

2017

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

INSTRUCTIONS



Important Information for 2017

For periods beginning on or after January 1, 2017, annual returns will have a due date of March 15, 2018 and an extended due date of September 15, 2018. Fiscal and 52/53 week returns will be due on the 15th day of the third month following the close of the taxable year with an extension period of six months.

West Virginia requires a checkbox response regarding whether Disregarded Entities are included with the S Corporation/ Partnership return. If there are disregarded entities, the Tax Return Questionnaire located on page 12 must be completed and attached to the filed return. Failure to attach the required document will result in a delay in processing the return.

Please note, Schedule B, Schedule of Business Capital, will not be required for 2017 returns.

Tax Rates

- The withholding rate on West Virginia source income continues to be 6.5% (§11-21-71a(b)(1)).
- Effective January 1, 2017, taxpayers who had annual remittance of any single tax equal to or greater than \$25,000 during fiscal year 2016 are required to electronically file returns and make payments using Electronic Funds Transfer (EFT) for periods beginning on or after January 1, 2017.
- Failure to comply with the requirement to remit payments by EFT without first obtaining a waiver may result in a civil penalty of 3 percent of each payment which was to be paid by EFT. Visit our website www.tax.wv.gov for additional information.

Returned Payment Charge

The Tax Department will recover a \$15.00 fee associated with any returned bank transactions. These bank transactions include but are not limited to the following:

- Direct Debit (payment) transactions returned for insufficient funds.
- Stopped payments.
- Bank refusal to authorize payment for any reason.
- Direct Deposit of refunds to closed accounts.
- Direct Deposit of refunds to accounts containing inaccurate or illegible account information.

Checks returned for insufficient funds will incur a \$28.00 fee.

The fee charged for returned or rejected payments will be to recover only the amount charged to the State Tax Department by the financial institutions.

Important: There are steps that can be taken to minimize the likelihood of a rejected financial transaction occurring:

- Be sure that you are using the most current bank routing and account information.
- If you have your tax return professionally prepared, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information with your tax preparer by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return at home using tax preparation software, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return by hand using a paper return, be sure that all numbers requesting a direct deposit of refund entered are clear and legible.
- If making a payment using MyTaxes, be sure that the bank routing and account number being used is current.
- If scheduling a delayed debit payment for an electronic return filed prior to the due date, make sure that the bank routing and account number being used will be active on the scheduled date.
- Be sure that funds are available in your bank account to cover the payment when checks or delayed debit payments are presented for payment.

Taxpayer Responsibilities

Filing Your Business Tax Returns

Returns must be filed by the due date. You may obtain forms from any of our regional field offices or from our home page on the internet at www.tax.wv.gov.

Failure to file returns will result in your account being referred to our Compliance Division for corrective action. Please file all required tax returns even if you owe no tax for the reporting period. **All pages of the return must be filed.**

Payment of the Tax

The full amount of tax owed is due and payable on the 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 Withholding Tax, you may submit in writing a request for an administrative hearing to present your reasons why you feel you are entitled to the refund. Interest is allowed and paid on any refund upon which the Department has failed to timely act and which is final and conclusive.

If the Tax Department denies or reduces a request for a refund, a written request for an administrative hearing may be submitted. Failure to respond to a denial or reduction within sixty (60) days will result in the denial/reduction becoming final and conclusive and not subject to further administrative or judicial review.

Selling or Discontinuing Your Business

If you sell or discontinue your business, notify the Tax Department in writing as soon as possible after your business is sold or discontinued. All final tax returns should be filed.

General Information

The information in this booklet is for calendar year 2017 returns and for fiscal year returns beginning in 2017 and ending in 2018. The information in this book is intended to help you complete your returns and is not a substitute for tax laws and regulations.

Assistance

Address questions to the West Virginia State Tax Department, Taxpayer Services Division, PO Box 3784, Charleston, WV 25337-3784 or by telephone at (304) 558-3333, toll free at 1-800-982-8297.

Exempt Organizations

Any S Corporation or Partnership exempt from federal income tax is also exempt from West Virginia Income Tax. In addition, certain insurance companies, certain production credit associations, trusts established under 29 U.S.C. 186, and other organizations specifically exempt under the laws of West Virginia are also exempt.

