

2016 IT-141

West Virginia Fiduciary Income Tax Return Instructions

GENERAL INFORMATION

RESIDENT AND NONRESIDENT ESTATE OR TRUST DEFINED

– West Virginia is a federal conformity state. When a Federal 1041 is filed with the IRS, then any resident or non-resident estate or trust would be required to file the IT-141 with the West Virginia State Tax Department. For income tax purposes as filed on the IT-141, a resident estate or trust means: (a) the estate of a decedent who at his/her death was domiciled in this state, (b) a trust created by will of a decedent who at his/her death was domiciled in this state, or (c) a trust created by or consisting of property of a person domiciled in this state. A non-resident estate or trust is required to file the IT-141 and report the income that is attributable to West Virginia. The residence of the fiduciary does not affect the classification of the estate, or trust as a resident or non-resident.

ESTATES AND TRUSTS REQUIRED TO FILE A RETURN

– Fiduciary returns must be filed for the following estates and trusts:

- (a) Resident estates or trusts required to file a Federal Income Tax return, or having any West Virginia taxable income;
- (b) Non-resident estates or trusts having items of income or gain derived from West Virginia sources.

COMPOSITE RETURN – An Estate or Trust may elect to satisfy the individual income tax reporting requirements of all or multiple nonresident beneficiaries by filing a Nonresident Composite return (IT-140NRC) when the Estate or Trust is the only source of West Virginia Income. This election is provided as a convenience to the nonresident beneficiaries and eliminates the need to file an individual IT-140 Nonresident Tax return, however, nonresident beneficiaries are not required to join a composite group. All required tax reporting should be paid on the IT-141 Fiduciary Tax return. Only the \$50.00 filing fee is to be paid with the IT-140NRC. For more information about the Nonresident Composite filing option visit our website at tax.wv.gov.

RESIDENT AND NONRESIDENT QUALIFIED FUNERAL TRUST DEFINED

– A QFT is a domestic trust that meets all of the following requirements. (1) It arose as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property to provide such services; (2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use those funds solely to pay for funeral or burial services or property to provide such services for the benefit of the beneficiaries of the trust; (3) the only beneficiaries are individuals for whom such services or properties are to be provided at their death under the contracts described above; (4) the only contributions to the trust are contributions by or for such beneficiaries' benefit; the trustee makes or previously had made the election to treat the trust as a QFT; (5) the trust would have been treated as owned by the purchasers of the contracts under the grantor trust provisions of the Code if the QFT election had

not been made.

QUALIFIED FUNERAL TRUST FILING REQUIREMENTS

– Form IT-141 marked as QFT is required when the Federal 1041-QFT is filed according to §685 of the Internal Revenue Code to permit certain trusts to elect Qualified Funeral Trust Status (QFT).

QUALIFIED FUNERAL TRUST COMPOSITE

– A trustee may file a single, composite Form IT-141 for all qualified funeral trusts of which he or she is the trustee by marking the IT-141 as a Qualified Funeral Trust Composite. Generally, a qualified funeral trust included on a composite must have a calendar year as its tax year. However, you may also include a qualified funeral trust that had terminated during the year resulting in a short tax year, provided that the qualified funeral trust would have been a calendar year tax year before termination and the composite is filed no later than the due date for the short tax year.

You must maintain and make available to the State Tax Department upon request, a schedule for each qualified funeral trust (or separate interest if treated as a separate qualified funeral trust). The information must include the name of the owner or beneficiary and, if the trust has more than one beneficiary, the apportioned shares for each beneficiary; the type and gross amount of each type of income earned by the qualified funeral trust for the tax year; the type and amount of each deduction and credit allocable to the QFT; the tax payments for each QFT; the termination date if the QFT was terminated during the year.

WHEN TO FILE – All returns must be filed on or before the 15th day of the fourth month following the close of the taxable year or, if the due date falls on a Saturday, Sunday, or legal holiday, the next business day. The taxable year of the estate or trust for West Virginia income tax purposes is the same as the one used for federal tax purposes. **For tax year 2016, the due date for an annual Estate or Trust West Virginia Fiduciary Income Tax return is April 18, 2017.**

WHERE TO FILE – All returns must be filed with the West Virginia State Tax Department, Tax Account Administration Division, P.O. Box 1071, Charleston, West Virginia 25324-1071.

