

# 1998 Oregon

## Fiduciary Income Tax

This booklet contains Form 41 and instructions.

### General instructions

Oregon forms and circulars mentioned in these instructions may be obtained by writing to:

Forms  
Oregon Department of Revenue  
PO Box 14999  
Salem OR 97309-0990

You can also download forms from our web site. Our Internet address is: [www.dor.state.or.us](http://www.dor.state.or.us)

#### Filing requirements

A fiduciary return must be filed for:

- Resident estates or trusts required to file a federal Form 1041 or 990-T, or with gross income of \$600 or more for the tax year.
- An ancillary Oregon estate with gross income of \$600 or more for the tax year.
- Nonresident estates with federal gross income of \$600 or more from Oregon sources for the tax year.
- All estates that want to establish a fiscal tax year, even if the estate had less than \$600 of gross income for the tax year.
- All estates and trusts upon termination, to report the final distribution to beneficiaries.
- Part-year resident trusts with gross income of \$600 or more from Oregon sources for the tax year.
- Nonresident trusts with gross income of \$600 or more from Oregon sources for the tax year.

#### Residency definitions

- Estates. An estate is an Oregon resident if the personal representative is appointed by an Oregon court, or if the estate administration is in Oregon. An estate cannot be a part-year resident. All other estates are nonresidents.
- Trusts. A trust is a resident if a trustee is an Oregon resident or if the trust administration is in Oregon. If there are several trustees and one is an Oregon

resident, the trust is an Oregon resident trust. A trust can be a part-year resident if a trustee moves in or out of Oregon during the tax year. For trusts which are both resident and nonresident during the same year, see part-year resident instructions on page 7.

If a trustee is a corporate fiduciary engaged in interstate trust administration, the trust is an Oregon resident only if the trustee conducts the major part of the trust's administration in Oregon.

**Name of Fiduciary.** Enter the name and address of the personal representative or trustee in the space marked "Name of Fiduciary." If there are co-fiduciaries, enter the name and address of the signer.

**Other returns required of fiduciaries.** File the applicable Oregon Form 40, 40N, or 40P for a deceased taxpayer's last tax year. If a federal Form 1040NR is required for a nonresident beneficiary, an Oregon return on Form 40N may be required. If a federal return is required for a minor, incompetent person, missing person, or conservatee, an Oregon return must be filed.

If Form 1041-A or 5227 is required for federal income tax, file a copy of that form with the Oregon Department of Revenue. Mark the copy "Oregon Information

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Copy.” Usually no Oregon report or copy is required if the only federal returns are Form 990 (exempt organizations), 990-PF (private foundations), or 4720 (certain charities).

If a federal Form 990-T is filed, also file Oregon Form 41. Don't complete lines 1, 2, 5, 5a, and 6 of Form 41. From Form 990-T, enter any unrelated business taxable income on line 21, of Form 41 and the fiduciary adjustment on line 5b. Complete Schedule 1, column B.

Period covered by the return. The return must be for the same tax year used for filing the federal return.

When and where to file the return. File by the 15th day of the fourth month following the close of the estate's or trust's tax year. Mail it to:

Oregon Department of Revenue  
PO Box 14110  
Salem OR 97309-0910

Signature. The fiduciary or officer representing the fiduciary must sign the return.

Payment. Pay the total due with the return. Estates and trusts are not required to pay estimated tax. However, voluntary payments should be submitted with an application for extension of time to file the return (see instructions for line 16).

Accounting period. The accounting period must be the same as for federal income tax purposes.

Accounting method. The accounting method must be the same as for federal income tax purposes. If the method is changed, adjustments must be made to avoid duplication or omission of income and deductions.

Unused loss carryovers. IRC sections 172 and 1212 apply to an estate or trust and the beneficiaries. Attach a copy of the federal loss carryover schedule to Form 41.

