

2012

WEST VIRGINIA

INCOME/BUSINESS FRANCHISE TAX FOR S CORPS & PARTNERSHIPS (PASS-THROUGH ENTITIES)

INSTRUCTIONS



New for 2012

Tax Rates

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

New Tax Credit

Innovative Mine Safety Technology Tax Credit (§11-13BB) – For tax years beginning after December 31, 2011, the Innovative Mine Safety Technology Tax 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 tax return, Taxpayers must receive an approved credit allocation from the West Virginia Office of Miners' Health Safety and Training and complete and attach to the tax return Schedule IMSTTC-1. Additional information on the Innovative Mine Safety Tax Credit, including application forms and approved safety technology equipment may be found at the West Virginia Office of Miners' Health Safety and Training Web page at www.wvminesafety.org/regulation_updates.htm.

Tax Law Changes

The Apprentice Training Tax Credit (§11-13w) amount for each apprentice has increased from \$1,000 to \$2,000.

Taxpayer Responsibilities

Filing Your Business Tax Returns

Returns must 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 our home page on the internet 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 pages of the return must be filed.**

Payment of the Tax

The full amount of tax owed is due and payable on the 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 for any reason 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 (3) months on overpayment of Business Franchise 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 (60) 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

If you sell or discontinue 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

Use the returns in this booklet for calendar year 2012 and for fiscal years beginning in 2012 and ending in 2013. The information in this book is intended to help you complete your returns and is not a substitute for tax laws and regulations.

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 in West Virginia or is doing business in West Virginia is subject to the Business Franchise Tax.

The term "doing business" means any activity of a corporation or partnership which enjoys the benefits and protection of the government and laws of West Virginia. 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 West Virginia. The term "partnership" includes a syndicate, group, pool, joint venture, limited liability company not taxable as a corporation under federal laws, or other unincorporated organization by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation, or a sole owner.

For corporations, 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.

S corporations will also include the average of the accumulated adjustment account, other adjustment account, and shareholders undistributed taxable income. For partnerships, the capital is the average of the beginning and ending balances of the partner's capital accounts. 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. Multistate businesses will apportion their capital to West Virginia using a four factor formula consisting of payroll, property, and double weighted sales factors.

The tax rate is .0027 of taxable capital with a minimum tax of \$50.

Exempt Organizations

Any S corporation or partnership exempt from federal income tax is also exempt from West Virginia 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.

When to File and Pay

A partnership's annual Income/Business Franchise Tax Return is due on or before the 15th day of the 4th month after the close of the taxable year. The filing of returns is required whether or not any tax is due. An S corporation's annual Income/Business Franchise Tax return is due on or before the 15th day of the 3rd month after the close of the taxable year. The filing of returns is required whether or not any tax is due. Make your remittance payable to the West Virginia State Tax Department.

Who Must File

The following partnerships are required to file an Income/Business Franchise Tax Return:

- a. Resident partnerships,
- b. Nonresident partnerships having a partner who is a resident of West Virginia, or
- c. Nonresident partnerships having any income from or connected with West Virginia sources regardless of the amount of such income.

Income from or connected with West Virginia is those items attributable to (a) the ownership of any interest in real or tangible personal property in West Virginia; or (b) a business, trade, profession, or occupation carried on in West Virginia including income from intangible personal property employed in such business, trade, profession, or occupation.

The term “**partnership**” includes syndicates, pools, joint ventures or any other unincorporated organization of two or more persons through which any business, trade, profession, occupation or venture is carried on. “**Resident Partnership**” means any partnership organized under the laws of West Virginia whose principal office, place of business, or other activity is within the borders of West Virginia. It may also carry on its business or other activities in other states. “**Nonresident Partnership**” means any partnership other than a resident partnership.

A **limited liability company** which is treated like a partnership for federal income tax purposes will also be treated as such for West Virginia income tax purposes. If it is not treated like a partnership, it will be taxed as a C corporation.

Every corporation electing to be taxed under subchapter S of the Internal Revenue Code that engages in business in West Virginia or that derives income from property, activity, or other sources in West Virginia must file a West Virginia return.