When to File and Pay

For periods beginning on or after January 1, 2017, annual returns will have a due date of March 15, 2018 and an extended due date of September 15, 2018. Fiscal and 52/53 week returns will be due on the 15th day of the third month following the close of the taxable year with an extension period of six months.

Who Must File

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

- a. Resident Partnerships,
- b. Nonresident Partnerships having a partner who is a resident of West Virginia, 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 West Virginia; or (b) a business, trade, profession, or occupation carried on in West Virginia including income from intangible personal property employed in such business, trade, profession, or occupation unless it elects to be taxed under subchapter S of the Internal Revenue Code.

The term **“Partnership”** includes syndicates, pools, joint ventures or any other unincorporated organization of two or more persons through which any business, trade, profession, occupation or venture is carried on. **“Resident Partnership”** means any partnership organized under the laws of West Virginia whose principal office, place of business, or other activity is within the borders of West Virginia. It may also carry on its business or other activities in other states. **“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 unless it elects to be taxed under subchapter S of the Internal Revenue Code.

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

Extension of Time to File

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

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

Where to File

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

Use of Federal Figures

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

Penalty for Late Filing and Failure to Include Correct Information

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

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

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

Reporting West Virginia Income Tax Withholding Credit

Electronic Filing – It is not necessary to use or submit an SPF-100W since this information will transmit electronically once entered within the software.

Paper Filed Returns – Enter the total amount of West Virginia tax withheld on your behalf by another entity as shown on your Form SPF-100W. A completed SPF-100W *must* be enclosed with your paper return. Failure to submit this document will

result in the disallowance of the credit claimed. **Note:** Local or municipal fees cannot be claimed as West Virginia income tax withheld. If the withholding source is for a nonresident sale of real estate transaction, a form WV/NRSR must be completed and on file with the State Tax Department prior to submitting a tax return. Additionally, a federal Schedule D must be submitted. If withholdings is related to form WV/NRSR, please indicate in the box provided on line 11.

Nonresident Shareholder/Partner Withholding Tax

S Corporations and Partnerships are required to withhold West Virginia Income Tax for each nonresident shareholder/partner that has not provided the S Corporation or Partnership a WV Nonresident Income Tax Agreement, Form NRW-4. The amount to be withheld is six and one-half percent (.065) of the nonresident shareholder's/partner's share of the Federal Taxable income or portion thereof that is derived from or attributable to West Virginia sources, whether such amount is 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 Tax Return for S Corporation and Partnership.

INFORMATION STATEMENT OF TAX WITHHELD

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

The S Corporation or Partnership is required to submit all income and withholding information as it relates to the individual shareholders/partners of the S Corporation or Partnership on, Schedule SP Shareholder/Partner Information and Nonresident Withholding, when filing their annual SPF-100.

SATISFYING NONRESIDENT PERSONAL INCOME TAX REPORTING REQUIREMENTS

IT-140 West Virginia Personal Income Tax Return

The individual nonresident shareholder/partner, using the withholding documents supplied by the S Corporation or Partnership, will complete IT-140W West Virginia Withholding Tax Schedule indicating the source as WV/NRW-2 or K-1 if filing the IT-140 West Virginia Personal Income Tax Return on paper. If filing electronically, this information is entered into the tax software program and no additional paper forms are necessary.

IT-140NRC Nonresident Composite Return

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

The S Corporation or Partnership will file the IT-140NRC and is responsible for collecting and remitting all withholding tax due. A copy of Schedule SP as submitted with the SPF-100 filed by

the S Corporation or Partnership indicating which shareholders/partners have elected to be part of the composite return must be submitted with the IT-140NRC return. A processing fee of \$50.00 is also required to be remitted at the time of filing.

Note: Form WV/NRW-2 or WV/K-1 equivalent statements should not be submitted unless requested by the Tax Department.