Income taxable to the grantor or substantial owner. Any part of trust income taxable to the grantor or another person under IRC sections 671 through 678 isn't taxed on a fiduciary return. However, the income information must be shown on a separate statement attached to Form 1041. Attach a copy of that information statement to Form 41. Also attach a supplemental statement to Form 41 showing Oregon additions and subtractions to federal taxable income. If the grantor trust is exempt from filing Form 1041 under IRC regulations 1.671-4, it's

also exempt from filing on Form 41 (Oregon Administrative Rule 150-316.382).

On the returns of estates and complex trusts, lines 1 through 7, Form 41, allocate the income and Oregon modifications between the estate or trust and the beneficiary if an authorized distribution was made or required during the tax year. The fiduciary must provide the beneficiary with income distribution and Oregon fiduciary adjustment information on federal Schedule K-1 (Form 1041). Attach a copy of each K-1 to Form 41. See instructions for line 6.

Transferee. The money and property of a taxpayer who has died passes to a person, estate or trust, called the transferee. The transferee may be liable for the obligations and liabilities of the deceased person. The liability includes tax, interest, and penalty. The transferee's liability is limited to the value of the property acquired from the decedent (ORS 314.310).

## Extension of time for filing

If you need more time to file both the federal and Oregon returns:

- Oregon accepts the extension you have for the federal return.
- To avoid penalty and interest, mail any tax due on or before the original due date of your return. Attach the payment to a separate copy of your federal extension.
- Attach a copy of your federal extension to your Oregon return and mark the “an extension is attached” box.

If you need an extension of time to file for Oregon only, send us a federal extension form. Write “For Oregon Only” across the top and enter Oregon amounts. Include your payment. Mail the extension request to: Oregon Department of Revenue, PO Box 14777, Salem OR 97309-0960. We'll notify you only if your extension is denied. More time to file doesn't mean more time to pay your tax! Even if you have an extension, any tax due is payable on the original due date of the return.

Include a copy of your extension with your return when you file. Attach the extension at the back of the Oregon return and schedules. It should be the last item before the federal return. Include the amount you paid with your extension on line 12 when you file your return.

# Form 41 instructions

The following instructions are for lines not fully explained on the form.

Simple trusts without capital gains or losses, or estates terminating in this tax year, must complete lines 2, 5a, and 6 on the front, and lines 20–40 on the back of Form 41.

Line 5a. Enter the fiduciary adjustment allocable to the beneficiary (ORS 316.287 and OAR 150-316.287). If the net is a subtraction, the beneficiary's share is limited to an amount equal to the distribution of income taxable on the beneficiary's individual return. A fiduciary adjustment addition increases the beneficiary's income. The beneficiary's share of the addition is limited as follows: Subtract the taxable portion of the distribution from the total amount of the distribution. The balance is the beneficiary's share, unless the amount of the addition is smaller.

Any amount of fiduciary adjustment not allocable to a beneficiary is an adjustment to the fiduciary's taxable income.

Line 6. A copy of federal Schedule K-1 (Form 1041) or an acceptable substitute, for each beneficiary, must be filed with Form 41. The total of the income and Oregon fiduciary adjustment reported on all Schedules K-1 must equal the amount entered on this line. Each beneficiary's share of the fiduciary adjustment must either be shown at the bottom of their K-1 on a blank line or on a separate sheet attached to the K-1. Mark it "Oregon fiduciary addition (or subtraction)" and write in the amount the beneficiary is to report. Do not break the fiduciary adjustment down into its separate components.

Example: An Oregon fiduciary adjustment is comprised of a \$750 federal tax subtraction, a \$250 U.S. government interest subtraction, and a \$300 Oregon tax addition. The amount reported to the beneficiary is an Oregon fiduciary adjustment of <\$700>.

Line 8. Tax. Use the rate schedule on page 2, Form 41 to figure the tax. Part-year resident trusts, see instructions on page 7.

