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Introduction

Partnership income is reported as one category of income rather than in respective categories as was required prior to tax year 1999. For example, interest, dividends, rents, gains, or losses earned by a partnership are now combined with Federal ordinary income (loss) to arrive at New Jersey partnership income (loss).

This bulletin explains how partners determine the proper amount to report as distributive share of partnership income on their New Jersey gross income tax returns when:

1. The taxpayer receives an appropriate Schedule NJK-1, Form NJ-1065 from his or her partnership(s).
2. The taxpayer does not receive a Schedule NJK-1 from his or her partnership(s).
3. The taxpayer was a resident of New Jersey during only part of the taxable year.

It also describes how to calculate the basis of ownership in a partnership for the purpose of calculating gain (loss) from the disposition of a partnership interest.

Tax Topic Bulletin GIT-9S, *Income From S Corporations*, explains the proper procedure for reporting income from S corporations.

General Information

Partnership Defined

For tax purposes, “partnership” means and shall include a syndicate, group, pool, joint venture, and any other unincorporated organization through or by means of which any business, financial operation, or venture is carried on and which is not a corporation, trust, or estate within the meaning of the New Jersey Gross Income Tax Act. Only entities that qualify for and elect to be treated as a partnership for Federal tax purposes (for example limited liability companies and limited liability partnerships) and are in business, shall be treated as partnerships under the New Jersey Gross Income Tax Act.

Partner Defined

“Partner” means any owner of a partnership interest and shall include any taxpayer subject to the gross income tax that is a member of a partnership or other unincorporated entity taxed as a partnership. A partner cannot be an employee of the partnership for purposes of determining distributive share of partnership income.

Filing Requirements

Every partnership having a New Jersey resident partner or deriving income (loss) from New Jersey sources must file a New Jersey partnership return, Form NJ-1065. A partnership that has ten (10) or more partners must file its Form NJ-1065 electronically.

The partnership is required to issue Schedule NJK-1, Form NJ-1065 to each member showing that particular partner’s distributive share of the partnership’s income (loss).

If your partnership did not provide you with the required Schedule NJK-1, see question 2 on page 8.

Payment Requirements

Effective for tax years beginning on or after January 1, 2002, each entity that is classified as a partnership for Federal income tax purposes:

- Having any income or loss derived from New Jersey sources that has more than two owners may be required to make a payment of \$150 for each owner of an interest in the entity, up to a maximum of \$250,000. A 50% installment payment is also required, unless it is the partnership’s final year.
- May be required to remit a payment of tax on behalf of all nonresident partners. The Division will credit the tax paid by the partnership to the accounts of its nonresident partners as of the date of its receipt.

Adjustments to Income

Partners may deduct certain qualified unreimbursed business expenses from the distributive share of partnership income amount(s) reported to them by their partnership(s) on Schedule(s) NJK-1, Line 4 (or from the amount determined on Reconciliation Worksheet A at Line 17). After the appropriate adjustments (if any) have been made to each distributive share of partnership income amount, the net amount(s) are totaled and entered on the partner’s personal New Jersey income tax return (Form NJ-1040, NJ-1040NR, or NJ-1041). If the adjusted net total is zero or less, no entry should be made on the return. See *Losses* on page 3.

To qualify as deductible, costs or expenses must meet *all* of the following criteria:

- Incurred primarily and directly in the pursuit of business income; and
- Incurred as common and accepted practice in that field of business; and
- Required for and appropriate to the intended business purpose; and

- Reasonable in amount in relation to the intended business purpose.

Only ordinary business costs and expenses are deductible. No deduction is allowed for expenses that were not incurred in the conduct of the trade or business, nor is a deduction allowed for any taxes based on income. The determination of whether a business expense is ordinary shall be based on the facts and circumstances of the expense. It is the burden of the taxpayer to demonstrate to the satisfaction of the Division of Taxation that the cost or expense is deductible.

Investment interest expense incurred by a partner to acquire a partnership interest may be deducted from distributive share of partnership income.

New Jersey residents may deduct the full amount of qualified unreimbursed business expenses from their distributive share of partnership income. Nonresidents may also deduct the full amount of qualified unreimbursed business expenses from their distributive share of partnership income from *all sources*. However, nonresidents must prorate the amount of their qualified unreimbursed expenses for each partnership to determine the portion attributable to (and deductible from) their distributive share of partnership income derived from New Jersey sources. The portion of qualified expenses deductible from New Jersey source income is calculated by multiplying the full amount of the expense by the ratio of New Jersey source partnership income to total partnership income:

Line 4, Column B, Schedule NJK-1

Line 4, Column A, Schedule NJK-1

When adjustments are made to the amount of distributive share of partnership income reported

on Schedule NJK-1 or Reconciliation Worksheet A, a separate schedule detailing the nature and amount of each expense deducted should be attached to the taxpayer's return along with a copy of all Schedule(s) NJK-1 and/or Reconciliation Worksheet(s) A.

Losses

Under the New Jersey Gross Income Tax Act, losses in one category of income, such as distributive share of partnership income, may not be used to offset income in a different category; nor may losses be carried forward or back from one year to another.

If a loss is reported to the partner by the partnership or if a loss occurs as a result of adjustments for qualified unreimbursed business expenses, the partner may use the loss to offset income from other partnerships. If the net amount from all partnerships is a loss, the taxpayer should make no entry on their individual New Jersey gross income tax return in the category *Distributive Share of Partnership Income*.

NOTE: If more than one partnership has a loss and net losses exceed income, see question 4 on page 14.