S Corporation/Partnership Income (Loss)

S CORPORATIONS: Form SPF-100, Schedule A 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, Form SPF-100APT, Schedule B 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 the WV business activity on SPF-100, Schedule A, lines 1 through 5 and supporting Federal documents must be attached. If direct allocation is used add SPF-100, Schedule A, lines 8 and 11, and enter the total on line 12. Generally, income derived from the ownership of real or tangible personal property in West Virginia lends itself to direct allocation, whereas income from a business carried on within and without the State would preferably be allocated by apportionment. Unless the books and records of the S Corporation clearly reflect that portion, the allocation must be made by the apportionment formula provided in Form SPF-100APT, Schedule B.

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

PARTNERSHIPS: Form SPF-100, Schedule A 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, Form SPF-100APT, Schedule B must also be completed.

SHAREHOLDER/PARTNER INFORMATION

Form SPF-100, lines 1 through 8, and the Schedule SP are used to identify all shareholders/partners and to account for each shareholder/partner's share of the S Corporation/Partnership's income. They are also used to calculate the amount of withholding that is required on the nonresident shareholder/partner's share of the S Corporations/Partnership's income. All shareholders/partners are subject to WV personal income tax under the provisions of WV Code Chapter 11, Article 21. The S Corporation/Partnership is required to withhold income tax on the nonresident shareholders/partner's share of the S Corporations/Partnership's WV source income under the provisions of Chapter 11, Article 21, Section 71a of the WV Tax Code.

Taxable Year/Method of Accounting

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

Federal Return Information

A signed, true copy of the first five pages of Federal Form 1120S or 1065, and any supporting documents must be attached to the 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 — 12/31/91	10%	1/1/99 — 6/30/00	8%
1/1/91 — 6/30/92	9%	7/1/00 — 12/31/01	9%
7/1/92 — 12/31/95	8%	1/1/02 — 6/30/02	8%
1/1/96 — 12/31/96	9%	7/1/02 — 12/31/16	9.5%
1/1/97 — 12/31/97	8%	1/1/17 — 12/31/17	8%
1/1/98 — 12/31/98	9%		

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

Additions to Tax

LATE FILING

Additions to tax are imposed for failure to file a return on or before the due date (determined with regard to an extension of time to file). On any amount of tax shown to be due on the return, the additions to tax for late filing 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 or partner. If the return is prepared by someone other than the taxpayer, the preparer must also sign the return and enter his or her complete address.

Changes Made by the IRS to Federal Return

Any S Corporation or Partnership whose reported income or deductions are changed or corrected by the Internal Revenue Service or through renegotiation of a contract with the United States is

required to report the change or correction to the West Virginia State Tax Department. This report must be made within 90 days of the final determination by filing an RAR Amended Return and attaching a copy of the revenue agent's report detailing such adjustments.

Pass-Through Amended Returns

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

- File Form SPF-100, completing all appropriate lines and checking the **Amended** box under "Type of Return" on page 1. Because West Virginia now uses bar codes on tax forms it is important to use the appropriate forms for the tax year being amended. **Example:** You are amending a tax return for the period ending 12-31-2015; be sure to use the 2015 SPF-100 forms.
- NOTE: Tax forms from different years may have different line numbers; read the line instructions carefully.
- Any amount paid with the original return should be entered on Form SPF-100, page 2, line 12.
- If you received a refund or had an amount credited on the original return, enter that amount on Form SPF-100, page 2 line 14.
- Attach all schedules previously submitted and make any appropriate amended changes.

Amended Returns filed for the purpose of obtaining a refund of an overpayment must be filed within **three years** of the due date of the return (with regard to an extension of time to file), or **two years** from the date the tax was paid, whichever expires later. If your Amended Return has a balance due send the payment along with the tax return.

Consistency in Reporting

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

If you make sales of tangible personal property which are shipped into a state in which you are not taxable, you must identify the state to which the property is shipped and report the total amount of sales assigned to such state.

Confidential Information

Tax information which is disclosed to the West Virginia State Tax Department, whether through returns or through department investigations, is held in strict confidence by law. The State Tax Department, the United States Internal Revenue Service, and other states have agreements under which tax information is exchanged. This is to verify the accuracy and consistency of information reported on federal, other state, and West Virginia returns.

Schedule SP

This schedule must be completed and submitted with all S Corporation and Partnership returns.