Line 9. Tax Credits. Identify the credit claimed in the space provided. The amount claimed cannot be greater than the tax on line 8. Do not include prepayments on this line.

Credit for income taxes paid to other states:

Resident estates and trusts. Generally, you can claim this credit if the estate or trust has income that is taxed by both Oregon and another state. See exception below. Attach a copy of the return you filed with the other state and proof of payment of the tax. No credit is allowed if the tax has been claimed as a deduction. If a deduction for the other state's tax was claimed on Form 1041, it must be added to income on line 38, Form 41.

See the 1998 individual return instructions for line 40, Form 40 for how to figure the credit.

Exception: The credit must be claimed on the other state's nonresident return if the income is taxed by both Oregon and one of the following states: Arizona, California, Indiana, or Virginia.

Nonresident estates and trusts. Oregon will allow a credit for taxes paid to another state if all of the following conditions are met:

- The estate or trust is a nonresident of Oregon.
- The estate or trust is a resident of Arizona, California, Indiana, or Virginia.
- The estate or trust has income that is taxed by both Oregon and the resident state.

Other credits. You may be entitled to a tax credit for business energy, dependent care assistance, political contributions, pollution control facilities, or reclaimed plastic. Call or write the Oregon Department of Revenue for more information.

Line 16. 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. If you get an extension, the penalty won't be charged if you:

- Pay at least 90 percent of the tax due on or before the original due date of the return, and
- Pay the balance of tax and interest when you file within the extension period, and
- Pay any interest due either when the return is filed or within 30 days of billing by the department.

If you file more than three months after the original due date, add an additional penalty of 20 percent.

Line 17. Interest. If you don't pay the tax by the original due date, interest will be charged on the unpaid tax.

The current interest rate is 9 percent annually, or .75 percent per month (.0247 percent per day). The interest rate may change once a calendar year.

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

$$\text{Tax} \times .000247 \times \text{Number of days}$$

Interest accrues during an extension of time to file.

Additional interest on deficiencies and delinquencies. Interest will increase by one-third of 1 percent per month (4 percent annually) on deficiencies or delinquencies if the following occur:

- You file a return showing taxes owing, or the Department of Revenue has assessed an existing deficiency, and
- The assessment isn't paid within 60 days after the return is filed or the notice of assessment is issued.

Line 18. Total Due. Attach a check or money order to your return, payable to "Oregon Department of Revenue." Write your business identification number (BIN) or federal employer identification number and "1998" on your check. Don't send cash or postdated checks.

Special instructions. Do you owe penalty and/or interest and have an overpayment? If your overpayment is less than total penalty and interest, fill in on line 18 the result of line 16 plus line 17, minus line 15.

### Schedule 1—Oregon changes

Line 22. Changes in depreciation. You may have a depreciation difference for Oregon and may need the Oregon Depreciation Schedule and instructions. See page 1 to order forms and instructions.

Line 23. Other changes. Changes include differences in gains or losses from the sale of property. Also use this line to report differences in capital gains from the sale of farm use and forest use lands acquired from a decedent who died before 1987. Enter the amount in column B. Also enter the amount in column A if an authorized distribution was made and the gains qualify for inclusion in distributable net income.

Electing small business trust. Amounts not included in federal distributable net income of an electing small business trust under IRC Section 641(d) must be included on line 23, column B.

Line 27. Oregon changes distributed. Enter Oregon changes from line 24, column A, that were distributed to the beneficiaries. Enter zero if the amount on line 8 or line 11 of Schedule B, Form 1041, is less than the amount on line 7 of Schedule B.

The total of this line, plus the amounts from lines 12 and 15 of Schedule B, Form 1041, can't exceed the amount on line 8 or 11 of Schedule B.

### Schedule 2—Fiduciary adjustment

This schedule is for figuring the net of Oregon modifications to federal taxable income.

