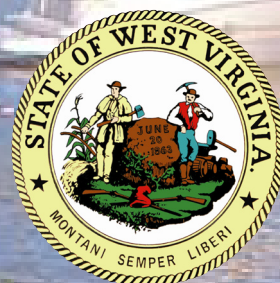


2012

WEST VIRGINIA

CORPORATE NET INCOME TAX

INSTRUCTIONS



New for 2012

Tax Law Changes

1. West Virginia Code §11-24-3 is updated to bring the meaning of taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act into conformity with their meaning for federal income tax purposes (Senate Bill 210).
2. Schedule UB, Unitary Combined Income Method of Reporting – West Virginia will require a combined report for unitary groups for tax years beginning on or after January 1, 2009 (§11-24-13a(j)).
3. The Apprentice Training Tax Credit (§11-13w) amount for each apprentice has increased from \$1,000 to \$2,000.

Tax Rates

1. For tax years beginning on or after January 1, 2012, the Business Franchise Tax rate is the greater of \$50 or 0.27%. The Business Franchise Tax will phase-down to 0.20% in 2013, 0.10% in 2014 and 0.00% thereafter (§11-23-6).
2. For tax years beginning on or after January 1, 2012, the Corporation Net Income Tax rate is 7.75%. The Corporation Net Income Tax rate will phase-down to 7.0% in 2013 and 6.5% in 2014 (§11-24-4).

New Tax Credit

Innovative Mine Safety Technology Tax Credit (§11-13BB) – For tax years beginning after December 31, 2011, the Innovative Mine Safety Technology Credit is available to coal mining companies which purchase safety technology equipment, that at the time of acquisition, is on the list of approved innovative mine safety technology. In order to claim the Innovative Mine Safety Technology Tax Credit on a return, taxpayers must receive an approved credit allocation from the West Virginia Office of Miners' Health and Safety and Training and complete and attach to the tax return Schedule IMSTTC-1. Additional information on the Innovative Mine Safety Technology Tax Credit, including application forms and approved safety technology equipment may be found at the West Virginia Office of Miners' Health and Safety and Training web page at www.wvminesafety.org/regulation_updates.htm.

Taxpayer Responsibilities

Filing Your Business Returns

Returns should be filed by the due date. You may obtain forms by calling the automated form ordering system at 1-800-422-2075. Forms may also be obtained from any of our regional field offices or from the State Tax Department website at www.wvtax.gov.

Failure to file returns will result in your account being referred to our Compliance Division for corrective action. Please file all required tax returns even if you owe no tax for the reporting period. All applicable pages of the return must be filed.

Payment of the Tax

The full amount of tax owed is due and payable on the original due date of the tax return. Failure to pay the full amount of tax by the due date will result in interest and penalties being added to any unpaid amount of tax. If you are unable to pay the full amount of tax on the due date, you should file your tax return along with a written explanation of why you are unable to pay and when you will pay the tax due.

Refunds

You are entitled to a refund of any amount that you overpaid. All or part of any overpayment may be applied as a credit against your liability for such tax for other periods. A claim for refund (usually a tax return showing an overpayment) must be filed within three years of the due date of the return or two years from the date the tax was paid, whichever expires later. The overpayment will be used by the Tax Department against other tax liabilities due.

If the Tax Department does not respond to your request within three months on overpayment of Business Franchise Tax and six months on overpayment of Corporation Net Income Tax, you may submit in writing a request for an administrative hearing to present your reasons why you feel you are entitled to the refund. Interest is allowed and paid on any refund upon which the Department has failed to timely act and which is final and conclusive.

If the Tax Department denies or reduces a request for a refund, a written request for an administrative hearing may be submitted. Failure to respond to a denial or reduction within sixty days will result in the denial/reduction becoming final and conclusive and not subject to further administrative or judicial review.

Selling or Discontinuing Your Business

Notify the Tax Department in writing as soon as possible after your business is sold or discontinued. All final tax returns should be filed.

General Information

Assistance

Address questions to the West Virginia State Tax Department, Compliance and Taxpayer Services Division, PO Box 3784, Charleston, WV 25337-3784 or by telephone at (304) 558-3333, toll free within West Virginia and area code 614 at 1-800-982-8297, or TDD for the hearing impaired 1-800-282-9833. To order forms or publications, call (304) 344-2068 or toll free within West Virginia and area code 614 at 1-800-422-2075 or visit our website at www.wvtax.gov.

Business Franchise Tax

The Business Franchise Tax is a tax on the privilege of doing business in West Virginia. Any domestic corporation, any corporation that has its commercial domicile in West Virginia, and every corporation and partnership that owns or leases real or tangible personal property, or is doing business in West Virginia is subject to the Business Franchise Tax.

The term "doing business" means any activity of a corporation which enjoys the benefits and protection of the government and laws of this state. Doing business

does not include those engaged in the activity of agriculture or farming.

The term "corporation" includes any corporation, S corporation, joint stock company, and any association or other organization which is taxable as a corporation under federal income tax laws or the income tax laws of this state.

The measure of the tax is the capital of the corporation and is defined as the average of the beginning and ending balances of (1) the value of common and preferred stock, (2) plus paid in capital surplus, (3) plus retained earnings, (4) less treasury stock. These items of capital are taken from the balance sheet of the taxpayer's federal income tax return as filed with the Internal Revenue Service. In general, most multistate businesses will apportion their capital to West Virginia using a four factor formula consisting of payroll, property, and double weighted sales factors. See page 10 for more details regarding the apportionment factor and for special apportionment rules.

The tax rate is 27¢ per \$100 of taxable capital with a minimum tax of \$50.

Corporation Net Income Tax

The Corporation Net Income Tax is a tax on the West Virginia taxable income of every domestic or foreign corporation which enjoys the benefits and protections of the government and laws in the State of West Virginia or derives income from property, activity or other sources in West Virginia. The term "corporation" includes a joint stock company and any association or other organization which is taxable as a corporation under federal income tax laws.

This is a federal conformity tax in that the starting point in computing West Virginia taxable income is the federal taxable income of the corporation. Certain increasing and decreasing adjustments, as required by state law, must be made to federal taxable income to arrive at West Virginia taxable income. They are required to allocate certain types of nonbusiness income to West Virginia and apportion their remaining income. The Corporation Net Income Tax rate is seven and three quarters percent (.0775).

Exempt Organizations

Any corporation exempt from federal income tax is also exempt from West Virginia Corporation Net Income Tax and Business Franchise Tax. In addition, certain insurance companies, certain production credit associations, trusts established under 29 U.S.C. 186, and other organizations specifically exempt under the laws of West Virginia are also exempt.

Unrelated Business Income

If you are a tax exempt organization with unrelated business income that is subject to federal tax, you must pay the West Virginia Corporation Net Income Tax on that unrelated income attributable to West Virginia. Also, that portion of your capital that is used, directly or indirectly, in the generation of the unrelated business income is subject to the West Virginia Business Franchise Tax.

Payment of Tax

DUE DATE. A corporation's annual West Virginia Corporation Net Income/Business Franchise Tax Return is due on or before the 15th day of the third month after the close of the taxable year. The filing of returns is required whether or not any tax is due. A tax exempt organization's annual West Virginia Corporation Net Income/Business Franchise Tax Return is due on or before the 15th day of the fifth month after the close of the taxable year. Make your remittance payable to the West Virginia State Tax Department.

WHERE TO FILE. West Virginia Corporation Net Income/Business Franchise Tax Returns should be mailed to the West Virginia State Tax Department, Tax Account Administration Division, PO Box 1202, Charleston, WV 25324-1202.

Extension of Time to File

An extension of time to file a federal return is automatically accepted by West Virginia as an extension of time to file the West Virginia return. A copy of the federal extension form must be attached to the West Virginia return when filed and the extended due date must be entered on top of the return. Returns filed after the due date, without supporting documents and extended due date entered on the top of the return, will be processed as late filed and interest and penalties will be assessed.

A state extension of time to file may be obtained, even if a federal extension has not been requested, provided a written request is made to the West Virginia State Tax Department prior to the due date of the West Virginia return. An extension of time to file does not extend the time for payment of any tax due. If you have an extension of time to file, payment of any tax due may be made by filing a tentative return (see instructions for Form CNF-120T). To avoid interest and penalties, payment must be received on or before the due date of the return.

Estimated Taxes

If your **Business Franchise Tax liability** is in excess of \$12,000 per year after tax credits, estimated tax payments are required and due in four equal installments on the 15th day of the fourth, sixth, ninth, and twelfth months of the tax year.

Estimated **Corporation Net Income Tax** payments are required for any corporation which can reasonably expect its West Virginia taxable income to be in excess of \$10,000 (which equals a tax liability after tax credits in excess of \$775) and are due in four equal installments on the 15th day of the fourth, sixth, ninth, and twelfth months of the tax year. Preprinted estimated payment forms (Form CNF-120ES) are automatically mailed to all taxpayers making estimated payments in their previous tax year.

What are the filing requirements? Corporations that are members of the same unitary business group must file a combined report including all required information of every business engaging in the unitary business with the corporation. This report must be filed with each members' separate return unless the group elects to designate a corporation as surety and file a combined return.

Filing Method

The filing method used for filing your Corporation Net Income Tax also controls the method for filing your West Virginia Business Franchise Tax (WV Code §11-24-13a(h)).

Separate entity based: Use this method if you are filing a separate return and you are not engaged in a unitary business with one or more other corporations.

Forms and schedules you may/will need to complete for a separate entity based corporation return:

CNF-120 pages 1 & 2	CNF-120 Sched. A, A-1, & A-2	CNF-120 Sched. B, B-1
CNF-120 Sched. C CNF-120U	CNF-120 Sched. NOL	CNF-120APT Sched. A1, A2
CNF-120TC	CNF-120APT Sched. B	CNF-120W

SEPARATE COMBINED: Use this method if you are filing a combined report but a separate return.

