

# GIT-9S Income from S Corporations

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## New Jersey Treatment of Federal S Corporation Income

Effective for all tax years beginning after July 7, 1993, both the New Jersey Corporation Business Tax Act and Gross Income Tax Act provide for the recognition of S corporation status for New Jersey tax purposes. Until P.L. 1993, c.173 was signed into law, New Jersey did not recognize S corporations. All S corporations were taxed as C corporations for Corporation Business Tax purposes, and all S corporation shareholders were taxed as C corporation shareholders for gross income tax purposes. Consequently, residents were only required to include in gross income the amounts which were **actually** distributed during the year. Nonresidents were not subject to the gross income tax on any income distributed by an S corporation even if the S corporation was located or doing business in New Jersey.

As a result of the 1993 legislation, S corporation shareholders are now subject to the gross income tax on their pro rata share of an S corporation’s income, whether or not such income was actually distributed. This income will be reported on the New Jersey gross income tax return in the category of income called “Net pro rata share of S corporation income.”

“Net pro rata share of S corporation income” is calculated on a limited flow-through basis. The income, gain or loss earned by an S corporation does not maintain its character when passed through to the individual shareholders. An S corporation shareholder will report the income from the S corporation only in the

category of net pro rata share of S corporation income.

Reconciliation Worksheet B takes the information from your Schedule K-1, Federal Form 1120S and converts it into your pro rata share of S corporation income as defined by the New Jersey Gross Income Tax Act. Because of the significant differences between the federal income tax treatment and the New Jersey income tax treatment of federal S corporations, you **must** complete Reconciliation Worksheet B every year, as well as Worksheets C and E, for each non-electing S corporation in which you are a shareholder, **whether you are a resident or a nonresident.**

You should not submit any of the completed worksheets with Form NJ-1040, NJ-1040NR or NJ-1041. Be sure, however, that you retain your completed worksheets along with a copy of your completed income tax forms and schedules for as long as you own the S corporation shares.

## Shareholder Reporting Requirements

### New Jersey Electing S Corporation

If a federal S corporation makes the election to be treated as an S corporation for New Jersey purposes the pro rata share of a New Jersey resident shareholder will be his pro rata share of the S corporation's income, regardless of where the income is allocated. The pro rata share of a nonresident shareholder will be his share of the S corporation's income that is allocated to New Jersey.

### Non-Electing Federal S Corporation

If a federal S corporation does not make the New Jersey election (i.e. non-electing S corporation) then the resident shareholder's pro rata share will only include his pro rata share of the S corporation's income that is **not** allocated to this State. A nonresident shareholder would not be subject to tax on any portion of the non-electing S corporation's income, even if the income is allocated to New Jersey.

### New Jersey "Hybrid" Corporation

A New Jersey "hybrid" corporation is a federal S corporation that has not made the New Jersey S election and the corporation conducts business both within and outside of New Jersey. For Corporation Business Tax purposes the corporation files as a C corporation on Form CBT-100 and calculates their New Jersey allocation factor to determine their net income or loss allocated to New Jersey.

For Gross Income Tax purposes that portion of the income or loss allocated to New Jersey is considered C corporation income or loss and is not reportable by the shareholder. The portion of the income or loss allocated outside New Jersey is considered S corporation income and will be reported as net pro rata share of S corporation income by the resident shareholder. A nonresident shareholder would not be subject to tax on any portion of a "hybrid" corporation's income but would include the income or loss allocated outside New Jersey in the income everywhere column in the same manner as if a resident.

See “Calculating NJ AAA,” “Calculating NJ E&P,” and “Reporting Distributions” for additional information.

## **Payment of Tax by Nonresident Shareholders**

### **Estimated Tax Payments**

You should be aware that an S corporation is not required to withhold gross income tax from your pro rata share of S corporation income. Consequently, you should consider making estimated payments of gross income tax to cover the amount of your taxable S corporation income. If you do not make estimated payments you may be subject to interest on underpayments. For more information regarding your estimated tax responsibilities and interest on underpayments you should request Tax Topic Bulletin GIT-8, *Estimating Income Taxes*.

### **Non-Consenting Shareholders**

If you are a nonresident of New Jersey and become a shareholder in an S corporation which has made the election to be treated as a New Jersey S corporation **and** you have failed to consent to that election, the S corporation is required to withhold gross income tax from your pro rata share of S corporation income. Payments made by the S corporation on your behalf will be reported to you on Line 4, Part II, Schedule NJ-K-1, Form CBT-100S and must be included on Line 23, Form NJ-1040NR.

### **Composite Returns for Nonresidents**

For tax years beginning after 1995, New Jersey electing S corporations may file a composite return on behalf of qualified nonresident individual shareholders. See Form NJ-1080-C for filing qualifications and requirements.

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## **QUESTION S-1. What do I do with the information on the Schedule NJ-K-1, Form CBT-100S that my S corporation gave me?**

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If an S corporation in which you are a shareholder has made the election to be treated as an S corporation in New Jersey then the S corporation will prepare and provide you with a Schedule NJ-K-1, Form CBT-100S. This schedule will contain the income information that you need in order to properly prepare your New Jersey gross income tax return. **If you are a shareholder in two or more S corporations, one or more of which has a loss for the tax year, you must see Question S-4, page 10 for rules regarding the priority and reporting of S corporation losses.**

### **a. Resident**

The amount reported as your “Pro rata share of S Corporation Income” on Line 3, Part II, Schedule NJ-K-1, Form CBT-100S represents the total amount of taxable income to be included on Line 21, Form NJ-1040.

### **b. Nonresident**

Include the amount reported as “Pro rata share of S Corporation income” from Line 3, Part II, Schedule NJ-K-1, Form CBT-100S on Line 42, Column A, Form NJ-1040NR. This represents your share of the S corporation’s income from everywhere and must be used to determine

your income from all sources as if you were a New Jersey resident. The amount reported as “S income allocated to New Jersey” on Line 1, Part II, Schedule NJ-K-1, Form CBT-100S must be included on Line 42, Column B, Form NJ-1040NR. This is the amount on which you will actually be taxed. Be sure to include on Line 23, Form NJ-1040NR any amount reported on Line 4, Part II, Schedule NJ-K-1,

Form CBT-100S, as total payments made on behalf of shareholder.

If the S corporation in which you are a shareholder has no income allocated to New Jersey but you have income from other New Jersey sources, be sure to report the amount of pro rata share of S corporation income from Line 3, Part II, Schedule NJ-K-1, Form CBT-100S on Line 42, Column A, Form NJ-1040NR.

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**QUESTION S-2. What do I report if my non-electing S corporation did not give me an NJ-K-1, Form CBT-100S?**

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A federal S corporation which has not made the election to be a New Jersey S corporation is not likely to provide you with a completed Schedule NJ-K-1, Form CBT-100S. Without that completed schedule you will not have the income information necessary to properly prepare Form NJ-1040, Form NJ-1040NR, or Form NJ-1041. You will have to complete Reconciliation Worksheet B to determine the correct amount of your net pro rata share of S corporation income, dividends, and gains, as well as the balances of your New Jersey Earnings & Profits Account, New Jersey Accumulated Adjustments Account and the New Jersey adjusted basis of your stock. Certain information, such as the amount of

taxes based on income and interest attributable to exempt obligations, will have to be obtained from the S corporation in order to complete the worksheet.

A separate Reconciliation Worksheet B must be completed for each S corporation from which you received a Federal Schedule K-1, Form 1120S but not a corresponding Schedule NJ-K-1, Form CBT-100S.

