

Multiple Nonresident Instructions

New information

The 2003 Oregon Legislature passed House Bill (HB) 2152, which made several changes to Oregon tax law. These changes include a graduated income tax assessment, commonly known as a surcharge. This bill was referred by voters for a February 3, 2004, election. Please refer to the Oregon Part-Year/Nonresident booklet for more information about this bill.

If you are not sure of the outcome of the election, contact us at 503-378-4988.

Oregon is tied to the federal definition of taxable income, as it was written on or before December 31, 2002. Oregon will not automatically adopt federal changes occurring after that date.

Oregon remains permanently tied to federal law for pension plans, tax-exempt or tax-deferred savings programs, and depreciation of assets. However, refer to the Oregon Part-Year/Nonresident booklet for treatment of depreciation on certain sport utility vehicles, trucks, and vans used in your business.

Introduction

Throughout these instructions the term “members” will refer to partners of a partnership or LLP, shareholders of an S corporation, and members of an LLC. The term “entity” will mean a partnership, S corporation, LLP, or LLC.

Individual members of a partnership, S corporation, limited liability partnership (LLP), or limited liability company (LLC) having gross income above the threshold amount (see new information above) attributable to Oregon are required to file an individual income tax return.

Oregon Revised Statute (ORS) 314.760 allows certain nonresident members of the entities listed above that derive income from or do business in Oregon to elect to file a composite or multiple nonresident return. This composite return eliminates the need for each individual to file a separate return.

Filing requirements

Individual members 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 members must be individuals.** Members who are estates, trusts, partnerships, LLCs, LLPs, or S corporations **cannot** be included in the multiple nonresident return. Exception: Electing Small Business Trusts (ESBT) will be allowed to participate in a multiple nonresident filing.
- The individuals must be full-year nonresidents of Oregon; and
- The individuals must have no other Oregon source income. Exception: having an ownership interest in more than one entity will not prevent an individual from participating in a multiple nonresident filing. However, an individual must participate in multiple nonresident filings for **all** entities in which they have an interest, or participate in none.
- **The multiple nonresident return must be filed using the tax year of the majority of electing members.** If the majority of electing members file individual tax returns using a calendar year, the multiple nonresident return must also be filed using a calendar year. The members are deemed to have received their share of income from the entity on the last day of the entity’s tax year. Calendar year members will include their share of the entity’s income on their calendar year returns. **Example:** An entity uses a March 31, 2003 fiscal year-end. The majority of electing members have a calendar year-end. The multiple nonresident return, Form 40N, must be filed for calendar year 2003 by April 15, 2004.

Filing a multiple nonresident return

Nonresident members must file an Oregon multiple nonresident tax return using Form 40N (Oregon Individual Income Tax return for nonresidents). **The word “multiple” must be written or stamped—in blue or black ink—at the top of Form 40N.**

Follow these instructions when completing the Oregon multiple nonresident tax return using Form 40N. Generally, only the following areas need to be completed on Form 40N.

1. The entity’s name, address, and federal identification number in the name and address section.
2. The net tax amount due (line 63).
3. Total estimated tax payments made (line 65).
4. Any overpayment to apply to 2004 estimated taxes (line 75).

5. Signature of an authorized representative of the entity at the bottom of page two.

A Schedule MNR or equivalent must be filed with the multiple nonresident return, Form 40N. Schedule MNR determines each nonresident member's Oregon tax liability. ESBTs will use the tax rate chart for singles. Schedule MNR is included with these instructions. A computer-created schedule is acceptable if it contains the following information for each member who elects to participate in the filing of the multiple nonresident return:

- Social Security number, name, address, filing status, and ownership percentage.
- The share of federal net income of the entity.
- The share of Oregon net taxable income of the entity. (See "apportionable income," "deductions," and "credits" on page 3.)
- Oregon tax from the applicable rate chart based on filing status, plus the appropriate surcharge.
- The allowable share of credit for income taxes paid to another state.
- Share of estimated tax payments.
- Share of underpayment interest.

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 members. If the majority of members file calendar year returns, the multiple nonresident return will also be a calendar year return. The fiscal year end of the entity does not affect the due date. For 2003 calendar year returns, the due date is April 15, 2004.