Extension of Time to File

Any partnership or S corporation needing an extension of time to file and/or that expects to owe Nonresident Withholding Tax must file Form SPF-100T, Extension of Time to File Information Returns, on or before the due date of the return. Any partnership granted an extension of time to file their federal return is granted the same extension of time to file their West Virginia return. Be sure to attach a copy of your federal extension to each tax return to avoid any penalty for late filing. An extension of time for filing does not extend the time for payment. To avoid interest and additions to tax for late payment, use Form SPF-100T to make a tentative payment pending the filing of the annual return.

A state extension of time to file may be obtained, even if a federal extension has not been requested, provided Form SPF-100T is filed prior to the due date of the West Virginia return.

Where to File

West Virginia State Tax Department
Tax Account Administration Division
PO Box 11751
Charleston, WV 25339-1751

Use of Federal Figures

All items of income and deductions to be reported on this return are the same as for federal tax purposes and the meaning of all terms are the same, unless otherwise defined.

Penalty for Late Filing and Failure to Include Correct Information

Any S corporation or partnership that fails to file and/or include all the correct information on Form SPF-100 and Form NRW-2 or Form NRW-4 when applicable, by the required filing date is subject to a penalty of \$50.00 for each information return that they failed to file or include correct information on, not to exceed \$100,000.

Provisions for the reduction of the penalty amount exist if the partnership corrects the failure or error within specified time frames. If the failure is due to intentional disregard for the filing requirements or the correct information reporting requirement, the penalty is \$100.00 or ten percent (.1) of the aggregate amount of the items required to be reported correctly, whichever is greater.

For additional information about this penalty, request a copy of Publication TSD-391 by calling Taxpayer Services at (304) 558-3333 or toll free at 1-800-982-8297. Also, the Publication can be found online at www.wvtax.gov.

Nonresident Partner/Shareholder Withholding

Partnerships and S corporations are required to withhold West Virginia Income Tax from each nonresident partner/shareholder that has not provided the partnership or S corporation a WV Nonresident Income Tax Agreement, Form NRW-4. The amount to be withheld is six and one-half percent (.065) of the nonresident partner's/shareholder's share of the Federal Taxable income or portion thereof that is derived from or attributable to West Virginia sources, whether such amount is actually distributed or is deemed to have been distributed for Federal Income Tax purposes. The entire tax withheld is required to be remitted with the WV Income/Business Franchise Tax return for S corporation and Partnership. The individual nonresident partners/shareholders may claim the amount withheld as a credit against their WV Income Tax liability by attaching a copy of the information statement provided by the Partnership/S corporation to their WV Income Tax Return.

INFORMATION STATEMENT OF TAX WITHHELD

Every S corporation or partnership required to deduct and withhold tax on nonresident shareholders/partners must provide an information statement to each nonresident shareholder/partnership on or before the date it files its WV Income Tax Return. The information statement shall show the amount of WV income subject to withholding and the amount of WV Income Tax withheld. The S corporation or partnership may satisfy this requirement by indicating this information on Form NRW-2, Statement of WV Income Tax Withheld for Nonresident Individual or Organization or in the supplemental information area of the nonresident shareholder's copy of Federal Schedule K-1 or by an attachment to the Federal Schedule K-1 listing the same information. The nonresident shareholder/partner must attach their copy of Form NRW-2 or Federal Schedule K-1 including the information statement of WV Income Tax Withheld to their WV Income Tax Return to claim credit for tax withheld.

COMPOSITE RETURN

An S corporation or partnership, instead of withholding tax on distributions of West Virginia source income to its nonresident shareholders/partners, may opt instead to satisfy the nonresident withholding requirements by filing a WV Nonresident COMPOSITE Income Tax Return (Form IT-140NRC) for one or more of its nonresident shareholders. A composite return is a return filed on a group basis as though there was only one taxpayer. A list setting forth the name, address, taxpayer identification number, and percent of ownership of each nonresident shareholder/partner included in the return must be maintained. The list should NOT be submitted with the composite return, but should be made available to the Department upon request. The return does not have to be signed by each nonresident shareholder provided it is signed by a corporate officer. When filing a composite return, no personal exemptions may be utilized and the rate of tax is six and one half percent (.065) of the taxable income. The S corporation or partnership is responsible for collecting and remitting all income tax due at the time the return is filed. The due date for a composite return is the 15th day of the 4th month following the close of the taxable year. A \$50.00 processing fee must also accompany the composite return.

