

# WEST VIRGINIA PARTNERSHIP RETURN OF INCOME



For tax year beginning \_\_\_\_\_, 20\_\_\_\_, ending \_\_\_\_\_, 20\_\_\_\_.

<b>West Virginia Account ID Number</b>	<b>Check if Applicable</b>  <input type="checkbox"/> Final Return  <input type="checkbox"/> Amended Return	<b>State/Date of Organization</b>
<b>Business Name</b>		<b>Location/Business Activity in West Virginia</b>
<b>Street Address or Post Office Box</b>		
<b>City, State and ZIP Code</b>	<b>Number of Partners</b>	<b>Enter Extended Due Date</b>

<b>PART 1 — PARTNERSHIP INCOME (LOSS)</b>		
1. ORDINARY INCOME/LOSS (FROM FEDERAL FORM 1065)	1.	
2. OTHER INCOME (FROM SCHEDULE K, FEDERAL FORM 1065)	2.	
3. OTHER EXPENSES/DEDUCTIONS (FROM SCHEDULE K, FEDERAL FORM 1065)	3.	(                    )
4. TOTAL FEDERAL PARTNERSHIP INCOME (SUM OF LINES 1, 2, AND 3)	4.	
5. NET MODIFICATIONS TO FEDERAL PARTNERSHIP INCOME (SCHEDULE A, LINE 9)	5.	
6. MODIFIED FEDERAL PARTNERSHIP INCOME (SUM OF LINES 4 AND 5)	6.	
7. APPORTIONMENT PERCENTAGE (SCHEDULE B, COLUMN C, LINE 6) - STATE AS A DECIMAL	7.	
8. APPORTIONED WEST VIRGINIA INCOME (LINE 6 x LINE 7) — IF LINE 8 SHOWS A LOSS, OMIT LINES 9 THROUGH 20. HOWEVER, YOU <b>MUST</b> COMPLETE SCHEDULE C.	8.	

<b>PART 2 — NONRESIDENT PARTNER WITHHOLDING — COMPLETE SCHEDULE C BEFORE COMPLETING PART 2</b>			
9. PERCENT OF OWNERSHIP BY NONRESIDENT PARTNERS FILING NONRESIDENT PERSONAL INCOME TAX RETURNS (SCH. C, TOTAL OF COL. D)	9.		
10. PERCENT OF OWNERSHIP BY NONRESIDENT PARTNERS FILING COMPOSITE PERSONAL INCOME TAX RETURNS (SCH. C, TOTAL OF COL. C)	10.		
11. INCOME SUBJECT TO WITHHOLDING (SCHEDULE C, TOTAL OF COL. G)	11.		
12. WEST VIRGINIA INCOME TAX WITHHELD FOR NONRESIDENT PARTNERS (SCH. C, TOTAL OF COLUMN I)	12.		
13. PREVIOUS PAYMENTS	13.		
14. WEST VIRGINIA WITHHOLDING TAX DUE (LINE 12 MINUS LINE 13) — IF LINE 13 IS SMALLER THAN LINE 12 ENTER AMOUNT OWED. IF LINE 13 IS GREATER THAN LINE 12, ENTER -0- AND SKIP TO LINE 18.	14.		
15. INTEREST FOR LATE PAYMENT	15.		
16. ADDITIONS TO TAX FOR LATE FILING AND/OR LATE PAYMENT	16.		
17. TOTAL REMITTANCE DUE (SUM OF LINES 14, 15 AND 16) MAKE CHECK PAYABLE TO WEST VIRGINIA STATE TAX DEPARTMENT	17.		
18. OVERPAYMENT (LINE 13 MINUS LINE 12)	18.		
19. AMOUNT TO BE CREDITED TO NEXT YEAR'S WITHHOLDING TAX	19.		
20. AMOUNT TO BE REFUNDED	20.		

**SIGN HERE**

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 partner or member

\_\_\_\_\_  
Date

\_\_\_\_\_  
Paid preparer's signature

\_\_\_\_\_  
Date

**MAIL TO: WEST VIRGINIA STATE TAX DEPARTMENT  
INTERNAL AUDITING DIVISION  
P O. BOX 1071  
CHARLESTON, WV 25324-1071**  
Keep a copy of this return for your records