Extensions

If the entity is granted a federal extension to file its return, the federal extension is allowed for filing the Oregon multiple nonresident return. If the entity only needs an extension to file the Oregon return, complete Oregon's Form 40-EXT. If a payment to Oregon must be made at the time of either the federal or Oregon extension, use the Form 40-EXT payment coupon. The payment coupon and the payment must be sent with the completed Form 40-EXT. When Form 40N is filed, check the extension box on line 7b. Do not attach a copy of the federal or Oregon extension form to Form 40N. Keep a copy of the extension for your records. Remember: An extension allows for more time to file, not more time to pay.

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 participate in a multiple nonresident return. The entity's estimated tax liability is calculated using the total estimated 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 members with tax liabilities in excess of \$1,000.

Estimated tax payments on behalf of the electing members. Payments must be made in the entity's name as it will appear on the multiple nonresident return. Estimated tax payments made by the entity must be made on Form 40ES (Oregon Individual Estimated Tax).

Estimated tax payments with no election. If all members decide not to participate in filing a multiple nonresident return after making estimated tax payments, a refund of estimated tax may be obtained. To receive a refund, the entity must file an original return showing zero tax due and indicate that none of the members wish to participate in the election. The nonresident members must then file individually. If the members have not made adequate estimated tax payments on a separate basis, they will be subject to interest on underpayment of estimated tax.

Transferring estimated tax payments before the multiple nonresident return is filed. Payments made on behalf of members who intend to participate in a multiple nonresident filing cannot be transferred out of the entity's account to an individual estimated tax account. **Exception:** If a nonresident member 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 member can receive credit for a portion of the estimated tax previously paid by the entity on behalf of the member. The member must supply 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 that made the estimated tax payment(s).
- The name and Social Security number of the member who has become ineligible.
- The specific dollar amount to transfer to the account of the member.
- A description of the Oregon source income that has resulted in the member no longer being eligible to participate in the election.

After the multiple nonresident return has been filed, no portion of the tax paid by the entity on behalf of the members will be transferable to the accounts of any member revoking a previous election. The entity may file an amended Form 40N multiple nonresident return to request a refund of any tax paid on behalf of a member(s) who revokes his or her previous election to participate in the multiple nonresident return. The amended return must show the tax liability as recomputed for the remaining members who elected to participate in the multiple nonresident return.

Apportionable income

If the entity has income that is part of a multistate business operation, the nonresident member will compute his or her share of Oregon net taxable income or loss from the entity by multiplying the entity's total apportioned Oregon taxable income or loss by the member's ownership

percentage. See ORS 314.280 or 314.650 through 314.670. **Example:** A partnership will multiply the Oregon apportioned income by each partner's distributive share of partnership income. An S corporation will multiply the Oregon apportioned income by each 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 Oregon Administrative Rule (OAR) 150-316.124(2).

Deductions

Individual deductions are not allowed on the multiple nonresident return. Individual deductions include, but are not limited to, charitable contributions, other states' income taxes, itemized deductions, and standard deductions.

Oregon net taxable income of the entity means the federal net income of the entity as defined by the laws of the United States modified by ORS chapter 316. See ORS chapter 316 for those items that directly relate to the nonresident members' share of the entity's net income. Examples of the modifications allowed in ORS chapter 316 that relate to the entity's income include: any Oregon modification necessary for depreciation; depletion; gain or loss difference on the sale of depreciable property; U.S. government interest; and any modification for federal targeted jobs tax credit.

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.

The credit for income taxes paid to another state under ORS 316.131 is allowed on multiple nonresident returns for residents of California, Arizona, Virginia, and Indiana. See OAR 150-316.082(2) for computation of the credit. A copy of the resident state's tax return for qualifying members should **not** be attached to the multiple nonresident return. However, a schedule identifying the members 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 attached to the multiple nonresident return.

Tax to pay

Payment of the amount due must accompany the Oregon multiple nonresident return. The entity must pay the total amount due on behalf of the nonresident members. The

amount due must include the tax due plus any penalty or interest as required by Oregon law. As the designated agent, the entity is liable for any tax, penalty, and interest due, including interest on underpayment of estimated tax.

Penalty and interest

Penalty. Include a penalty payment if you:

- Pay 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 the due date, not including extensions (generally April 15).

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

Interest. If you don't file your return or pay the tax due by the due date, interest is due on the unpaid tax.

The current interest rate is 6 percent per year or 0.5 percent per month. Interest is figured daily (0.0164 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:

$$\text{Tax} \times 0.000164 \times \text{Number of days}$$

If the tax is not paid within 60 days of our bill, the interest rate increases to 10 percent per year.