Any nonresident shareholder/partner included in a composite return that has income from any other West Virginia source, must file a separate Nonresident Personal Income Tax Return for the taxable year to report and pay Personal Income Tax on all of their West Virginia source income. The nonresident may claim credit for their share of West Virginia income tax remitted with the composite return.

S Corporation Income (Loss) or Partnership Income (Loss)

Line 1, Schedule A of Form SPF-100 is used to report all income (loss) from all activity of the S corporation, but only to the extent that it is taxable and allocable to the shareholders. If the S corporation has income (loss) from activity in more than one state, Schedule B of Form SPF-100APT must also be completed.

If an S corporation has income (loss) from activity in more than one state, and they are able to separately identify and account for items of income and deductions as being directly allocable to WV, they may separately account for the WV business activity on lines 1 through 5. Generally, income derived from the ownership of real or tangible personal property in West Virginia lends itself to direct allocation, whereas income from a business carried on within and without the State would preferably be allocated by apportionment. Unless the books and records of the S corporation clearly reflect that portion, the allocation must be made by the apportionment formula provided in Schedule B of form SPF-100APT.

If you have determined your WV Income entirely by direct allocation, you are not eligible to apportion.

Partnership Income (Loss)

Line 1, Schedule A of from SPF-100 is used to report all income (loss) from all activity of the partnership, but only to the extent that it is taxable and allocable to the partners. If the partnership has income (loss) from activity in more than one state, Schedule B of Form SPF-100APT must also be completed.

SHAREHOLDER INFORMATION

Nonresident withholding lines 1 through 4 of West Virginia Form SPF-100 plus Schedule SP are used to identify all shareholders and to account for each shareholder's share of the S corporation's income. It is also used to calculate the amount of withholding that is required on the nonresident shareholder's share of the S corporation's income. All shareholders are subject to WV Personal Income Tax under the provisions of WV Code Chapter 11, Article 21. Also, the S corporation is required to withhold Income Tax on the nonresident shareholder's share of the S corporation's WV source income under the provisions of Chapter 11, Article 21, Section 71a.

Partner Information

Nonresident withholding lines 1 through 4 of Form SPF-100 plus Schedule SP are used to identify all partners and to account for each partner's share of the partnership's income. It is also used to calculate the amount of withholding that is required on the nonresident partner's share of the partnership's income.

Taxable Year/Method of Accounting

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

Federal Return Information

A signed, true copy of Federal Form 1120S or 1065, Schedule K, and any supporting documents must be attached to the return when filed.

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 at 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 — 12/31/91	10%	1/1/98 — 12/31/98	9%
1/1/91 — 6/30/92	9%	1/1/99 — 6/30/00	8%
7/1/92 — 12/31/95	8%	7/1/00 — 12/31/01	9%
1/1/96 — 12/31/96	9%	1/1/02 — 6/30/02	8%
1/1/97 — 12/31/97	8%	7/1/02 — 12/31/12	9.5%

Contact the West Virginia State Tax Department Taxpayer Services Division for the interest rate in effect for other periods. The telephone number is (304) 558-3333 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.

Completion and Signature

All appropriate sections of the return must be completed. All required supporting documents must be attached. An incomplete return will not be accepted as timely filed. The returns must be signed by an authorized officer, partner, or member. 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 S corporation or partnership 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 90 days of the final determination by filing an amended return and attaching a copy of the revenue agent's report detailing such adjustments.

An S corporation or partnership that filed an amended return with the Internal Revenue Service must file an amended return with the West Virginia State Tax Department within 90 days of filing the amended federal return.

Pass-Through Amended Returns

An S corporation or partnership that filed an amended return with the Internal Revenue Service **must** file an amended return with the West Virginia State Tax Department within **90 days** of filing the amended federal return.

- File Form SPF-100, page 1, completing all appropriate lines and checking the **Amended** box under "Type of Return." Because West Virginia now uses bar codes 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; be sure to use the 2007 SPF-100 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 13 of Form SPF-100, page 1.
- If you received a refund or had an amount credited on the original return, enter that amount on line 15 of Form SPF-100, page 1.

- Attach all schedules that have amended amounts in order to verify the changes made to the return. **Example:** There was a change made to your West Virginia Taxable Capital; be sure to attach **Schedule B** 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 Combined West Virginia Income/Business Franchise Tax Return for S corporations and Partnerships, 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 the nature and extent of the variance or modification.