Basis

Making annual adjustments to your New Jersey basis in a partnership will allow you to accurately determine your gain/loss when you sell or otherwise dispose of your interest in the entity. For more information on determining the basis in your partnership, see question 5 on page 16.

Disposition of a Partnership Interest

If you disposed of your interest in a partnership during the tax year, see question 6 on page 17 for details on how to determine and report the gain (loss) from the disposition.

QUESTION 1 What do I do with the information on Schedule NJK-1, Form NJ-1065 that my partnership(s) gave me?

Residents

New Jersey resident individuals, estates, and trusts are subject to the State's gross income tax on their distributive share of partnership income (loss) regardless of the source from which the income was derived. This amount appears on Line 4, Column A of Schedule NJK-1, Form NJ-1065. It should be entered on Line 20 of the New Jersey resident income tax return, Form NJ-1040, or on Line 11 of the New Jersey fiduciary return, Form NJ-1041, after first deducting any allowable unreimbursed business expenses (see *Adjustments to Income* on page 2). If the adjusted amount is zero or less, make no entry on Line 20, Form NJ-1040, or on Line 11, Form NJ-1041.

Multiple Partnerships – Taxpayers with income (loss) from more than one partnership must add the *adjusted* amounts of distributive share of partnership income from all partnerships and enter the total on Form NJ-1040, Line 20, or on Line 11, Form NJ-1041. If the adjusted total is zero or less, make no entry on this line. See *Losses* on page 3.

Nonresidents

Partners who reside outside of New Jersey and partners that are a nonresident estate or trust are also subject to this State's gross income tax on their distributive share of partnership income, but only to the extent the income is derived from sources within New Jersey.

Nonresident partners must include the amount of income reported by the partnership on Line 4, Column A, Schedule NJK-1, Form NJ-1065 on their New Jersey income tax return in order to determine the nonresident's income from all sources. This amount should be entered on Line 43, Column A, Form NJ-1040NR for nonresident individual partners, or on Line 11, Form NJ-1041 for estate or trust partners, after first deducting any allowable unreimbursed business expenses. See *Adjustments to Income* on page 2. If the adjusted amount is a loss, make no entry on the return. See *Losses* on page 3. Nonresident individual partners must include on Line 43, Column B, Form NJ-1040NR, and nonresident estate or trust partners must include on Line 6, Schedule G, Form NJ-1041, the amount from Line 4, Column B, Schedule NJK-1, after first deducting the *prorated* amount of any allowable unreimbursed business expenses. See *Adjustments to Income* on page 2. The adjusted Line 4, Column B, Schedule NJK-1 amount is the portion of total distributive share of partnership income allocated to New Jersey and actually subject to tax. If this amount is a loss, make no entry on the return. See *Losses* on page 3.

Nonresident partners must enter the share of New Jersey tax reported by the partnership on Line 1, Column B, Part III, Schedule NJK-1, Form NJ-1065 on their New Jersey income tax return in order to claim credit for tax paid on their behalf. Nonresident individual partners

must enter the amount on Line 26, Form NJ-1040NR, and nonresident estate or trust partners must enter the amount on Line 26, Form NJ-1041.

Multiple Partnerships – Nonresident taxpayers with income (loss) from more than one partnership must separately add the amounts of distributive share of partnership income *from all sources* and from *New Jersey sources* (Line 4, Columns A and B, respectively, of each Schedule NJK-1). Each amount should first be adjusted to reflect the deduction of any allowable unreimbursed business expenses. See *Adjustments to Income* on page 2. The respective totals should then be entered in the corresponding columns on Line 43, Form NJ-1040NR, or on Line 11, Form NJ-1041, and Line 6, Schedule G, Form NJ-1041. If any total is zero or less, make no entry on that line. See *Losses* on page 3.

Nonresident partners with income (loss) from more than one partnership must separately add the amounts of share of New Jersey tax (Line 1, Column B, Part III of each Schedule NJK-1). The total for nonresident individual partners should then be entered on Line 26, Form NJ-1040NR, and the total for nonresident estate and trust partners should be entered on Line 26, Form NJ-1041 in order to claim credit for tax paid on their behalf.

Example 1 illustrates the proper procedure for determining the amount to report as distributive share of partnership income for both a resident partner and a nonresident partner.

EXAMPLE 1

A partnership supplied the following Schedule NJK-1 to one of its partners:

Schedule

NJK-1

(Form NJ-1065)

| PART II Income Information | | | | |
|--|------------------------------|---|-------------------------------------|--|
| Income Classifications | A. Total Distribution | NJ-1040 Filers Enter Amounts on Line Shown Below | B. New Jersey Source Amounts | NJ-1040NR Filers |
| 1. Partnership Income (loss) | 18,000 | | 9,000 | |
| 2. Net Guaranteed Payments | - 0 - | | - 0 - | |
| 3. Partner's 401(k) Contribution | 2,577 | | 1,288 | |
| 4. Distributive Share of Partnership Income (loss) (Line 1 plus Line 2 minus Line 3) | 15,423 | Line 20, Page 1 | 7,712 | Line 43, Part I, Page 2 |
| 5. Pension | | Line 19a, Page 1 | | |
| PART III Nonresident Partner's Information | | | | |
| 1. Share of NJ Income | | Share of NJ Tax | 573 | Line 21a, Page 1 CBT-100 Line 16a, Page 1 CBT-100S Line 6, PART-100 Line 26, NJ-1040NR Line 21, NJ-1080C Line 26, NJ-1041 |

During the tax year, this partner had deductible business expenses as shown below:

| | |
|---|-------|
| Auto | \$300 |
| Telephone | 75 |
| Investment interest expense to acquire the partnership interest | 48 |

EXAMPLE 1 *(continued)*

Resident

If the above partner is a resident, she will report her distributive share of partnership income on her New Jersey resident income tax return as follows:

| | |
|---|-----------------|
| Distributive share of partnership income per Schedule NJK-1, Line 4, Column A: | \$15,423 |
| Less unreimbursed business expenses: | |
| Auto | (300) |
| Telephone | (75) |
| Investment interest expense to acquire the partnership interest | <u>(48)</u> |
| Adjusted distributive share of partnership income (include on Line 20, Form NJ-1040) | <u>\$15,000</u> |

A schedule, similar to the one above, should be attached to the partner's New Jersey income tax return to explain any adjustments made to the amount reported on Schedule NJK-1 by the partnership.