Forms and schedules you may/will need to complete a separate combined return are the same as required for Separate Entity Filers except that the Schedule UB-4CR is required. Visit www.wvtax.gov to obtain this worksheet.

COMBINED: (Must complete UB-4CR and attach to return).

GROUP COMBINED: Corporations use this method if they are members of the same unitary business group and elect to designate surety. Taxpayer **must designate surety FEIN in space provided**.

Forms and schedules you may/will need to complete a group combined return:

CNF-120 pages 1 & 2	CNF-120 Sched. UB-2	CNF-120 Sched. UB-3
CNF-120 Sched. NOL	CNF-120U	CNF-120TC
CNF-120 Sched. UB-1 CNF-120 Sched. C	CNF-120 Sched. UB-4APT, A1, A2, B1, B2	CNF-120W
CNF-120 UB-4CR		

Taxable Year/Method of Accounting

You must use the same taxable year and method of accounting as you use for federal tax purposes.

Supporting Federal Information

You must attach to your West Virginia return a copy of pages 1 through 5 of your signed federal income tax return as filed with the Internal Revenue Service. If you

attach a pro forma federal income tax return, the following consolidated return data is also required: a copy of pages 1 through 5 of the consolidated federal return plus supporting schedules showing the consolidation of the income statement, balance sheet, eliminations and adjustments; a copy of federal Form 851; and a signed statement explaining the differences, if any, between the income statement and balance sheet reported for federal consolidated filing and that reported for West Virginia purposes. Include Schedule M-3 when applicable.

Corporations shall attach the federal documents to the West Virginia Corporation Net Income/Business Franchise Tax Return.

Interest

You must pay the entire tax due on or before the due date of the tax return (determined without regard for an extension of time to file). If you do not pay the entire tax due on or before the due date, you must pay interest on the amount of the underpayment from the due date to the date paid. Interest is always due, without exception, on any underpayment of tax.

Interest is imposed by an adjusted rate established by the Tax Commissioner. The annual rate will never be less than eight percent (.08). The interest rate will be determined and in effect for periods of six months. Interest rates in effect for various periods are:

7/1/90 to 12/31/91 –	10%	1/1/98 to 12/31/98 –	9%
1/1/92 to 6/30/92 –	9%	1/1/99 to 6/30/00 –	8%
7/1/92 to 12/31/95 –	8%	7/1/00 to 12/31/00 –	9%
1/1/96 to 12/31/96 –	9%	1/1/02 to 6/30/02 –	8%
1/1/97 to 12/31/97 –	8%	7/1/02 to 12/31/12 –	9.5%

Contact the West Virginia State Tax Department, Compliance and Taxpayer Services Division, for the interest rate in effect for other periods. The telephone number is (304) 344-2068 or toll free within West Virginia 1-800-422-2075. Request message number 510.

Additions to Tax

LATE FILING. Additions to tax are imposed for failure to file a return on or before the due date (determined with regard to an extension of time to file). On any amount of tax shown to be due on the return, the additions to tax for late filing is five percent (.05) per month or any part of a month not to exceed twenty-five percent (.25).

LATE PAYMENT. Additions to tax are imposed for failure to pay all tax shown to be due on a return on or before the due date (determined without regard to an extension of time to file). The additions to tax for late payment is imposed at the rate of one half of one percent (.005) per month or part of a month not to exceed twenty-five percent (.25).

When both the five percent (.05) additions to tax for late filing and the one half of one percent (.005) additions to tax for late payment are imposed, the maximum monthly percent is five percent (.05) not to exceed forty-seven and one-half of one percent (.475) of the tax due.

FAILURE TO PAY ESTIMATED TAX. Corporations that are required to make estimated payments of their tax liability are subject to additions to tax for failing to pay at least ninety percent (.9) of their annual tax liability. The additions are imposed at the same rate as interest is imposed. See Form CNF-120U for more information on the additions to tax for underpayment of estimated tax.

Completion and Signature

All applicable sections of the return must be completed and all required supporting documents must be attached. An incomplete return will not be accepted as timely filed. The return must be signed by an authorized officer. If the return is prepared by someone other than the taxpayer, the preparer must also sign the return and enter his or her complete address.

Changes on Federal Return

Any corporation whose reported income or deductions are changed or corrected by the Internal Revenue Service or through renegotiation of a contract with the United States is required to report the change or correction to the West Virginia State Tax Department. This report must be made within ninety days of the final determination by filing an amended return and attaching a copy of the revenue

agent's report detailing such adjustments.

A corporation that filed an amended return with the Internal Revenue Service must file an amended return with the West Virginia State Tax Department within ninety days of filing the amended federal return.

Corporate Amended Returns

A corporation that filed an amended return with the Internal Revenue Service **must** file an amended return with the West Virginia State Tax Department within **ninety days** of filing the amended federal return.

- File Form CNF-120, pages 1 and 2, completing all appropriate lines and checking the **Amended** box under "Type of Return" on page 1. Because WV now uses barcodes on tax forms it is important to use the appropriate forms for the tax year being amended. **Example:** You are amending a tax return for the period ending 12-31-2007; use the 2007 CNF-120 forms.
- **NOTE:** Tax forms before 2010 will use different lines for previous payments; read the line instructions carefully.
- Any amount paid with the original return should be entered on **Line 27** of Form CNF-120, page 2.
- If you received a refund, or had an amount credited on the original return, enter that amount on Line 29 of Form CNF-120, page 2.
- Attach all schedules that have amended figures in order to verify the changes made to the return. **Example:** There was a change made to your WV Taxable Capital; be sure to attach **Schedule A** with the amended figures.

Amended Returns filed for the purpose of obtaining a refund of an overpayment must be filed within **three years** of the due date of the return (with regard to an extension of time to file), or **two years** from the date the tax was paid, whichever expires later. If your Amended Return has a balance due, send the payment along with the tax return.

Consistency in Reporting

In completing your West Virginia Corporation Net Income/Business Franchise Tax Return, if you depart from or modify past procedures for classifying business income and nonbusiness income, for valuing property or including or excluding property in the property factor, for treating compensation paid in the payroll factor, for including or excluding gross receipts in the sales factor, you must disclose by separate attached schedule detailing the nature and extent of the variances or modifications.

If you make sales of tangible personal property which are shipped into a state in which you are not taxable, you must identify the state to which the property is shipped and report the total amount of sales assigned to such state.

Confidential Information

Tax information which is disclosed to the West Virginia State Tax Department, whether through returns or through department investigation, is held in strict confidence by law. The State Tax Department, the United States Internal Revenue Service and other states have agreements under which tax information is exchanged. This is to verify the accuracy and consistency of information reported on federal, other state, and West Virginia tax returns.

Form CNF-120 Instructions

Enter beginning and ending tax year dates covered by this return. Clearly print or type your name and address. If filing under extension, enter the extended due date. Check the applicable box for the return being filed.

Attachments and statements required: Attach the additional information and statements required as part of your Form CNF-120 if they apply to your filing method.

Attach a copy of pages 1 through 5 of your signed federal return (Form 1120), and Schedule M-3 if applicable. If filing separate West Virginia and consolidated federal, attach your pro forma federal, consolidated federal Form 851 (Affiliation Schedule), plus spreadsheets of the income and expenses, and balance sheet entries for EVERY corporation included in the consolidated federal return.

Attach a schedule of other states in which you have property or paid salaries during the taxable year. Indicate those states in which you are filing corporate tax returns based on, or measured by, net income for this taxable year.

Attach a schedule of other states in which you have sales of tangible personal property during the taxable year and in which you are not taxed (e.g. P.L.86-272). Indicate by state the amount of sales not subject to tax.

Line 1

Enter West Virginia taxable capital from completed Schedule A, Form CNF-120, Line 12. Combined filers will enter the amount from line 22 of Schedule UB-2.

Line 3

Multiply line 1 by the tax rate on line 2 and enter the result or \$50.00, whichever is greater.

If your federal taxable year is a short taxable year, the year is prorated based on the number of months that are in the short taxable year divided by the number 12.

If your first taxable year for Business Franchise Tax purposes includes a period of time during which you were not subject to the West Virginia Business Franchise Tax, the tax is prorated based on the number of months during the taxable year that you did business in West Virginia divided by the number 12.

Neither the minimum tax of \$50.00 nor the capital base can be prorated.

Line 4

Enter the result from Column 1, line 28 from completed Form CNF-120TC. The total amount of the credit cannot exceed the tax on line 3.

Line 5

Subtract line 4 from line 3 and enter the result.

If filing a combined return, skip lines 6 through 16 and complete Schedule UB.

Line 6

Enter total taxable income from your federal income tax return Form 1120, line 30, or your pro forma return. A "pro forma" return is the return that you would have filed if you had filed your federal return on a separate return basis.

Line 7

Enter total increasing adjustments from line 12 of Schedule B, Form CNF-120.

Line 8

Enter total decreasing adjustments from line 23 of Schedule B, Form CNF-120.

Line 9

Adjusted federal taxable income (line 6 plus line 7 minus line 8).

If this corporation is a wholly West Virginia corporation please check the box and skip to line 15. Enter the amount of line 9 in line 15.

Line 10

Total nonbusiness income allocated everywhere (Form CNF-120APT, Schedule A-1, line 8, column 3).

Line 11

Subtract line 10 from line 9. This is your total income subject to apportionment.

Line 12

Complete Schedule B of Form CNF-120APT and enter the result of part 1, line 8; part 2 or part 3, column 3.

