2002 OREGON

Fiduciary Income Tax

This booklet contains Form 41 and instructions.

General information

Oregon accepts the federal election made by the executor of an estate and the trustee of a qualified revocable trust to treat the trust as part of the estate.

If you made that election for your federal return, check the estate box in row A of Oregon Form 41 and fill in the date of death. Attach a copy of the required federal statement electing to treat the trust as an estate.

State School Fund. Check the box on line E to donate your Oregon income tax kicker refund to the State School Fund. The fund is used for public elementary and secondary education. The kicker amount, if any, will be determined in the fall of 2003. If you check the box, any kicker refund that you would have received in 2003 based on your 2002 Oregon income tax will be sent directly to the State School Fund. **Once you check the box and file your return, you cannot amend or otherwise change your decision for the 2002 tax year.**

Deferral of gain. Did you file federal Form 8824 because you are deferring gain on exchanged property? If so, be sure to check the box on the front of Form 41, “Form 24 is attached.” Then complete and attach Oregon Form 24 to the return. See page 8 to order the form.

In the year that the gain is finally recognized for federal purposes, you will need to file a return and report the portion of the gain that is subject to Oregon taxation.

This law change applies to tax years 1998 and later. Please call the department for forms if you need to amend a prior-year return.

Capital gain on liquidated farm assets. Beginning in 2002, a reduced tax rate is available if you sold or exchanged capital assets used in farming activities. The sale or exchange must represent a substantially complete termination of a farming business you own. The sale cannot be to a family member. See instructions for line 25 [Oregon Revised Statute (ORS) 316.045].

Filing requirements

A fiduciary return must be filed for:

- Resident estates or trusts required to file a federal Form 1041 or 990-T.
- All estates and trusts upon termination to report the final distribution to beneficiaries.
- Ancillary Oregon estates with federal 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 federal gross income for the tax year.
- Part-year resident trusts with federal gross income of $600 or more from Oregon sources for the tax year.
- Nonresident trusts with federal gross income of $600 or more from Oregon sources for the tax year.

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 and information from our Web site. Our Internet address is: www.dor.state.or.us.

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. All other estates are nonresidents. An estate cannot be a part-year resident.

- **Trusts.** A **trust** is a resident if the 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. See part-year resident instructions on page 7.

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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 one who signs the return.

Other returns required of fiduciaries. File the applicable Oregon Individual Income Tax return (Form 40, 40S, 40N, or 40P) for a deceased taxpayer's last tax year. If a federal Form 1040NR is required for a nonresident beneficiary, an Oregon nonresident return (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 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. From Form 990-T, enter any unrelated business taxable income on Form 41, line 23, and the fiduciary adjustment on line 5b. Also complete Schedule 1, column B of Oregon Form 41.

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. Returns for the calendar year are due on or before April 15. When the 15th falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. Returns for other tax periods are due on or before the 15th day of the fourth month following the close of the estate's or trust's tax year. Mail the return 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, payments should be submitted with an application for extension of time to file the return to avoid penalty and interest.

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 Oregon 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 regulation 1.671-4, it's also exempt from filing Form 41 [Oregon Administrative Rule (OAR) 150-316.382].

Returns of estates and complex trusts. On Oregon Form 41, lines 1 through 7, 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 check the box "An extension is attached."

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. Please use blue or black ink. Include your payment and mail the extension request to: Oregon Department of Revenue, PO Box 14110, Salem OR 97309-0910. We'll notify you only if your extension is denied. **More time to file does not mean more time to pay your tax!** Even if you have an extension, any tax due must be paid by the original due date of the return.

Include a copy of your extension with your return when you file. Attach the extension to the back of the Oregon return and schedules. It should be the last item before the federal return. Check the "Extension is attached" box on Form 41. **Include the amount you paid with your extension on line 14 when you file your return.**

Have questions? Need forms? See page 8.

Form 41 instructions

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 22–42 on the back of Form 41.

If there are no distributions to the beneficiary, begin on line 4.

Line 5a. Enter the fiduciary adjustment allocable to the beneficiary (ORS 316.287 and OAR 150-316.287). If the adjustment 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 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 Form 41, page 2 to figure the tax. Part-year resident trusts, see instructions on page 7.

Line 9a. Enter the amount of NLTCG from Schedule 1, column B, line 25.

Line 9b. Multiply line 9a by 5 percent to figure the reduced tax on the liquidated farm assets.

Line 11. Tax Credits. Identify the credit claimed in the space provided. The amount claimed cannot be greater than the tax on line 10. **Do not include prepayments or claim of right credit 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. An Oregon resident trust that has income taxed by Arizona, California, Indiana, or Virginia may not claim the credit on the Oregon return. The credit should be claimed on the nonresident return for that state. If the trust is a resident of Oregon and also a resident of another state, the credit may be claimed on the Oregon return. 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 Oregon Form 41, line 40. See the 2002 individual return instructions for Oregon Form 40, line 41, for how to figure the credit.

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, or visit our Web site at www.dor.state.or.us.

Line 14. Prepayments and claim of right credit. Fill in any prepayments you made for tax year 2002. Include any payments made with an extension. Also include any claim of right credit allowed. A claim of right exists when you are taxed on income and later find you have no right to that income and must repay it. Oregon allows a claim of right credit if your federal tax liability is computed under IRC 1341(a). For more information, see page 8 for telephone numbers to call.

Line 16. Penalty. Include a penalty payment if you:

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

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 due date, including extensions, add an additional penalty of 20 percent.

Line 19. Interest. If you don't pay the tax by the original due date, interest will be charged on any unpaid tax.

For periods beginning	Annual	Monthly	Daily
February 1, 2003	7%	0.5833%	0.0192%

Interest rate may change once a calendar year.

