



# Guideline

## Income Tax Composite filing method

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Tax Commissioner

### Introduction

This guideline explains the conditions and procedures for the filing of a composite North Dakota individual income tax return under N.D.C.C. § 57-38-31.1. A partnership or S corporation may file one North Dakota individual income tax return, called a “composite return,” and pay the tax due on behalf of two or more eligible partners or shareholders. The composite return satisfies the North Dakota individual income tax filing requirement and individual income tax liability of each eligible partner or shareholder who chooses to be included in it. The composite return does not satisfy the filing requirement of the partnership or S corporation; the partnership or S corporation must file Form 58 or Form 60, respectively.

### Eligible partners/shareholders

A partner or shareholder is eligible to be included in a composite return if the partner or shareholder is a full-year nonresident individual and the partner’s or shareholder’s sole source of North Dakota income is the partnership or S corporation. In the case of an S corporation, if a shareholder receives compensation for work performed in North Dakota as an employee of the S corporation, the shareholder is deemed to have income from a North Dakota source other than the S corporation and is ineligible for composite filing. An eligible partner or shareholder may choose to be included or not to be included in a composite return.

**Limited liability company.** A full-year nonresident individual who is a member of a limited liability company is also eligible to be included in a composite return if the limited liability company is treated as a partnership under federal income tax law. (Throughout this guideline, “partner” includes an eligible limited liability company member and “partnership” includes an eligible limited liability company.)

### Composite return

The composite return consists of two forms: Form ND-1 and Schedule CF. The partnership or S corporation must first complete Schedule CF to determine the proper amounts to enter on Form ND-1 for composite filing purposes. Specific instructions for completing both Schedule CF and Form ND-1 are provided in the instructions to Schedule CF.

*Note: A copy of pages 1 and 2 of Form 58 (North Dakota Partnership Return Of Income) or Form 60 (North Dakota Small Business Corporation Income Tax Return), whichever applies, must be attached to the composite return.*

### Taxable year

The composite return must be based on the taxable year of the eligible partners or shareholders included in it; therefore, the partners or shareholders included in a composite return must have the same taxable year. The taxable year of the partners or shareholders included in a composite return must be used for all individual income tax reporting, filing and payment purposes.

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If the partnership or S corporation has a fiscal tax year, and the partners or shareholders have a calendar tax year, the composite return must be filed on a calendar tax year basis. In addition, the North Dakota income or loss that is reportable on the composite return must be reported in the same calendar tax year in which the income or loss is reported on the partner's or shareholder's federal income tax return.

## North Dakota income for composite filing purposes

The North Dakota income or loss that is reportable on the composite return is determined by adding the separate shares of income or loss reportable to North Dakota by the partners or shareholders included in the composite return. The separate share of income or loss reportable to North Dakota by a partner or shareholder is the partner's or shareholder's share of the total North Dakota income or loss determined on Form 58 (North Dakota Partnership Return Of Income) or Form 60 (North Dakota Small Business Corporation Income Tax Return). This amount is shown in Schedule A of the applicable form.

## Calculation of North Dakota tax liability

The North Dakota income tax liability under the composite filing method must be calculated by multiplying each eligible partner's or shareholder's share of North Dakota income reportable on the composite return by 5.54 percent (.0554). Add the separately calculated amounts to determine the total tax due on the composite return. No deductions, exclusions, or income tax credits (except estimated tax) otherwise allowed under North Dakota income tax law are allowed under the composite filing method.

**Credit for tax paid on composite return.** If, after a composite return is filed, it is determined that a partner or shareholder included in it is ineligible for inclusion, or a partner or shareholder changes his or her mind about being included in it, the partner or shareholder may file an amended North Dakota individual income tax return on his or her own behalf. In this situation, the partner's or shareholder's share of the total North Dakota net income tax liability computed and reported on Schedule CF may be credited against the net tax liability computed on the partner's or shareholder's amended North Dakota individual income tax return. On the amended return, the partner or shareholder claims the credit by including it on the line for total payments (for withholding and estimated payments). A statement must be attached to the amended return showing the name and federal employer identification number of the partnership or S corporation, the amount of the credit for tax paid on the composite return, and an explanation that the partner or shareholder is changing from composite to individual filing.

To find out what his or her share of the net income tax liability is on the composite return, the partner or shareholder must contact the partnership or S corporation.

## Filing and payment due dates

If the composite return is filed on a calendar year basis, the composite return is due on April 15 following the end of the calendar year. If the composite return is filed on a fiscal year basis (because the individuals included in it have a fiscal tax year), the composite return is due on the 15th day of the fourth month following the end of the fiscal year.

**Extension of time to file a composite return.** To request an extension of time to file a composite return, the partnership or S corporation must complete and file North Dakota Form 101 on or before the due date of the composite return. North Dakota income tax law does not provide for an automatic

extension. An extension will be granted only for good cause. **Important: Disregard the instructions on Form 101 regarding recognition of federal extensions. A federal extension is not recognized for composite filing purposes.**

**Tax due.** Tax due on a composite return must be remitted with the return. An extension of time to file a composite return also extends the time to pay any tax due on the composite return; however, interest at the rate of 12% per year is charged on the tax due from the regular due date to the extended due date or the date the return is filed, whichever date is earlier.

## Estimated tax

The partnership or S corporation must pay estimated North Dakota income tax on behalf of the partners or shareholders included in the composite return who are required to pay estimated North Dakota income tax. The determination of who is required to pay estimated North Dakota income tax and the computation of the amount to pay must be made on an individual basis using Form 400-ES (North Dakota Estimated Income Tax For Individuals).

**Payment of estimated tax.** For each required installment payment, the partnership or S corporation must add the separate amounts of estimated income tax payable by the partners or shareholders included in the composite return, and must submit one check or money order for the total amount with the appropriate Form 400-ES payment voucher. The name, address and federal employer identification number of the partnership or S corporation must be entered in the taxpayer identification area, and the words “**Composite Return**” must be written in the top margin, of the Form 400-ES Payment Voucher.

**Underpayment of estimated tax.** Interest is charged on an underpayment of estimated North Dakota income tax. The determination of whether there is an underpayment of estimated tax and the computation of interest due on the underpayment must be made on an individual basis using Form 400-UT (Underpayment Of Estimated North Dakota Income Tax By Individuals).

## North Dakota tax matters person

The partnership or S corporation is responsible for the filing of the composite return and all matters related to it. Except as provided under **Form 500** below, a general partner or corporate officer must be designated as a North Dakota Tax Matters Person. The North Dakota Tax Matters Person must be identified on Schedule CF. The North Dakota Tax Matters Person must do the following with respect to the composite return:

- Prepare, sign and file the return;
- Pay any tax, penalty and/or interest due with respect to the return, including estimated tax;
- Represent the partners or shareholders included in the return in an audit, including any administrative appeal actions;
- Handle all correspondence, including correction, assessment and refund notices; and
- Keep partners or shareholders informed of all matters related to the return.

**Form 500.** A partnership or S corporation may designate a person other than a general partner or corporate officer to act as its North Dakota Tax Matters Person by completing Form 500 (Authorization To Disclose Tax Information And Designation Of Representative) and attaching it to the composite return.

## **Need help?**

Phone: (701)328-1032

Speech/hearing impaired — call us through Relay North Dakota at 1-800-366-6888

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