****IMPORTANT NOTE REGARDING LINE 12**** Form CNF-120APT, Schedule B must be completed and attached. **FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA.**

Line
14

Enter the result of line 12 of Schedule A2 of Form CNF-120APT.

Line
15

Multistate corporations should add lines 13 and 14 and wholly West Virginia corporations should enter the amount from line 9.

Line
16

Enter the total from column 6 of Schedule NOL on page 6.

Line
17

Subtract line 16 from line 15. This is your West Virginia Taxable income. Combined filers should enter the amount from line 18 of Schedule UB 3.

Line
18

REIT Inclusion and other Taxable income

Line
19

Add lines 17 and 18. Combined filers should enter amount from line 20 of Schedule UB-3.

Line
21

Multiply line 19 by the Corporate Net Income Tax Rate in line 20. If the result is a negative amount, enter zero (0).

Line
22

Enter the result from column 2, line 28 of completed Form CNF-120TC. The total amount of credits cannot exceed the net income tax on line 21.

Line
23

Subtract line 22 from line 21 and enter the result on line 23. This is your Adjusted Corporate Net Income Tax.

Line
24

Add lines 5 and 23. This is your total Business Franchise Tax and Corporation Net Income Tax liability.

Line
25

Enter total of prior year carry forward credit from your previous Business Franchise Tax/Corporation Net Income Tax return and total estimated tax payments and tentative payment(s) made with Form CNF-120T.

Line
26

Enter the total amount of withholding from Form NRW-2, Form K-1, and/or Form 1099. Amount must match the total from Form CNF-120W.

Line
27

If this is an amended return, enter the amount paid with the original return.

Line
28

Add lines 25 through 27. This total MUST match the total on Schedule C.

Line
29

If this an amended return, enter the amount of an overpayment previously refunded or credited.

Line
30

Subtract line 29 from line 28. This is your company's total payments.

Line
31

If line 30 is larger than line 24 enter your overpayment here.

Line
32

Enter the amount of the overpayment in line 31 that you wish to have credited to 2013 taxes.

Line
33

Enter the amount of the overpayment in line 31 that you wish to have refunded (subtract line 32 from line 31).

Line
34

If line 30 is smaller than line 24, enter the tax due on this line.

Line
35

Determine the amount of interest due. For information regarding interest, see the general information on page 4 of this booklet.

Line
36

Determine additions to tax due. For information regarding additions to tax, see the general information on page 4 of this booklet.

Line
37

Enter the amount of penalty of estimated tax from Form CNF-120U.

Line
38

Add lines 34 through 37. This is the balance due with this return. Make check payable to West Virginia State Tax Department.

Schedule A Computation of Capital

Corporations must complete this section to determine their capital base subject to the West Virginia Business Franchise Tax. The capital base is the average of the dollar amount of the beginning and ending balance of certain entries from the balance sheet of your Federal Tax Return as filed or as would have been filed with the Internal Revenue Service for the taxable year.

Corporations not required by Federal law to complete and file a balance sheet are required to complete a pro forma balance sheet in order to calculate their Business Franchise Tax liability. A pro forma balance sheet is the balance sheet that the corporation would have filed with the Internal Revenue Service had they been required to file one. Corporations complete lines 1 through 7. Add the amounts in column 1 and column 2 and divide the result by the number two (2) to determine the average capital for column 3.

Exempt Organizations

Corporations and organizations that are exempt from federal tax must pay the Business Franchise Tax on that portion of their capital which is used, directly or indirectly, in the generation of unrelated business income, as defined by Section 512 of the Internal Revenue Code. To determine the amount of your capital that is subject to tax, multiply your capital by the percentage that your total gross unrelated business income is to your total gross income from all activity.

Computation of Business Franchise Tax

Line
8

Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property located in West Virginia can take an allowance that reduces their capital. See the instructions for Schedule B-1, Form CNF-120 to determine if you qualify to take the special allowance. If you do not qualify for the special allowance skip lines 8 and

Line 11

Generally, the apportionment factor used to apportion your income for Corporation Net Income Tax purposes is used to apportion your capital base for Business Franchise Tax purposes. There are two exceptions:

1. The special apportionment rules for certain motor carriers cannot be used for the Business Franchise Tax. Motor Carriers will need to complete Schedule B, Part 1 of Form CNF-120APT to determine their apportionment factor for Business Franchise tax purposes.
2. Taxpayers, exempt from, or not subject to, the West Virginia Corporation Net Income Tax must complete Schedule B, Form CNF-120APT to determine their apportionment factor for Business Franchise Tax.

****IMPORTANT NOTE REGARDING LINE 11**** Form CNF-120APT, Schedule B must be completed and attached. **FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA.**

Line 12

Multiply line 10 by line 11. Enter the result here and on line 1 of Form CNF-120.

Schedule A-1 Subsidiary Credit

A parent taxpayer that filed a separate Business Franchise Tax Return is allowed a credit against its Business Franchise Tax liability for the Business Franchise Tax paid by a subsidiary corporation or by a partnership in which it owns an interest. A corporation that owns fifty percent (.5) or more of the stock of all classes of another corporation is defined to be the parent and the corporation so owned is defined to be a subsidiary corporation. The tax liability of the subsidiary corporation or partnership is first recomputed by determining the tax base of the subsidiary or partnership without the allowance for certain government obligations and obligations secured by certain residential property. The amount of credit is determined by multiplying the recomputed tax liability by the percentage of ownership by the parent. Enter the total from column 4, Schedule A-1 on Summary Schedule CNF-120TC line 1, column 1.

Schedule A-2 Tax Credit for Public Utilities & Electric Power Generators

****IMPORTANT** PLEASE READ!** Only public service or utility businesses and taxpayers who generate electric power are eligible for this credit. This credit cannot be taken for taxes paid to municipalities in West Virginia. You must have actually paid Business and Occupation Tax to the West Virginia State Tax Department and be one of the taxpayers mentioned above to be eligible to claim this credit.

Line 4

Enter the Business Franchise Tax liability from line 5 of Form CNF-120.

Line 5

Enter the total on summary Schedule CNF-120TC, line 2, column 1.

Schedule B Adjustments to Federal Taxable Income

Adjustments Increasing Federal Taxable Income

Line 1

Enter exempt interest or dividends from any state or local bonds or securities from your federal return Form 1120, Schedule K or on Schedule M-1.

Line 2

Enter the amount of US Government obligation interest or dividends not exempt from state tax, less any related expenses not deducted on the federal return. Attach supporting documentation.

Line 3

Attach an itemized schedule of taxes and licenses from line 17 of your federal income tax return, Form 1120 or pro forma Form 1120.

Line 4

Taxpayers can elect to expense the cost of certain air and water pollution control facilities located in West Virginia in the year in which the cost of acquisition, construction or development was paid or incurred. Eligible air and water pollution control facilities are those located in West Virginia that are "certified pollution control facilities" as defined by Section 169(d) of the Internal Revenue Code. If this election is made, the total amount of any federal deduction for depreciation or amortization of such facilities is disallowed. The election is made on the return for the year in which the cost is paid or incurred. Once made, the election or non-election is irrevocable.

A taxpayer who reports all income to this state will make the adjustments for the cost of the facilities on Schedule B, line 19. The depreciation or amortization on the facilities, including that attributable to cost expensed this year as well as prior years, deducted on the federal return, is entered on Schedule B, line 4. A taxpayer who is subject to allocation and apportionment makes the adjustment for the cost of the facilities on Schedule A-2 of Form CNF-120APT line 9, column 3. The depreciation or amortization on the facilities deducted on the federal return for this year as well as previous years, is entered on Schedule A-2 of Form CNF-120APT, lines 10 and 11 of column 3.

Line 5

Corporations which are exempt from federal income tax are also exempt from West Virginia Corporation Net Income Tax. If such a corporation has unrelated business taxable income (as defined by Section 512 of the Internal Revenue Code), they must pay West Virginia Corporation Net Income Tax on the unrelated business taxable income. Enter the unrelated business taxable income as reported on Federal Form 990T.

Line 6

Enter the amount from Federal Form 1120, line 29a.

Line 7

If you claim the West Virginia Neighborhood Investment Program Tax Credit, any deduction, decreasing adjustment, or decreasing modification taken on your federal return for any charitable contribution made to such Neighborhood Investment Program and for which the West Virginia credit is claimed, must be added back on this line.

Line 8

Taxpayers with source income must adjust their federal taxable income by the amount of their taxable income or loss from sources outside the United States. In determining foreign source income, the provisions of Sections 861, 862, and 863 of the Internal Revenue Code apply. Complete the following worksheet.

Foreign Source Income Worksheet

1. Taxable income from sources outside the United States.....
2. LESS foreign dividend gross-up.....
3. LESS subpart F income.....
4. West Virginia adjustment.....

If the amount on line 4 of the worksheet is a positive figure, enter it on Schedule B, line 18. If it is a negative figure, enter the amount of the loss on Schedule B, line 8 without the negative sign.

Attach copies of Federal Form 1118 to support your calculation. If you did not file Federal Form 1118, you must prepare and file a pro forma Federal Form 1118 to support your adjustment. If you filed a consolidated Federal Form 1118 and file separate or unitary West Virginia returns, attach both the true consolidated and a pro forma Federal Form 1118 to support your adjustment.

Line
9

Enter the amount of foreign taxes as deducted on your Federal Form 1120.

Line
10

Enter Qualified Production Activity Deduction taken under IRC §199.

Line
11

Add back for expenses related to certain REIT's and regulated investment companies and certain interest and intangible expenses (WV Code §11-24-4b).

Line
12

Add lines 1 through 11. Enter the total on line 7 of Form CNF-120.

Adjustments Decreasing Federal Taxable Income

Line
13

Enter the amount of refund or credit of income taxes or taxes based upon net income imposed by this state or any other jurisdiction included in federal taxable income. Attach supporting documentation.