USE OF FEDERAL FIGURES – All items of income and deduction to be used for West Virginia tax purposes are the same as for federal tax purposes and the meaning of all terms is the same, but are subject to verification, audit and revision. Please see the instructions for non-resident estates or trusts.

NON-RESIDENT BENEFICIARY WITHHOLDING – Estates and Trusts are required to withhold West Virginia Income Tax from each non-resident beneficiary that has not given to the Estate or Trust a West Virginia Non-Resident Income Tax Agreement, Form WV/NRW-4. The amount of withholding tax payable is six and one-half percent (.065) of a pass-through entity's effectively connected taxable income, which may be lawfully taxed by West Virginia, and which is allocable to a non-resident beneficiary.

The non-resident beneficiaries may claim the amount of tax withheld as a credit against his or her West Virginia Personal Income Tax liability by submitting a completed IT-140W with their West Virginia Non-Resident Personal Income Tax Return.

PAYMENT OF TAX WITHHELD – The entire amount of tax withheld from the non-resident beneficiary is required to be paid with the annual return Form IT-141 on or before the 18th day of the fourth month following the close of the taxable year of the Estate or Trust. Make check payable to the West Virginia State Tax Department. An extension of time to file does not extend the date for payment of tax.

INFORMATION STATEMENT OF TAX WITHHELD – Every Estate or Trust required to deduct and withhold tax on non-resident beneficiaries must provide an information statement to each non-resident beneficiary on or before the date it files its West Virginia Fiduciary Tax Return. The information statement shall show the amount of West Virginia Income subject to withholding and the amount of West Virginia Income Tax withheld. The Estate or Trust may satisfy this requirement by indicating this information on Form WV/NRW-2, Statement of West Virginia Income Tax Withheld for Non-Resident Individual or Organization or in the supplemental area of the non-resident beneficiary's copy of Federal Schedule K-1 or by an attachment to the Federal Schedule K-1 listing the same information.

CLAIMING WITHHOLDING ON THE RETURN – You MUST attach the IT-141W to your Fiduciary return in order to claim credit for your withholding. To complete the IT-141W, copy the required information from the statement of West Virginia Income Tax issued to you (WV/NRW-2 or Schedule K-1) total these amounts and enter on line 11 of the IT-141. **DO NOT SEND IN YOUR WV/NRW-2 OR SCHEDULE K-1 WITH YOUR RETURN.** If you claim any withholding on line 11 of the IT-141 and have not completed the IT-141W your claim will be denied. **QFT Composite returns should include one (1) IT-141W marked as K-1 showing all combined withholding.**

WEST VIRGINIA INCOME TAX WITHHELD – Electronic Filing - It is not necessary to use or submit an IT-141W since this information will transmit electronically once entered within the software. If your withholding is reported on a NRW-2 and the source of the tax payment was a Partnership, be sure that the indicator labeled "From SP" is marked. QFT Composite returns should report all combined withholding on K-1.

Paper Filed Returns - Enter the total amount of West Virginia tax withheld as shown on your Form IT-141W. A completed IT-141W **must** be enclosed with your paper return. Failure to submit this document will result in the disallowance of the credit claimed. QFT Composite returns should report all combined withholding on IT-141W marked as K-1. **Note:** Local or municipal fees cannot be claimed as West Virginia income tax withheld. If the withholding source is for a nonresident sale of real estate transaction, a form WV/NRSR must be completed and on file with the State Tax Department prior to submitting a tax return. Additionally, a federal Schedule D must be submitted. If withholdings is related to form WV/NRSR, please indicate in the box provided on line 11 and attach Schedule D from your federal return.

When claimed withholding is from Form NRSR due to a nonresident sale of real estate, please check the box on line 11 and enclose federal Schedule D from your federal return. Failure to timely file Form NRSR as prescribed or to include federal Schedule D with the IT-141 will result in the denial of withholding claimed.