COLUMN A

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 B

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

COLUMN C

If the shareholder/partner is a resident of West Virginia, enter their percent of ownership/interest in this column. **Do not complete columns D through K for West Virginia resident shareholders/partners.** Enter amount from Schedule SP Grand Total Line, Column C on SPF-100, line 1.

COLUMN D

If the shareholder/partner is a nonresident of West Virginia and has elected to be a member of the nonresident composite group enter their percentage of ownership/interest in this column. Complete Columns G, H, and I for your nonresident shareholders/partners who will be included in the Nonresident Composite Return filing. Enter amount from Schedule SP Grand Total Line Column D on SPF-100, line 2.

COLUMN E

If the shareholder/partner is a nonresident of West Virginia and has elected **not** to be a member of the composite group, and has not signed Form NRW-4. Enter their percentage of ownership/interest in this column. Enter amount from Schedule SP Grand Total Line, Column E on SPF-100, line 3.

COLUMN F

If the S Corporation/Partnership has received Form NRW-4 from the nonresident shareholder/partner, enter their percentage of ownership/interest in this column, enter the period for which the NRW-4 was originally submitted, and attach the agreement to your return when filed. If Form NRW-4 was filed and submitted in a previous period, and has not been revoked, it is not necessary to file additional copies with your return in subsequent years. Enter amount from Schedule SP Grand Total Line, Column F on SPF-100, line 4.

COLUMN G

S Corporations enter the amount of your West Virginia income from Form SPF-100, Schedule A line 12. Partnerships, enter the amount of your West Virginia income from Form SPF-100 Schedule A, line 10.

COLUMN H

Multiply the dollar amount in column G by the percent of ownership/interest from column D and enter the result in column H.

COLUMN I

Multiply the dollar amount in column H by the tax rate of .065 and enter the result in column I.

COLUMN J

Multiply the dollar amount in column G by the percent of ownership/interest from column E and enter the result in column J.

COLUMN K

Multiply the dollar amount in column J by the tax rate of .065 and enter the result in column K.

COLUMN L

Enter the amount of tax credits allocated by the S Corporation/Partnership to each shareholder/partner. The Schedule SP Grand Total Line, Column L must match SPF-100TC, line 12 of the Tax Credit Used in Current Year column.

SCHEDULE SP GRAND TOTAL LINE

Total the columns. If you have attached additional pages of Schedule SP, enter the totals of the columns from all the pages of Schedule SP on the first Schedule SP page in the "SCHEDULE SP GRAND TOTAL" line. Transfer the appropriate column totals to the front of the return (SPF-100).

SPECIAL NOTE: S Corporations/Partnerships with nonresident shareholders/partners must review the following forms:

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

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

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

EXTENSION PAYMENTS

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

SPF-100

INSTRUCTIONS

On page 1, enter the beginning and ending tax year dates covered by this return. Clearly print or type your name and address. If filing under extension, enter extended due date. In the "**CHECK APPLICABLE BOXES**" section, check all boxes that apply to the return being filed.

Attach a copy of the **first five pages** of your **signed** federal return (Form 1120S or 1065), and schedule M-3 if applicable. Please attach any additional information and/or statements as required.

All S Corporations/Partnerships must complete SPF-100 Schedule SP before completing lines 1 through 8.

Check the applicable box regarding any disregarded entities. If the "Yes" box is marked, you must complete and attach the required Tax Return Questionnaire located on page 12.

Line 1 Enter the total percentage from, Schedule SP, Column C, Grand Total line.

Line 2 Enter the total percentage from Schedule SP, Column D, Grand Total line.

Line 3 Enter the total percentage from Schedule SP, Column E, Grand Total line.

Line 4 Enter the total percentage from Schedule SP, Column F, Grand Total line.

Line 5 Enter the total dollar amount from Schedule SP, Column G. (Please note: This amount must match SPF-100, Schedule A, line 12 if an S Corporation or SPF-100, Schedule A, line 10 if a Partnership.)

Line 6 Enter the total amount from Schedule SP, Column I, Grand Total line.

Line 7 Enter the total amount from Schedule SP, Column K, Grand Total line.

Line 8 Total Withholding Tax due (add lines 6 and 7).