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

<b>INCREASING</b>	1.	INTEREST INCOME FROM OBLIGATIONS OR SECURITIES OF ANY STATE, OR POLITICAL SUBDIVISION, OTHER THAN THIS STATE	
	2.	U. S. GOVERNMENT OBLIGATION INTEREST OR DIVIDENDS EXEMPT FROM FEDERAL BUT NOT EXEMPT FROM STATE TAX, LESS RELATED EXPENSES NOT DEDUCTED ON FEDERAL RETURN	
	3.	INTEREST EXPENSES DEDUCTED ON YOUR FEDERAL RETURN ON INDEBTEDNESS TO PURCHASE OR CARRY SECURITIES EXEMPT FROM WEST VIRGINIA INCOME TAX	
	4.	TOTAL INCREASING MODIFICATIONS - ADD LINES 1 THROUGH 3	
<b>DECREASING</b>	5.	INTEREST OR DIVIDENDS FROM U. S. GOVERNMENT OBLIGATIONS, INCLUDED ON YOUR FEDERAL RETURN	
	6.	U. S. GOVERNMENT OBLIGATION INTEREST OR DIVIDENDS EXEMPT FROM STATE TAX, DEDUCTED ON YOUR FEDERAL RETURN, LESS RELATED EXPENSES	
	7.	REFUND OR CREDIT OF INCOME TAXES OR TAXES BASED UPON INCOME, IMPOSED BY THIS STATE OR ANY OTHER JURISDICTION, INCLUDED ON YOUR FEDERAL RETURN	
	8.	TOTAL DECREASING MODIFICATIONS - ADD LINES 5 THROUGH 7	
<b>NET</b>	9.	NET MODIFICATIONS TO FEDERAL PARTNERSHIP INCOME - LINE 4 MINUS LINE 8. ENTER HERE AND ON PAGE 1, LINE 5	

**SCHEDULE B - APPORTIONMENT FACTORS FOR MULTI-STATE PARTNERSHIPS**

Express factors in Column C with six digits after the decimal. Do NOT state as percentages.

	COLUMN A WEST VIRGINIA	COLUMN B EVERYWHERE	COLUMN C COLUMN A/COLUMN B
1. PROPERTY	•	•	
2. PAYROLL	•	•	
3. SALES	•	•	
4. SALES	•	•	
5. TOTAL - ADD COLUMN C, LINES 1, 2, 3 AND 4			
6. WEST VIRGINIA APPORTIONMENT PERCENTAGE - LINE 5 DIVIDED BY THE NUMBER 4, REDUCED BY THE NUMBER OF FACTORS, IF ANY, SHOWING ZERO IN COLUMN B. ENTER THE SIX (6) DIGIT DECIMAL FRACTION HERE AND ON PAGE 1, LINE 7			

**SCHEDULE C - PARTNER INFORMATION AND NONRESIDENT WITHHOLDING TAX**

NAME AND ADDRESS OF EACH PARTNER - ATTACH ADDITIONAL COPIES OF SCHEDULE AS NEEDED

	NAME	STREET OR OTHER MAILING ADDRESS	CITY	STATE	ZIP CODE
1					
2					
3					
4					

**PARTNERS OWNERSHIP AND COMPUTATION OF WEST VIRGINIA PARTNERS WITHHOLDING TAX**

	(A) SOCIAL SECURITY NUMBER OR FEIN	PERCENT OF OWNERSHIP/ WV FILING METHOD			(E) WV/NRW-4 ATTACHED OR FILED	(F) PARTNERSHIP WV INCOME	(G) COLUMN D TIMES COLUMN F	(H) RATE	(I) TAX WITHHELD
		(B) RESIDENT	(C) COMPOSITE	(D) NONRESIDENT					
1							4%		
2							4%		
3							4%		
4							4%		
5							4%		
6	<b>TOTALS</b>								

TRANSFER TOTALS TO	➡	PAGE 1 LINE 10	PAGE 1 LINE 9		PAGE 1 LINE 11		PAGE 1 LINE 12
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## INSTRUCTIONS — FORM IT-165

**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.

**WHEN TO FILE.** The partnership return is due on or before the 15th day of the fourth 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.

**EXTENSION OF TIME TO FILE.** Any partnership needing an extension of time to file and/or that expects to owe Nonresident Withholding Tax must file Form WV/NRW-1, 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/NRW-1 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/NRW-1 is filed prior to the due date of the West Virginia return.

**WHERE TO FILE.** West Virginia State Tax Department, Internal Auditing Division, P. O. Box 1071, Charleston, WV 25324-1071.

**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 partnership that fails to file and/or include all the correct information on the partnership return, 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 (10%) 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 WITHHOLDING.** Partnerships are required to withhold West Virginia Income Tax from each nonresident partner that has not provided the partnership a West Virginia Nonresident Income Tax Agreement, Form WV/NRW-4. The amount to be withheld is four percent (4%) of the nonresident partner's share of the partnership's 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 West Virginia Partnership Return of Income.

The individual nonresident partners may claim the amount withheld as a credit against their West Virginia Income Tax liability by attaching a copy of the information statement provided by the partnership to their West Virginia Income Tax Return.

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

**COMPOSITE RETURN.** A partnership, instead of withholding tax on distributions of West Virginia source income to its nonresident partners, may opt instead to satisfy the nonresident withholding requirements by filing a West Virginia Nonresident COMPOSITE Income Tax Return (Form IT-140NRC) for one or more of its nonresident partners. 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 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 partner provided it is signed by a partner. When filing a composite return, no personal exemptions may be utilized and the rate of tax is 6 1/2% of the taxable income. The 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 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.