**NOTE: If you are a shareholder in two or more S corporations, one or more of which has a loss for the tax year, you must see Question S-4, page 10 for rules regarding the priority and reporting of losses.**

**NOTE: You must complete Reconciliation Worksheet B even if you are a nonresident so that you will not only know the proper amounts to include in Column A, Form NJ-1040NR if you have income from other New Jersey sources, but so that you will be able to determine the balances of your various S corporation accounts.**

**WORKSHEET B**  
**RECONCILIATION SCHEDULE K-1, FEDERAL FORM 1120S**

S corporation Name \_\_\_\_\_ Employer ID Number \_\_\_\_\_  
 Tax Year \_\_\_\_\_

**PART I—Determining New Jersey S Corporation Income**

- |   |     |  |
|---|-----|--|
| 1. Ordinary Income (Loss) .....   | 1.  |  |
| 2a. Net Income (Loss) from Rental Real Estate Activities .....  | 2a. |  |
| 2b. Net Income (Loss) from Other Rental Activities .....  | 2b. |  |
| 2c. Interest Income .....   | 2c. |  |
| 2d. Dividends .....   | 2d. |  |
| 2e. Royalties .....   | 2e. |  |
| 2f. Net Short Term Gain (Loss) .....  | 2f. |  |
| 2g. Net Long Term Gain (Loss) .....   | 2g. |  |
| 2h. Other Portfolio Income (Loss) .....   | 2h. |  |
| 2i. Net Gain (Loss) from IRC Section 1231 Property .....  | 2i. |  |
| 2j. Other Income .....  | 2j. |  |
| 2k. Federally Exempt Interest Income .....  | 2k. |  |
| 2l. Other Tax Exempt Income .....   | 2l. |  |
| 3. Income Subtotal (Add Lines 1 through 2l) .....   | 3.  |  |
| 4. Subtractions:  |     |  |
| 4a. IRC Section 179 Expense .....   | 4a. |  |
| 4b. Excess Meal & Entertainment Deduction .....   | 4b. |  |
| 4c. Interest and Gains included in Line 3 from Obligations Exempt in New Jersey .....                         |     |  |
| 4c. _____   | 4c. |  |
| 4d. Other Subtractions—Specify .....  | 4d. |  |
| 4e. Total Subtractions (Add Lines 4a through 4d) .....  | 4e. |  |
| 5. Total (Line 3 minus Line 4e) .....   | 5.  |  |
| 6. Additions:   |     |  |
| 6a. Interest Income from State and Municipal Bonds other than New Jersey .....                                |     |  |
| 6a. _____   | 6a. |  |
| 6b. Taxes Based on Income, Business Presence or Activity .....  | 6b. |  |
| 6c. Expenses Included on Line 3 and Incurred to Generate Tax Exempt Income .....                              |     |  |
| 6c. _____   | 6c. |  |
| 6d. Losses Included on Line 3 from Obligations Exempt from Tax Pursuant to N.J.S.A. 54A:6-14 and 6-14.1 ..... |     |  |
| 6d. _____   | 6d. |  |
| 6e. Total Additions (Add Lines 6a through 6d) .....   | 6e. |  |
| 7. New Jersey S Corporation Income (Line 5 plus Line 6e) .....  | 7.  |  |

PART II—Determining New Jersey Allocated Income

- |    |   |    |       |
|----|---|----|-------|
| 1. | New Jersey S Corporation Income from Line 7, Part I.....        | 1. | _____ |
| 2. | Allocation Factor _____%  |    |       |
| 3. | New Jersey Allocated Income (Line 1 multiplied by Line 2) ..... | 3. | _____ |
| 4. | Income Not Allocated to New Jersey (Line 1 minus Line 3).....   | 4. | _____ |

**INSTRUCTIONS FOR SHAREHOLDER’S RECONCILIATION WORKSHEET B**

**S Corporation Information**

Enter the name and federal identification number of the S corporation which issued the Schedule K-1, Federal Form 1120S which is being reconciled. Enter your tax year.

**Part I—Determining New Jersey S Corporation income**

**Line 1 - Ordinary Income (Loss)**

Enter on Line 1 the amount of ordinary income (loss) reported on Line 1, Schedule K-1, Federal Form 1120S.

**Line 2a through 2l - Other Income**

Enter the amounts of income (loss) as reported on the corresponding lines of your Schedule K-1, Federal Form 1120S.

**Line 3 - Income Subtotal**

Add the amounts on Line 1 and Lines 2a through 2l and enter the result on Line 3.

**Line 4a - IRC Section 179 Expense**

Enter on Line 4a any IRC Section 179 expense deduction reported on Line 8, Schedule K-1, Federal Form 1120S.

**Line 4b - Excess Meal and Entertainment Expense**

Enter on Line 4b the balance of your meal and entertainment expenses which was not deductible for federal income tax purposes. If this information has not already been provided, you must obtain it from the S corporation.

**Line 4c - Interest Income and Gains from Exempt Obligations**

Enter on Line 4c any interest income or gain that is excludable from gross income pursuant to N.J.S.A. 54A:6-14, 6-14.1, and 5-1c, *which is already included in the amount reported on Line 3, above*. Amounts to be reported on this line include interest income derived from and gain attributable to the disposition of obligations of the State of New Jersey or any of its political subdivisions and obligations of the federal government or any of its territories or instrumentalities. If this information has not already been provided, you must obtain it from the S corporation.

**Line 4d - Other Subtractions - Specify**

Enter on Line 4d any other items which are excludable or deductible from S corporation income under the New Jersey Gross Income Tax Act. You should include on this line any

expenses incurred to generate interest income which is excludable for federal income tax purposes but which is includable in New Jersey gross income, i.e. interest income from the obligations of states other than New Jersey. Do not include charitable contributions and unreimbursed business expenses, as they are not deductible in determining net pro rata share of S corporation income.

**Line 4e - Total Subtractions**

Add the amounts on Lines 4a through 4d and enter the result on Line 4e.

**Line 5 - Total**

Subtract the amount on Line 4e from the amount on Line 3 and enter the result on Line 5.

**Line 6a - Interest Income from Other State and Municipal Bonds**

Enter on Line 6a the amount of any interest income which was derived from the obligations of states, **other than New Jersey**, and their municipalities and political subdivisions *which is not already included in the amount reported on Line 3, above*. If this information has not already been provided, you must obtain it from the S corporation.

**Line 6b - Taxes Based on Income**

Enter on Line 6b your share of any taxes paid or accrued to the United States, a state, including New Jersey, a political subdivision thereof, or the District of Columbia, on or measured by profits or income, or business presence or activity, including income taxes paid or accrued by the S corporation on behalf of, or in satisfaction of the liabilities of, shareholders of the corporation. Any amount reported on this line must have been taken as a deduction by

the S corporation on Federal Form 1120S in determining the ordinary income (loss) which you reported on Line 1, above. If this information has not already been provided, you must obtain it from the S corporation.

**Line 6c - Expenses to Generate Exempt Income**

Enter on Line 6c any interest on indebtedness incurred or continued, expenses paid and incurred to purchase, carry, manage or conserve, and expenses of collection of the income or gain from tax exempt obligations of the federal government or any of its territories or instrumentalities and obligations of the State of New Jersey or its political subdivisions. *Any amount reported on this line must already be included in the amount reported on Line 3, above*. If this information has not already been provided, you must obtain it from the S corporation.

**Line 6d - Losses from Exempt Obligations**

Enter on Line 6d any losses which are attributable to tax exempt obligations of the federal government or any of its territories or instrumentalities and obligations of the State of New Jersey or its political subdivisions. *Any amount reported on this line must already be included in the amount reported on Line 3, above*. If this information has not already been provided, you must obtain it from the S corporation.

**Line 6e - Total Additions**

Add the amounts on Lines 6a through 6d and enter the result on Line 6e.

**Line 7 - New Jersey S Corporation Income**

Add the amounts on Lines 5 and 6e and enter the result on Line 7. If the S corporation has income from New Jersey sources, proceed to Part II.

**If the S corporation did not have any income from New Jersey sources**, enter this amount on Line 21, Form NJ-1040. If you are a nonresident and have income from other New Jersey sources enter this amount on Line 42, Column A, Form NJ-1040NR.

**Part II—Determining New Jersey Allocated Income**

You do not need to complete Part II if the S corporation did not have any income from New Jersey sources.

**Line 1 - New Jersey S Corporation Income**  
Enter on Line 1 the amount reported on Line 7, Part I of this worksheet.

**Line 2 - Allocation Factor**  
Enter the allocation percentage from Schedule J, Part III, Line 5, Form CBT-100. If this information has not already been provided, you must obtain it from the S corporation.