EXTENSION OF TIME TO FILE – Any estate, trust, or QFT needing an extension of time to file the West Virginia Fiduciary Income Tax Return (Form IT-141) and/or that expects to owe income tax and/or non-resident withholding tax (QFT not required to pay the non-resident withholding tax) must file Form IT-141T, Extension of Time to File. File Form IT-141T on or before the due date of your return. Any estate or trust granted an extension of time to file their federal return is granted the same extension of time to file their West Virginia return. An extension of time to file does not extend the time for payment. To avoid interest and additions to tax for late payment, use Form IT-141T to make a tentative payment pending the filing of your annual return.

RELATED FORMS -You may obtain related forms, such as the WV/IT-140W, WV/NRW-2 or IT-140NRC, on our website at tax.wv.gov.

INSTRUCTIONS

A resident estate, trust, or QFT must complete page 1 and Schedule A and B (if applicable) of Form IT-141. A non-resident estate, trust, or QFT must also complete Schedule NR, Parts I and II. A simple trust having no taxable income must complete the first four lines of page 1, and Schedules A and B, if applicable.

Line 5 West Virginia tax: The amount of West Virginia income tax is to be calculated from the West Virginia Tax Rate Schedule. A nonresident estate, trust, or QFT must complete Schedule NR to determine the amount of West Virginia tax.

Line 6 Credits from Tax Credit Recap Schedule: Enter the total shown on line 14 of the tax credit recap schedule on page 4 of the IT-141. See tax.wv.gov for a comprehensive listing of available tax credits, instructions and required credit schedules.

Line 7 Adjusted tax due: Line 5 minus 6.

Line 8 Non-Resident income subject to tax: Total of Schedule A, column F.

Line 9 WV income tax paid for non-resident beneficiaries: Total of Schedule A, column H.

Line 10 Combined tax due: Total of lines 7 and 9.

Line 11 WV fiduciary income tax withheld: Enter the total amount from the IT-141W.

Line 12 Estimated payments/payment with extension of time: Enter total amount of payments for the year.

Line 13 Paid with original return (Amended return only): Enter the amount, if any, paid on your original tax return.

Line 14 Overpayment previously refunded or credited (Amended return only): Enter the amount of any overpayment previously refunded or credited from your original return.

Line 15 Total payments (sum of lines 11 through 13, minus line 14).

Line 16 Balance of tax due (line 10 minus line 15).

Line 17 Overpayment (if line 15 is larger than line 10, enter line 15 minus line 10).

Line 18 Amount to be credited to next year's tax: Enter the amount of overpayment you want carried forward to the next tax year. This credit will be counted as an estimated tax payment.

Line 19 Amount to be refunded (line 17 minus line 18).

SCHEDULE A: BENEFICIARY INFORMATION AND NON-RESIDENT TAX PAID FOR WITHHOLDING

Enter the name, address, city, state, and zip code of each beneficiary that the Estate/Trust had during its taxable year. If additional space is needed, attach additional copies of Schedule A.

Col. A Enter the social security number of the beneficiary listed on the same numbered line in the top part of Schedule A.

Col. B If the beneficiary is a resident of West Virginia check this column. Do not complete columns C through H for a West Virginia resident beneficiary.

Col. C If the beneficiary is a nonresident of West Virginia electing to be part of a Composite group for Individual Income reporting purposes and the Estate or Trust will satisfy the withholding requirements, check this column. You must complete columns C, F, and H. The Estate or Trust filing a composite return is responsible for maintaining a list, which must set forth the name, address, taxpayer identification number, and percent of ownership or interest in the Pass-Through Entity, of those nonresident individuals included in the composite return. **The list should NOT be submitted with the composite return, but should be made available to the WV State Tax Department upon request.**

Col. D If the beneficiary is a nonresident of West Virginia and the Estate or Trust will satisfy the withholding requirements but the beneficiary will be filing a nonresident IT-140 to report the income, check this column. You must complete columns D, F, and H. A WV/NRW-2, to be filed as supporting documentation for the nonresident IT-140, must be provided to all nonresident beneficiaries making this election.