Nonresident

If the above partner is a nonresident, an allocation factor is used to determine her portion of each expense that may be deducted from her New Jersey source income. The allocation factor is computed by dividing Line 4 of the partner's Column B "New Jersey source amounts" by Line 4 of the partner's Column A "total distribution." In this example the allocation factor is 50% ($7,712 \div 15,423$). She will report her distributive share of partnership income on her New Jersey nonresident income tax return as follows:

| | <u>All Sources</u> | <u>New Jersey Sources</u> |
|---|--------------------|---------------------------|
| Distributive share of partnership income per Schedule NJK-1, Line 4, Columns A and B: | \$15,423 | \$7,712 |
| Less unreimbursed business expenses: | | |
| Auto | (300) | (150) |
| Telephone | (75) | (38) |
| Investment interest expense to acquire the partnership interest | <u>(48)</u> | <u>(24)</u> |
| Adjusted distributive share of partnership income (include on Line 43, Form NJ-1040NR) | <u>\$15,000</u> | <u>\$7,500</u> |

A schedule, similar to the one above, should be attached to the partner's New Jersey income tax return to explain any adjustments made to the amounts reported on Schedule NJK-1 by the partnership.

The nonresident partner will also claim credit for \$573 on her nonresident income tax return for tax that has been paid on her behalf by the partnership.

QUESTION 2 What do I report if my partnership did not give me a Schedule NJK-1, Form NJ-1065?

There may be instances where a partnership which has income or loss from New Jersey sources or in which one or more of the partners is a New Jersey resident does not comply with its responsibility to file Form NJ-1065 and provide each partner with Schedule NJK-1.

If you did not receive Schedule NJK-1 from a particular partnership, and you are either a New Jersey resident or a nonresident who knows or believes that the partnership had income (loss) from New Jersey sources, contact the partnership immediately to obtain Schedule NJK-1. If you are unable to obtain Schedule NJK-1, you will have to use the information from the Federal Schedule K-1 that the partnership provided to complete Reconciliation Worksheet A.

Reconciliation Worksheet A will enable you to determine the proper amount to report as your distributive share of partnership income for New Jersey tax purposes. In order to complete the worksheet, you will have to obtain certain information from the partnership in addition to the amounts provided on Federal Schedule K-1 (e.g., the amount of taxes based on income and the amount of interest income attributable to obligations which are exempt for New Jersey income tax purposes).

Tax Topic Bulletin GIT-5, *Exempt Obligations*, contains more information about obligations that are exempt from New Jersey gross income tax.

Both resident partners and nonresident partners who have income from New Jersey sources must complete a Reconciliation Worksheet A for each Federal Schedule K-1 received from a partnership that did not also provide a corresponding Schedule NJK-1.

The amount of partnership income (loss) from line 17 of the completed Reconciliation Worksheet A may be adjusted to reflect any qualified unreimbursed business expenses (see *Adjustments to Income* on page 2) before being combined with the adjusted income (loss) from any other partnerships and entered on Line 20 of the New Jersey resident return (Form NJ-1040), Line 43 of the New Jersey nonresident return (Form NJ-1040NR), or on Line 11 of the New Jersey fiduciary return (Form NJ-1041). Nonresidents with other income from New Jersey sources must also report their partnership income from all sources, computed as if they were a New Jersey resident. See instructions for line 17 of Reconciliation Worksheet A on page 12.

A sample Reconciliation Worksheet A appears on page 9; line by line instructions for completing the worksheet begin on page 10.

Worksheet A

RECONCILIATION OF SCHEDULE K-1, FEDERAL FORM 1065

PARTNERSHIP NAME _____ EMPLOYER ID NUMBER _____
TAX YEAR _____

- | | | | |
|--|------|-------|--|
| 1. Ordinary income (loss) from trade or business activities... | 1. | _____ | |
| 2. Net income (loss) from rental real estate activities..... | 2. | _____ | |
| 3. Net income (loss) from other rental activities..... | 3. | _____ | |
| 4. Interest income | 4. | _____ | |
| 5. Dividend income | 5. | _____ | |
| 6. Royalty income | 6. | _____ | |
| 7. Net short-term capital gain (loss)..... | 7. | _____ | |
| 8. Net long-term capital gain (loss)..... | 8. | _____ | |
| 9. Guaranteed payments to partner..... | 9. | _____ | |
| 10. Net IRC section 1231 gain (loss) | 10. | _____ | |
| 11. Other income (loss)..... | 11. | _____ | |
| 12. Tax-exempt interest income..... | 12. | _____ | |
| 13. Subtotal (Add lines 1 through 12)..... | 13. | _____ | |
| 14a. Taxes based on income | 14a. | _____ | |
| 14b. Other additions – specify: _____ | 14b. | _____ | |
| 14c. Total additions (Add lines 14a and 14b)..... | 14c. | _____ | |
| 15. Subtotal (Add lines 13 and 14c)..... | 15. | _____ | |
| 16a. IRC section 179 expense..... | 16a. | _____ | |
| 16b. Excess meal & entertainment expense..... | 16b. | _____ | |
| 16c. Interest income from Federal obligations..... | 16c. | _____ | |
| 16d. Interest income from NJ obligations | 16d. | _____ | |
| 16e. Other subtractions – specify: _____ | 16e. | _____ | |
| 16f. Total subtractions (Add lines 16a through 16e)..... | 16f. | _____ | |
| 17. Partnership income (loss) (line 15 minus line 16f)..... | 17. | _____ | |