**Line 3 - New Jersey Allocated Income**  
Multiply the amount on Line 2 by the amount on Line 1 and enter the result on Line 3.

**Line 4 - Income not Allocated to New Jersey**  
Subtract the amount on Line 3 from the amount on Line 1 and enter the result on Line 4. If you are a New Jersey resident shareholder you must also enter this amount on Line 21, Form NJ-1040 as the net pro rata share of S corporation income. If you are a nonresident shareholder and you have income from other New Jersey sources, enter this amount on Line 42, Column A, Form NJ-1040NR to determine the amount of income from all sources as if you were a resident. **Do not** include this amount on Line 42, Column B, Form NJ-1040NR.

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**QUESTION S-3. How do I determine my net pro rata share of S corporation income if I was a part year resident?**

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- a. Part year resident return (Form NJ-1040)**  
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 were a resident. Your part year Form NJ-1040 must include on Line 21 the prorated portion of your net pro rata share of S corporation income.
- i. Electing S corporation.** To determine the prorated portion of your pro rata share of S corporation income from an S corporation

which has made the election to be an S corporation in New Jersey, multiply the amount of pro rata share of S corporation income from Line 3, Part II, Schedule NJ-K-1, Form CBT-100S by the percentage that the number of days **of the S corporation's fiscal year** that you were a New Jersey resident bears to 365. For example, if the S corporation gave you a Schedule NJ-K-1 for its fiscal year beginning on October 1, 1993, and ending on September 30, 1994, and you moved out of New Jersey on April 15, 1994, the residency

percentage would be 54.0%. This residency percentage is determined by dividing 197 (the number of days of the S corporation's fiscal year that you were a resident from October 1, 1993, until April 15, 1994) by 365. Enter the result on Line 21, Form NJ-1040.

- ii. Non-electing S corporation.** To determine the prorated portion of your pro rata share of S corporation income from an S corporation which has not made the election to be an S corporation in New Jersey, multiply the amount of income not allocated to New Jersey from Line 4, Part II, Reconciliation Worksheet B, or, if Part II was not completed, the amount from Line 7, Part I, Reconciliation Worksheet B, by the residency percentage, as determined above. Enter the result on Line 21, Form NJ-1040. For more information regarding Reconciliation Worksheet B, see Question S-2 on page 4.

**b. Part year nonresident return  
(Form NJ-1040NR)**

As a part year nonresident 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 the prorated amount of your net pro rata share of S corporation income on Line 42, Column A, Form NJ-1040NR and the prorated amount of your net pro rata share of S corporation income allocated to New Jersey on Line 42, Column B, Form NJ-1040NR.

- i. Electing S corporation.** To determine the prorated amount of your net pro rata share of S corporation income from everywhere, multiply the amount of pro rata share of S corporation income from Line 3, Part II, Schedule NJ-K-1, Form CBT-100S by the percentage that the number of days **of the S corporation's fiscal year** that you were **not** a New Jersey resident bears to 365. For example, if the S corporation gave you a Schedule NJ-K-1 for the fiscal year beginning on October 1, 1993, and ending on September 30, 1994, and you moved out of New Jersey on April 15, 1994, the nonresidency percentage would be 46.0 %. This nonresidency percentage is determined by dividing 168 (the number of days of the S corporation's fiscal year that you were not a resident from April 15, 1994, until September 30, 1994) by 365. Enter the result on Line 42, Column A, Form NJ-1040NR.

To determine the prorated portion of your pro rata share of S corporation income from New Jersey sources, multiply the amount of S corporation income allocated to New Jersey from Line 1, Part II, Schedule NJ-K-1, Form CBT-100S by the nonresidency percentage, as determined above. Enter the result on Line 42, Column B, Form NJ-1040NR.

- ii. Non-electing S corporation.** If you are a part year nonresident and a shareholder of an S corporation which has not made the election in New Jersey, you are not subject to tax on the portion of your S corporation income that is attributable to the part of the year that you were a nonresident. If, how-

ever, you have income from other New Jersey sources during the portion of the year that you were a nonresident, you must include on Line 42, Column A, Form NJ-1040NR, the prorated portion of the S corporation income that is not allocated to New Jersey for the period of nonresidency. To determine the amount to be reported on Line 42, Column A, Form NJ-1040NR, multiply the amount of income not allocated to New Jersey from Line 4, Part II,

Reconciliation Worksheet B, or, if Part II was not completed, the amount from Line 7, Part I, Reconciliation Worksheet B, by the nonresidency percentage, as determined above. For more information regarding Reconciliation Worksheet B, see Question S-2, page 4.

**NOTE: In cases of leap years, you should prorate your pro rata share of S corporation income using 366 days.**

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**QUESTION S-4. As a shareholder in multiple S corporations, how can I use S corporation losses on my gross income tax return?**

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You may use the pro rata share of loss from one S corporation to offset the pro rata share of income from another S corporation as long as the income and loss occurred in the same tax year. However, you may only use a loss to the extent that it does not exceed your New Jersey adjusted basis in that S corporation.

You may not use a loss from a prior year to offset a current year's income and you may not carry an unused loss into a subsequent tax year. Any S corporation losses which you are unable to use in the current year will be an adjustment to the basis of that S corporation when you sell your shares. Because there are no passive loss limitations in the New Jersey Gross Income Tax Act, any federal limitations regarding passive losses do not apply when determining the portion of a loss that can be used to offset income.

**Rules of priority** for determining the use and assignment of S corporation losses are only

necessary when the following conditions are satisfied:

- You are a shareholder in 3 (three) or more S corporations;
- Your total usable S corporation losses exceed your total pro rata share of S corporation income; **and**
- The losses were generated by 2 (two) or more S corporations.

**Shareholder in 2 (two) S corporations.**

If you are a shareholder in only two S corporations rules for determining the priority of losses are unnecessary. Instead, you should follow these rules:

- a. If both S corporations have income you must report the combined amount.
- b. If one S corporation has income and one S corporation has a loss compare the New Jersey adjusted basis of the S corporation that generated the loss against the amount

of its loss to determine the usable portion of that loss. Only the usable portion of the loss can be used to offset the income from the other S corporation.

- i. If the income exceeds the usable loss, reduce the income only by the amount of the usable portion of the loss and report the net amount as your net pro rata share of S corporation income.
  - ii. If the usable portion of the loss exceeds the income, report your net pro rata share of S corporation income as “0” (zero).
- c. If both S corporations have a loss, report your net pro rata share of S corporation income as “0” (zero).

**Shareholder in 3 (three) or more S corporations.**

As a shareholder in 3 (three) or more S corporations you must use the following steps to determine the correct amount of the net pro rata share of S corporation income to be reported on your gross income tax return.

**Step 1.**

Determine the total amount of your pro rata share of S corporation income.

**Step 2.**

- a. Determine the total amount of your usable loss from each S corporation by comparing the New Jersey adjusted basis of that S corporation to the amount of its loss. You may only use the portion of each S corporation’s loss that does not exceed its New Jersey adjusted basis to offset income from other S corporation(s). For example, if an S

corporation has a loss of \$1,000 and its New Jersey adjusted basis is \$800, then you may only use \$800 to offset another S corporation’s income. The remaining \$200 loss may only be used to adjust your basis when you sell your shares. See Question S-8, page 25 for information on determining your New Jersey adjusted basis. Add the amount of usable loss from each S corporation to determine the total amount of usable S corporation losses received from the S corporations for the tax year.

- b. Determine the amount of unusable loss for each S corporation by subtracting the amount of usable loss, as computed in Step 2a above, from the pro rata share of S corporation loss received from that S corporation. The unusable loss, if any, for each S corporation may only be used to adjust your basis when you sell your shares of that S corporation.

**Step 3. Income exceeds losses.**

If the total amount of usable losses exceeds the total amount of income go to Step 4. If the total income exceeds or is equal to the total usable losses, reduce the total income by the total usable losses and report the net amount as your net pro rata share of S corporation income. If the total usable losses are equal to the total amount of income then you must report your net pro rata share of S corporation income as “0” (zero).