Line
14

Enter the amount of interest expense on obligations or securities of any state or its political subdivisions disallowed in determining federal taxable income. Attach supporting documentation.

Line
15

Enter total and include a copy of Federal Form 3800 or 5884 and/or other as applicable.

Line
16

Enter the total from Schedule C, line 15 of Federal Form 1120.

Line
17

Enter the total from Schedule C, line 14 of Federal Form 1120.

Line
18

See instructions for Schedule B, line 8.

Line
19

See instructions for Schedule B, line 4.

Line
20

A decreasing adjustment to federal taxable income is allowed for employer contributions to a medical savings account established pursuant to WV Code §33-16-15, to the extent included in federal taxable income, less any portion of the employer's contributions withdrawn for purposes other than payment of medical expenses. The amount taken as a decreasing adjustment may not exceed the maximum amount that would have been deducted from the corporation's federal taxable income if the aggregate amount of the corporation's contributions to individual medical savings accounts established under WV Code §33-16-15 had been contributions to a qualified plan as defined under the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

Line
22

Taxpayers that own certain tax-exempt government obligations and obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income. Complete Schedule B-1 to determine the amount of the allowance.

Line
23

Add lines 21 and 22. Enter the amount on this line and on line 8 of Form CNF-120.

Schedule B-1 Allowance for Governmental Obligations/Obligations Secured by Residential Property (§11-24-6(f))

Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property located in West Virginia can take a special allowance that further reduces federal taxable income. Complete CNF-120 Schedule B-1 to determine the amount of the allowance. The value of these obligations and loans is determined using the average of the monthly beginning and ending account balances. These account balances are determined at cost in the same manner that such obligations, investments and loans are reported on the balance sheet of your federal tax return.

Lines 1 – 4. Attach copy of worksheets supporting the calculation of average monthly balance.

Line 6. Average the beginning and ending balance of line 15, Schedule L of Federal Form 1120.

Line 8. CNF-120, line 6 plus Schedule B, line 12 minus line 21, plus Form CNF-120APT, Schedule A-2, lines 9, 10, and 11.

Schedule C Schedule of Tax Payments (will be applied to business franchise tax first)

Use this schedule to list any Corporation Net Income/Business Franchise Tax payments made which the taxpayer is applying to this return. List the following for each payment: name of corporation making payment; West Virginia Account Identification Number; date of payment; type of payment (estimated payment, including application of overpayment from prior year, and extension payments made with a tentative return); and amount of payments. The total amount of payments must equal the amount reported on line 28 of Form CNF-120.

Schedule NOL

Corporation Net Income Tax

WV Net Operating Loss Carryforward Calculation (§11-24-6(d))

Who should complete Schedule NOL? All corporations claiming a net operating loss carry forward deduction on line 16 of Form CNF-120 must complete this schedule to support their net operating loss deduction. Schedule NOL is not a claim for refund. It is a calculation schedule to support the net operating loss carryforward deduction.

For taxable years ending after June 30, 1988 West Virginia Corporation Net Income Tax law was revised to provide for a West Virginia net operating loss deduction to be used to reduce West Virginia taxable income of a corporation. The revision is effective for all taxable years ending after June 30, 1988, and applied to all loss carried over from the taxable year ending on or before June 30, 1988.

Any amount claimed as a federal net operating loss deduction must be added back to federal taxable income on West Virginia Schedule B, line 6 of Form CNF-120. The West Virginia net operating loss carryforward deduction is entered on line 16 of Form CNF-120.

Taxpayers now have a West Virginia election as to the carryback or carryforward of the West Virginia net operating loss deduction. For losses incurred in taxable years beginning after August 5, 1997, the carryback period is two years and the carryforward period is 20 years. If the election is made to not carryback any part of the loss, the carryforward period is 20 years. For losses incurred in taxable years beginning on or before August 5, 1997, the carryback period is 3 years and the carryforward period is 15 years.

A net operating loss deduction of a multistate corporation is subject to West Virginia allocation and apportionment rules.

The West Virginia net operating loss deduction is limited to net operating losses incurred by a corporation which did business in West Virginia and filed Corporation Net Income Tax Returns in prior taxable years.

The amount of net operating loss deduction available to an affiliated group, which elects for the first time to file a consolidated return for a taxable year ending after July 1, 1988, is limited to the net operating losses incurred by members of the affiliated group which did business in West Virginia and filed separate West Virginia returns in prior years.

A West Virginia net operating loss deduction will not be allowed for net operating losses of those members of the affiliated group which did no business in West Virginia in prior taxable years and were not required to file West Virginia Corporation Net Income Tax Returns.

SRLY RULES. The separate return limitation years (SRLY) rules set forth in Treasury Regulation §1.1502 apply in determining the allowable West Virginia net operating loss deduction.

When the SRLY rules apply, a member of an affiliated group's net operating loss carried forward from its separate return year can only offset that portion of the taxable income attributable to that member of the group.

Schedule NOL is designed to support the claiming of a West Virginia net operating loss carryforward deduction by providing information on the year of the loss and how the loss was/is being used. Enter on Schedule NOL only those loss years that give rise to the current taxable year's net operating loss carryforward deduction.

Column 1. Year of loss. Enter in column 1 the applicable tax year ending date(s) for the year(s) that you had net operating loss(es).

Column 2. Enter name and FEIN of the Consolidated Parent Corporation if you filed a consolidated return prior to 2009 and had a West Virginia Net Operating Loss or enter name and FEIN of all separate members' West Virginia net operating losses that filed separately prior to 2009.

Column 3. Amount of West Virginia net operating loss. Enter the amount of West Virginia net operating loss that corresponds to the year of the loss shown in Column 1.

Column 4. Amount carried back to years prior to loss year. Enter the total amount of loss for the taxable year entered in column 1 that was carried back to a year, or years prior to the year of the actual loss.

Column 5. Amount carried forward to years prior to this year. Enter the total amount of loss for the taxable year entered in column 1 that was carried forward to a year, or years, prior to the current taxable year.

Column 6. Amount being used this year. Enter the amount of loss for the taxable year entered in column 1 that is being used to offset West Virginia taxable income for the current taxable year.

Column 7. Remaining unused net operating loss. Enter the amount of loss for the tax year entered in column 1 that remains to be carried to a taxable year subsequent to the current taxable year.

Total Net Operating Loss Carryforward Deduction for Current Taxable Year. The amount of the West Virginia net operating loss carryforward deduction claimed on line 16 of Form CNF-120 of the current year's tax return must equal the sum of column 6, Schedule NOL. In no instance may the West Virginia net operating loss carryforward deduction reduce West Virginia taxable income below zero.

Net operating loss carryback. Generally, a taxpayer having a net operating loss must first carry back that loss to the two preceding tax years before carrying the loss forward. A refund initiated by a net operating loss carry back must be claimed within three years from the original due date of the return for the loss year (with regard to an extension) by the filing of Form CNF-139.

Special legislative changes made during 1993 have limited the amount of net operating loss that can be carried back when the loss is incurred in a taxable year beginning after December 31, 1992. No more than \$300,000 of net operating loss from any taxable year beginning after December 31, 1992 may be carried back to any previous taxable year. No change was made in the loss carry forward rules or the amount of loss that can be carried back from a taxable year beginning before December 31, 1992.

CNF-120APT

Allocation and Apportionment for Multistate Corporations

Schedule A1 & A2 – Allocation of Nonbusiness Income

If your business activities take place both within and without West Virginia and you are also taxable in another state, certain items of nonbusiness income that are included in federal taxable income are directly allocated. All other income must be apportioned.

Business income arises from transactions and activities in the regular course of the corporation's trade or business, and include income from tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the corporation's trade or business.

Nonbusiness income includes all income that is not properly classified as business income less all expenses attributable to the production of this income. Nonbusiness income is allocated to West Virginia if (1) the corporation's commercial domicile, the principal place from which the trade or business is managed is located in West Virginia; or (2) property creating the nonbusiness income is utilized in West Virginia. Nonbusiness income from real property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia, or, in the case of patents or copyrights, if they are used in West Virginia.

For a detailed discussion of allocation of nonbusiness income, you may request a copy of Publication TSD-392, "Corporation Net Income Tax Nonbusiness Income", by contacting our Taxpayer Services Division or online at www.wvtax.gov.

Determine nonbusiness income allocated to West Virginia and outside West Virginia by completing Schedule A1 and A2 of Form CNF-120APT. *Only those types of nonbusiness income listed on Schedule A1 and A2 of Form CNF-120APT can be allocated. Any other types of income that the corporation classifies as nonbusiness must be apportioned.*



Enter the amount from column 3, line 8 of Schedule A-1 on line 10 of Form CNF-120.



Enter the amount from column 3, line 12 of Schedule A-2 on line 14 of Form CNF-120.

Schedule B – Apportionment Formula

If your business activities take place both within and without West Virginia and you are also taxable in another state, all net income, after deducting those items of nonbusiness income allocated on Schedule A1 and A2 of Form CNF-120APT must be apportioned to West Virginia by using the appropriate apportionment formula. **Completion of Schedule B is required even if apportionment is zero.**

Special apportionment formulas apply to motor carriers and to financial organizations. If you are filing for a financial organization, follow the apportionment instructions for Schedule B of Form CNF-120APT, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Schedule B of Form CNF-120APT, Part 2.

All other multistate corporations will use the standard apportionment formula of payroll, property, and sales, with the sales factor double weighted, and will complete Schedule B of Form CNF-120APT Parts 1 through 3 as applicable.

Petitioning for an alternate method of apportionment. To use an alternate method of allocation and apportionment, you must petition the Tax Commissioner to use some other basis to determine your taxable net income. Your petition for an alternate method must be filed no later than the normal due date of your return.

