

1998 Oregon

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 for each individual to file a separate return.

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.

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. Having an ownership interest in more than one entity will not, in itself, prohibit an individual from participating in a multiple nonresident filing. If the individual qualifies to participate in a multiple

nonresident return for each separate entity, the individual may participate in more than one multiple nonresident return.

- The multiple nonresident return must be filed using the tax year of the majority of electing members. Therefore, if the 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 flow-through entity on the last day of the entity’s tax year. Therefore, calendar year members will include their share of the flow-through income on their calendar year returns. For example: A pass-through entity uses a March 31, 1998 fiscal year-end. The majority of electing members have a calendar year-end. The multiple nonresident return, Form 40N, will be filed for calendar year 1998.

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—at the top of Form 40N.

Use the name and address of the entity in the name and address section of Form 40N. Indicate the tax due on the tax to pay line (line 67) on Form 40N. An authorized representative of the entity must sign the return.

A Schedule MNR or equivalent must be filed with the multiple nonresident return. Schedule MNR determines each nonresident member’s Oregon tax liability. Schedule MNR is included with these instructions. A computer-created schedule is acceptable, but must contain the following information for each nonresident member who elects to participate in the filing of the multiple nonresident return:

- Social Security number, name, address, filing status, and ownership percentage.
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- The share of federal net income of the flow-through entity.
- The share of Oregon net taxable income of the flow-through entity. (See “apportionable income,” “deductions” and “credits” below and on page 3.)
- Oregon tax from the applicable rate chart based on filing status.
- For tax years beginning on or after January 1, 1995, the allowable share of credit for taxes paid to another state.
- Share of estimated tax payments.
- Share of underpayment penalty (if applicable).

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. This is usually April 15. In most cases the multiple nonresident return will be filed for the calendar year of the majority of the members, not for the fiscal year of the flow-through entity.

Extensions

If the flow-through entity is granted a federal extension to file their return, the federal extension shall be allowed for filing the multiple nonresident return for Oregon. Check the “extension” box on Form 40N.

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 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 \$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 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. In order to receive a refund, the entity must file an original return showing zero tax due, indicating that none of the members wish to participate in the election. The nonresident members will then be required to file

separately. If the members 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 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 filing a 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 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. 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 member who revokes a previous election to participate in the filing of a multiple nonresident return. In order to receive a refund, the entity must file an amended return, showing the recomputed tax liability for the remaining members.

Apportionable income

If the entity has income that is part of a multi-state business operation, the nonresident members will compute their share of Oregon net taxable income or loss from the entity by multiplying the entity’s total Oregon taxable income or loss by the apportionment percentage. See ORS 314.280 or ORS 314.650 through ORS 314.670. For example: A partnership will multiply the apportionment percentage by each partner’s distributive share of partnership income. An S corporation will multiply the apportionment percentage 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

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 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 which 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.

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 deduction.

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 316.131 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 members 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.

Tax to pay

Remittance of the amount due must accompany the Oregon multiple nonresident return. Payment of the total amount due shall be made by the entity on the nonresident members' 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:

- 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 April 16, 1999.

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 April 15, 1999, interest will be charged on the unpaid tax.

The current interest rate is 9 percent per year or .75 percent per month. Interest is figured daily (.0247 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:

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

If the tax is not paid within 60 days of our bill, the interest rate increases to 13 percent per year.

How to revoke an election of multiple nonresident filing

A previous election may be revoked by one or more members. The individuals must then file separate returns with the Oregon Department of Revenue, showing all items of income and deductions separately. These returns will be treated as original returns and the tax liability shown on the returns, if any, will be subject to interest and penalties in the same manner as other delinquent filed original returns. If the revoking members have not made adequate estimated tax payments separately they will be subject to paying interest on underpayment of estimated tax. The decision to revoke a previous election by one or more members shall have no effect on the election of the remaining members.

1998 Tax Rate Charts for Form 40N Multiple Nonresident Filers

For persons filing Single, or Married filing separately

Tax rate chart A:	If your taxable income is:	To figure your tax:
	Not over \$2,300	Multiply your taxable income by .05 (5%).
	Over \$2,300, but not over \$5,800	Subtract \$2,300 from your taxable income. Multiply the result by .07 (7%). Then add \$115.
	Over \$5,800	Subtract \$5,800 from your taxable income. Multiply the result by .09 (9%). Then add \$360.

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

Tax rate chart B:	If your taxable income is:	To figure your tax:
	Not over \$4,600	Multiply your taxable income by .05 (5%).
	Over \$4,600, but not over \$11,600	Subtract \$4,600 from your taxable income. Multiply the result by .07 (7%). Then add \$230.
	Over \$11,600	Subtract \$11,600 from your taxable income. Multiply the result by .09 (9%). Then add \$720.

Taxpayer assistance

Do you need help?

Telephone: 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 may 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. Write to: Oregon Department of Revenue, 955 Center Street NE, Salem OR 97310-2501. Include your business identification number and a day-time telephone number for faster service.

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

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.

Forms and assistance are available at these offices. Don't send your return to these addresses.

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

Portland**
Federal Building Lobby
1220 SW Third Ave.

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

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