Col. E Check this column if you have received or previously had on file, a completed Form WV/NRW-4 from this non-resident beneficiary. Do not complete columns F through H if you checked column E.

Col. F Enter the amount of West Virginia source income allocated to this non-resident beneficiary.

Col. H Multiply the dollar amount in column F by the tax rate in column G and enter the result in column H.

Line 6 Total columns F and H: If you have attached additional copies of Schedule A, enter the grand total of the columns from all the copies of Schedule A on the first Schedule A and label the figures as "grand total". Transfer the appropriate column totals to the front of the return.

SCHEDULE B: WEST VIRGINIA FIDUCIARY MODIFICATIONS

The income of the estate, trust, or QFT for federal tax purposes may be subject to a fiduciary modification for West Virginia tax purposes. Some of these modifications increase and others decrease income for West Virginia tax purposes. The net modification may be a plus or a minus figure. In column I, enter the total amount of all additions and subtractions. On line 12, column I, enter the difference between the additions and subtractions. If this is a complex trust or estate, or a simple trust having taxable income, complete column II by entering that share of the modification which is allocable to the estate, trust, or QFT. Electing Small Business Trusts (ESBT) - Income from an ESBT not shown in federal taxable income should be reported on Line 5, Electing Small Business Trust Additions. Losses from an ESBT not shown in federal taxable income should be reported on Line 10, Electing Small Business Trust Subtractions.

SCHEDULE NR

Schedule NR must be completed for all non-resident estates and trusts, including the Qualified Funeral Trust (QFT) having items of income, gain or deduction derived from West Virginia sources. Schedule NR is designed to conform to the federal fiduciary or QFT return. Column I must be completed regardless of the source of income, gain or deduction. These figures are taken directly from Federal Form 1041 or 1041-QFT. In column II, enter the amount which is attributable to or connected with West Virginia sources. Because of the conformity of all amounts in column I of Schedule NR to the federal return, the instructions for the federal return are equally applicable here. The instructions below relate only to column II, to be used by non-resident estates and trusts, including the QFT, for allocation of income and deductions to West Virginia and for determining the West Virginia income distribution deduction and West Virginia taxable income. Please note that in the case of a trust, the federal income used in the calculation of the income percentage (Line 24) must be increased by the amount of any gain, reduced by any deductions, upon which tax is imposed under § 644 of the Internal Revenue Code.

INSTRUCTIONS FOR COLUMN II

Enter that amount which is attributable to West Virginia only

Lines 1 and 2 (Include the QFT) – Interest and dividends: Interest and dividends should be allocated to West Virginia only to the extent that such income is from property employed in a business, trade,

profession or occupation carried on in this State.

political subdivision of the State.