**Step 4. Losses exceed income.**

If the total amount of usable losses exceeds the total amount of income then rules of priority must be used. You must prorate each S corporation’s usable loss in the proportion that it

bears to the total amount of usable losses for the period.

- a.** Determine the prorated amount of each S corporation's usable loss by dividing that S corporation's usable loss by the amount of total usable losses for the period and multiplying it by the total amount of your S corporation income.
- b.** Subtract the prorated usable loss of an S corporation from its full usable loss to determine the remainder of usable loss for that S corporation.
- c.** Subtract the total amount of prorated usable losses from the total pro rata share of S corporation income and report the net amount on your gross income tax return as

net pro rata share of S corporation income. If the total amount of prorated usable losses is equal to the total amount of income then you must report your net pro rata share of S corporation income as "0" (zero).

- d.** Add each S corporation's unusable loss from Step 2b and the remainder of usable loss from Step 4b, if any, to determine the total unused loss for each S corporation. The total unused loss for each S corporation may only be used to adjust your basis at the time you sell your shares in that S corporation. Be sure that you maintain an ongoing total of each S corporation's unused loss for your records so that your basis can be properly adjusted upon disposition of your shares.

**EXAMPLE 1**

Jayne is a New Jersey resident shareholder in 4 different S corporations. Her pro rata share from each S corporation for tax year 1999 is as follows:

<b>S CORP</b>	<b>Pro rata share</b>	<b>New Jersey Adjusted Basis</b>
ABC	\$4,000	\$4,500
XYZ	(\$1,000)	\$1,500
UFO	(\$2,500)	\$3,000
BMOC	(\$1,500)	\$2,000

Because Jayne is a shareholder in 4 different S corporations, (3 of which generated losses) and her total pro rata share of S corporation losses exceeds her total pro rata share of S corporation income, she **must** use the rules of priority to determine the portion of each S corporation's loss that may be used to offset her total pro rata share of S corporation income.

**Step 1:**

Total pro rata share of S corporation income from ABC: \$4,000

**Step 2:**

a. Usable S corporation losses:

<b>S CORP</b>	<b>Loss</b>	<b>New Jersey Adjusted Basis</b>	<b>Usable Loss</b>
XYZ	(\$1,000)	\$1,500	(\$1,000)
UFO	(\$2,500)	\$3,000	(\$2,500)
BMOC	(\$1,500)	\$2,000	(\$1,500)
<b>Total amount of usable S corporation losses:</b>			<u>(\$5,000)</u>

b. Unusable S corporation losses:

<b>S CORP</b>	<b>Loss</b>	<b>- Usable Loss</b>	<b>= Unusable Loss</b>
XYZ	(\$1,000)	(\$1,000)	\$0
UFO	(\$2,500)	(\$2,500)	\$0
BMOC	(\$1,500)	(\$1,500)	\$0

**Step 3:**

Since total usable losses exceed total S corporation income, Jayne goes to Step 4.

**EXAMPLE 1, continued**

**Step 4:**

a. Prorated portion of usable S corporation losses:

			<b>Total Income</b>		<b>Prorated amount of usable loss</b>
<u>XYZ usable loss</u>	<u>(\$1,000)</u>	= (.20)	× \$4,000	=	
Total usable losses	(\$5,000)				(\$800)
<u>UFO usable loss</u>	<u>(\$2,500)</u>	= (.50)	× \$4,000	=	
Total usable losses	(\$5,000)				(\$2,000)
<u>BMOC usable loss</u>	<u>(\$1,500)</u>	= (.30)	× \$4,000	=	
Total usable losses	(\$5,000)				(\$1,200)
					<u><b>(\$4,000)</b></u>

**Total prorated usable losses:**

b.

<b>S CORP</b>	<b>Usable loss</b>	<b>-</b>	<b>Prorated usable loss</b>	<b>=</b>	<b>Remainder of usable loss</b>
XYZ	(\$1,000)		(\$ 800)		(\$200)
UFO	(\$2,500)		(\$2,000)		(\$500)
BMOC	(\$1,500)		(\$1,200)		(\$300)

Any remainder of usable loss will be added to the unusable loss to adjust Jayne's basis when she sells her shares of the S corporation.

c.

Total pro rata share of S corporation income:	\$4,000
Less: Total amount of prorated usable losses:	<u>(\$4,000)</u>
Net pro rata share of S corporation income to be reported:	\$0

d.

<b>S CORP</b>	<b>Unusable loss</b>	<b>+</b>	<b>Remainder of usable loss</b>	<b>=</b>	<b>Total unused loss</b>
XYZ	\$0		(\$200)		(\$200)
UFO	\$0		(\$500)		(\$500)
BMOC	\$0		(\$300)		(\$300)

The total unused loss for each S corporation may only be used to adjust Jayne's basis when she sells her shares in the S corporation.

**EXAMPLE 2**

John is a shareholder in 5 different S corporations. His pro rata share from each S corporation for tax year 1999 is as follows:

S CORP	Pro rata share	New Jersey Adjusted Basis
Whatchamacallit	\$27,600	\$ 3,098
Thingamajig, Inc.	(\$49,192)	\$10,580
Doohickey Corp.	\$32,358	\$11,267
Widget, Inc.	(\$18,628)	\$13,756
Loophole & Co.	(\$85,726)	\$17,125

**Step 1:**

Pro rata share of S corporation income from:	Whatchamacallit	\$27,600
	Doohickey Corp.	<u>\$32,358</u>
Total pro rata share of S corporation income:		\$59,958

**Step 2:**

a. Usable S corporation losses from:

S CORP	Loss	New Jersey Adjusted Basis	Usable Loss
Thingamajig, Inc.	(\$49,192)	\$10,580	(\$10,580)
Widget, Inc.	(\$18,628)	\$13,756	(\$13,756)
Loophole & Co.	(\$85,726)	\$17,125	<u>(\$17,125)</u>
<b>Total amount of usable S corporation losses:</b>			<b>(\$41,461)</b>

b.

S CORP	Loss	– Usable Loss	= Unusable Loss
Thingamajig, Inc.	(\$49,192)	(\$10,580)	(\$38,612)
Widget, Inc.	(\$18,628)	(\$13,756)	(\$ 4,872)
Loophole & Co.	(\$85,726)	(\$17,125)	(\$68,601)

Any unusable loss will be added to the remainder of prorated loss, and may only be used to adjust John's basis when he sells his shares of the S corporation.

**Step 3:**

Since the amount of total usable losses is less than total pro rata share of S corporation income, there is no need to prorate the losses. Total pro rata share of S corporation income is reduced by the total usable losses:

Total pro rata share of S corporation income:	\$59,958
Less: Total usable losses:	<u>(\$41,461)</u>
Net pro rata share of S corporation income to be reported:	\$18,497

**EXAMPLE 3**

Nancy is a shareholder in 5 different S corporations. Her pro rata share from each S corporation for tax year 1999 is as follows:

<b>S CORP</b>	<b>Pro rata share</b>	<b>New Jersey Adjusted Basis</b>
Helpme, Inc.	\$15,493	\$ 6,428
Can'tlose, Inc.	\$26,189	\$93,186
Bummer & Co.	(\$13,872)	\$ 9,842
Nowinner, Inc.	(\$54,975)	\$36,871
Gonefishin'	(\$73,478)	\$16,984

**Step 1:**

Pro rata share of S corporation income from:	Helpme, Inc.	\$15,493
	Can'tlose, Inc.	<u>\$26,189</u>
Total pro rata share of S corporation income:		\$41,682

**Step 2:**

a. Usable S corporation losses from:

<b>S CORP</b>	<b>Loss</b>	<b>New Jersey Adjusted Basis</b>	<b>Usable Loss</b>
Bummer & Co.	(\$13,872)	\$ 9,842	(\$ 9,842)
Nowinner, Inc.	(\$54,975)	\$36,871	(\$36,871)
Gonefishin'	(\$73,478)	\$16,984	<u>(\$16,984)</u>
<b>Total amount of usable S corporation losses:</b>			(\$63,697)

b.

