

# Oregon

1997

## Multiple Nonresident Instructions

### Introduction

Individual members of a partnership, S corporation, limited liability partnership (LLP), or limited liability company (LLC) having any gross income attributable to Oregon, are required to file an individual income tax return.

Oregon Revised Statute (ORS) 314.760 allows certain nonresident members of a partnership, S corporation, LLP or LLC—deriving income from or doing business in Oregon—to elect to file a composite or multiple nonresident return. This composite return removes the burden of each individual to file a separate return.

### Filing requirements

You must decide each year whether to join in a multiple nonresident filing. There is no requirement that an election be made prior to filing the multiple nonresident return. The election is considered made when the return is filed.

To be included in the multiple nonresident return, **all** the following conditions must be met:

- The member must be an individual. Members who are estates, trusts, partnerships, LLCs, LLPs, or S corporations **cannot** be included in the multiple nonresident return.
- The individual must be a full-year nonresident of Oregon; and
- The individual must have no other Oregon source income.

### How to revoke an election of multiple nonresident filing

To revoke a previous election, the individual must file a separate return with the Oregon Department of Revenue, showing all items of income and deductions

on a separate basis. This return will be treated as an original return and the tax liability shown on the return, if any, will be subject to interest and penalties in the same manner as any other delinquent filed original return. If the revoking partners or shareholders have not made adequate estimated tax payments on a separate basis they will be subject to paying interest on underpayment of estimated tax. The decision to revoke a previous election by one or more partners or shareholders shall have no effect on the election of the remaining partners or shareholders.

### Deductions

You can claim a net operating loss (NOL) on the multiple nonresident return. You must attach a schedule to the multiple nonresident return indicating the taxpayers affected and the calculation of the Oregon NOL. See ORS 316.014 for details on computing NOLs of Oregon nonresidents.

Oregon net taxable income of the entity means the federal net income of the partnership or S corporation as defined by the laws of the United States modified as provided in ORS chapter 316 for those items that directly relate to the nonresident partner's or shareholder's partnership or S corporation net income. Examples of the modifications allowed in ORS chapter 316 which relate to the partnership or S corporation income include any Oregon modification necessary for depreciation, depletion, gain or loss difference on the sale of depreciable property, and any modification for federal targeted jobs tax credit.

Individual deductions are not allowed on the multiple nonresident return. Individual deductions include, but are not limited to: itemized deductions, standard deduction, and health insurance.

## Credits

Credits normally allowed on the personal income tax return such as those for exemptions, retirement income, and the elderly or disabled are not allowed on the multiple nonresident return. Credits directly attributable to the entity can be claimed on the multiple nonresident return.

Effective for tax years beginning on or after January 1, 1995, the allowable credit for taxes paid to another state under ORS 314.131 is allowed on multiple nonresident returns. See OAR 150-316.082(2) for instructions on computation of the credit. A copy of the resident state's tax return for qualifying partners or shareholders should not be attached to the multiple nonresident return. However, a schedule identifying the taxpayers qualifying for the credit, their state of residence and sufficient information to determine the amount of the credit allowed under ORS 316.131 must be included with the multiple nonresident return.

## Apportionable income

If the entity has income that is part of a multi-state business operation, the nonresident's Oregon net taxable income or loss of the entity shall be computed by multiplying the total Oregon taxable income or loss of the entity by the apportionment percentage as provided in ORS 314.280 or ORS 314.650 through ORS 314.670. For partnerships, the result is multiplied by the partner's distributive share of partnership income. For S corporations, the result is multiplied by the shareholder's pro rata share of the S corporation's income.

## Guaranteed payments

Guaranteed payments are treated as part of the partner's distributive share of the partnership business income. See OAR 150-316.124(2).

## Estimated tax payments

The entity is required to make estimated tax payments on behalf of all individual members who would have had an individual estimated tax liability had they not elected to join in filing a multiple nonresident return. The entity's estimated tax liability is calculated using the total liability of all electing individuals. In the case of overpayment or underpayment of estimated tax, the overpayment or underpayment is deemed to be attributable to all partners or shareholders with tax liabilities in excess of \$500.