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 investigations, 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 returns.

Schedule SP

Enter the name, address, city, state, and zip code of each shareholder/partner that the S corporation or partnership had during its taxable year. If additional space is needed, attach additional copies of Schedule SP.

COLUMN A

Enter the social security number or federal employer's identification number of the shareholder/partner listed on the same numbered line in the top part of Schedule SP.

COLUMN B

If the shareholder/partner is a resident of West Virginia, enter their percent of ownership in this column. **Do not complete columns C through H for West Virginia resident shareholders/partners.**

COLUMN C

If the shareholder/partner is a nonresident of West Virginia and the S corporation will satisfy the nonresident withholding requirements by filing a composite return for its shareholders/partners, enter their percent of ownership in this column. Do not complete columns D through H if you are filing a composite return

for your nonresident shareholders/partners.

COLUMN D

If the shareholder/partner is a nonresident of West Virginia and the S corporation is not filing a composite return for its nonresident shareholders/partners, enter the percent of ownership in this column. **Do not complete columns F through H if you have received Form NRW-4 from the nonresident shareholder/partner.** Instead, attach a copy of Form NRW-4 to your Form SPF-100 when filed and check the box in column E.

COLUMN E

If you have received Form NRW-4 from the nonresident shareholder/partner, check this box and attach the agreement to your return when filed. Also, if you received Form NRW-4 from the nonresident shareholder/partner during a prior tax year and previously filed the agreement with your return for that year and it has not been revoked, check this box. If the agreement was previously filed with the Department and it has not been revoked, it is not necessary to file additional copies with your return for subsequent years.

COLUMN F

Enter your West Virginia income for S corporations from Schedule A, line 12 of Form SPF-100. For partnerships, enter your West Virginia income from schedule A, line 10 of Form SPF-100.

COLUMN G

Multiply the dollar amount in column F by the percent of ownership from column D and enter the result in column G.

COLUMN H

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

LINE 11

Total the columns. If you have attached additional copies of Schedule SP enter the grand total of the columns from all the copies of Schedule SP on the first Schedule SP and label the figures as "grand total". Transfer the appropriate column totals to the front of the return (SPF-100).

SPECIAL NOTE: S corporations/partnerships with nonresident shareholders/partners are strongly encouraged to review the following forms:

NRW-2 – Statement of West Virginia Income Tax Withheld for Nonresident Individual or Organization

SPF-100T – Extension of Time to File Information Returns

These forms contain important information about the nonresident withholding requirements. You may find these forms online at www.wvtax.gov.

EXTENSION PAYMENTS

Extension requests and tentative payments of nonresident withholding tax for S corporations/partnerships are to be submitted on Form SPF-100T.

SPF-100

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

federal return being filed.

BUSINESS DATA ATTACHMENTS AND STATEMENTS REQUIRED

Attach the additional information and statements required as part of your form SPF-100 if they apply to your filing method.

Attach a copy of the **first five pages** of your **signed** federal return (Form 1120S or 1065), 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 expense, 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.

S CORPORATIONS/PARTNERSHIPS WITH NONRESIDENT SHAREHOLDERS/PARTNERS MUST COMPLETE SCHEDULE SP BEFORE COMPLETING LINES 1 THROUGH 4.

Line
1

1 Enter the total percentage from line 11, column C, Schedule SP.

Line
2

Enter the total percentage from line 11, column D, Schedule SP.

Line
3

Enter the total dollar amount from line 11, column G, Schedule SP.

Line
4

Enter the total dollar amount from line 11, column H, Schedule SP.

Line
5

Enter West Virginia taxable income from Business Franchise Tax Schedule B, line 16.

Line
6

Multiply line 5 by the tax rate and enter the result or \$50.00 whichever is greater.

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

When 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
7

Enter the result from line 21 from the completed Business Franchise Tax Credit Schedule (SPF-100TC). Total amount of credit cannot exceed the tax on line 6.

Line
8

Subtract line 7 from line 6 and enter the result on line 8.

Line
12

Complete SPF-100W and include with your return.

Line
13

Amount paid with original return (amended return only).

Line
15

Overpayment previously refunded or credited (amended return only).

Line
16

Total payments. Subtract line 15 from line 14.