Interest periods begin on the 16th day of the month the return is due, because all return dates fall on the 15th.

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:

Tax × **Daily interest rate** × **Number of days**

Interest continues to accrue during an extension of time to file on any unpaid tax.

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 tax assessed is not paid within 60 days after the return is filed or the notice of assessment is issued, **and**
- You have not filed a timely appeal.

Line 20. Total Due. Attach a check or money order to your return, payable to **"Oregon Department of Revenue."** Please use blue or black ink. Write your Oregon business identification number (BIN) or federal identification number, and "2002" on your check. Do not send cash or postdated checks.

Special instructions. Do you owe penalty or interest and have an overpayment? If your overpayment is less than total penalty and interest, fill in on line 20 the result of line 18 plus line 19 minus line 17.

Schedule 1—Oregon changes

Line 24. Changes in depreciation. You may have a depreciation difference for Oregon and may need the Oregon Depreciation Schedule and instructions. See page 8 to order forms and instructions.

Line 25. 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(c) must be included in column B, line 25.

Net long-term capital gain. Enter the net long-term capital gain (NLTCG) from farm assets that was not distributed as a negative number in Schedule 1, column B, line 25. The subtraction cannot exceed the amount of income that is reported for the fiduciary from federal Form 1041, line 22.

Line 29. Oregon changes distributed. Enter Oregon changes from column A, line 26, that were distributed to the beneficiaries. Enter zero if the amount on Form 1041, Schedule B, line 8 or line 11, is less than the amount on Schedule B, line 7.

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

Schedule 2—Fiduciary adjustment

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

Line 31. Federal income tax subtraction. This subtraction can't exceed $3,250. To figure the subtraction, deduct the amount on federal Schedule G, line 6, from the amount on federal Form 1041, line 23. For additional federal tax paid for years prior to 2002, see instructions for line 34.

Line 32. 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 34. 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 34. Other subtractions. Enter other subtractions required by ORS 316.680 and ORS 316.695 that do not have a specific line. Attach a schedule that 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 2002 individual return instructions for Form 40, line 18.

Line 37. 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 38. 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 39. 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 amount on line 39.

Continued on page 7 . . .

Form 41 Front, 150-101-041

The tax forms are a separate download. You will find them at:
http://www.dor.state.or.us/formsfid.html

Form 41 Back, 150-101-041

The tax forms are a separate download. You will find them at:
http://www.dor.state.or.us/formsfid.html

Have questions? Need forms? See page 8.

. . . continued from page 4

Line 40. Other additions. Enter other additions required by ORS 316.680 and 316.695 that do not have a specific line. Attach a schedule that 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 that were deducted on both the federal fiduciary return (Form 1041) and on the federal estate tax return (Form 706).

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** and 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. 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 (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 31 based on the federal liability from Form 1041 and subject to the $3,250 limit.

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

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 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 (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 = Form 41, line 30, (Oregon source items only)
B = Form 41, line 30, (all source items)
C = Federal tax (lesser of actual liability or $3,250)

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

Enter on Form 41, line 31.

Oregon source income

Oregon is now tied permanently to the federal definition of gross income as defined 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 the property has acquired Oregon business situs.

For more information and examples, see OAR 150-316.127 and the 2002 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. "Pro forma" 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. Form 24, *Like-Kind Exchanges/Involuntary Conversions.*
5. A copy of any extension forms.
6. A copy of federal Form 1041 and schedules.
7. Copies of federal Schedules K-1 (Form 1041).
8. A copy of federal election to treat a trust as an estate.

Staple the pages together at the top left corner.

Taxpayer assistance

Printed information (free)

You can access our Web site, order by telephone, or return the form below.

Check individual boxes to order. Complete name and address section. Clip on the dotted lines, then mail in the entire list to the address listed.

Forms and instructions

- ❑ Depreciation Schedule 150-101-025
- ❑ Form 24, *Like-Kind Exchanges/ Involuntary Conversions* 150-800-734
- ❑ Forms 40S & 40, *Full-Year Resident Personal Income Tax booklet* 150-101-043
- ❑ Forms 40P & 40N, *Part-Year Resident & Nonresident Personal Income Tax booklet* ... 150-101-045
- ❑ *Power of Attorney and Declaration of Representative* 150-800-005

Information circulars and brochures

- ❑ *Tax Credits for Corporations* 150-102-694
- ❑ *What To Do if You are Audited* 150-101-607
- ❑ *Your Rights as an Oregon Taxpayer* 150-800-406
- ❑ **List of other printed information:** *Form and Publication Order* 150-800-390

Send to: **Forms, Oregon Department of Revenue**
PO Box 14999, Salem OR 97309-0990

Please print

Your name ______________________________

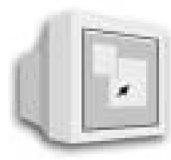
Address ______________________________

City ______________________________

State ____________ Zip Code ________________

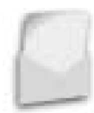
Internet

www.dor.state.or.us



The Department of Revenue Web site is a quick and easy way to download forms and information circulars, get up-to-the-minute tax information, and learn about electronic filing.

Correspondence



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

Telephone

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

If you have a touch-tone telephone, call our 24-hour voice response system at one of the numbers above to:

- Hear recorded tax information.
- Order tax forms.

For help from Tax Services, call one of the numbers above.

Monday, Tuesday, Thursday, Friday .... 7:30 a.m.–5:10 p.m.
Wednesday .... 10:00 a.m.–5:10 p.m.
Closed on holidays.

April 1–April 15, Monday–Friday .... 7:00 a.m.–7:00 p.m.
Representatives also available Saturday, April 5 and April 12.
Wait times may vary.

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.

Oregon Department of Revenue
955 Center St NE
Salem OR 97301-2555