- Line 3 Business income or loss:** Enter the amount of gross profit or loss from any trade, business or profession carried on within West Virginia. If separate accounting is not maintained for the West Virginia business, income derived from business carried on both within and outside of the State must be allocated by a fair and equitable method; and such method of allocation must be explained by a separate statement attached to the return.
- Line 4 (Include the QFT):** Capital gain or loss: Enter the net amount of gains or losses from capital assets. The net gains or losses allocable to West Virginia are those from the sale or exchange of property having a situs within the State.
- Line 5 Rents, royalties, partnerships, other estates and trusts:** Enter the amount of gross rents and royalties received from real or tangible personal property having a situs in West Virginia. Also, enter the amount of income from partnerships and other fiduciaries. This would be the proportionate share of income from a resident partnership, estate or trust, or from the West Virginia portion of a non-resident partnership, estate or trust.
- Line 7 Ordinary gain or loss:** Enter the amount of gain or loss from the sale or exchange of property other than capital assets and also from involuntary conversions (other than casualty or theft).
- Line 8 Other income:** Enter the total amount of other income which is allocated to West Virginia and not specifically mentioned above.
- Line 9 Total income:** Add lines 1 through 8.
- Line 10 Interest:** Enter the total amount of interest expense allocated to West Virginia. Interest is only allocated to the extent to which it can be related to items of income allocated to West Virginia.
- Line 11 (Include the QFT) – Taxes:** Enter the amount of taxes allocated to West Virginia. Taxes are allocated to the extent such are connected with the operation of a business or property having a situs within the State.
- Line 12 (Include the QFT) – Fiduciary/Trustee fees:** Enter the deductible fees paid to the fiduciary for administering the estate, trust or QFT during the tax year that are connected to West Virginia. Note: Fiduciary/Trustee fees deducted on Federal Form 706 cannot be deducted on this form.
- Line 13 Charitable deduction:** Charitable contributions can be allocated to the extent they are made to West Virginia charities or are gifts to the State or any
- Line 14 (Include the QFT) – Attorney, accountant, and return preparer fees:** Enter the deductible fees paid by the estate or trust during the tax year that are connected with West Virginia.
- Line 15 (Estate or Trust filing a 1041) – Other deductions:** Enter the total amount of all other expenses authorized by law and allocated to West Virginia. These expenses must be connected with income previously allocated to West Virginia. **Additional instructions for QFT filers:** Other deductions not subject to the 2% Floor: Enter the total amount of all other expenses authorized by law and allocated to West Virginia. These expenses must be connected with income previously allocated to West Virginia. Allowable miscellaneous deductions subject to the 2% Floor: Enter the amount of the allowable miscellaneous deductions subject to the 2% Floor. These deductions must be connected with income previously allocated to West Virginia.
- Line 16 Total –** of lines 10 through 15.
- Line 17 Adjusted total income or loss** (line 9 minus Line 16).
- Line 18 Income distribution deduction:** In order to establish the West Virginia allocation percentage, divide the amount on line 17, column II by the amount on line 17, column I. Multiply the West Virginia percentage by amount on line 18, column I and enter the product in column II. This amount will be your West Virginia distribution deduction.
- Line 19 Federal exemption:** Enter the amount of the federal exemption from Form 1041, in both column I and column II (this amount need not be allocated).
- Line 20 Total deductions** (sum of lines 18 and 19).
- Line 21 Taxable income of Fiduciary** (line 17 minus Line 20).
- PART II - CALCULATION OF WEST VIRGINIA TAX**
- Line 22 WV Taxable Income:** enter amount from page 1, line 4.
- Line 23 Tentative Tax –** apply rate schedule to line 22 (see rate schedule on page 5).
- Line 24 Income Percentage –** If Federal Taxable Income of Fiduciary (line 21, column I) is less than or equal to zero, the income percentage is set to 0.0000. Otherwise, WV Taxable Income of Fiduciary (line 21, column II) divided by Federal Taxable Income of Fiduciary (line 21, column I), not to exceed 100%.
- Line 25 West Virginia Tax** (line 23 times Line 24) Enter result on page 1, line 5.

**WEST VIRGINIA TAX RATE SCHEDULE FOR RESIDENT
AND NON-RESIDENT ESTATES AND TRUSTS
APPLY RATE SCHEDULE TO THE WEST VIRGINIA
TAXABLE INCOME ON LINE 4**

Less than \$10,000.....		3% of the taxable income
At least –	But less than –	
\$10,000	\$25,000.....	\$300.00 plus 4% of excess over \$10,000
\$25,000	\$40,000.....	\$900.00 plus 4.5% of excess over \$25,000
\$40,000	\$60,000.....	\$1,575.00 plus 6% of excess over \$40,000
\$60,000.....		\$2,775.00 plus 6.5% of excess over \$60,000

**For Tax Information:
(304) 558-3333
or Toll-Free
1-800-WVA-TAXS
(1-800-982-8297)**

**Mail to:
West Virginia State Tax Department
Tax Account Administration Division
P.O. Box 1071
Charleston, WV 25324-1071**

**Internet Address
tax.wv.gov**

**Hearing Impaired?
TDD Service 1-800-282-9833
(1-800-2TAXTDD)**