**Estimated tax payments on behalf of the electing individuals.** Payments must be made in the entity's name as it will appear on the multiple non-

resident return. Estimated tax payments made by partnerships or S corporations must be made on Form 40ES (Oregon Individual Estimated Tax).

**Estimated tax payments with no election.** If all partners or shareholders decide not to participate in filing a multiple nonresident return after making estimated tax payments, a refund of estimated tax may be obtained. In order to receive a refund, the entity must file an original return showing zero tax due, indicating that none of the partners or shareholders wish to participate in the election. The nonresident partners or shareholders will then be required to file on a separate basis. If the partners or shareholders have not made adequate estimated tax payments on a separate basis they will be subject to paying interest on underpayment of estimated tax.

**Transferring estimated tax payments.** Estimated tax payments **cannot** be transferred from the entity's estimated tax account established on behalf of members who intend to join in a multiple nonresident filing. **Exception:** If a nonresident partner or shareholder becomes ineligible to participate in the filing of a multiple nonresident return due to acquiring **other** Oregon source income, a transfer may be made. The nonqualifying partner or shareholder can receive credit for a portion of the estimated tax previously paid by the entity on behalf of the partners or shareholders by supplying a written request from the entity, prior to the filing of the multiple nonresident return. The written request must include:

- The name and employer identification number of the entity which has made the estimated tax payment(s).
- The name and Social Security number of the partner or shareholder that has become ineligible.
- The specific dollar amount to transfer to the account of the shareholder or partner.
- A description of the Oregon source income that has resulted in the partner or shareholder no longer being eligible to participate in the election.

If the entity does not request a transfer of estimated tax payments, it may receive a refund of the tax paid on behalf of a partner or shareholder who revokes a previous election to join in the filing of a multiple nonresident return. In order to receive a refund, the partnership or corporation must file an amended return with the department, showing the recomputed tax liability for the remaining partners and shareholders. No portion of the tax paid by the entity on behalf of the partners or shareholders will be transferable to the accounts of any partner or shareholder revoking a previous election.

## Filing a multiple nonresident return

Nonresident partners and shareholders must file an Oregon multiple nonresident tax return on Oregon Form 40N (Oregon Individual Income Tax Return for nonresidents) using the name of the entity. The return must be signed with an authorized signature as required by Oregon law. All schedules must be attached. An authorized representative of the entity must fill in the entity's name and address in the name and address section of Form 40N, indicate the tax due on the tax-to-pay line and sign the Form 40N. **The word "multiple" must be written or stamped—in blue—at the top of Form 40N.**

A Schedule MNR or equivalent must be filed with the multiple nonresident return. Schedule MNR determines each nonresident partner's or shareholder's Oregon tax liability. Schedule MNR is included with these instructions. A computer-created schedule is acceptable, but must contain the following:

- The name, address, Social Security number, filing status, and ownership percentage of each nonresident partner or shareholder who elected to join in the filing of the multiple nonresident income tax return.
- The nonresident partner's or shareholder's share of the federal partnership or S corporation net income.
- The nonresident partner's or shareholder's share of the Oregon net taxable income of the partnership or S corporation. For purposes of this rule, "Oregon net taxable income of the partnership or S

corporation" means the federal net income of the partnership or S corporation as defined by the laws of the United States modified as provided in ORS chapter 316 for those items that directly relate to the nonresident partner's or shareholder's net income.

- The Oregon tax from the applicable rate chart based on the nonresident partner's or shareholder's filing status.
- The Oregon tax multiplied by the state surplus refund percentage (if applicable).
- The Oregon tax after the state surplus refund.
- For tax years beginning on or after January 1, 1995, the allowable credit for taxes paid to another state.

## Due date

The Oregon multiple nonresident tax return is due the 15th day of the fourth month after the close of the tax year of the majority of the electing partners or shareholders, in accordance with ORS 314.385 and the rules adopted thereunder.

## Extensions

If the partnership or S corporation is granted a federal extension to file the partnership or S corporation return, the federal extension shall be allowed for filing the multiple nonresident return for Oregon. Attach a copy of the approved extension to the back of the multiple nonresident return when it is filed.