You must have written permission to use an alternate apportionment method before filing your return. Permission will only be granted if you can show that the statutory formula does not properly reflect your taxable income, and if the alternate method properly and fairly shows your West Virginia taxable income.

Your petition should include your name and address, state of incorporation and principle place of business, a description of the kind(s) of business in which you are engaged, a detailed statement of how sales are made in West Virginia, a computation of your West Virginia taxable income using the statutory apportionment formula and using your proposed alternate formula, and a summary of the facts that support your position.

Send your petition to West Virginia State Tax Department, Tax Account Administration Division, Corporate & Franchise Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

Multistate Corporations – Four Factor Formula

To determine your West Virginia apportionment percentage, first determine the following factors:

Property Factor. Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income. Property used in connection with the items of nonbusiness income allocated in Schedule A1 and A2 shall be excluded from the factor.

Property must be included in the property factor if it is actually used or is available for or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must be included. Property or equipment under construction (except goods in process that can be inventoried) must be excluded until it is actually used to generate business income. Movable property, such as tools, construction equipment and trucks, used both within and without West Virginia, shall be included in the numerator of the fraction on the basis of total time within the state during the taxable year.

Property owned is valued at original cost. Property rented is valued at eight times the net annual rental rate. Leasehold improvements are considered property owned and are included at their original cost. Generally, original cost is the basis of the property for federal income tax purposes at the time of acquisition and adjusted by subsequent capital additions of improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its value at the beginning and ending of the taxable period. The Tax Commissioner may require or allow averaging by monthly values if such a method is required to properly reflect the average value of the taxpayer's property for the taxable year.

Line
1

Divide column 1 by column 2 and enter result in column 3. State the result as a decimal and round to six (6) places after the decimal.

Payroll Factor. The payroll factor shall include the amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation may be included in the payroll factor by use of the cash basis only if you have permission from the Tax

Commissioner for an alternate method of apportionment. Compensation means wages, salaries, commissions, and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. **Only amounts paid directly to employees are included in the payroll factor.** Do not include compensation paid to employees engaged exclusively in an activity that generates nonbusiness income that you allocated in Schedule A1 and A2 of Form CNF-120APT.

The denominator of the payroll factor is the total compensation paid by the taxpayer during the taxable year, as shown on the federal income tax return filed with the Internal Revenue Service and as reflected in the schedule of wages and salaries and that portion of the cost of goods sold which reflect compensation.

The numerator of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met:

- A. The employee's service is performed entirely within this state;
- B. The employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state (the word incidental means any service which is temporary or transitory in nature or which is rendered in connection with an isolated transaction);
- C. If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:
 - a. if the employee's base of operations is in this state;
 - b. if there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or
 - c. if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state. Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

Determine the payroll factor by entering the appropriate amounts on line 2. Enter West Virginia payroll in column 1 and payroll everywhere in column 2.

Line
2

Divide column 1 by column 2 and enter the result in column 3. Round to six (6) places after the decimal.

Sales factor. The term "sales" means all gross receipts of the taxpayer that are business income. The sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced nonbusiness income that you allocated in Schedule A1 and A2 of Form CNF-120APT.

The denominator (column 2) of the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business that was reflected in your gross income reported and as appearing on your federal income tax return unless otherwise excluded. Sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. under Public Law 86-272) are to be excluded from the denominator.

The numerator (column 1) of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of your trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

SALES OF TANGIBLE PERSONAL PROPERTY. Gross receipts from sales of tangible personal property are in West Virginia (1) if the property is received in West Virginia by the purchaser (except sales to the United States government) regardless of the F.O.B. point or other conditions of sales; or (2) if the property is shipped from an office, store, warehouse, factory, or other place of storage in West Virginia and the purchaser is the United States government.

Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received, after all

transportation is completed, is the place where the sale took place. Direct delivery in West Virginia, other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where title passes or other conditions of sale. Direct delivery outside West Virginia, to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

OTHER SALES. Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia if (1) the income producing activity which gives rise to the receipts is performed entirely in West Virginia; (2) the income producing activity is performed both in and outside West Virginia and a greater portion of the income producing activity is performed in this state than in any other state, based on cost of performance; or (3) if the sale constitutes business income to the taxpayer, or the taxpayer is a financial organization subject to the special apportionment rules. Refer to West Virginia Code §11-24-7 for a discussion of income producing activity and cost of performance.

Gross receipts from the sale, lease, rental, or licensing of real property are in West Virginia if the real property is located in this state. Gross receipts from the rental, lease or licensing of tangible personal property are in West Virginia if the property is located in this state. If such property is both within and without West Virginia during the rental, lease or licensing period, gross receipts attributable to West Virginia shall be determined based upon the total time within the state during the taxable year. Gross receipts for the performance of personal services are in West Virginia if such services are performed in this state.

Determine the sales factor by entering the appropriate amount on line 3. Enter West Virginia sales in column 1 and sales everywhere in column 2.

Line
3

column 2. Total Sales. This amount when added to the total gross nonbusiness income as shown on Schedule A1, CNF-120APT, column 1, must equal the sum of your items of gross income as reported on your federal income tax return. Any differences must be noted and explained in an attachment to your return.

\$ _____ Sum of gross income items on federal return
\$ _____ Less total allocated income (Schedule A1, column 1)
\$ _____ Equals line 3, column 2, Schedule B.

Line
4

Enter the total gross receipts from sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. Public Law 86-272). This is the throw out rule per WV Code §11-24-7(e)(11)(B) and §11-23-5(i)(2).

Line
5

In column 1, enter the amount from line 3. In Column 2, subtract line 4 from line 3 and enter the difference. Divide column 1, line 5 by column 2, line 5 and enter the result in column 3, line 5. State the result as a decimal and round to six (6) places after the decimal.

Line
6

Enter line 5 again.

Line
7

Add column 3, lines 1, 2, 5, and 6 and enter the sum in column 3.

Line
8

Divide the six (6) digit decimal from column 3, line 7 by the number 4, reduced by the number of factors, if any, showing zero in column 2, lines 1, 2, 5, and 6. Enter the six (6) digit decimal fraction from line 8 on Schedule A line 11 of Form CNF-120 and Line 12 of Form CNF-120.

Motor Carriers – Special Single Factor Formula

Part 2 – Vehicle Miles. Motor carriers of property or passengers are subject to special apportionment rules. Motor carriers must apportion their business income by using a single factor formula of vehicle miles.

The special apportionment formula for motor carriers is to be used for the Corporation Net Income Tax only! The special rules DO NOT apply to the

West Virginia Business Franchise Tax.

A motor carrier is any person engaged in the transportation of passengers and/or property for compensation by a motor propelled vehicle over roads in West Virginia, whether on a scheduled route or otherwise. The term “vehicle miles” means the operation of a motor carrier over a distance of one mile.

The special apportionment formula for motor carriers does not apply if (A) the motor carrier neither owns nor rents any real or tangible personal property located in this state, has made no pick ups or deliveries within this state, and has traveled less than 50,000 miles in this state during the taxable year; or (B) the motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, except vehicles, and made no more than 12 trips into or through this state during the taxable year. Under either (A) or (B), the mileage traveled in West Virginia may not be more than 5 percent (.05) of the total vehicle miles traveled in all states during the taxable year.

Determine the apportionment factor by entering the appropriate vehicle miles for West Virginia in column 1 and vehicle miles everywhere in column 2.

Divide column 1 by column 2 and enter in column 3. State the result as a decimal fraction and round to six places after the decimal. Enter the six (6) digit decimal fraction from column 3 on line 12 of Form CNF-120.

Financial Organizations – Special Factor Formula

Part 3 – Gross Receipts. Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula. This special apportionment rule applies to both the West Virginia Corporation Net Income Tax and Business Franchise Tax.

A financial organization is any holding company or regulated financial corporation or subsidiary thereof, or any corporation deriving more than 50% of its gross receipts from one or more of the following:

1. Making, acquiring, selling, or servicing loans or extensions of credit.
2. Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of an extension of credit.
3. Operating a credit card business.
4. Rendering estate or trust services.
5. Receiving, maintaining or otherwise handling deposits.
6. Engaging in any other activity with an economic effect comparable to any of the above.

Financial organizations regularly engaging in business in West Virginia shall apportion their capital and business income by means of a single factor gross receipts apportionment formula. A financial organization not having its commercial domicile in West Virginia is presumed to be regularly engaging in business in West Virginia if during any year it obtains or solicits business with 20 or more persons within West Virginia, or the sum of its gross receipts attributable to sources in West Virginia equals or exceeds \$100,000.00.

Gross receipts from the following ownership interest (and certain related activities) will not be considered in determining whether a financial organization is subject to taxation:

1. An interest in a real estate mortgage investment conduit, a real estate investment or a regulated investment company.
2. An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates or interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates.
3. An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial loan or a secured commercial loan, and in which the payment obligation was solicited and entered into by a person that is independent and not acting on behalf of the owner; or an interest in the right to service or collect income from such a loan or asset.
4. An amount held in an escrow or trust account with respect to property described above.

If a financial organization is subject to taxation when gross receipts from these interests are not considered, such receipts must then be included when determining the amount of taxes owed.

Neither the numerator nor the denominator of the gross receipts factor should include gross receipts from obligations and certain loans on which you claim the special allowance in Schedule B-1 of Form CNF-120.

CNF-120U

Use this form for both the West Virginia Corporation Net Income Tax and Business Franchise Tax to determine if you are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty.