### SPECIFIC INSTRUCTIONS

**PARTNERSHIP INCOME(LOSS).** Part 1 of West Virginia Form IT-165 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, West Virginia Schedule B from Form IT-165 must also be completed.

If a partnership 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 West Virginia, they may separately account for their West Virginia 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 partnership clearly reflect that portion, the allocation must be made by the apportionment formula provided in Schedule B.

If you have determined your West Virginia income entirely by direct allocation, you are not eligible to apportion and should not complete Schedule B. A schedule of your calculation of the partnership's West Virginia income must be attached to your return when filed.

**PARTNER INFORMATION.** Part 2 of West Virginia Form IT-165 plus Schedule C are used to identify all partners and to account for each partner's share of the partnership's income. Part 2 is also used to calculate the amount of withholding that is required on the nonresident partner's share of the partnership's income.

**All partnerships** must complete lines 1 through 8 and Schedule C, Columns A through D. If the partnership has income from sources both within and without West Virginia, they must first complete Schedule B before completing lines 1 through 8.

**Partnerships with nonresident partners** must complete lines 1 through 20 and all applicable parts of Schedule C. However, if line 8 is a loss, omit lines 9 through 20. Schedule C must be completed before entering amounts on lines 9 through 20.

**Line 2.** Enter the amount of all other gross income (loss) of the partnership as shown on Federal Form 1065, Schedule K, that is not included on line 1. Only include amounts that constitute taxable income to the partners.

**Line 3.** Enter the amount of any expenses or deductions as shown on Federal Form 1065, Schedule K, that are not included on line 1. Only include amounts that constitute a reduction to taxable income to the partners.

**Line 7.** If all income is derived from sources within West Virginia, enter one (1). If income is derived from sources within and without West Virginia enter the apportionment factor from Schedule B.

**Line 13.** Enter any previous payments, payments made with an extension of time to file, or if this is an amended return, enter the amount of tax withheld and paid from line 12 of the original return.

**Line 15.** 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 every six months. The annual rate will never be less than eight percent (8%).

For current interest rates, contact the West Virginia State Tax Department, Taxpayer Services Division, by calling (304) 344-2068 or toll-free within West Virginia 1-800-422-2075 and requesting message number 510.

**Line 16. LATE FILING.** Additions to tax are imposed for failure to file a return on or before the due date (determined without 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 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 percent (.475) of the tax due.

**Line 18.** An overpayment may be credited to next years withholding tax or refunded, either in whole or in part. Enter on line 19 the amount of overpayment to be credited to next years tax. Enter on line 20 the amount of overpayment to be refunded.

#### SCHEDULE A - 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 1 through 9.

#### SCHEDULE B - APPORTIONMENT FACTORS FOR MULTI-STATE PARTNERSHIPS

**COLUMNS A AND B.** Enter the appropriate amounts in Column A for West Virginia property, payroll, and sales and in Column B for everywhere.

**COLUMN C, LINES 1, 2, AND 3.** Divide the amount in Column A by the amount in Column B and enter the result in Column C. State the result as a decimal and round to six (6) places after the decimal.

**Line 1. Property.** Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income.

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.

**Line 2. Payroll.** The payroll factor shall include the total amount of compensation paid to employees during the taxable year. 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.

**Lines 3 and 4. Sales.** Enter the same amounts on lines 3 and 4. 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 any items of gross income that you have included as a decreasing modification on Schedule A.

**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 the sale; (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 costs 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.

#### SCHEDULE C - PARTNER INFORMATION AND NONRESIDENT WITHHOLDING TAX

**Column A.** Enter the social security number or FEIN of the partner listed on the same numbered line in the top part of Schedule C.

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

**Column C.** If the partner is a nonresident of West Virginia and the partnership will satisfy the nonresident withholding requirements by filing a composite return for its partners, enter their percent of ownership in this column. **Do not complete columns D through I if you are filing a composite return for your nonresident partners.** Enter the total of column C on page 1, line 10 of the return.

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

**Column E.** If you receive Form WV/NRW-4 from the nonresident partner, check this box and attach the agreement to your return when filed. Also, if you received Form WV/NRW-4 from the nonresident 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 the apportioned West Virginia income from line 8, Part 1 on the front of the return.

**Column G.** Multiply the dollar amount in column F by the percent of ownership (stated as a decimal) from column D and enter the result in column G.

**Column I.** Multiply the dollar amount in column G by the tax rate stated as a decimal (.04) in column H and enter the result in column I.

**Line 6.** Total the columns. If you have attached additional copies enter the total of the columns from all the copies of Schedule C and label the figure as "grand total". Transfer the appropriate column totals to part 2 on the front of the return.