<b>S CORP</b>	<b>Loss</b>	-	<b>Usable Loss</b>	=	<b>Unusable Loss</b>
Bummer & Co.	(\$13,872)		(\$ 9,842)		(\$ 4,030)
Nowinner, Inc.	(\$54,975)		(\$36,871)		(\$18,104)
Gonefishin'	(\$73,478)		(\$16,984)		(\$56,494)

**Step 3:**

Since the total amount of usable S corporation losses exceeds the total pro rata share of S corporation income Nancy goes to Step 4.

**EXAMPLE 3, continued**

**Step 4:**

**a.**

			<b>Total Income</b>		<b>Prorated amount of loss</b>
Bummer & Co. usable loss	(\$9,842)	=	(.1545) × \$41,682	=	
Total usable losses	(\$63,697)				(\$6,440)
Nowinner, Inc. usable loss	(\$36,871)	=	(.5789) × \$41,682	=	
Total usable losses	(\$63,697)				(\$24,130)
Gonefishin' usable loss	(\$16,984)	=	(.2666) × \$41,682	=	
Total usable losses	(\$63,697)				(\$11,112)
<b>Total prorated usable losses:</b>					<b>(\$41,682)</b>

**b.**

	<b>Usable loss</b>	-	<b>Prorated amount of loss</b>	=	<b>Remainder of usable loss</b>
<b>S CORP</b>					
Bummer & Co.	(\$ 9,842)		(\$ 6,440)		(\$ 3,402)
Nowinner, Inc.	(\$36,871)		(\$24,130)		(\$12,741)
Gonefishin'	(\$16,984)		(\$11,112)		(\$ 5,872)

**c.**

Total pro rata share of S corporation income:	\$41,682
Less: Total amount of prorated usable losses:	<u>(\$41,682)</u>
Net pro rata share of S corporation income to be reported:	\$0

**d.**

	<b>Unusable loss</b>	+	<b>Remainder of usable loss</b>	=	<b>Total unused loss</b>
<b>S CORP</b>					
Bummer & Co.	(\$ 4,030)		(\$ 3,402)		(\$ 7,432)
Nowinner, Inc.	(\$18,104)		(\$12,741)		(\$30,845)
Gonefishin'	(\$56,494)		(\$ 5,872)		(\$62,366)

The total unused loss for each S corporation may only be used to adjust Nancy's basis when she sells her shares in that S corporation.

**EXAMPLE 4**

Leslie is a shareholder in 4 different S corporations. Her pro rata share from each S corporation for tax year 1999 is as follows:

<b>S CORP</b>	<b>Pro rata share</b>	<b>New Jersey Adjusted Basis</b>
Profits R Us	\$50,000	\$10,000
Losers Inc.	(\$20,000)	\$12,000
Deadbeat & Co.	(\$15,000)	\$18,000
Wastingaway	(\$18,000)	\$25,000

**Step 1:**

Total pro rata share of S corporation income from Profits R Us: \$50,000

**Step 2:**

a. Usable S corporation losses from:

<b>S CORP</b>	<b>Loss</b>	<b>New Jersey Adjusted Basis</b>	<b>Usable Loss</b>
Losers Inc.	(\$20,000)	\$12,000	(\$12,000)
Deadbeat & Co.	(\$15,000)	\$18,000	(\$15,000)
Wastingaway	(\$18,000)	\$25,000	(\$18,000)
<b>Total amount of usable S corporation losses:</b>			<u>(\$45,000)</u>

b.

<b>S CORP</b>	<b>Loss</b>	<b>- Usable Loss</b>	<b>= Unusable Loss</b>
Losers Inc	(\$20,000)	(\$12,000)	(\$8,000)
Deadbeat & Co.	(\$15,000)	(\$15,000)	(\$ 0 )
Wastingaway	(\$18,000)	(\$18,000)	(\$ 0 )

Any unusable loss will be added to the remainder of prorated loss, if any, and may only be used to adjust Leslie's basis when she sells her shares of the S corporation.

**Step 3:**

Since the total amount of usable losses is less than total pro rata share of S corporation income, there is no need to pro rate the losses. Total pro rata share of S corporation income is reduced by the total usable losses:

Total pro rata share of S corporation income:	\$50,000
Less: Total usable losses:	<u>(\$45,000)</u>
Net pro rata share of S corporation income to be reported:	\$ 5,000

**QUESTION S-5. As a New Jersey resident shareholder of an S corporation am I entitled to a credit for the taxes I paid to another jurisdiction with respect to my S corporation income?**

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If you paid income taxes or wage taxes to another jurisdiction on your S corporation income and that income is also taxed in New Jersey in the same tax year, you may be entitled to a credit on Form NJ-1040. No credit is allowed however, for tax imposed by another jurisdiction on S corporation income which is allocated to New Jersey. Nor is a credit allowed for the amount of any taxes paid or accrued on or measured by profits or income imposed on or paid on behalf of a person other than you, whether or not you may be held liable for the tax. In addition, you may not claim a credit against New Jersey tax attributable to distributions you received and that are taxable to you as dividends or as gains from disposition of property. For more information regarding dividends and gains see Question S-9, page 26.

To claim a credit for taxes paid to another jurisdiction you must complete Schedule A, Form NJ-1040 and enclose a copy of the return filed in the jurisdiction for which you are claiming the credit. If you are claiming a credit for taxes paid to more than one jurisdiction, you must complete a separate Schedule A for

each jurisdiction. If, as a shareholder of an S corporation, you participated in 1 (one) or more nonresident composite returns filed by the S corporation on behalf of its shareholders in other states, you need not enclose a copy of each composite return filed. Instead, the Division will accept a certified schedule from the S corporation specifying your share of S corporation income allocated to each state and the amount of tax paid to that state.

See the instructions included in the NJ-1040 Packet for more information regarding the credit for taxes paid to another jurisdiction or request Tax Topic Bulletin GIT-3, *Credit for Taxes Paid to Other Jurisdictions*.

When completing Line 1, Schedule A, Form NJ-1040, you may only include income which is **actually taxed** by both New Jersey and the other jurisdiction. If the other jurisdiction requires you to report S corporation income (loss) in separate categories (e.g. S corporation income, interest, gains, or modifications) you must net any amounts derived from the S corporation when determining the amount of income eligible for the credit.

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**QUESTION S-6. How do I calculate my New Jersey Accumulated Adjustments Account (AAA)?**

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Whether you are a resident shareholder in an electing or non-electing federal S corporation, you are required to make the necessary

adjustments to your New Jersey AAA. You must retain all account information until you dispose of your shares of the S corporation.

**WORKSHEET C**

**NEW JERSEY ACCUMULATED ADJUSTMENTS ACCOUNT**

1. Beginning balance.....	1. _____
2. Net pro rata share of S corporation income .....	2. _____
3. Other income/loss .....	3. _____
4. Total Lines 1–3 .....	4. _____
5. Other reductions.....	5. _____
6. Distributions.....	6. _____
7. Total Adjustments.....	7. _____
8. Ending balance (Line 4 minus Line 7).....	8. _____

**INSTRUCTIONS FOR COMPLETING WORKSHEET C**

**PLEASE NOTE: Beginning with tax year 1996, the New Jersey Other Adjustments Account (OAA) need not be maintained. Any adjustments that would have been made to your New Jersey OAA will now be made to your New Jersey AAA and any ending balance you had in your New Jersey OAA last year should be added to the beginning balance of this year's New Jersey AAA. If you were not required to maintain a New Jersey OAA, the beginning balance of your New Jersey AAA will be the ending balance from the year before.**

**Line 1.** The beginning balance of your New Jersey AAA will be "0" (zero) for the first tax year beginning after July 7, 1993. For all subsequent years the beginning balance will be the ending balance from the year before. Indicate the date of the beginning balance.

**Line 2.** Your New Jersey AAA must be adjusted annually by the amount of the net pro rata share of S corporation income (or loss) you received from the S corporation during the tax year. For a resident shareholder in a federal S corporation that made the New Jersey election, the net pro rata share of S corporation income will be the income allocated within and outside New Jersey. For a resident shareholder of a federal S corporation that has not made the

New Jersey election, the net pro rata share of S corporation income will be the income (loss) allocated outside New Jersey. This is the amount from Line 4, Part II, Reconciliation Worksheet B, or, if Part II is not completed, the amount from Line 7, Part I.

