individual or C corporation who has West Virginia source income derived from a partnership, S corporation, estate, trust, or limited liability company ("Organization") who desires to not have West Virginia income tax withheld by that Organization as provided in W.Va. Code § 11-21-71a, must complete a West Virginia Nonresident Income Tax Agreement (Form WV/NRW-4) and timely file it with the Organization. A corporation is a nonresident if its commercial domicile is located in another State.

**When and Where to File:** This Form must be completed and filed with the Organization on or before the last day of the Organization's taxable year. If the Distributee receives West Virginia source income from more than one such Organization, a separate Form WV/NRW-4 must be filed with each Organization in order to avoid withholding by that Organization. The Organization may copy this form or use a facsimile to distribute as follows: (1) one copy to be filed with the Organization's West Virginia income tax return, (2) one copy to be retained by the pass-through entity, and (3) one copy for the nonresident distributee.

**West Virginia Income Tax Withholding for Nonresidents:** Every Organization distributing West Virginia source income to a nonresident distributee is required to withhold West Virginia income tax on the amount thereof distributed to Nonresident Distributee unless the Nonresident Distributee timely files this Form with the Organization and the Organization attaches a copy of it to its West Virginia income tax return filed for the taxable year of its receipt. The withholding tax rate is 6.5% of distributions of West Virginia source income (whether actual or deemed distributions). The amount of tax withheld and remitted by the Organization is allowed as a credit against the Distributee's West Virginia income tax liability for that taxable year.

**Nonresident Agreement:** Once this agreement is executed, it must be filed with the Organization to avoid having withholding tax deducted from further distributions (actual or deemed). This agreement first applies to the taxable year of the Organization during which the Organization receives a properly executed agreement from the Nonresident Distributee.

**Duration of Agreement:** Once this Agreement is filed with the Organization, it remains in effect until it is revoked by the Nonresident Distributee, or by the Tax Commissioner.

### Revocation:

1. A Nonresident Distributee may revoke this Agreement by completing this Form and filing it with the Organization through which it receives West Virginia source income. Revocation applies prospectively, meaning that it first applies to taxable years of the Organization which begin after revocation is filed with that Organization.

2. The Tax Commissioner may revoke this Agreement if the Nonresident Distributee fails to file a West Virginia income tax return (IT-140, WV/SPF-100 or WV/CNF-120) for more than 60 days after the due date of the return (determined by including any authorized extension(s) of time for filing such return, or to timely pay West Virginia income tax for any taxable year covered by this agreement).

**Line 4.** Taxpayers can elect to expense the cost of certain air and water pollution control facilities located in West Virginia in the year in which the cost of acquisition, construction or development was paid or incurred. Eligible air and water pollution control facilities are those located in West Virginia that are "certified pollution control facilities" as defined by Section 169 (d) of the Internal Revenue Code. If this election is made, the total amount of any federal deduction for depreciation or amortization of such facilities is disallowed. The election is made on the return for the year in which the cost is paid or incurred. Once made, the election or non-election is irrevocable.

A taxpayer who reports all income to this state will make the adjustment for the cost of the facilities on Line 18. The depreciation or amortization on the facilities, including that attributable to cost expensed this year as well as prior years, deducted on the federal return, is entered on Line 4. A taxpayer who is subject to allocation and apportionment makes the adjustment for the cost of the facilities on Schedule A 2 of Form WV/SPF-100APT, Line 10, Column 3. The depreciation or amortization on the facilities, deducted on the federal return for this year as well as previous years, is entered on Schedule A 2 of Form WV/SPF-100APT, Lines 10 and 11, Column 3.

**Line 5.** Corporations which are exempt from federal income tax are exempt from West Virginia Corporation Net Income Tax. If such corporation has unrelated business taxable income, as defined by Section 512 of the Internal Revenue Code, they must pay West Virginia Corporation Net Income Tax on the unrelated business taxable income. Enter the unrelated business taxable income as reported on Federal Form 990T.

**Line 6.** Enter amount from Federal Form 1120S.

**Line 7.** If you claim the West Virginia Neighborhood Investment Program Tax Credit, any deduction, decreasing adjustment, or decreasing modification taken on your federal return for any charitable contribution made to such Neighborhood Investment Program and for which the West Virginia credit is claimed, must be added back on Line 7.