Line 9 Enter the credit carried forward from the prior tax year here.

Line 10 Enter estimated and extension payments here.

Line 11 Enter the amount from your SPF-100W, Column C, Grand Total Line submitted with your return. Check box if any withholdings are from NRSR (nonresident sale of real estate).

Line 12 Amount paid with original return (amended return only).

Line 14 Overpayment previously refunded or credited (amended return only).

Line 15 Total payments. Line 13 minus line 14.

Line
16

Tax Due – If line 15 is smaller than line 8, enter amount owed here, otherwise, skip to line 20.

Line
17

Calculate interest due. See the general information on page 5 of this booklet for additional information regarding interest.

Line
18

Calculate additions to tax due. See the general information on page 5 of this booklet for additional information regarding additions to tax.

Line
19

Remit this amount. If paying by check, make the check payable to the West Virginia State Tax Department. For other payment options see www.tax.wv.gov.

Lines
21-22

An overpayment may be credited to next year's tax or refunded, either in whole or part. Enter on line 21 the amount of overpayment to be credited to next year's tax. Enter on line 22 the amount of overpayment to be refunded.

SPF-100 Schedule A

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

Line
1

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

Line
2

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

Line
3

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

Line
5

Net modifications to federal income: S Corporation enter amount from SPF-100, Schedule A-2, line 26; Partnership enter amount from SPF-100, Schedule A-1, line 13.

Line
7

See the instructions for Form SPF-100APT, Schedules A1 and A2 for proper classification of nonbusiness income. For S Corporations with nonbusiness income from sources within and without West Virginia, enter the amount from SPF-100APT, Schedule A-1, line 8 here.

Line
9

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

Line
11

For S Corporations with nonbusiness income from sources within West Virginia, enter the amount from SPF-100APT, Schedule A2, line 12 here.

SPF-100 Schedule A-1

Partnerships

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 1 through 10. **Enter allowance for governmental obligations/obligations secured by residential property from Schedule A-3, line 9 on Schedule A-1, line 11.**

Line
13

Line 5 less line 12. Enter here and on Schedule A line 5.

SPF-100 Schedule A-2

S Corporations

INCREASING ADJUSTMENTS

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

Enter the amount of US Government obligation interest or dividends not exempt from state tax, less related expenses not deducted on your federal return. Attach supporting documentation.

Line
3

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

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 West Virginia will make the adjustment for the cost of facilities on line 20. 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 Form SPF-100APT, Schedule A2, line 9, 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 Form SPF-100APT, Schedule A2, 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 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 6.

Line 7 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 Worksheet	
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 19. If it is a negative figure, enter the amount of the loss on line 7 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 8 Enter the amount of foreign taxes as deducted on your Federal Form 1120S.

Line 9 Enter Qualified Production Activity Deduction taken under IRC §199.

Line 10 Add back for expenses related to certain REIT's and regulated investment companies (WV Code §11-24-4b).

Line 11 Enter any other increasing adjustments here. Enter a description/explanation in the space provided. Attach supporting documentation.

DECREASING ADJUSTMENTS

Line 13 Attach supporting documentation.

Line 14 Attach supporting documentation.

Line 15 Attach supporting documentation.

Line 16 Enter total and include copy of Federal Form 3800 or 5884.

Line 17 Enter total from Federal Form 1120S.

Line 18 Enter total from Federal Form 1120S.

Line 19 See instructions for line 7.

Line 20 See instructions for line 4.

Line 21 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

Enter other decreasing adjustments here. Enter a description/explanation in the space provided. Attach supporting documentation.

Line
24

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
25

Add lines 23 and 24.

Line
26

Line 12 minus line 25. Enter the amount here and on SPF-100, Schedule A, line 5.

SPF-100 Schedule A-3

Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property 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 tax return.

Lines
1 - 4

Attach a 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 or Federal Form 1065.

Line
8

Adjusted income.

SPF-100APT

Schedules A1 & A2: 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 classified as business income, less all expenses attributable to the production of this income. Nonbusiness income is allocated to West Virginia

if (1) the S 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 if the property is located in West Virginia. Nonbusiness income from tangible personal property is allocated to West Virginia if the property is utilized in West Virginia or the property was located in West Virginia at the time of its sale. Nonbusiness income from intangible personal property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia or, in the case of patents and copyrights, if they are used in West Virginia.