**Line 3.** Your New Jersey AAA must be adjusted to include any New Jersey tax exempt income, gains or losses earned by the S corporation during the tax year. The total amount of New Jersey tax exempt income, gains or losses is determined by subtracting the amount on Line 6d, Part I, Reconciliation Worksheet B from the amount on Line 4c, Part I, Reconciliation Worksheet B.

If you are a resident shareholder of a federal S corporation that has not made the New Jersey election and which had income allocated to New Jersey, you must determine the amount of tax exempt income, gains or losses that is allocated outside New Jersey. The amount of tax exempt income, gains or losses that is allocated outside New Jersey is calculated by multiplying the total of Line 4c minus Line 6d from Part I, Reconciliation Worksheet B by the allocation factor from Line 2, Part II, Reconciliation Worksheet B. That amount is then subtracted from the total amount of New Jersey tax exempt income, gains or losses, as determined above.

**Line 4.** Add Lines 1 through 3 and enter the result on Line 4.

**Line 5.** Any other reductions made to your federal AAA or federal OAA must also be made to your New Jersey AAA, provided that these reductions have not already been taken into consideration in calculating S corporation income on Line 7, Part I, Reconciliation Work-

sheet B. Other reductions include, but are not limited to the following items when made or paid by the S corporation: charitable contributions, taxes based on income, health or life insurance, fines or penalties, club dues, and any foreign taxes. If this information has not already been provided, you must obtain it from the S corporation.

New Jersey AAA must also be reduced by any expenses incurred by the S corporation to generate New Jersey tax exempt income, gains or losses. If the S corporation had no income allocated to New Jersey, then enter on this line the amount from Line 6c, Part I, Reconciliation Worksheet B. If, however, the S corporation had income allocated to New Jersey, then you must reduce New Jersey AAA by the portion of expenses incurred to generate tax exempt income, gains or losses allocated outside New Jersey by multiplying the amount from Line 6c by the allocation factor from Line 2, Part II, Reconciliation Worksheet B and then subtracting that result from the amount on Line 6c, Part I, Reconciliation Worksheet B.

**Line 6.** You must reduce your New Jersey AAA by the amount of any distributions you received from the S corporation during the year. For New Jersey gross income tax purposes, distributions must be treated in the same manner as for federal purposes.

**Line 7.** Add Lines 5 and 6 and enter the result on Line 7.

**Line 8.** Subtract Line 7 from Line 4 to determine your ending balance for the year. It is possible that the ending balance of your New Jersey AAA will be negative. Indicate the date of the ending balance.

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**QUESTION S-7. How do I calculate the balance of my New Jersey Earnings and Profits (E&P) Account?**

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**a. Initial New Jersey E&P.**

**i. Electing S corporation.** If you are a shareholder in a federal S corporation which has made the election to be a New Jersey S corporation, the initial beginning balance of your New Jersey E&P Account will be the retained earnings of the corporation prior to the New Jersey election. If the retained earnings of the corporation prior to the New Jersey election is a negative amount, enter zero.

**ii. Non-electing S corporation.** If you are a shareholder in a federal S corporation which has not made the election to be a New Jersey S corporation, the initial beginning balance of your New Jersey E&P Account will be the total of the beginning balances of your federal Accumulated Adjustments Account (AAA) and your federal Other Adjustments Account (OAA) for the corporation's first tax year that

begins on or after July 7, 1993, plus any remaining federal accumulated E&P at that time. If, however, the total is a negative amount, the initial beginning balance of your New Jersey E&P Account is zero.

**iii. "Hybrid" corporations.** If you are a shareholder in a "hybrid" corporation, you will calculate the initial beginning balance of your New Jersey E&P Account in the same manner as described above for a non-electing federal S corporation.

**b. Federal S corporation formed after July 7, 1993.**

A federal S corporation which is newly incorporated after July 7, 1993, should not have any accumulated E&P. Consequently, the initial beginning balance of your New Jersey E&P Account will be zero. This will be true whether or not the federal S corporation has made the election to be treated as a New Jersey S corporation.

## WORKSHEET D

### NEW JERSEY EARNINGS AND PROFITS ACCOUNT FOR NEW JERSEY RESIDENT SHAREHOLDERS OF AN ELECTING NEW JERSEY S CORPORATION

1. Beginning Balance on \_\_\_\_\_ 1. \_\_\_\_\_
2. Other Additions/Adjustments ..... 2. \_\_\_\_\_
3. Total Lines 1 and 2..... 3. \_\_\_\_\_
4. Dividends Received ..... 4. \_\_\_\_\_
5. Ending Balance (Line 3 minus Line 4) ..... 5. \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING WORKSHEET D

Worksheet D must be completed annually by a shareholder in an electing New Jersey S corporation so that you can properly track your New Jersey Earnings and Profits Account.

**Line 1.** See Question S-7a, page 22 to determine the initial beginning balance of your New Jersey E&P Account. For subsequent tax years the beginning balance will be the ending balance from the year before. Indicate the date of the beginning balance.

**Line 2.** Any other additions or adjustments made to your federal E&P Account must also be made to your New Jersey E&P Account. If

this information has not already been provided, you must obtain it from the S corporation.

**Line 3.** Enter the total of Line 1 plus Line 2.

**Line 4.** Determine the amount of dividends received from the S corporation during the taxable year and enter the amount on Line 4. For more information regarding dividends and gains see Question S-9, page 26.

## WORKSHEET E

### NEW JERSEY EARNINGS AND PROFITS ACCOUNT FOR SHAREHOLDERS OF A NON-ELECTING FEDERAL S CORPORATION OR “HYBRID” CORPORATION

1. Beginning Balance on \_\_\_\_\_ .....1. \_\_\_\_\_
2. S corporation income allocated to New Jersey ....2. \_\_\_\_\_
3. Other Additions/Adjustments .....3. \_\_\_\_\_
4. Subtotal .....4. \_\_\_\_\_
5. Dividends Received .....5. \_\_\_\_\_
6. Ending Balance on \_\_\_\_\_ .....6. \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING WORKSHEET E

Worksheet E must be completed annually if you are a shareholder in a non-electing federal S corporation so that you are able to properly track your New Jersey Earnings and Profits Account. A shareholder in a “hybrid” corporation will apply the corporation’s allocation factor to determine the income, other additions/adjustments and dividends received that are allocated to New Jersey.

**Line 1.** See Question S-7a, above, to determine the initial beginning balance of your New Jersey E&P Account. For subsequent tax years the beginning balance will be the ending balance from the year before. Indicate the date of the beginning balance.

**Line 2.** Each year the beginning balance of your New Jersey E&P Account must be increased by the amount of any S corporation income allocated to New Jersey for the tax year.

If the S corporation had no income allocated to New Jersey, proceed to Line 3, otherwise, enter on this Line the amount from Line 3, Part II, Reconciliation Worksheet B plus the amount of tax exempt income and gain multiplied by

the allocation factor from Line 2, Part II, Reconciliation Worksheet B. The amount of tax exempt income and gain is determined by subtracting the sum of Lines 6c and 6d, Part I, Reconciliation Worksheet B, from Line 7, Part I, Reconciliation Worksheet B and multiplying the total by the allocation factor from Line 2, Part II, Reconciliation Worksheet B. If the result is less than zero, enter “0”.

**Line 3.** Any other additions or adjustments made to your federal E&P Account must also be made to your New Jersey E&P Account. If this information has not already been provided, you must obtain it from the S corporation.

**Line 4.** Add Lines 1, 2, and 3 and enter the result on Line 4.

**Line 5.** Determine the amount of dividends received from the S corporation during the taxable year and enter the amount on Line 5. For more information regarding dividends and gains see Question S-9, page 26.

**Line 6.** Subtract Line 5 from Line 4 and enter the result on Line 6. Indicate the date of the ending balance.

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**QUESTION S-8. How do I determine my New Jersey basis?**

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**a. Initial New Jersey Basis**

**i. Resident**

If you were a shareholder of an S corporation on January 1, 1994, your initial basis in the stock and indebtedness of the S corporation is the basis of the stock determined on that date as if the S corporation was a C corporation, plus any indebtedness of the S corporation to you. This is true for the basis of both electing and non-electing S corporations.