**Line 8.** Taxpayers with foreign source income must adjust their federal taxable income by the amount of their taxable income or loss from sources outside the United States. In determining foreign source income, the provisions of Sections 861, 862, and 863 of the Internal Revenue Code apply. Complete the following worksheet.

**Foreign Source Income Work sheet**

- 1. Taxable Income from sources outside the United States..... \_\_\_\_\_
- 2. LESS: Foreign dividend gross-up..... \_\_\_\_\_
- 3. LESS: Subpart F income..... \_\_\_\_\_
- 4. West Virginia adjustment..... \_\_\_\_\_

If the amount on Line 4 of the worksheet is a positive figure, enter it on Line 17. If it is a negative figure, enter the amount of the loss on Line 8 without the negative sign. Attach copies of Federal Form 1118 to support your calculation. If you did not file Federal Form 1118, you must prepare and file a pro forma Federal Form 1118 to support your adjustment. If you filed a consolidated Federal Form 1118 and file separate or unitary West Virginia returns, attach both the true consolidated and a pro forma Federal Form 1118 to support your adjustment.

**Line 9.** Enter amount of foreign taxes as deducted on your Federal Form 1120S.

**Line 10.** Enter Qualified Production Activity Deduction taken under IRC§199.

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

**Line 13.** Attach supporting documentation.

**Line 14.** Attach supporting documentation.

**Line 15.** Enter total and include copy of Federal Form 3800 or 5884 and/ or other as applicable.

**Line 16.** Enter total from Federal Form 1120S.

**Line 17.** Enter total from Federal Form 1120S.

**Line 18.** See instructions for Line 8.

**Line 19.** See the instructions for Line 4.

**Line 20.** A decreasing adjustment to federal taxable income is allowed for employer contributions to a medical savings account established pursuant to WV Code §33-16-15, to the extent included in federal taxable income, less any portion of the employer's contributions withdrawn for purposes other than payment of medical expenses. The amount taken as a decreasing adjustment may not exceed the maximum amount that would have been deductible from the corporation's federal taxable income if the aggregate amount of the corporation's contributions to individual medical savings accounts established under WV Code §33-16-15 had been contributions to a qualified plan as defined under the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

**Line 22.** Taxpayers that own certain tax-exempt government obligations and obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income.

**Line 23.** Total Lines 21 and 22.

**Line 24.** Line 12 minus Line 23.

**SCHEDULE A-3 - ALLOWANCE FOR GOVERNMENTAL OBLIGATIONS/OBLIGATIONS SECURED BY RESIDENTIAL PROPERTY (§11-24-6(f))**

Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income.

The value of these obligations and loans is determined using the average of the monthly beginning and ending account balances. These account balances are determined at cost in the same manner that such obligations, investments and loans are reported on the balance sheet of your federal income tax return.

**Lines 1, 2, 3, and 4.** Attach copy of worksheets supporting the calculations of average monthly balance.

**Line 6.** Average of beginning and ending balance of total assets on Schedule L of federal Form 1120S.

**Line 8.** Adjusted income.

## COMPUTATION OF CAPITAL

Partnerships and S Corporations must complete this section to determine their capital base subject to the West Virginia Business Franchise Tax. The capital base is the average of the dollar amounts of the beginning and ending balances of certain entries from the balance sheet of your Federal Tax Return as filed or as would have been filed with the Internal Revenue Service for the taxable year.

Partnerships and S Corporations not required by Federal law to complete and file a balance sheet are required to complete a pro forma balance sheet in order to calculate their Business Franchise Tax liability. A pro forma balance sheet is the balance sheet that the S Corporation or partnership would have filed with the Internal Revenue Service had they been required to file one. S Corporations complete Lines 1 through 9 and Line 11. Partnerships complete Line 10 only. S Corporations and partnerships complete Lines 12 through 16 as applicable. Add the amounts in Column 1 and Column 2 and divide the result by the number 2 to determine the average capital in Column 3.

## COMPUTATION OF BUSINESS FRANCHISE TAX

**Line 12.** Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property located in West Virginia can take an allowance that reduces their capital. If you do not qualify for the special allowance, skip Lines 12 and 13. Instead enter the amount from Line 11 on Line 14.