Amending return for net operating loss

The entity may file an amended return to carry back Oregon net operating losses. Attach a schedule to the amended return naming the members and showing the year and calculation of the net operating loss.

Any refund will be paid to the entity regardless of any ownership changes or changes in the identity of the members participating in the multiple nonresident filing.

Revoking participation in a multiple nonresident filing

A member may revoke his or her participation in a multiple nonresident return by filing an Oregon individual income tax return. The return will be treated as an original return and the tax liability shown on the return, if any, will be subject to penalty and interest. If the revoking member has not made adequate estimated tax payments separately, he or she will be subject to interest on underpayment of estimated tax. The decision to revoke a previous election by one or more members has no effect on the election of the remaining members.

2003 Tax rate charts for MNR

S Tax Rate Chart

For persons filing
Single or Married filing separately

If your taxable income is:	Your tax is:
Not over \$2,550	5% of taxable income
Over \$2,550 but not over \$6,350	\$128 plus 7% of the excess over \$2,550
Over \$6,350	\$394 plus 9% of the excess over \$6,350

J Tax Rate Chart

For persons filing
Jointly, Head of household, or Qualifying
widow(er) with dependent child

If your taxable income is:	Your tax is:
Not over \$5,100	5% of taxable income
Over \$5,100 but not over \$12,700	\$255 plus 7% of the excess over \$5,100
Over \$12,700	\$787 plus 9% of the excess over \$12,700

Surcharge worksheet

If Measure 30 PASSES—the surcharge is law. The surcharge is a percentage of your **tax after credits**. The percentage is based on your federal adjusted gross income. Use the worksheet to figure the amount of your surcharge.

1. Enter your tax after credits, shown on Form 40N or 40P, line 61. 1. _____
2. Enter the decimal amount from the correct chart below. 2. _____
3. Multiply line 1 by line 2. Enter result here and on Form 40N or 40P, line 62. 3. _____

Chart S: Use if your filing status is SINGLE or MARRIED FILING SEPARATELY. If your federal adjusted gross income from Form 1040, line 34; Form 1040A, line 21; Form 1040EZ, line 4; Form 1040NR, line 33; or TeleFile Tax Record, line I is:

At least	But less than	Your decimal amount is:
—	\$10,000	0.00
\$10,000	\$20,000	0.01
\$20,000	\$25,000	0.02
\$25,000	\$30,000	0.03
\$30,000	\$35,000	0.04
\$35,000	\$50,000	0.05
\$50,000	\$70,000	0.06
\$70,000	\$90,000	0.07
\$90,000	\$120,000	0.08
\$120,000	—	0.09

Chart J: Use if your filing status is MARRIED FILING JOINTLY, HEAD OF HOUSEHOLD, or QUALIFIED WIDOW(ER). If your federal adjusted gross income from Form 1040, line 34; Form 1040A, line 21; Form 1040EZ, line 4; Form 1040NR, line 33; or TeleFile Tax Record, line I is:

At least	But less than	Your decimal amount is:
—	\$20,000	0.00
\$20,000	\$40,000	0.01
\$40,000	\$50,000	0.02
\$50,000	\$60,000	0.03
\$60,000	\$70,000	0.04
\$70,000	\$100,000	0.05
\$100,000	\$140,000	0.06
\$140,000	\$180,000	0.07
\$180,000	\$240,000	0.08
\$240,000	—	0.09

If Measure 30 FAILS—the surcharge is **not** law. Enter -0- on line 62, and complete line 63. Follow line 64 instructions to complete your return.

Taxpayer assistance

Telephone: Salem 503-378-4988
Toll-free within Oregon 1-800-356-4222

TTY (hearing or speech impaired; machine only): 503-945-8617 (Salem) or 1-800-886-7204 (toll-free within Oregon).

Americans with Disabilities Act (ADA): This information is available in alternative formats. Call 503-378-4988 (Salem) or 1-800-356-4222 (toll-free within Oregon).

Asistencia en español. Llame al 503-945-8618 en Salem o llame gratis al 1-800-356-4222 en Oregon.

Printed information (free). Tax booklets and other information are available at many post offices, banks, and libraries. For booklets and other forms and publications, you can also access our Web site at www.dor.state.or.us, order by telephone, or write to: Forms, Oregon Department of Revenue, PO Box 14999, Salem OR 97309-0990.

Correspondence—Write to: Oregon Department of Revenue, 955 Center St NE, Salem OR 97301-2555. Include your Social Security number and a daytime telephone number for faster service.