Line 29. Federal income tax subtraction. This subtraction can't exceed \$3,000. To figure the subtraction, deduct line 7, Schedule G from line 23 on federal Form 1041. For additional federal tax paid for years prior to 1998, see instructions for line 32.

Line 30. Interest on U.S. obligations. Enter the amount of interest from U.S. government obligations included in

federal income and not otherwise deducted. U.S. government interest received from another fiduciary should be subtracted on line 32. Don't subtract that income a second time on this line. The total of interest or dividends from U.S. obligations included on federal Form 1041 must be reduced by the deductions allocable to such income (see Form 1041 instructions, "Allocation of Deductions for Tax Exempt Income." Use the same formula to allocate deductions to U.S. government interest).

Line 32. Other subtractions. Enter other subtractions required by ORS 316.680 and ORS 316.695 which do not have a specific line. Attach a schedule which details the amount and nature of each subtraction included on this line. Enter this fiduciary's share of the fiduciary adjustment from another estate or trust that is a subtraction on this line. Also, enter any additional federal income tax paid during the tax year for prior years and not deducted on any prior year return. To determine the amount deductible, refer to the 1998 individual return instructions for line 18, Form 40.

Line 35. Interest on obligations of other states. Enter interest income from bonds of a state or political subdivision other than Oregon. (This type of income from another fiduciary is included in that fiduciary's adjustment, and should not be duplicated on this line.)

Line 36. Depletion. If natural resource depletion entered on Form 1041 is in excess of the adjusted basis of the property, enter the excess on this line.

Line 37. Estate tax paid on "income in respect of a decedent" (IRD). To figure the amount of the federal estate tax deduction that must be added to taxable income on the Oregon return, use this formula:

A = IRD included in federal taxable income

B = IRD not taxable by Oregon

C = estate tax deducted on Form 1041

Formula:  $\frac{B}{A} \times C = \$$  \_\_\_\_\_ amount of the addition

Enter on line 37, Form 41.

Line 38. Other additions. Enter other additions required by ORS 316.680 and 316.695 which do not have a specific line. Attach a schedule which details the amount and nature of each addition included on this line. Enter this fiduciary's share of the fiduciary adjustment from another estate or trust that is an addition on this line. Also enter federal tax refunds received during the tax year from prior years, if the federal tax subtraction reduced the Oregon tax in prior years. Enter administration expenses which were deducted on both the federal fiduciary return (Form 1041) and on the federal estate tax return (Form 706).

Continued on page 7 . . .

Some of the page number references in the instructions will appear to be inaccurate. The reason for this is that I removed the forms from this instruction booklet. Please use the numbers at the bottom of each page.

Webmaster

. . . continued from page 4

## Part-year resident and nonresident fiduciaries

Part-year resident trusts—use Schedule P (Form 41) to figure the Oregon tax. File with the fiduciary return, Form 41.

Oregon taxes gross income from all sources for the portion of the tax year the trust was an Oregon resident, plus gross income from Oregon sources only while the trust was a nonresident.

All federal deductions are allowed for the portion of the year the trust was an Oregon resident. But only deductions directly related to Oregon sources are allowed while the trust was a nonresident.

A part-year resident trust required to file Form 41 must attach a copy of federal Form 1041 as filed. See page 1 of these instructions for filing requirements. Oregon taxes only Oregon source income for the part of the year the trust was a nonresident, and taxes all income from all sources for the part of the year the trust was a resident. To determine your total Oregon taxable income for the year, you may choose to complete a second federal Form 1041, using only Oregon source income and deductions (called a “pro forma” return), or you may develop a schedule of the amounts of income, gain, loss, and deductions for Oregon. The full federal exemption amount is allowed. If you choose to complete a “pro forma” federal Form 1041, write “Oregon Source Income” at the top of the form to distinguish it from the actual federal Form 1041 you filed for federal tax purposes.