If you were not a resident shareholder of an S corporation on January 1, 1994, but you became one thereafter, your initial basis in the stock and indebtedness of the S corporation is your federal basis determined as of the **latest** of the following events:

- The date you last became a resident of New Jersey;
- The date you acquired the stock of the S corporation; or
- The effective date of the corporation's most recent federal S election.

**ii. Nonresident**

If you are a nonresident shareholder your initial basis in the stock and indebtedness of an S corporation shall be "0" (zero) as of the **latest** of the following:

- The date you last became a nonresident of New Jersey;
- The date on which you acquired the stock of the S Corporation;
- The effective date of the corporation's most recent federal S election; or

- The effective date of the corporation's most recent New Jersey S election.

**b. Adjustments to New Jersey Basis.**

Adjustments to your initial New Jersey basis shall be made in accordance with federal rules but are limited to the S corporation income or "hybrid" corporation income that is included in your New Jersey net pro rata share of S corporation income. In addition, you must add back your New Jersey tax exempt gains and income and subtract any expenses paid or incurred in generating such exempt gains and income. Any adjustments made to your federal basis in the S corporation prior to January 1, 1994, cannot be taken into account when determining your New Jersey adjusted basis.

If you are a resident shareholder you must be sure to decrease your New Jersey basis by the amount of any non-taxable distributions you received from the S corporation. See Question S-9, page 26 for information regarding the taxability of S corporation distributions.

In no case can you adjust your New Jersey basis in the stock and indebtedness of the S corporation below zero. S corporation losses which you are unable to use for New Jersey gross income tax purposes to offset income from another S corporation in the year the losses are incurred **may not be used to offset S corporation income in any other taxable year**. However, such unused losses will be used to adjust your New Jersey basis when calculating your gain from the disposition of your shares of the S corporation.

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**QUESTION S-9. How do I report my distributions?**

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For New Jersey gross income tax purposes the taxability of a distribution from an S corporation is governed by the priority system established in IRC Sections 1368 and 1371 and must be calculated after the close of the S corporation's tax year. You must, however, use your New Jersey adjusted basis and your New Jersey AAA and E&P when determining the taxability of a distribution.

A distribution made to a nonresident shareholder is not taxable for New Jersey gross income tax purposes. However, if you are a nonresident shareholder and you have income from other New Jersey sources you will have to report any taxable portion of your distribution in Column A, Form NJ-1040NR, as if you were a resident.

Because you are required to use the New Jersey adjusted basis of your stock and your New Jersey AAA the portion of the distribution which is not taxable for New Jersey purposes will usually differ from the amount which is not taxable for federal purposes. The same will be true of the taxable amounts of dividends and gains resulting from the distribution since you are using your New Jersey E&P.

You must be sure that you reduce your New Jersey basis by the amount of any non-taxable

distribution you received. In addition, you must reduce your New Jersey E&P Account by the amount of dividends you received from the S corporation distribution which are taxable for New Jersey income tax purposes.

**New Jersey "hybrid" corporation distributions.** A distribution from a "hybrid" corporation, as defined on page 2, must be allocated based on the corporation's New Jersey allocation factor, to both the income earned inside New Jersey and the income earned outside New Jersey. Distributions applicable to the income earned inside New Jersey are taxable distributions from a C corporation and are reportable by a resident shareholder as dividends. The taxability of distributions applicable to the income earned outside New Jersey is governed by IRC Sections 1368 and 1371 as stated above.

**Post-termination distributions.** A cash distribution from an S corporation during a post termination transition period will be treated in the same manner for gross income tax purposes as it is for federal purposes under IRC Section 1371. Here again, you must be certain that you use the New Jersey adjusted basis of your stock and your New Jersey AAA and E&P.

**EXAMPLE 1**

John is the sole shareholder of an S corporation. The federal adjusted basis of his stock at the end of the tax year is \$100,000 which is comprised of:

Federal AAA	\$90,000
Federal Balance of Basis	\$10,000

The New Jersey adjusted basis of his stock at the end of the tax year is \$20,000 which is made up of:

New Jersey AAA	\$10,000
New Jersey Balance of Basis	\$10,000

In addition, the balance of John's New Jersey E&P Account is \$80,000.

A distribution of \$10,000 was made by the S corporation in April, 1999, and a distribution of \$30,000 was made in November, 1999.

	<b>FEDERAL</b>		
	<b>Distribution</b>	<b>Nontaxable amount</b>	<b>Dividend amount</b>
			<b>Capital Gain amount</b>
Total Distributions	\$40,000		
From AAA	-\$40,000	\$40,000	
Totals	<u>0</u>	<u>\$40,000</u>	

	<b>NEW JERSEY</b>		
	<b>Distribution</b>	<b>Nontaxable amount</b>	<b>Dividend amount</b>
			<b>Capital Gain amount</b>
Total Distributions	\$40,000		
From AAA	-\$10,000	\$10,000	
	\$30,000		
From E&P	\$30,000		\$30,000
Totals	<u>0</u>	<u>\$10,000</u>	<u>\$30,000</u>

Federal AAA	\$50,000	New Jersey AAA	\$0
Federal Balance of Basis	\$10,000	New Jersey Balance of Basis	\$10,000
Federal Adjusted Basis	<u>\$60,000</u>	New Jersey Adjusted Basis	<u>\$10,000</u>
		New Jersey E&P Account	\$50,000

**EXAMPLE 2**

Mary Jo is the sole shareholder of an S corporation. The S corporation's earnings for the current year was \$10,000 and the federal adjusted basis of her stock at the end of the tax year is \$70,000 which is comprised of:

Federal AAA	\$60,000
Federal Balance of Basis	\$10,000

The New Jersey adjusted basis of her stock at the end of the tax year is \$20,000 which is made up of:

New Jersey AAA	\$10,000
New Jersey Balance of Basis	\$10,000

In addition, the balance of Mary Jo's New Jersey E&P Account is \$50,000.

A distribution of \$70,000 was made by the S corporation in May, 1999, and a distribution of \$30,000 was made in October, 1999. The S corporation had federal Earnings & Profits of \$500.

	<b>Distribution</b>	<b>FEDERAL Nontaxable amount</b>	<b>Dividend amount</b>	<b>Capital Gain amount</b>
Total Distributions	\$100,000			
From AAA	-\$60,000	\$60,000		
	\$40,000			
From Federal E&P	-\$500		\$500	
	\$39,500			
From Balance of Basis	-\$10,000	\$10,000		
	\$29,500			
□ Gain from sale or exchange	-\$29,500			\$29,500
Totals	<u>0</u>	<u>\$70,000</u>	<u>\$500</u>	<u>\$29,500</u>

**EXAMPLE 2, continued**

	<b>NEW JERSEY</b>			
	<b>Distribution</b>	<b>Nontaxable amount</b>	<b>Dividend amount</b>	<b>Capital Gain amount</b>
Total Distributions	\$100,000			
From AAA	-\$10,000	\$10,000		
	<u>\$90,000</u>			
From E&P	-\$50,000		\$50,000	
	<u>\$40,000</u>			
From Balance of Basis	-\$10,000	\$10,000		
	<u>\$30,000</u>			
□ Gain from sale or exchange	-\$30,000			\$30,000
Totals	<u>0</u>	<u>\$20,000</u>	<u>\$50,000</u>	<u>\$30,000</u>
Federal AAA	\$0	New Jersey AAA		\$0
Federal Balance of Basis	\$0	New Jersey Balance of Basis		<u>\$0</u>
Federal Adjusted Basis	<u>\$0</u>	New Jersey Adjusted Basis		<u>\$0</u>
		New Jersey E&P Account		\$0

**EXAMPLE 3**

Peggy is the sole shareholder of an S corporation. The federal adjusted basis of her stock at the end of the tax year is \$180,000 which is comprised of:

Federal AAA	\$75,000
Federal PTI (Previously Taxed Income)	\$30,000
Federal Balance of Basis	\$75,000

The New Jersey adjusted basis of her stock at the end of the tax year is \$100,000 which is made up of:

New Jersey AAA	\$45,000
New Jersey Balance of Basis	\$55,000

In addition, the balance of Peggy's New Jersey E&P Account is \$60,000.