INSTRUCTIONS FOR PARTNER'S RECONCILIATION WORKSHEET A

Partnership Information

Enter the name and Federal Identification Number of the partnership that issued the Schedule K-1, Federal Form 1065 which is being reconciled. Enter your tax year.

Income Information

Line 1 – Ordinary Income (Loss) from Trade or Business Activities

Enter on Line 1 the amount of ordinary income (loss) reported on Line 1, Schedule K-1, Federal Form 1065.

Line 2 – Net Income (Loss) from Rental Real Estate Activities

Enter on Line 2 the amount of net income (loss) from rental real estate activities reported on Line 2, Schedule K-1, Federal Form 1065.

Line 3 – Net Income (Loss) from Other Rental Activities

Enter on Line 3 the amount of net income (loss) from other rental activities reported on Line 3, Schedule K-1, Federal Form 1065.

Line 4 – Interest Income

Enter on Line 4 the amount of interest income reported on Line 4a, Schedule K-1, Federal Form 1065.

Line 5 – Dividend Income

Enter on Line 5 the amount of dividend income reported on Line 4b, Schedule K-1, Federal Form 1065.

Line 6 – Royalty Income

Enter on Line 6 the amount of royalty income reported on Line 4c, Schedule K-1, Federal Form 1065.

Line 7 – Net Short-Term Capital Gain (Loss)

Enter on Line 7 the amount of net short-term capital gain (loss) reported on Line 4d, Schedule K-1, Federal Form 1065.

Line 8 – Net Long-Term Capital Gain (Loss)

Enter on Line 8 the amount of long-term capital gain (loss) reported on Line 4e(1), Schedule K-1, Federal Form 1065.

Line 9 – Guaranteed Payments to Partner

Enter the amount of guaranteed payments reported on Line 5, Schedule K-1, Federal Form 1065.

Line 10 – Net IRC Section 1231 Gain (Loss)

Enter on Line 10 the net IRC Section 1231 gain or loss reported on Line 6, Schedule K-1, Federal Form 1065.

Line 11 – Other Income (Loss)

Enter on Line 11 any other income (loss) that is not included on Lines 1 through 10 above. This will be the total of the amounts reported on Lines 4f and 7 of Schedule K-1, Federal Form 1065. If any amount is reported on this line, a schedule identifying the income or loss must be attached to your return.

Line 12 – Tax-Exempt Interest Income

Enter on Line 12 the amount of tax-exempt interest income reported on Line 19, Schedule K-1, Federal Form 1065.

Line 13 – Subtotal

Add the amounts on Line 1 through 12 and enter the result on Line 13.

Line 14a – Taxes Based on Income

Enter your share of the amount of taxes based on income which were taken as a deduction by the partnership on Federal Form 1065 in determining the amount of ordinary income (loss) which you reported on Line 1, above. If this information has not already been provided, you must obtain it from the partnership.

Line 14b – Other Additions – Specify

Enter on Line 14b any other items which were deducted from, or not included on, Lines 1 through 12 above which are not excludable under the New Jersey Gross Income Tax Act. Specify each item reported. If the amount reported on Line 13 above included any loss incurred in connection with the disposition of exempt New Jersey or Federal obligations, you must add back the amount of such loss on this line. If this information has not already been provided, you must obtain it from the partnership.

Line 14c – Total Additions

Add the amounts on Lines 14a and 14b and enter the result on Line 14c.

Line 15 – Subtotal

Add the amounts on Line 13 and 14c and enter the result on Line 15.

Line 16a – IRC Section 179 Expense

Enter on Line 16a any IRC Section 179 expense deduction reported on Line 9, Schedule K-1, Federal Form 1065.

Line 16b – Excess Meal and Entertainment Expense

Enter on Line 16b the balance of your meal and entertainment expenses which were not deductible for Federal income tax purposes. If this information has not already been provided, you must obtain it from the partnership.

Line 16c – Interest Income from Federal Obligations

Enter on Line 16c any interest from Federal obligations that is excludable from New Jersey gross income and was included in the amounts reported on Lines 4 or 5 above. If this information has not already been provided, you must obtain it from the partnership.

NOTE: Lines 16c and 16d - Amounts excludable from income include interest and dividends on obligations of the State of New Jersey or any of its political subdivisions and from tax-exempt obligations of the United States government, its territories, or instrumentalities. Distributions from New Jersey *qualified investment funds* are also exempt, as are distributions from other investment funds, but only to the extent the distribution is derived from obligations of the type described in New Jersey law at N.J.S.A. 54A:6-14, et seq.

Include the total of Lines 16c and 16d on Line 15b, Form NJ-1040.

Line 16d – Interest Income from New Jersey Obligations

Enter on Line 16d the amount of interest income from New Jersey obligations that is excludable from New Jersey gross income and was included in the amount reported on Lines 5 or 12 above. If this information has not already been provided, you must obtain it from the partnership.