WHO MUST PAY THE PENALTY? A corporation is required to file a Declaration of Estimated Corporation Net Income Tax and make estimated tax payments if its West Virginia taxable income can reasonably be expected to exceed \$10,000.00, which equals a tax liability after tax credits of more than \$775.00 (Code §11-24-16). Estimated tax is a corporation's expected income tax liability minus its tax credits. A taxpayer is required to remit, in equal installments on the 15th day of the 4th, 6th, 9th, and 12th months of their taxable year, at least ninety percent (.9) of the tax due for the filing period.

Corporations subject to the West Virginia Business Franchise Tax are required to file a Declaration of Estimated Business Franchise Tax and make estimated tax payments if their liability for tax for the taxable year can reasonably be expected to exceed \$12,000.00 (Code §11-23-13). Estimated tax is the amount the taxpayer estimates to be their liability, minus allowable tax credits. A taxpayer is required to remit, in equal installments on the 15th day of the 4th, 6th, 9th, and 12th months of their taxable year, at least ninety percent (.9) of the tax liability.

If a corporation did not pay enough estimated tax by the due dates, it may be charged the penalty. This is true even if the corporation is due a refund when its return is filed. The penalty is figured separately for each installment due date. Therefore, the corporation may owe the penalty for an earlier installment due date, even if it paid enough tax later to make up the underpayment.

Part I: All Filers Must Complete this Part

Line 1 Enter your Business Franchise Tax after credits (line 5 of Form CNF-120). If this amount is less than \$12,000.00, skip lines 2 and 3 and enter 0 on line 4.

Line 2 Multiply the amount on line 1 by 90% and enter the result. This is the amount that you should have paid in estimated tax for this taxable year.

Line 3 Enter the Business Franchise Tax after credits from your 2011 return.

Line 4 Enter the smaller of line 2 or line 3. This is the amount you should have paid in estimated tax for this taxable year.

Line 5 Enter your Corporation Net Income Tax after credits (line 23 of Form CNF-120). If this amount is less than \$775.00, skip lines 6 and 7 and enter 0 on line 8.

Line 6 Multiply the amount on line 5 by ninety percent (.9) and enter the result here. This is the amount you should have paid in estimated tax for this taxable year.

Line 7 Enter the Corporation Net Income Tax from your 2011 return.

Line 8 Enter the smaller of line 6 or line 7. This is the amount you should have paid in estimated tax for this taxable year.

Line 9 Add lines 4 and 8. This is the combined estimated Business Franchise Tax and Corporation Net Income Tax that should have been paid.

DETERMINE YOUR PENALTY BY COMPLETING PART II, III, AND IV.

Part II: Annualized Installment Worksheet

If your taxable income/capital varied during the year, you may be able to lower or eliminate the amount of one or more required installments by using the annualized installment worksheet. To use the annualized installment method to figure the penalty, you must complete Part I, Part II, Part III, and Part IV of Form CNF-120U. Follow the line by line instructions entered on Form CNF-120U.

Part III: Calculate the Underpayment

Line 44 In column A, enter the estimated tax payments deposited by the 15th day of the 4th month of your tax year. In column B, enter payments made after the 15th day of the 4th month through the 15th day of the 6th month of your tax year. In column C, enter payments made after the 15th day of the 6th month through the 15th day of the 9th month of your tax year. In column D, enter payments made after the 15th day of the 9th month through the 15th day of the 12th month of the tax year.

Line 50 If any of the columns in line 50 shows an underpayment, complete Part IV to figure the penalty for that period.

Part IV: Calculate the Penalty

Complete lines 52 through 63 to determine the amount of the penalty. The penalty is figured for the period of underpayment determined under West Virginia Code §11-10-18a using the rate of interest determined under West Virginia Code §11-10-17 or 17a, whichever is appropriate for the taxable year. For underpayments involving periods after January 1, 2013, see the instructions for lines 60 and 61.

Line 52 Enter the date on which the installment payment was made or the original due date of the annual return, whichever is earlier. The due date of the return is the 15th day of the 3rd month following the close of the taxable year for corporations. The due date of the annual return of an exempt organization with unrelated business taxable income is the 15th day of the 5th month following the close of the taxable year. The payment of estimated tax is applied against underpayments of required installments in the order that installments are required to be paid, regardless of which installment the payment pertains to.

For example, a corporation has an underpayment for the April 15th installment of \$1,000. The June 15th installment requires a payment of \$2,500. On June 10th, the corporation deposits \$2,500 to cover the June 15th installment. \$1,000 of this payment is considered to be for the April 15th installment. The penalty for April 15th installment is figured to June 10th (56 days). The payment to be applied to the June 15th installment will then be \$1,500.

If you made more than one payment for a required installment, attach a separate computation for each payment.

Lines 60 & 61 For underpayments involving periods after January 1, 2013, use the interest rate established by the State Tax Commissioner. You can contact the West Virginia State Tax Department, Taxpayer Services Division, at (304) 344-2068 or toll free within West Virginia 1-800-422-2075 to get rate information. Request message #510.

Line 63 If you have completed this form to determine your penalty for underpaying your estimated Corporation Net Income and/or Business Franchise Tax, enter the amount on Form CNF-120, line 37.

Combined Reporting

COMBINED CORPORATION NET INCOME AND BUSINESS FRANCHISE TAX REPORTING REQUIRED (§11-24-13a(j)). For tax years

beginning on or after January 1, 2009, any taxpayer engaged in a unitary business with one or more other corporations shall file a combined report which includes the income, allocation, and apportionment of income of all corporations that are members of the unitary business. Notwithstanding any provision to the contrary in this article, the income of an insurance company, the allocation or apportionment related thereto and the apportionment factors of an insurance company shall not be included in a combined report filed under this article unless specifically required to be included by the Tax Commissioner.

NET OPERATING LOSS (NOL) CARRYOVERS EARNED DURING A YEAR IN WHICH THE TAXPAYER FILED A CONSOLIDATED TAX RETURN (§11-24-13c). West Virginia computes net operating losses on a post-apportionment basis, including business and nonbusiness income adjustments. NOLs can only be carried forward (or backwards) to be applied against West Virginia source income of the combined group members to which it is attributable. NOLs cannot be used by other members of the combined group. There is an exception for NOLs earned when the taxpayer was filing on a consolidated basis. Those NOLs can be carried over and applied against the income of any former member of the consolidated (controlled) group.

WATER'S-EDGE REPORTING. Water's-Edge Reporting is mandated absent an affirmative election to report based upon a worldwide unitary combined report. Members of the Water's-Edge Reporting group include:

1. Any unitary member incorporated in the United States or formed under the laws of any state, the District of Columbia or any territory or possession of the United States;
2. Any unitary member whose average property, payroll and sales factors within the United States is twenty percent or more;
3. Any unitary member which is a domestic international sales corporation, a foreign sales corporation, or an export trade corporation as defined by federal law;
4. Any unitary member with effectively connected income with the conduct of a trade or business within the United States to the extent of that effectively connected income;
5. Any unitary member that is a "controlled foreign corporation", to the extent of the members' Subpart F income, unless that income is subject to an effective rate of tax that is greater than ninety percent of the maximum federal rate;
6. Any unitary member that earns more than twenty percent of its income from intangible property or service-related activities that are deductible against the business income of other members of the water's-edge group; and
7. Any unitary member doing business in a tax haven.

WORLDWIDE UNITARY COMBINED REPORTING: You may choose to file Worldwide Unitary Combined Reporting. To do so, please fill out and sign West Virginia Form CNF-120OPT and attach to your return. This election is binding for 10 years unless a written request to withdraw for reasonable cause has been sent to the commissioner and granted.

General Information

What is the purpose of the UB Schedules? The purpose of the UB Schedules is to enable a unitary business group to determine the amount of its unitary business income that is attributable to West Virginia. A unitary business group's business income includes all income that may be apportioned by formula among the states in which the group is doing business without violating the Constitution of the United States.

What is a unitary business group? The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon, and contribute to each other. In the case of a corporation, common ownership is defined as the direct or indirect ownership or control of more than fifty percent (.5) of the outstanding voting stock. For further instructions see WV Code 11-24-13f (a) waters-edge reporting-subdivision (1) through (7).

What are the filing requirements? Corporations that are members of the same unitary business group must file a combined report including all required information of every business engaging in the unitary business with the corporation. This report must be filed with each member's separate return unless the group elects to designate a corporation as surety and file a combined return.

Specific Instructions

Schedule UB-4CR Combined Report. The purpose of the Schedule UB-4CR Combined Report is to provide a method of reporting the separate business income of multiple companies within a unitary group onto one statement. The business income is reported and apportioned for each company as if it were filed separately. The income for all companies is then combined, after eliminations, to allow the business income of the unitary group to be filed on one CNF-120.

The Schedule UB-4CR is a six tab Microsoft Excel spreadsheet for entering **Business Franchise Tax** and **Corporate Net Income Tax** data. The individual group types, **Regular Entities**, **Financial Organizations**, and **Motor Carriers** are represented on separate tabs for each tax type to allow for the varying rates of apportionment between the groups. Each tab is capable of holding data for up to two-hundred fifty (250) separate companies. Should the number of separate companies in the unitary group exceed 250; a second UB-4CR can be filed. Specific line instructions are contained on the schedule under the tab labeled **Instructions**.

The Schedule UB-4CR is located on the Tax Department website at www.wvtax.gov and is formatted to Tax Department specifications in a common Microsoft Excel 97-2003 format for consistency. The UB-4CR **MUST** be used when filing a combined report and/or combined return and **MUST** be emailed to the Tax Department as an attachment through a dedicated mailbox at taxcit@wv.gov.