**EXAMPLE 3, continued**

Distributions of \$30,000 each were made by the S corporation in April and June, 1999, and a distribution of \$40,000 was made in November, 1999.

<b>FEDERAL</b>				
	<b>Distribution</b>	<b>Nontaxable amount</b>	<b>Dividend amount</b>	<b>Capital Gain amount</b>
Total Distributions	\$100,000			
From AAA	-\$75,000	\$75,000		
	\$25,000			
From Federal PTI	-\$25,000	\$25,000		
Totals	<u>0</u>	<u>\$100,000</u>	<u>0</u>	<u>0</u>
<b>NEW JERSEY</b>				
	<b>Distribution</b>	<b>Nontaxable amount</b>	<b>Dividend amount</b>	<b>Capital Gain amount</b>
Total Distributions	\$100,000			
From AAA	-\$45,000	\$45,000		
	\$55,000			
From E&P	-\$55,000		\$55,000	
Totals	<u>0</u>	<u>\$45,000</u>	<u>\$55,000</u>	<u>0</u>
Federal AAA	\$0	New Jersey AAA	\$0	
Federal Balance of Basis	<u>\$75,000</u>	New Jersey Balance of Basis	<u>\$55,000</u>	
Federal Adjusted Basis	<u>\$75,000</u>	New Jersey Adjusted Basis	<u>\$55,000</u>	
Federal PTI	\$5,000	New Jersey E&P Account	\$5,000	

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**QUESTION S-10. What is my gain from the disposition of my S Corporation stock?**

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Your gain from the sale of your shares of an S corporation is determined by subtracting your New Jersey adjusted basis from the amount you received for the sale. The simplest method for determining your New Jersey adjusted basis in the stock at the time of the sale or other disposition is to add the following amounts:

- Initial New Jersey basis;
- Balance of your New Jersey AAA as of the date of the disposition of the stock; and
- Any unused losses from previous years.

In addition, any indebtedness of the S corporation to you that is satisfied at the time of the disposition of your stock must be used to adjust your basis.

Before calculating the gain from the disposition of your S corporation stock be sure that

you have adjusted your New Jersey AAA based on the Schedule NJ-K-1, Form CBT-100S which you received for the tax year in which the disposition occurred. Or, if no Schedule NJ-K-1 was received, then use the information from Reconciliation Worksheet B which you completed for the Schedule K-1, Federal Form 1120S to adjust your New Jersey accounts.

**Reporting gain/loss from disposition of S corporation stock.** If you realized a gain or loss from the disposition of the S corporation stock you **may not** net it against the pro rata share of S corporation income which you received from that S corporation in the same tax year.

The information contained in this booklet has been written primarily for S corporation shareholders of federal S corporations which did not make the S election for New Jersey purposes. If you still have questions regarding the filing of Forms NJ-1040, NJ-1040NR or NJ-1041, please see below about obtaining assistance.

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### **For More Information**

For more information, contact the Division's Call Center at 609-292-6400 or write to:

NEW JERSEY DIVISION OF TAXATION  
TECHNICAL SERVICES  
TAXPAYER SERVICES BRANCH  
PO BOX 281  
TRENTON NJ 08695-0281

Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>

## WORKSHEET B

### RECONCILIATION SCHEDULE K-1, FEDERAL FORM 1120S

S corporation Name \_\_\_\_\_ Employer ID Number \_\_\_\_\_  
 Tax Year \_\_\_\_\_

#### PART I—Determining New Jersey S Corporation Income

- |   |     |       |
|---|-----|-------|
| 1. Ordinary Income (Loss) .....   | 1.  | _____ |
| 2a. Net Income (Loss) from Rental Real Estate Activities .....  | 2a. | _____ |
| 2b. Net Income (Loss) from Other Rental Activities .....  | 2b. | _____ |
| 2c. Interest Income .....   | 2c. | _____ |
| 2d. Dividends .....   | 2d. | _____ |
| 2e. Royalties .....   | 2e. | _____ |
| 2f. Net Short Term Gain (Loss) .....  | 2f. | _____ |
| 2g. Net Long Term Gain (Loss) .....   | 2g. | _____ |
| 2h. Other Portfolio Income (Loss) .....   | 2h. | _____ |
| 2i. Net Gain (Loss) from IRC Section 1231 Property .....  | 2i. | _____ |
| 2j. Other Income .....  | 2j. | _____ |
| 2k. Federally Exempt Interest Income .....  | 2k. | _____ |
| 2l. Other Tax Exempt Income .....   | 2l. | _____ |
| 3. Income Subtotal (Add Lines 1 through 2l) .....   | 3.  | _____ |
| 4. Subtractions:  |     |       |
| 4a. IRC Section 179 Expense .....   | 4a. | _____ |
| 4b. Excess Meal & Entertainment Deduction .....   | 4b. | _____ |
| 4c. Interest and Gains included in Line 3 from Obligations Exempt in New Jersey .....                         |     |       |
| 4d. Other Subtractions—Specify .....  | 4d. | _____ |
| 4e. Total Subtractions (Add Lines 4a through 4d) .....  | 4e. | _____ |
| 5. Total (Line 3 minus Line 4e) .....   | 5.  | _____ |
| 6. Additions:   |     |       |
| 6a. Interest Income from State and Municipal Bonds other than New Jersey .....                                | 6a. | _____ |
| 6b. Taxes Based on Income, Business Presence or Activity .....  | 6b. | _____ |
| 6c. Expenses Included on Line 3 and Incurred to Generate Tax Exempt Income .....                              | 6c. | _____ |
| 6d. Losses Included on Line 3 from Obligations Exempt from Tax Pursuant to N.J.S.A. 54A:6-14 and 6-14.1 ..... | 6d. | _____ |
| 6e. Total Additions (Add Lines 6a through 6d) .....   | 6e. | _____ |
| 7. New Jersey S Corporation Income (Line 5 plus Line 6e) .....  | 7.  | _____ |

#### PART II—Determining New Jersey Allocated Income

- |  |    |       |
|--|----|-------|
| 1. New Jersey S Corporation Income from Line 7, Part I .....       | 1. | _____ |
| 2. Allocation Factor _____%  |    | _____ |
| 3. New Jersey Allocated Income (Line 1 multiplied by Line 2) ..... | 3. | _____ |
| 4. Income Not Allocated to New Jersey (Line 1 minus Line 3) .....  | 4. | _____ |

## WORKSHEET C

### NEW JERSEY ACCUMULATED ADJUSTMENTS ACCOUNT

1. Beginning balance.....	1.	_____
2. Net pro rata share of S corporation income .....	2.	_____
3. Other income/loss .....	3.	_____
4. Total Lines 1-3 .....	4.	_____
5. Other reductions.....	5.	_____
6. Distributions.....	6.	_____
7. Total adjustments.....	7.	_____
8. Ending balance (Line 4 minus Line 7).....	8.	_____

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## WORKSHEET D

### NEW JERSEY EARNINGS AND PROFITS ACCOUNT FOR NEW JERSEY RESIDENT SHAREHOLDERS OF AN ELECTING NEW JERSEY S CORPORATION

1. Beginning Balance on _____.....	1.	_____
2. Other Additions/Adjustments .....	2.	_____
3. Total Lines 1 and 2.....	3.	_____
4. Dividends Received .....	4.	_____
5. Ending Balance (Line 3 minus Line 4) .....	5.	_____

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## WORKSHEET E

### NEW JERSEY EARNINGS AND PROFITS ACCOUNT FOR SHAREHOLDERS OF A NON-ELECTING FEDERAL S CORPORATION OR "HYBRID" CORPORATION

1. Beginning Balance on _____.....	1.	_____
2. S corporation income allocated to New Jersey ....	2.	_____
3. Other Additions/Adjustments .....	3.	_____
4. Subtotal .....	4.	_____
5. Dividends Received .....	5.	_____
6. Ending Balance on _____.....	6.	_____