**Line 15.** Generally, the apportionment factor used to apportion your income for Corporation Net Income Tax purposes is used to apportion your capital base for Business Franchise Tax purposes. There are two exceptions. 1) The special apportionment rules for certain motor carriers cannot be used for the Business Franchise Tax. Motor Carriers will need to complete Schedule B, Part 1 of Form WV/SPF-100APT to determine their apportionment factor for Business Franchise Tax purposes. 2) Taxpayers exempt from, or not subject to, the West Virginia Corporation Net Income Tax must complete Schedule B of Form WV/SPF-100APT to determine their apportionment factor for Business Franchise Tax.

**APPORTIONMENT FACTOR:** Complete Schedule B of Form WV/SPF-100APT, apportionment factors for multistate corporations. Enter Part 1, Line 8 or Part 3, Column 3.

**\*\*IMPORTANT NOTE REGARDING LINE 15\*\* FORM WV/SPF-100APT, SCHEDULE B MUST BE COMPLETED AND ATTACHED. FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA.**

**Line 16.** Line 14 multiplied by Line 15. Enter result here and on Line 5 of the front of the return.

## SUBSIDIARY CREDIT

A parent taxpayer that filed a separate Business Franchise Tax Return is allowed a credit against its Business Franchise Tax liability for the Business Franchise Tax paid by a subsidiary corporation or by a partnership in which it owns an interest. A corporation that owns fifty percent (.5) or more of the stock of all classes of another corporation is defined to be the parent and the corporation so owned is defined to be a subsidiary corporation. The tax liability of the subsidiary corporation or partnership is first recomputed by determining the tax base of the subsidiary or partnership without the allowance for certain government obligations and obligations secured by certain residential property. The amount of credit is determined by multiplying the recomputed tax liability by the percentage of ownership by the parent. Enter the total from Column 4 on the Summary of Business Franchise Tax Credits, Line 1.

## TAX CREDIT FOR PUBLIC UTILITIES AND ELECTRIC POWER GENERATORS

**IMPORTANT. PLEASE READ.** Only public service or utility businesses and taxpayers who generate electric power are eligible for this credit. This credit cannot be taken for taxes paid to municipalities in West Virginia. You must have actually paid Business and Occupation Tax to the West Virginia State Tax Department and be one of the taxpayers mentioned above to be eligible to claim this credit.

**Line 21.** Enter the Business Franchise Tax liability from Line 6 of the front of Form WV/SPF-100, minus the subsidiary credit.

**Line 22.** Enter the total on Summary of Business Franchise Tax Credits, Line 2.

## FORM SPF-100APT - ALLOCATION AND APPORTIONMENT FOR MULTISTATE BUSINESS

### SCHEDULE A - ALLOCATION OF NONBUSINESS INCOME FOR S CORPORATIONS ONLY

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 corporation's trade or business.

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



Determine nonbusiness income allocated to West Virginia and outside West Virginia by completing Schedule A of Form WV/SPF-100APT. Only those types of nonbusiness income listed on Schedule A of Form WV/SPF-100APT can be allocated. Any other type of income that the corporation classifies as nonbusiness must be apportioned.

**Line 8.** Enter the amount from Column 3, Line 8 of Schedule A 1 on Line 7 of Form WVSPF-100, Schedule A.

**Line 12.** Enter the amount from Column 3, Line 12 of Schedule A 2 on Line 11 of Form WV/SPF-100, Schedule A.

## 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 Schedule A form WV/SPF-100APT must be apportioned to West Virginia by using the appropriate apportionment formula. Completion of Schedule B is required even if apportionment is zero.

**Special apportionment formulas apply to motor carriers and to financial organizations.** If you are filing for a financial organization, follow the apportionment instructions for Schedule B of Form WV/SPF-100APT, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Schedule B of Form WV/SPF-100APT, Part 2.

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

**Petitioning for an alternate 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, Corporate & Franchise Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

## MULTISTATE CORPORATIONS – FOUR FACTOR FORMULA

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

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

Property must be included in the property factor if it is actually used or is available for, or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must

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

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

Determine the property factor by entering the appropriate amounts in Line 1. Enter West Virginia property in Column 1 and property everywhere in Column 2.

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

**Line 2. Payroll Factor.** The payroll factor shall include the total amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation may be included in the payroll factor by use of the cash basis only if you have permission from the Tax Commissioner for an alternate method of apportionment. Compensation means wages, salaries, commissions and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Do not include compensation paid to employees engaged exclusively in an activity that generates nonbusiness income that you allocated in Schedule A of Form WV/SPF-100APT.