For a detailed discussion of allocation of nonbusiness income, you may request a copy of Publication TSD-392, "Corporation Net Income Tax Nonbusiness Income" by contacting our Taxpayer Services Division or online at www.tax.wv.gov.

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

Line
8

Enter the amount from Form SPF-100APT Schedule A1, column 3, line 8, on Form SPF-100, Schedule A, line 7.

Line
12

Enter the amount from Form SPF-100APT Schedule A2, column 3, line 12 on Form SPF-100, Schedule A, line 11.

Schedule B: Apportionment Formula

If your business activities take place both within and without West Virginia and you are also taxable in another state, all net income, after deducting those items of nonbusiness income allocated on Form SPF-100APT Schedules A1 and A2, must be apportioned to West Virginia by using the appropriate apportionment formula. **Completion of the SPF-100APT, Schedule B is required even if apportionment is zero.**

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

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

MULTISTATE S CORPORATIONS/PARTNERSHIPS – FOUR FACTOR APPORTIONMENT FORMULA

PART 1 REGULAR ENTITIES

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

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 SPF-100APT, Schedules A1 and A2 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 or 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 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 the result in column 3. State the result as a decimal and round to six (6) places after the decimal point.

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 Form SPF-100APT, Schedules A1 and A2.

The denominator (column 2) 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 (column 1) of the payroll factor is the total amount paid in West Virginia during the taxable year by the taxpayer for compensation. Compensation is paid in West Virginia if any of the following tests, applied consecutively, are met:

- A. The employee's service is performed entirely within West Virginia;
- B. The employee's service is performed both within and without West Virginia but the service performed without West Virginia is "incidental" to the employee's service within West Virginia (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 West Virginia, the employee's compensation will be attributed to West Virginia (1) if the employee's base of operations is in West Virginia; 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 West Virginia; 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 West Virginia. 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 point.

SALES FACTOR. The term "sales" means all gross receipts of the taxpayer that are business income. Thus, the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced nonbusiness income that you allocated in Form SPF-100APT, Schedules A1 and A2.

The denominator (column 2) of the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business that was reflected in your gross income reported and as appearing on your federal income tax return unless otherwise excluded. **Sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. under Public Law 86-272) are to be excluded from the denominator.**

The numerator (column 1) of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of your trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

Sales of Tangible Personal Property. Gross receipts from sales of tangible personal property are in West Virginia if:

1. 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.
2. 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 West Virginia. 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 purpose 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 West Virginia.

Other Sales. Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia if:

1. The income producing activity which gives rise to the receipts is performed entirely in West Virginia;
2. The income producing activity is performed both in and outside West Virginia and a greater portion of the income producing activity is performed in West Virginia than any other state, based on the cost of performance; or
3. 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 West Virginia. Gross receipts from the rental, lease, or licensing of tangible personal property are in West Virginia if the property is located in West Virginia. 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 West Virginia. Determine the sales factor by entering the appropriate amount on line 3. Enter the 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 A1, line 8, 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
\$ _____	Less total allocated income (Form SPF-100APT Schedule A1, line 8)
\$ _____	Equals Form SPF-100APT, Schedule B, column 2, line 3.

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) digit 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 (6) digit decimal fraction from column 3, line 8 on Form SPF-100, Schedule A, line 9.

MOTOR CARRIERS – SPECIAL SINGLE FACTOR FORMULA

PART 2 – VEHICLE MILES. Motor carriers of property or passengers are subject to special apportionment rules. Motor carriers must apportion their business income by using a single factor formula of vehicle miles.

A motor carrier is any person engaged in the transportation of passengers and/or property for compensation by a motor propelled vehicle over roads in West Virginia, whether on a scheduled route or otherwise. The term “vehicle miles” means the operations of a motor carrier over a distance of one mile.