Use the figures from the Oregon source Form 1041 (or Oregon source schedule) you prepared to complete Form 41. Complete lines 1 through 7, and Schedules 1 and 2 as though the Oregon source amounts were the only income and deductions for the tax year. The full federal tax subtraction is allowed on line 29, based on the federal liability from Form 1041, and subject to the \$3,000 limit.

Then complete Schedule P, using the figures from Form 1041, to figure Oregon tax. Write this amount on line 8 of Form 41.

Nonresident estates and trusts—A nonresident estate or trust required to file Form 41 must attach a copy of federal Form 1041 as filed. See page 1 of these instructions for filing requirements. Oregon taxes only Oregon source income (see opposite column) received by the estate or trust. Deductions are allowed if they are directly related to Oregon sources. The only exception is the federal tax subtraction, which must be apportioned as shown below.

To determine your total Oregon taxable income for the year, you may choose to complete a second federal Form 1041, using only Oregon source income and deductions (called a “pro forma” return), or you may develop a schedule of the amounts of income, gain, loss, and deductions for Oregon. The full federal exemption amount is allowed. If you choose to complete a “pro forma” federal Form 1041, write “Oregon Source Income” at the top of the form to distinguish it from the actual federal Form 1041 you filed for federal tax purposes.

Federal tax subtraction—The federal tax subtraction must be apportioned to determine the amount related to Oregon sources. Use this formula:

A = Line 28, Form 41 (Oregon source items only)

B = Line 28, Form 41 (all source items)

C = Federal tax (lesser of actual liability or \$3,000)

Formula:  $\frac{A}{B} \times C = \$$  \_\_\_\_\_ amount of the subtraction

Enter on line 29, Form 41.

## Oregon source income

Oregon is now permanently tied to the federal definition of gross income as found in the Internal Revenue Code. Examples of Oregon source income are: wages or other compensation for services performed in Oregon; income or loss from business activities in Oregon, including rents, S corporations and partnerships; gain or loss from the sales of real or tangible personal property located in Oregon; income from intangible personal property if it has acquired Oregon business situs.

For more information and examples, see all the Oregon Administrative Rules under 150-316.127 and the 1998 Oregon Nonresident and Part-Year Resident tax booklet.

## How to assemble the return

Assemble your Oregon fiduciary return in the following order:

1. Pages 1 and 2 of Form 41. Attach Form W-2 and the payment to the left margin on the front.
2. Schedule P (Form 41), if used.
3. “Proforma” Form 1041 or a schedule of Oregon source income and deductions, if the return is from a part-year resident trust or nonresident estate or trust.
4. A copy of federal Form 1041 and schedules.
5. Copies of federal Schedules K-1 (Form 1041).
6. A copy of any extension forms.

Staple the pages together at the top left corner.

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## Taxpayer assistance

### Do you need help?

Phone: Salem ..... 503-378-4988

Toll-free within Oregon ..... 1-800-356-4222

*The toll-free number is only available  
January through April.*

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

Representatives are available:

Monday–Friday\* ..... 7:30 A.M.–5:10 P.M.

\*Except Wednesday ..... 9 A.M.–5:10 P.M.

April 1–April 15, Monday–Friday ..... 7 A.M.–7 P.M.

Closed on holidays

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.

Correspondence. For questions about the Oregon Fiduciary Income Tax, write: Fiduciary Audit, Business Division, Oregon Department of Revenue, PO Box 14110, Salem, OR 97309-0910.

Habla Español? Línea de mensaje. 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

Internet ..... [www.dor.state.or.us](http://www.dor.state.or.us)

Or write to: Forms, Oregon Department of Revenue, PO Box 14999, Salem OR 97309-0990.

The office below provides forms and will answer questions. Don't send your return to this address.

Salem\*

Revenue Building

First floor, Room 135

955 Center St. NE

Salem OR 97310

\*Office hours: 7:45 A.M.–5 P.M. Monday–Friday. Closed on holidays.

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