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

**The numerator** of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met: (A) the employee's service is performed entirely within this state; (B) the employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state (the word incidental means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction); (C) if the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state; (1) if the employee's base of operations is in this state; or (2) if there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or (3) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state. Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

Determine the payroll factor by entering the appropriate amounts in Line 2. Enter West Virginia payroll in Column 1 and payroll everywhere in Column 2.

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

**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 Schedule A of Form WV/SPF-100APT.

**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.

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

Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received after all transportation is completed is the place where the sale took place. Direct delivery in West Virginia, other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where title passes or other conditions of sale.

Direct delivery outside West Virginia to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

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

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

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

**LINE 3 COLUMN 2. TOTAL SALES.** This amount, when added to the total gross nonbusiness income, as shown on Schedule A, Column 1, must equal the sum of your items of gross income as reported on your federal income tax return. Any differences must be noted and explained in an attachment to your return.

\$ \_\_\_\_\_ Sum of gross income items on federal return

\$ \_\_\_\_\_ Minus total allocated income (Schedule A, Column 1 )

\$ \_\_\_\_\_ Equals Line 3, Column 2, Schedule B

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

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

**Line 6.** Enter Line 5 again.

**Line 7.** Add Column 3, Lines 1, 2, 5, and 6 and enter the sum in Column 3.

**Line 8.** Divide the six (6) digits decimal from Column 3, Line 7 by the number 4, reduced by the number of factors, if any, showing zero in Column 2, Lines 1, 2, 5, or 6. Enter the six digit decimal fraction from Column 3, Line 8 on Form WV/SPF-100, Schedule A, Line 9 and Schedule B, Line 15.

#### **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.

The special apportionment formula for motor carriers is to be used for the Corporation Net Income Tax only. The special rules do not apply to the West Virginia Business Franchise Tax.

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 this state, has made no pick ups or deliveries within this state, and has traveled less than 50,000 miles in this state during the taxable year; or (B) The motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, except vehicles, and made no more than 12 trips into or through this state 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 places after the decimal. Enter the six digit decimal fraction from Column 3 on Line 9 of Form WV/SPF-100, Schedule A.

**FINANCIAL ORGANIZATIONS - SPECIAL SINGLE FACTOR FORMULA  
SCHEDULE B FORM W/SPF-100APT**

**PART 3. Gross Receipts.** Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula. This special apportionment rule applies to both the West Virginia Corporation Net Income Tax and Business Franchise Tax.

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 capital and business income by means of a single factor 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 obligation 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.

## INSTRUCTIONS FORM WV/SPF-100U

Use this form for the West Virginia Business Franchise Tax to determine if you are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty.

S Corporations and partnerships subject to the West Virginia Business Franchise Tax are required to file a Declaration of Estimated Business Franchise Tax and make estimated tax payments if their liability for tax for the taxable year can reasonably be expected to exceed \$12,000.00. (Code §11-23-13) Estimated tax is the amount the taxpayer estimates to be their liability, minus allowable tax credits. A taxpayer is required to remit, in equal installments on the 15th day of the 4th, 6th, 9th and 12th months of their taxable year, at least ninety percent (.9) of the tax liability.

If an S Corporation or partnership did not pay enough estimated tax by any of the due dates, it may be charged the penalty. This is true even if the S Corporation or partnership is due a refund when its return is filed. The penalty is figured separately for each installment due date. Therefore, the S Corporation or partnership may owe the penalty for an earlier installment due date, even if it paid enough tax later to make up the underpayment.

### SPECIFIC INSTRUCTIONS

#### PART I- ALL FILERS MUST COMPLETE THIS PART

##### BUSINESS FRANCHISE TAX

**Line 1.** Enter your Business Franchise Tax liability from Form WV/SPF-100, Line 6.

**Line 2.** Enter your tax credits (not including estimated tax payments) from Form WV/SPF-100, Line 7.

**Line 3.** Subtract Line 2 from Line 1. Enter result here. If the amount shown here is less than \$12,000.00, stop here. You are not required to have made estimated tax payments for this filing period.

**Line 4.** Multiply the amount on Line 3 by ninety percent (.9) and enter the result. This is the amount you should have paid in estimated tax for this taxable year.