Line 16e – Other Subtractions – Specify

Enter on Line 16e any other items which are excludable or deductible from the income (loss) included in the subtotal reported on Line 13 of

this worksheet. You should include on this line any gains from the sale of exempt Federal or New Jersey obligations and the contribution you made through the partnership to an IRC Section 401(k) plan. Contributions in excess of Federal limits and taxable for Federal income tax purposes may not be included on this line. If this information has not already been provided, you must obtain it from the partnership.

Line 16f – Total Subtractions

Add the amounts on Lines 16a through 16e and enter the result on Line 16f.

Line 17 – Partnership Income (Loss)

Subtract Line 16f from Line 15 and enter the result on Line 17. This amount represents your distributive share of partnership income from all sources for New Jersey gross income tax pur-

poses. You may deduct any qualified partnership expenses before including it with other partnership income (loss) on Line 20 of the New Jersey resident return, Line 43 of the New Jersey non-resident return, or on Line 11 of the New Jersey fiduciary return. See *Adjustments to Income* on page 2.

Nonresidents whose partnership income was derived from New Jersey sources must include the amount from this line in both Columns A and B, Line 43, Form NJ-1040NR, or on Line 11, Form NJ-1041, and Line 6, Schedule G, Form NJ-1041. If the nonresident's partnership income was *not* derived from New Jersey sources, this amount should be included only in Column A, Line 43, Form NJ-1040NR, or on Line 11, Form NJ-1041.

QUESTION 3 How do I report my distributive share of partnership income if I was a part-year resident?

Residents

As a part-year resident you are required to file a part-year resident return (Form NJ-1040) covering the portion of your tax year that you resided in New Jersey. The return must include the prorated amount of your distributive share of partnership income that was realized by the partnership during the portion of *its* fiscal year that you were a New Jersey resident. To determine the prorated amount of distributive share of partner-

ship income to include on Line 20, Form NJ-1040, multiply the amount on Line 4, Column A, Schedule NJK-1, by the percentage which the number of days in the partnership's fiscal year that you were a New Jersey resident bears to 365 (366 for leap years).

EXAMPLE 2

Partnership's fiscal year begins on July 1, 2001 and ends on June 30, 2002. Taxpayer moved out of New Jersey on April 30, 2002 (304 days as a

resident during the partnership's fiscal year). This taxpayer's residency percentage would therefore be:

$$304 \div 365 = 83.3\%$$

NOTE: If you have a different taxable year than your partnership, you must report your distributive share of partnership income for the partnership's taxable year that *ended* within your taxable year.

If you did not receive a Schedule NJK-1 from your partnership, multiply the amount on Line 17 of your completed Reconciliation Worksheet A by the residency percentage, as determined above, to calculate the portion of your distributive share of partnership income to be included on Line 20 of Form NJ-1040. For more information regarding Reconciliation Worksheet A, see question 2 on page 8.

Nonresidents

As a part-year nonresident partner you are required to file a part-year Form NJ-1040NR covering the portion of your tax year that you were not a New Jersey resident, but only if you had income from New Jersey sources during that period. Your part-year Form NJ-1040NR must include on Line 43, Column A, the prorated amount of your distributive share of partnership income from all sources and, on Line 43, Column B, the prorated amount of your distributive share of partnership income that was derived from New Jersey sources.

To determine the prorated amount of your distributive share of partnership income from everywhere to be reported on Line 43, Column A, Form NJ-1040NR, multiply the amount on Line 4, Column A, Schedule NJK-1, by the percentage which the number of days in the partnership's fiscal year that you were *not* a New Jersey resident bears to 365 (366 for leap years).

EXAMPLE 3

From the facts given in example 2, the taxpayer's nonresidency percentage is:

$$61 \div 365 = 16.7\%$$

To determine the prorated amount of your distributive share of partnership income from New Jersey sources to be reported on Line 43, Column B, Form NJ-1040NR, multiply the amount on Line 4, Column B, Schedule NJK-1, Form NJ-1065 by the nonresidency percentage, as calculated above.

If you did not receive a Schedule NJK-1 from your partnership and you know or believe that the partnership had income from New Jersey sources, you should contact the partnership immediately. If your partnership had no income from New Jersey sources but you had other types of income from New Jersey sources during the period that you were a nonresident, multiply the amount on Line 17, Reconciliation Worksheet A, by the nonresidency percentage, as determined above. Enter the result on Line 43, Column A, Form NJ-1040NR. For more information regarding Reconciliation Worksheet A, see question 2 on page 8.

QUESTION 4 How do I allocate losses reported by more than one of my partnerships if total losses exceed partnership income?

When you have income from one partnership and losses from two or more other partnerships which in total exceed the positive partnership income, the losses must be allocated among the partnerships with losses. To determine the

usable portion of each partnership's loss, you must divide each partnership's loss by total partnership losses and then multiply this percentage by total partnership income.

$$\frac{\text{Partnership A's Loss}}{\text{Total Partnership Losses}} \times \text{Total Partnership Income} = \text{Usable portion of partnership A's losses}$$

EXAMPLE 4

Mary Wells has three partnerships whose adjusted distributive shares of partnership income/loss for 2002 are as follows:

| | |
|---------------|-------------|
| Partnership A | \$ 15,000 |
| Partnership B | (\$ 10,000) |
| Partnership C | (\$ 20,000) |

The usable portion of each partnership's loss is determined as follows:

$$\text{Partnership B} \quad \frac{(\$ 10,000)}{(\$ 30,000)} \times \$15,000 = (\$ 5,000)$$

$$\text{Partnership C} \quad \frac{(\$ 20,000)}{(\$ 30,000)} \times \$15,000 = (\$10,000)$$

The usable portion of each loss will also be needed to determine your New Jersey partnership basis (see question 5 on page 16). A worksheet to aid you in calculating the usable portion of each partnership's loss is provided on page 15 (Worksheet B).