<b>Tax Rate Charts for Form 40N Multiple Nonresident Filers</b>	<b>Tax Rate Chart A</b>  <b>For persons filing Single, or Married filing separately</b>								
	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 50%;">If your taxable income is:</th> <th style="text-align: left; width: 50%;">Your tax is:</th> </tr> </thead> <tbody> <tr> <td>Not over \$2,250 .....</td> <td>5% of taxable income</td> </tr> <tr> <td>Over \$2,250 but not over \$5,700 .....</td> <td>\$113 plus 7% of excess over \$2,250</td> </tr> <tr> <td>Over \$5,700 .....</td> <td>\$354 plus 9% of excess over \$5,700</td> </tr> </tbody> </table>	If your taxable income is:	Your tax is:	Not over \$2,250 .....	5% of taxable income	Over \$2,250 but not over \$5,700 .....	\$113 plus 7% of excess over \$2,250	Over \$5,700 .....	\$354 plus 9% of excess over \$5,700
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Over \$5,700 .....	\$354 plus 9% of excess over \$5,700								
	<b>Tax Rate Chart B</b>  <b>For persons filing Jointly, Head of household, or Qualifying widow(er) with dependent child</b>								
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## Tax to pay

Remittance of the amount due must accompany the Oregon multiple nonresident return. The total amount due shall be made by the entity on the nonresident partners' or shareholders' behalf. The amount due must include the tax due plus any penalty or interest as provided by Oregon law. As the designated agent, the entity is liable for any tax, or penalty and interest due, including underpayment of estimated tax.

## Penalty and interest

**Penalty.** Include a penalty payment if you:

- Mail your tax due after the original due date (even if you have an extension).
- File your return showing tax due after the due date, including any extension.

Penalty is 5 percent of the unpaid balance of your tax, as of April 16, 1998.

If you file more than **three months late**, add an additional penalty of 20 percent, for a total of 25 percent of the unpaid tax.

**Interest.** If you don't file your return or pay the tax due by April 15, 1998, interest will be charged on the unpaid tax.

The current interest rate is 10 percent per year or .8333 percent per month.

Interest is figured daily (.0274 percent per day) for periods of less than a month. A month, for example, is May 16 to June 15. Here's how to figure daily interest:

$$\text{Tax} \times .000274 \times \text{Number of days}$$

If the tax is not paid within 60 days of our bill, the interest rate increases to 14 percent per year.

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# Taxpayer assistance

## Do you need help?

Call: Salem ..... **(503) 378-4988**  
Toll-free within Oregon .... **1-800-356-4222**

The toll-free number is available January through April.

For touchtone phones, our telephone voice response system has recorded tax information about many of your Oregon tax questions. You can also order tax forms. This service is available 24 hours a day.

Representatives are available: 7:30 A.M.–5:10 P.M. Monday–Friday, except Wednesday when the hours are 9 A.M.–5:10 P.M. Closed on holidays. From April 1–April 15, representatives are available from 7 A.M. until 7 P.M., Monday–Friday.

**TTY** (hearing or speech impaired only). **These numbers are answered by machine only and are not for voice use.** The year-round toll-free number within Oregon is 1-800-886-7204. In Salem, the number is (503) 945-8617.

## Habla Español?

Las personas que necesitan asistencia en Español pueden dejar un mensaje. El número disponible todo el año en Salem es (503) 945-8618.

A message line is available all year for those who need assistance in Spanish. The number in Salem is (503) 945-8618.

## To get forms

Income tax booklets are available at many post offices, banks and libraries. **Or write to:** Forms, Oregon Department of Revenue, PO Box 14999, Salem OR 97309-0990. Our Internet address is: <http://www.dor.state.or.us>

The offices below provide forms and answer questions. **Don't send your return to these addresses.**

### Salem\*

Revenue Building  
First floor, Room 135  
955 Center St. NE  
Salem OR 97310

\*7:45 A.M.–5 P.M. Monday–Friday, except holidays.

### Portland\*\*

Federal Building Lobby  
1220 SW Third Ave.  
Portland Oregon

\*\*We'll provide walk-in help from 9 A.M.–4 P.M., Monday–Friday, except holidays, January 2–April 15 only.

**Correspondence.** Use the Salem address above. Include your business identification number and a daytime telephone number. Including both will allow us to help you faster.

In compliance with the Americans with Disabilities Act (ADA), this information is available in alternative formats upon request by calling (503) 378-4988.