The special apportionment formula for motor carriers does NOT apply if:

- A. The motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, has made no pick ups or deliveries within West Virginia, and has traveled less than 50,000 miles in West Virginia during the taxable year; or
- B. The motor carrier neither owns nor rents any tangible personal property located in West Virginia except vehicles, and made no more than 12 trips into or through West Virginia during the taxable year.

Under either (A) or (B), the mileage traveled in West Virginia may not be more than five percent (.05) of the total vehicle miles traveled in all states during the taxable year.

Determine the apportionment factor by entering the appropriate vehicle miles for West Virginia in column 1, and vehicle miles everywhere in column 2.

Divide column 1 by column 2 and enter the result in column 3. State the result as a decimal fraction and round to six (6) places after the decimal. Enter the six (6) digit decimal fraction from

FINANCIAL ORGANIZATIONS – SPECIAL SINGLE FACTOR FORMULA

PART 3 – GROSS RECEIPTS. Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula.

A financial organization is any holding company or regulated financial corporation or subsidiary thereof, or any corporation deriving more than fifty percent (.5) of its gross receipts from one or more of the following:

1. Making, acquiring, selling, or servicing loans or extensions of credit.
2. Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of an extension of credit.
3. Operating a credit card business.
4. Rendering estate or trust services.
5. Receiving, maintaining, or otherwise handling deposits.
6. Engaging in any other activity with an economic effect comparable to any of the above.

Financial organizations regularly engaging in business in West Virginia shall apportion their business income by means of a single factor of gross receipts apportionment formula. A financial organization not having its commercial domicile in West Virginia is presumed to be regularly engaging in business in West Virginia if during any year it obtains or solicits business with 20 or more persons within West Virginia, or the sum of its gross receipts attributable to sources in West Virginia equals or exceeds \$100,000.00.

Gross receipts from the following ownership interest (and certain related activities) will **NOT** be considered in determining whether a financial organization is subject to taxation.

1. An interest in a real estate mortgage investment conduit, a real estate investment, or a regulated investment company;
2. An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates or interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates;
3. An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial

loan or a secured commercial loan, and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner; or an interest in the right to service or collect income from such a loan or asset; or

4. An amount held in an escrow or trust account with respect to property described above.

However, if a financial organization is subject to taxation when gross receipts from these interests are not considered, such receipts must then be included when determining the amount of taxes owed.

PETITIONING FOR AN 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 Division
Corporate & Franchise Tax Unit
P.O. Box 1202
Charleston, WV 25324-1202

Tax Return Questionnaire

The Tax Return Questionnaire should be completed and submitted with your return. However if you have indicated on page 1 that disregarded entities are included in your return you **MUST** submit the Tax return Questionnaire and include the name and FEIN of each disregarded entity.

Form SPF-100W Instructions

A – Payer information:

- Enter the name FEIN and address of the payer from which you received the Federal 1099, Federal K-1, or WV/NRW-2.

B – Taxpayer Information:

- Enter the FEIN and name of the taxpayer. Make sure the Federal Employer Identification Number(s) agree with your statements and are correct. If the payment was made on behalf of a disregarded entity, enter their name and FEIN here rather than the name and FEIN of the entity filing the return.
- Enter the amount of income subject to West Virginia withholding

C – WV Tax Withheld:

- Check the source of withholding
- Enter the amount of WEST VIRGINIA TAX WITHHELD from payer
- Federal 1099
- Federal K-1. As the Federal K-1 does not break out West Virginia information, please attach a supplemental schedule breaking down income and withholdings by state.
- NRW-2, WV only
- Enter the tax year ending date of pass-through entity filer.

A – Payer Information		B – Taxpayer Information	C – WV Tax Withheld
1	123456789	ABC COMPANY	500.00
	Payer ID from 1099, K-1, and/or NRW-2	Name	WV WITHHOLDING
	JSMITH INC	55555555	Check the appropriate box
	Payer Name	FEIN	<input checked="" type="checkbox"/> 1099 <input type="checkbox"/> K-1 <input type="checkbox"/> NRW-2
123 ANY STREET		1215 Date tax year ending (MMYY)	
Address		Enter WV withholding Only	
COOKEVILLE TN 38506	5000.00		
City, State, ZIP	Income Subject to WV WITHHOLDING		