Filename: FEIN (Of Surety, if Group Combined)+Type(CR)+Sequence+.xls

Example: 251234567CR001.xls

Schedule UB-1. List all members of the unitary business group including group number (1-3), name, FEIN, year ending, and total payments and prior year credits. Make copies of the blank Schedule UB-1 as needed. The following list defines what the group numbers are:

Group 1 – Regular entities

Group 2 – Motor carriers

Group 3 – Financial organizations

Schedule UB-2. For most filers, the unitary business structure will be in one of the following groups: Regular Entities, Motor Carriers, or Financial Organizations. Therefore the **Combined** column of the appropriate **Business Franchise Tax** group from Schedule UB-4CR will be what is transferred to the appropriate group column on Schedule UB-2. In the event of multiple groups, add the Taxable Capital from each group together and enter on line 22 of UB-2.

DOLLAR AMOUNT OF COMMON AND PREFERRED STOCK



Beginning balance from line 1 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.



Ending balance from line 2 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.



Average from line 3 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

PAID IN CAPITAL SURPLUS



Beginning balance from line 4 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.



Ending balance from line 5 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.



Average from line 6 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

RETAINED EARNINGS-APPROPRIATED AND UNAPPROPRIATED



Beginning balance from line 7 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
8

Ending balance from line 8 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
9

Average from line 9 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

ADJUSTMENTS TO SHAREHOLDERS EQUITY

Line
10

Beginning balance from line 10 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
11

Ending balance from line 11 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
12

Average from line 12 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
13

Add lines 3, 6, 9, and 12 for each group.

Line
14

Less cost of Treasury Stock (average) from line 14 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
15

Capital – Subtract line 14 from line 13 for each group.

Line
16

Multiplier for obligations/investments allowance (round to six [6] decimal places) from line 16 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
17

Obligations/investments allowance – line 15 multiplied by line 16 for each group.

Line
18

Adjusted Capital – subtract line 17 from line 15 for each group.

Line
19

Enter the amount from line 19 of the combined column of the Business Franchise Tax tab of Schedule UB-4CR for each group.

Line
20

Apportionment factor (round to six [6] decimal places) from line 20 of the Business Franchise Tax Tab of Schedule UB-4CR for each group.

Line
21

Taxable Capital – line 19 multiplied by line 20 for each group.

Line
22

Combined Total Taxable Capital (add line 21 from groups 1 through 3). Enter amount here and on line 1 of Form CNF-120.

group from Schedule UB-4CR will be what is transferred to the appropriate group column on the Schedule UB-3. In the event of multiple groups, add the Taxable Income from each group together and enter on line 20 of UB-3.

INCREASING ADJUSTMENTS TO FEDERAL TAXABLE INCOME

Line
1

Enter total taxable income from line 1 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2a

Enter exempt interest or dividends not exempt from state tax from line 2a of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2b

US Obligation interest/dividends not exempt from state tax from line 2b of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2c

Income/other tax based upon net income from line 2c of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2d

Federal depreciation/amortization for wholly WV corporation water/air pollution control facilities from line 2d of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2e

Unrelated business taxable income of a corporation exempt from federal tax (IRC Sec. 512) from line 2e of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2f

Federal net operating loss from line 2f of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2g

West Virginia Neighborhood Investment Program Tax Credit (charitable contributions to NIPA) from line 2g of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group..

Line
2h

Net operating loss from sources outside US from line 2h of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2i

Foreign Taxes deducted on your federal return from line 2i of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2j

Enter Qualified Production Activity Deduction taken under IRC §199 from line 2j of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
2k

Add back for expenses related to certain REIT's and Regulated Investment Companies and certain interest and intangible expenses (WV Code §11-24-4b) from line 2k of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group..

Line
3

Total increasing adjustments – add lines 2a through 2k for each group.

DECREASING ADJUSTMENTS TO FEDERAL TAXABLE INCOME

Line
4a

Refund/credit on taxes based upon net income included in federal taxable income from line 4a of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Schedule UB-3. For most filers, the unitary business structure will be in one of the following groups: Regular Entities, Motor Carriers, or Financial Organizations. Therefore the **Combined** column of the appropriate **Corporate Net Income Tax**

Line
4b

Interest expense on obligations/securities not allowed in determining federal taxable income from line 4b of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4c

Salary expense not allowed on federal return due to claiming federal jobs credit from line 4c of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4d

Foreign dividend gross-up (IRC Sec. 78) from line 4d of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4e

Subpart F income (IRC Sec. 951) from line 4e of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4f

Taxable income from sources outside US from line 4f of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4g

Cost of wholly WV water/air pollution control facilities from line 4g of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4h

Federal taxable income employer contributions to medical savings accounts withdrawn for non-medical purposes from line 4h of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
4i

Allowance for obligations/investments from line 4i of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
5

Total decreasing adjustments – add lines 4a through 4i for each group.

Line
6

Adjusted Taxable Income – add lines 1 and 3, and subtract line 5 for each group.

Line
7

Total non-business income allocated everywhere from line 7 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
8

Total non-unitary business income from line 8 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
9

Income subject to apportionment – subtract lines 7 and 8 from line 6 for each group.

Line
10

Enter the amount from line 9 of the Combined column on Schedule UB-4CR.

Line
11

WV apportionment factor (round to six [6] decimal places) from line 11 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
12

WV apportioned income – line 10 multiplied by line 11 for each group.

Line
13

Non business income allocated to WV from line 13 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
14

Non-unitary business income apportioned to WV from line 14 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
15

WV taxable income-add lines 12, 13, and 14 for each group.

Line
16

WV net operating loss from line 16 of the Corporate Net Income Tax Tab of Schedule UB-4CR for each group.

Line
17

WV net taxable income – subtract line 16 from line 15 for each group.

Line
18

REIT Inclusion and other taxable income.

Line
19

WV Net Taxable income – add lines 1 and 18.

Line
20

Combined total WV net taxable income (add lines 19, groups 1 through 3). Enter total here and on line 19 of Form CNF-120.

Schedule UB-4APT Allocation and Apportionment for Multistate Corporations

Schedule A1 & A2 – Allocation of Nonbusiness Income

If your business activities take place both within and without West Virginia and you are also taxable in another state, certain items of nonbusiness income that are included in federal taxable income are directly allocated. All other income must be apportioned.

Business income arises from transactions and activities in the regular course of the corporation's trade or business, and include income from tangible and intangible property if the acquisition, management or disposition of the property constitutes integral parts of the corporation's trade or business.

Nonbusiness income includes all income that is not properly classified as business income less all expenses attributable to the production of this income. Nonbusiness income is allocated to West Virginia if (1) the corporation's commercial domicile, the principal place from which the trade or business is managed is located in West Virginia; or (2) property creating the nonbusiness income is utilized in West Virginia. Nonbusiness income from real property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia, or, in the case of patents or copyrights, if they are used in West Virginia.

For a detailed discussion of allocation of nonbusiness income, you may request a copy of Publication TSD-392, "Corporation Net Income Tax Nonbusiness Income", by contacting our Taxpayer Services Division.

Determine nonbusiness income allocated to West Virginia and outside West Virginia by completing Schedule A1 and A2 of Schedule UB-4APT. Only those types of nonbusiness income listed on Schedule A1 and A2 of Schedule UB-4APT can be allocated. Any other types of income that the corporation classifies as nonbusiness must be apportioned.



Enter the amount from column 3, line 8 of Schedule A1 on line 7 of the Corporate Net Income Tax Tab of the Schedule UB-4CR.



Enter the amount from column 3, line 12 of Schedule A2 on line 13 of the Corporate Net Income Tax Tab of the Schedule UB-4CR.

Schedule B1* & B2** – Apportionment Formula

If your business activities take place both within and without West Virginia and you are also taxable in another state, all net income, after deducting those items of nonbusiness income allocated on Schedules A1 & A2 of UB-4APT must be apportioned to West Virginia by using the appropriate apportionment formula. **Completion of Schedules B1 and B2 is required even if apportionment is zero.**

Special apportionment formulas apply to motor carriers and to financial organizations. If you are filing for a financial organization, follow the apportionment instructions for Schedules B1 and B2 of UB-4APT, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Schedules B1 and B2, of Schedule UB-4APT, Parts 1 and 2.

Multistate corporations will use the standard apportionment formula of payroll, property, and sales, with the sales factor double weighted, and will complete Schedule B1 and B2 of Schedule UB-4APT Parts 1 through 3 as applicable.

Petitioning for an alternate method of apportionment. To use an alternate method of allocation and apportionment, you must petition the Tax Commissioner to use some other basis to determine your taxable net income. Your petition for an alternate method must be filed no later than the normal due date of your return.

You must have written permission to use an alternate apportionment method before filing your return. Permission will only be granted if you can show that the statutory formula does not properly reflect your taxable income, and if the alternate method properly and fairly shows your West Virginia taxable income.

Your petition should include your name and address, state of incorporation and principle place of business, a description of the kind(s) of business in which you are engaged, a detailed statement of how sales are made in West Virginia, a computation of your West Virginia taxable income using the statutory apportionment formula and using your proposed alternate formula, and a summary of the facts that support your position.

Send your petition to West Virginia State Tax Department, Tax Account Administration Division, Corporate & Franchise Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

Multistate Corporations – Four Factor Formula

To determine your West Virginia apportionment percentage, first determine the following factors:

Property Factor. Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income. Property used in connection with the items of nonbusiness income allocated in Schedule A1 and A2 of Schedule UB-4APT shall be excluded from the factor.

Property must be included in the property factor if it is actually used or is available for or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must be included. Property or equipment under construction (except goods in process that can be inventoried) must be excluded until it is actually used to generate business income. Movable property, such as tools, construction equipment and trucks, used both within and without West Virginia, shall be included in the numerator of the fraction on the basis of total time within the state during the taxable year.

Property owned is valued at original cost. Property rented is valued at eight times the net annual rental rate. Leasehold improvements are considered property owned and are included at their original cost. Generally, original cost is the basis of the property for federal income tax purposes at the time of acquisition and adjusted by subsequent capital additions of improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its value at the beginning and ending of the taxable period. The Tax Commissioner may require or allow averaging by monthly values if such a method is required to properly reflect the average value of the taxpayer's property for the taxable year.