Worksheet B

ALLOCATION OF NEW JERSEY LOSSES

NAME _____ SS# _____

RETURN YEAR _____

PARTNERSHIPS WITH LOSSES:

| | Partnership | FID | Adjusted New Jersey Partnership Loss | Usable Portion of New Jersey Partnership Loss |
|--------------|-------------|-----|--|---|
| 1 | | | A1. | C1. |
| 2 | | | A2. | C2. |
| 3 | | | A3. | C3. |
| 4 | | | A4. | C4. |
| 5 | | | A5. | C5. |
| Total | | | A. | C. |

PARTNERSHIPS WITH INCOME:

| | Partnership | FID | Adjusted New Jersey Partnership Income |
|--------------|-------------|-----|--|
| 1 | | | B1. |
| 2 | | | B2. |
| 3 | | | B3. |
| 4 | | | B4. |
| 5 | | | B5. |
| Total | | | B. |

$$\begin{array}{l}
 \text{(A\#)} \text{ _____} \times \text{ _____} = \text{ _____} \\
 \text{(A)} \qquad \qquad \qquad \text{(B)} \qquad \qquad \qquad \text{(C\#)}
 \end{array}$$

INSTRUCTIONS

- Report the name, FID number and either adjusted income or loss of each partnership on the lines above. Add the adjusted losses (A#) and income (B#) and report the totals of each in Blocks A and B.
- Divide each partnership's adjusted New Jersey partnership loss (A#) by your total adjusted New Jersey partnership loss (A) and then multiply that percentage by your total adjusted New Jersey partnership income (B). The result is the partnership's usable loss (C#) that is to be entered in the partnership's corresponding block entitled "Usable Portion of New Jersey Partnership Loss."
- Add the usable losses and report the total in Block C. The total in Block C should equal the amount reported in Block B.

QUESTION 5 How do I determine the basis in my partnership(s) for New Jersey gross income tax purposes?

Partnership basis should be computed each year. Updating your New Jersey basis yearly will provide you with the documentation needed to determine your gain or loss from the disposition of property when you sell your investment or the partnership is dissolved.

To calculate your basis, you will need to know the following information:

- Your initial contribution to the partnership
- Additional contributions by year
- Withdrawals by year
- Income reported over your period of ownership
- Losses *used* over your period of ownership.

Worksheet C has been included on page 18 to assist you in tracking your basis in your partnership interests from year to year.

EXAMPLE 5

Mary Wells owns an interest in three partnerships. The following facts are needed to determine the basis in each partnership at the end of 2002:

| Contributions/(Withdrawals) | | | |
|------------------------------------|----------|------------|----------|
| Partnership | A | B | C |
| 2000 | \$10,000 | \$10,000 | \$10,000 |
| 2001 | — | — | \$ 5,000 |
| 2002 | — | (\$ 3,000) | — |

| Income/(Loss) | | | |
|----------------------|------------|------------|------------|
| Partnership | A | B | C |
| 2000 | (\$ 2,000) | (\$ 1,500) | (\$ 5,000) |
| 2001 | (\$ 5,000) | (\$ 4,000) | (\$ 7,000) |
| 2002 | \$15,000 | (\$10,000) | (\$20,000) |

Income/(loss) reflects the deduction of any unreimbursed business expenses that met the criteria given on page 2, *Adjustments to Income*.

EXAMPLE 5 (continued)

| | Basis Calculation | | |
|-----------------------------|--------------------------|-----------------|-----------------|
| Partnership | A | B | C |
| Initial Contribution | \$ 10,000 | \$ 10,000 | \$ 10,000 |
| Additional Contribution | 0 | 0 | 5,000 |
| Withdrawals | 0 | (3,000) | 0 |
| Income/Used Loss 2000 | 0 | 0 | 0 |
| Income/Used Loss 2001 | 0 | 0 | 0 |
| Income/Used Loss 2002 | 15,000 | (5,000)* | (10,000)* |
| Basis as of 12/31/02 | \$ 25,000 | \$ 2,000 | \$ 5,000 |

Since no income was reported to New Jersey in tax years 2000 and 2001, the losses incurred in those years are not included when determining Mary's basis for New Jersey tax purposes.

* See question 4 on page 14 for information on how to allocate losses.

QUESTION 6 How do I determine the gain (loss) from the sale of my partnership interest?

Residents

If you were a New Jersey resident at the time you disposed of your partnership interest, you must include in gross income the gain or loss from the disposition, including any dissolution of a partnership for which you received no value. N.J.S.A. 54A:5-1c requires that you must use the Federal adjusted basis to calculate your gain or loss from the disposition of property. However, the decision rendered by the New Jersey Supreme Court in *Koch v. Director*, 157 N.J. 1 (1999), requires that a separate New Jersey basis be determined. Only the amount of your used loss for New Jersey purposes will result in a reduction to your partnership basis.

Nonresidents

If you were a nonresident at the time you disposed of your partnership interest, do not include the gain (loss) from the disposition of your partnership interest in your income from New Jersey sources on Line 43, Column B, Form NJ-1040NR. However, if you had other types of income from New Jersey sources in the year of disposition and are required to file a New Jersey nonresident return, the gain (loss) from the disposition of your partnership interest must be calculated as if you were a New Jersey resident and included on Line 43, Column A, Form NJ-1040NR.