**Line 5.** Enter the Franchise Tax amount from Line 8 of your 2009 WV/SPF-100 return.

**Line 6.** This is the amount you should have paid in estimated tax for this taxable year.

#### DETERMINE YOUR PENALTY BY COMPLETING PARTS II, III, AND IV

#### PART II - ANNUALIZED INSTALLMENT WORKSHEET

##### ANNUALIZED FRANCHISE INSTALLMENT. COMPLETE SECTION 1.

#### PART III - CALCULATE YOUR UNDERPAYMENT

**Line 3.** In Column A, enter the estimated tax payments deposited by the 15th day of the 4th month of your tax year. In Column B, enter payments made after the 15th day of the 4th month through the 15th day of the 6th month of your tax year. In Column C, enter payments made after the 15th day of the 6th month through the 15th day of the 9th month of your tax year. In Column D, enter payments made after the 15th day of the 9th month through the 15th day of the 12th month of the tax year.

**Line 9.** If an underpayment exists in any of the columns in Line 9, complete Part IV to figure the penalty for that period.

## PART IV - CALCULATING THE PENALTY

Complete Lines 11 through 22 to determine the amount of the penalty. The penalty is figured for the period of underpayment determined under West Virginia Code §11-10-18a using the rate of interest determined under West Virginia Code §11-10-17 or 17a, whichever is appropriate for the taxable year. For underpayments involving periods after January 1, 2011, see the instructions for Lines 19 and 20.

**Line 11.** Enter the date on which the installment payment was made or the original due date of the annual return, whichever is earlier. The due date of the return is the 15th day of the 3rd month following the close of the taxable year for S Corporations and the 15th day of the 4th month for partnerships. The payment of estimated tax is applied against underpayments of required installments in the order that installments are required to be paid, regardless of which installment the payment pertains to.

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

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

**Lines 19 - 20.** For underpayments involving periods after January 1, 2011, use the interest rate established biannually by the State Tax Commissioner. You can contact the West Virginia State Tax Department, Taxpayer Services Division, at (304) 344-2068 or toll free within West Virginia 1-800-422-2075 to get rate information. Request message #510.

**Line 22.** If you have completed this form to determine your penalty for underpaying your estimated Business Franchise Tax, enter the amount on Form WV/SPF-100, Line 20.

**WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE  
REQUEST FOR TAX CREDIT SCHEDULES**

| TYPE OF CREDIT  | COMPUTATION SCHEDULE | QUANTITY |
|---|----------------------|----------|
| Aerospace Industrial Facility Investment Credit           | Form WV/AIF-1        |          |
| Application for Economic Opportunity Tax Credit           | Form WV/EOTC-A       |          |
| Application For Manufacturing Investment Tax Credit       | Form WV/MITC-A       |          |
| Application For Strategic Research and Development Credit | Form WV/SRDTC-A      |          |
| Apprenticeship Training Tax Credit                        | Schedule WV/ATTC-1   |          |
| Business Investment and Jobs Expansion Credit             | Form WV/BCS-1        |          |
| Coal Loading Facilities Credit                            | Schedule C           |          |
| Economic Opportunity Tax Credit                           | Schedule EOTC-1      |          |
| Financial Organization Goodwill Tax Credit                | Schedule WV/FOGW-1   |          |
| High-Growth Business Investment Tax Credit                | Schedule WV/HGBITC-1 |          |
| Industrial Expansion/Revitalization Credit                | Schedule I           |          |
| Manufacturing Investment Tax Credit                       | Schedule MITC-1      |          |
| Manufacturing Property Tax Adjustment Credit              | Schedule WV/MPTAC-1  |          |
| Research and Developments Project Credit                  | Schedule R & D       |          |
| Residential Housing Development Projects Credit           | Schedule O           |          |
| Strategic Research and Development Credit                 | Schedule SRDTC-1     |          |
| West Virginia Film Industry Investment Tax Credit         | Schedule WV/FIIA-TCS |          |
| West Virginia Neighborhood Investment Program Tax Credit  | Schedule WV/NIPA-2   |          |

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|--|--------------------------|
| <b>Mail forms to: (please print or type)</b> |                          |
| Business Name:                               | Person Requesting Forms: |
| Attention:                                   | Telephone Number:        |
| Address:                                     | Signature:               |
| City, State, Zip Code:                       | Date:                    |

**MAIL TO: WEST VIRGINIA STATE TAX DEPARTMENT  
TAXPAYER SERVICES DIVISION  
PO BOX 3784  
CHARLESTON, WV 25337-3784**