* Schedule B1 is for unitary business income apportionment formula

** Schedule B2 is for non-unitary business income apportionment formula



Divide column 1 by column 2 and enter result in column 3. State the result as a decimal and round to six (6) places after the decimal.

Payroll Factor. The payroll factor shall include the amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation may be included in the payroll factor by use of the cash basis only if you have permission from the Tax Commissioner for an alternate method of apportionment. Compensation means wages, salaries, commissions, and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. **Only amounts paid directly to employees are included in the payroll factor.** Do not include compensation paid to employees engaged exclusively in an activity that generates nonbusiness income that you allocated in Schedule A1 and A2 of Schedule UB-4APT.

The denominator of the payroll factor is the total compensation paid by the taxpayer during the taxable year, as shown on the federal income tax return filed with the Internal Revenue Service and as reflected in the schedule of wages and salaries and that portion of the cost of goods sold which reflect compensation.

The numerator of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met:

- The employee's service is performed entirely within this state;
- The employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state (the word incidental means any service which is temporary or transitory in nature or which is rendered in connection with an isolated transaction);
- If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:
 - if the employee's base of operations is in this state;
 - if there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or
 - if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state. Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

Determine the payroll factor by entering the appropriate amounts on line 2. Enter West Virginia payroll in column 1 and payroll everywhere in column 2.



Divide column 1 by column 2 and enter the result in column 3. Round to six (6) places after the decimal.

Sales factor. The term "sales" means all gross receipts of the taxpayer that are business income. The sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced nonbusiness income that you allocated in Schedule A1 and A2 of Schedule UB-4APT.

The denominator (column 2) of the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business that was reflected in your gross income reported and as appearing on your federal income tax return unless otherwise excluded. Sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. under Public Law 86-272) are to be excluded from the denominator.

The numerator (column 1) of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of your trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

SALES OF TANGIBLE PERSONAL PROPERTY. Gross receipts from sales of tangible personal property are in West Virginia (1) if the property is received in West Virginia by the purchaser (except sales to the United States government) regardless of the F.O.B. point or other conditions of sales; or (2) if the property is shipped from an office, store, warehouse, factory, or other place of storage in West Virginia and the purchaser is the United States government.

Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received after all transportation is completed is the place where the sale took place. Direct delivery in West Virginia, other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where the title passes or other conditions of sale. Direct delivery outside West Virginia, to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

OTHER SALES. Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia if (1) the income producing activity which gives rise to the receipts is performed entirely in West Virginia; (2) the income producing activity is performed both in and outside West Virginia and a greater portion of the income producing activity is performed in this state than in any other state, based on cost of performance; or (3) if the sale constitutes business income to the taxpayer, or the taxpayer is a financial organization subject to the special apportionment rules. Refer to West Virginia Code §11-24-7 for a discussion of income producing activity and cost of performance.

Gross receipts from the sale, lease, rental, or licensing of real property are in West Virginia if the real property is located in this state. Gross receipts from the rental, lease or licensing of tangible personal property are in West Virginia if the property is located in this state. If such property is both within and without West Virginia during the rental, lease or licensing period, gross receipts attributable to West Virginia shall be determined based upon the total time within the state during the taxable year. Gross receipts for the performance of personal services are in West Virginia if such services are performed in this state.

Determine the sales factor by entering the appropriate amount on line 3. Enter West Virginia sales in column 1 and sales everywhere in column 2.

Line 3

column 2. Total Sales. This amount when added to the total gross nonbusiness income as shown on Schedule A1 of Schedule UB-4APT, column 1, must equal the sum of your items of gross income as reported on your federal income tax return. Any differences must be noted and explained in an attachment to your return.

\$ _____	Sum of gross income items on federal return
\$ _____	Less total allocated income (Schedule A1 of Schedule UB-4APT, column 1)
\$ _____	Equals line 3, column 2, Schedule B1 of Schedule UB-4APT.

Line 4

Enter the total gross receipts from sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. Public Law 86-272). This is the throw out rule per WV Code §11-24-7(e)(11)(B) and §11-23-5(i)(2).

Line 5

In column 1, enter the amount from line 3. In Column 2, subtract line 4 from line 3 and enter the difference. Divide column 1, line 5 by column 2, line 5 and enter the result in column 3, line 5. State the result as a decimal and round to six (6) places after the decimal.

Line 6

Enter line 5 again.

Line 7

Add column 3, lines 1, 2, 5, and 6 and enter the sum in column 3.

Line 8

Divide the six (6) digit decimal from column 3, line 7 by the number 4, reduced by the number of factors, if any, showing zero in column 2, lines 1, 2, 5, or 6. Enter the six (6) digit decimal fraction from line 20 of the Business Franchise Tax Tab of the UB-4CR and line 11 of the Corporate Net Income Tax Tab of the UB-4CR.

Motor Carriers – Special Single Factor Formula

Part 2 – Vehicle Miles. Motor carriers of property or passengers are subject to special apportionment rules. Motor carriers must apportion their business income by using a single factor formula of vehicle miles.

The special apportionment formula for motor carriers is to be used for the Corporation Net Income Tax ONLY! The special rules DO NOT apply to the West Virginia Business Franchise Tax.

A motor carrier is any person engaged in the transportation of passengers and/or property for compensation by a motor propelled vehicle over roads in West Virginia, whether on a scheduled route or otherwise. The term “vehicle miles” means the operation of a motor carrier over a distance of one mile.

The special apportionment formula for motor carriers does not apply if (A) the motor carrier neither owns nor rents any real or tangible personal property located in this state, has made no pick ups or deliveries within this state, and has traveled less than 50,000 miles in this state during the taxable year; or (B) the motor carrier neither owns nor rents any real or tangible personal property located in West Virginia, except vehicles, and made no more than 12 trips into or through this state during the taxable year. Under either (A) or (B), the mileage traveled in West Virginia may not be more than 5 percent (.05) of the total vehicle miles traveled in all states during the taxable year.

Determine the apportionment factor by entering the appropriate vehicle miles for West Virginia in column 1 and vehicle miles everywhere in column 2.

Divide column 1 by column 2 and enter in column 3. State the result as a decimal fraction and round to six places after the decimal. Enter the six (6) digit decimal fraction from column 3 on line 11 of the Corporate Net Income Tax Tab of the UB-4CR.

Financial Organizations – Special Factor Formula

Part 3 – Gross Receipts. Financial organizations subject to apportionment must apportion their business income by using a single factor gross receipts formula. This special apportionment rule applies to both the West Virginia Corporation Net Income Tax and Business Franchise Tax.

A financial organization is any holding company or regulated financial corporation or subsidiary thereof, or any corporation deriving more than 50% of its gross receipts from one or more of the following:

1. Making, acquiring, selling, or servicing loans or extensions of credit.
2. Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of an extension of credit.
3. Operating a credit card business.
4. Rendering estate or trust services.
5. Receiving, maintaining or otherwise handling deposits.
6. Engaging in any other activity with an economic effect comparable to any of the above.

Financial organizations regularly engaging in business in West Virginia shall apportion their capital and business income by means of a single factor gross receipts apportionment formula. A financial organization not having its commercial domicile in West Virginia is presumed to be regularly engaging in business in West Virginia if during any year it obtains or solicits business with 20 or more persons within West Virginia, or the sum of its gross receipts attributable to sources in West Virginia equals or exceeds \$100,000.00.

Gross receipts from the following ownership interest (and certain related activities) will not be considered in determining whether a financial organization is subject to taxation:

1. An interest in a real estate mortgage investment conduit, a real estate investment or a regulated investment company.
2. An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates or interest that provide for payments in relation to payments or reasonable projections

of payments on the notes or certificates.

3. An interest in a loan or other asset from which the interest is attributed to a consumer loan, a commercial loan or a secured commercial loan, and in which the payment obligation(s) were solicited and entered into by a person that is independent and not acting on behalf of the owner; or an interest in the right to service or collect income from such a loan or asset.
4. An amount held in an escrow or trust account with respect to property

described above.

If a financial organization is subject to taxation when gross receipts from these interests are not considered, such receipts must then be included when determining the amount of taxes owed.

Neither the numerator nor the denominator of the gross receipts factor should include gross receipts from obligations and certain loans on which you claim the special allowance in Schedule B-1 of Form CNF-120.

Form CNF-120W Instructions

You must enclose the CNF-120W with your return even if you have no income or withholding.

A – Payer information:

- Enter the name and address of the payer from which you received the 1099, K-1, or WV-NRW-2.

B – Taxpayer Information:

- Enter your name. Make sure the Federal Employer Identification Number(s) agree with your statements and are correct.

C – WV Tax Withheld:

- Enter the amount of WEST VIRGINIA TAX WITHHELD from:
- 1099, line 10
- K-1, line 8 (WV only)
- NRW-2, WV only
- Check the source of withholding, then enter the date the tax year ended.
- Check the box that identifies the tax statement type.

	A – Payer Information	B – Taxpayer Information	C – WV Tax Withheld
1	123456789	ABC COMPANY	500.00
	Payer ID from 1099, K-1, and/or NRW-2	Name	WV WITHHOLDING
	JSMITH INC	555555555	Check the appropriate box
	Payer Name	FEIN	<input checked="" type="checkbox"/> 1099 <input type="checkbox"/> K-1 <input type="checkbox"/> NRW-2
	123 ANY STREET		1212 Date tax year ending (MMYY)
	Address	5000.00	Enter WV withholding Only
	COLUMBUS OH 43085	Income Subject to WV WITHHOLDING	
	City, State, ZIP		