Worksheet C

New Jersey Partnership Basis

NAME _____ SS# _____

PARTNERSHIP NAME _____ FID# _____

| Year | Beginning New Jersey Basis (A) | + | Capital (B) | + | Adjusted New Jersey Partnership Income (Used Loss) (C) | - | Withdrawals (D) | = | Ending New Jersey Basis (E) |
|------|---|---|----------------|---|--|---|--------------------|---|--------------------------------------|
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
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| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

Enter the partnership's tax year in the first column.

- (A) Enter the ending balance from Column E of the preceding tax year.
- (B) Enter the amount of capital you contributed to the partnership during the tax year.
- (C) Enter the amount of your "Adjusted New Jersey Partnership Income" or the amount of your "Usable Portion of New Jersey Partnership Loss." These amounts should be reported in either Column B or Column C of Worksheet B if you have income from one partnership and losses from two or more other partnerships that exceed your positive income. If you have no partnership with positive income, you have no "Usable Portion of New Jersey Partnership Loss." Additionally, add any tax-exempt income and subtract any nondeductible expenses.
- (D) Enter the amount of your withdrawals from the partnership during the tax year.
- (E) Enter the net amount of Columns A through D.

EXAMPLE 6A

FACTS:

- You have interest in only one partnership
- Purchase price was \$15,000 in 1992
- There were no additional contributions of capital
- There were no withdrawals over your period of ownership
- No income from the partnership was ever reported to New Jersey
- Each year the partnership incurred a loss of \$2,000; the losses were not used for New Jersey income tax purposes
- Schedule NJK-1 received from the partnership for 2002 is marked “Final Return”
- You received nothing in exchange for your interest in the partnership upon dissolution

BASIS CALCULATION:

| | |
|-----------------------------|-----------------|
| Purchase Price | \$ 15,000 |
| Capital Contributions | 0 |
| Withdrawals | (0) |
| Reported Income | 0 |
| Basis in Partnership | <u>\$15,000</u> |

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|------------------------|-------------------|
| Sale Price | \$ 0 |
| Less Ending Basis | <u>(15,000)</u> |
| Loss Disp. of Property | <u>\$(15,000)</u> |

The cost basis for the partnership interest in this example is \$15,000. Since you received no consideration for your partnership interest, a \$15,000 loss has been realized from the dissolution of the partnership which can be used to offset any other gains that occur in the same tax year in the income category *Gains (Losses) from the Disposition of Property*.

EXAMPLE 6B

FACTS: Same as example 6A above except you sold your partnership interest for \$50,000.

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|------------------------|-------------------|
| Sale Price | \$ 50,000 |
| Less Ending Basis | <u>(15,000)</u> |
| Gain Disp. of Property | <u>\$(35,000)</u> |

In this case a \$35,000 gain results from the sale of your partnership interest which can be netted with any other gains (losses) from the disposition of property that occur in the same tax year.

EXAMPLE 7A

FACTS:

- You have an interest in only one partnership
- Purchase price was \$15,000 in 1992
- Additional contributions of capital were \$5,000
- Withdrawals over your period of ownership were \$1,000
- Partnership income \$1,500 in 2001; \$10,000 in 2002 (attributed to IRC Section 1231 gain)
- Partnership incurred a loss of \$2,000 each year (1992 – 2000); the losses were not used for New Jersey income tax purposes
- Interest in the amount of \$100 was reported in each year 1994 – 1999 in the category *Interest Income*
- Schedule NJK-1 received from the partnership for 2002 is marked “Final Return”
- You received nothing in exchange for your interest in the partnership upon dissolution

BASIS CALCULATION:

| | |
|-----------------------------|------------------|
| Purchase Price | \$ 15,000 |
| Capital Contributions | 5,000 |
| Withdrawals | (1,000) |
| Reported Partnership Income | 11,500 |
| Reported Interest Income | 600 |
| Basis in Partnership | \$ 31,100 |

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|------------------------|--------------------|
| Sale Price | \$ 0 |
| Less Ending Basis | (31,100) |
| Loss Disp. of Property | <u>\$ (31,100)</u> |

The cost basis for the partnership interest in this example is \$31,100. Since you received no consideration for your partnership interest, a \$31,100 loss has been realized from the dissolution of the partnership which can be used to offset any other gains that occur in the same tax year in the income category *Gains (Losses) from the Disposition of Property*.

EXAMPLE 7B

FACTS: Same as example 7A above except you sold your partnership interest for \$50,000.

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|------------------------|--------------------|
| Sale Price | \$ 50,000 |
| Less Ending Basis | (31,100) |
| Gain Disp. of Property | <u>\$ (18,900)</u> |

The \$18,900 gain can be netted with any other gains (losses) from the disposition of property that occur in the same tax year.

EXAMPLE 8A

FACTS: You have interests in two partnerships (A & B)

Partnership A

- Purchase price was \$15,000 in 1992
- There were no additional contributions of capital to partnership
- There were no withdrawals over your period of ownership
- No income from partnership A was ever reported to New Jersey
- The partnership incurred a \$2,000 loss each year
- Schedule NJK-1 received from partnership A for 2002 is marked “Final Return”
- You received nothing in exchange for your interest in the partnership upon disposition

Partnership B

- Purchase price was \$10,000 in 1998
- There have been no additional contributions of capital
- There have been no withdrawals from this partnership
- Partnership income of \$500 was reported in years 1998 – 2002
- This is an ongoing partnership

BASIS CALCULATION:

| | |
|-----------------------------|-------------------------|
| Purchase Price | \$ 15,000 |
| Capital Contributions | 0 |
| Withdrawals | (0) |
| Used Losses | (2,500) |
| Basis in Partnership | <u><u>\$ 12,500</u></u> |

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|-----------------------------|---------------------------|
| Sale Price | \$ 0 |
| Less Ending Basis | (12,500) |
| Loss from Disp. of Property | <u><u>\$ (12,500)</u></u> |

You have a \$12,500 loss to net with other gains (losses) from the disposition of property that occur in the same year. In each year \$500 of the \$2,000 loss from Partnership A was used to offset the \$500 of income from Partnership B. The \$2,500 of used losses reduces your partnership basis.

EXAMPLE 8B

FACTS: You have interests in two partnerships (A & B)

Partnership A

- Purchase price was \$15,000 in 1992
- Additional contributions of capital were \$5,000
- Withdrawals over your period of ownership were \$1,000
- Losses 1992 – 2000 were \$2,000 each year
- Partnership income \$1,500 in 2001; \$10,000 in 2002 (attributed to Section 1231 gain)
- You sold your partnership interest for \$50,000

Partnership B

- Purchase price was \$10,000 in 1998
- There have been no additional contributions of capital
- There have been no withdrawals from this partnership
- Partnership income of \$500 was reported in years 1998 – 2002
- This is an ongoing partnership

BASIS CALCULATION – Partnership A:

| | |
|-------------------------------|------------------|
| Purchase Price | \$ 15,000 |
| Capital Contributions | 5,000 |
| Withdrawals | (1,000) |
| Used Losses | (1,500) |
| Reported Income Partnership A | 11,500 |
| Ending Basis | <u>\$ 29,000</u> |

GAIN (LOSS) from DISPOSITION of PROPERTY:

| | |
|-----------------------------|------------------|
| Sale Price | \$ 50,000 |
| Less Ending Basis | (29,000) |
| Gain from Disp. of Property | <u>\$ 21,000</u> |

You have a \$21,000 gain to net with other gains or losses from the disposition of property that occur in the same tax year.

Worksheet A

RECONCILIATION OF SCHEDULE K-1, FEDERAL FORM 1065

PARTNERSHIP NAME _____ EMPLOYER ID NUMBER _____

TAX YEAR _____

| | | | |
|--|------|-------|--|
| 1. Ordinary income (loss) from trade or business activities... | 1. | _____ | |
| 2. Net income (loss) from rental real estate activities | 2. | _____ | |
| 3. Net income (loss) from other rental activities | 3. | _____ | |
| 4. Interest income | 4. | _____ | |
| 5. Dividend income | 5. | _____ | |
| 6. Royalty income | 6. | _____ | |
| 7. Net short-term capital gain (loss) | 7. | _____ | |
| 8. Net long-term capital gain (loss) | 8. | _____ | |
| 9. Guaranteed payments to partner | 9. | _____ | |
| 10. Net IRC section 1231 gain (loss) | 10. | _____ | |
| 11. Other income (loss) | 11. | _____ | |
| 12. Tax-exempt interest income | 12. | _____ | |
| 13. Subtotal (Add lines 1 through 12) | 13. | _____ | |
| 14a. Taxes based on income | 14a. | _____ | |
| 14b. Other additions – specify: _____ | 14b. | _____ | |
| 14c. Total additions (Add lines 14a and 14b) | 14c. | _____ | |
| 15. Subtotal (Add lines 13 and 14c) | 15. | _____ | |
| 16a. IRC section 179 expense | 16a. | _____ | |
| 16b. Excess meal & entertainment expense | 16b. | _____ | |
| 16c. Interest income from Federal obligations | 16c. | _____ | |
| 16d. Interest income from NJ obligations | 16d. | _____ | |
| 16e. Other subtractions – specify: _____ | 16e. | _____ | |
| 16f. Total subtractions (Add lines 16a through 16e) | 16f. | _____ | |
| 17. Partnership income (loss) (line 15 minus line 16f) | 17. | _____ | |

Worksheet B

ALLOCATION OF NEW JERSEY LOSSES

NAME _____ SS# _____

RETURN YEAR _____

PARTNERSHIPS WITH LOSSES:

| | Partnership | FID | Adjusted New Jersey Partnership Loss | Usable Portion of New Jersey Partnership Loss |
|--------------|-------------|-----|--------------------------------------|---|
| 1 | | | A1. | C1. |
| 2 | | | A2. | C2. |
| 3 | | | A3. | C3. |
| 4 | | | A4. | C4. |
| 5 | | | A5. | C5. |
| Total | | | A. | C. |

PARTNERSHIPS WITH INCOME:

| | Partnership | FID | Adjusted New Jersey Partnership Income |
|--------------|-------------|-----|--|
| 1 | | | B1. |
| 2 | | | B2. |
| 3 | | | B3. |
| 4 | | | B4. |
| 5 | | | B5. |
| Total | | | B. |

(A#) _____ × _____ = _____
 (A) (B) (C#)

INSTRUCTIONS

- Report the name, FID number and either adjusted income or loss of each partnership on the lines above. Add the adjusted losses (A#) and income (B#) and report the totals of each in Blocks A and B.
- Divide each partnership's adjusted New Jersey partnership loss (A#) by your total adjusted New Jersey partnership loss (A) and then multiply that percentage by your total adjusted New Jersey partnership income (B). The result is the partnership's usable loss (C#) that is to be entered in the partnership's corresponding block entitled "Usable Portion of New Jersey Partnership Loss."
- Add the usable losses and report the total in Block C. The total in Block C should equal the amount reported in Block B.