Line
18

Determine interest due. See the general information on page 5 of this booklet for additional information regarding interest.

Line
19

Determine additions to tax due. See the general information on page 5 and 6 of this booklet for additional information regarding additions to tax.

Line
21

Remit this amount by check made payable to the West Virginia State Tax Department.

Lines
22-24

An overpayment may be credited to next year's tax or refunded, either in whole or part. Enter on line 23 the amount of overpayment to be credited to next year's tax. Enter on line 24 the amount of overpayment to be refunded.

SPF-100 Schedule A

S corporations and partnerships with nonresident shareholders must complete lines 1 through 12 and all applicable parts of Schedule SP.

All S corporations and partnerships must complete lines 1 through 12 and Schedule SP through column D. If the S corporation or partnership has income from sources both within and without West Virginia, they must complete Form SPF-100APT to determine how much of their income is from a West Virginia source.

Line
1

An S corporation will enter the ordinary income (loss) as shown on Federal Form 1120S. A partnership will enter the ordinary income (loss) as shown on Federal Form 1065.

Line
2

Enter the amount of all other gross income (loss) of the S corporation as shown on Federal Form 1120S, Schedule K, and K-1, that is not included on line 1. Enter the amount of all gross income (loss) of the partnership shown on Federal Form 1065, Schedule K, and K-1, that is not included on line 1.

Line
3

S corporations will enter the amount of any expenses or deductions as shown on Federal Form 1120S, Schedule K, that are not included on line 1. Partnerships will enter the amount of any expenses or deductions as shown on Federal Form 1065, Schedule K, that are not included on line 1.

Line
5

Net modifications to federal income for S corporation or partnership. This figure comes from Schedule A-1 line 23 or Schedule A-2 line 24.

Lines
7 & 11

If the S corporation has income derived from sources within and without West Virginia, and some of it can be classified as nonbusiness income, complete Schedule A of Form SPF-100APT to properly determine how much of the nonbusiness income is from West Virginia. See the instructions for Schedule A1 and A2 of Form SPF-100APT found in this booklet for how to classify income as nonbusiness income.

Line
9

If income is derived from sources within and without West Virginia, enter the apportionment factor from Schedule B of Form SPF-100APT found in this booklet.

SPF-100 Schedule A-1

West Virginia law requires certain items of income and deductions to be added to or subtracted from the partnership's federal partnership income. Enter the appropriate increasing and decreasing modifications as indicated on lines 13 through 23. **Enter allowance for governmental obligations/obligations secured by residential property from Schedule A-3, line 9 here.**

SPF-100 Schedule A-2

Line
1

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

Line
2

Attach supporting documentation

Line
3

Attach an itemized schedule of taxes or licenses from your federal income tax return Form 1120S or pro forma.

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 West Virginia will make the adjustment for the cost of facilities on 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 line 4. A taxpayer who is subject to allocation and apportionment makes the adjustment for the cost of the facilities on Schedule A2 of Form SPF-100APT, 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 A2 of Form SPF-100APT, lines 10 and 11, column 3.

Line
5

Corporations which are exempt from federal income tax are exempt from West Virginia Corporation Net Income Tax. If such 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 1120S or 1065.

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 line 7.

Line
8

Taxpayers with foreign 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 line 18. If it is a negative figure, enter the amount of the loss on 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 1120S.

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 (WV Code §11-24-4b).

Line
13

Attach supporting documentation.

Line
14

Attach supporting documentation.

Line
15

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

Line
16

Enter total from Federal Form 1120S.

Line
17

Enter total from Federal Form 1120S.

Line
18

See instructions for line 8.

See instructions for line 4.

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 deductible 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.

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.

Add lines 21 and 22.

Subtract line 12 from line 23. Enter this number here and on line 5 of Schedule A.

SPF-100 Schedule A-3

Taxpayers that own certain tax exempt government obligations and obligations secured by certain residential property in West Virginia can take a special allowance that further reduces federal taxable income.

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.

Attach a copy of worksheets supporting the calculations of average monthly balance.

Average of beginning and ending balance of total assets on Schedule L of Federal Form 1120S or Federal Form 1065..

Adjusted income.

SPF-100 Schedule B

Partnerships and S 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 their dollar amounts of the beginning and ending balances 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.

Partnerships and S 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 S corporation or partnership would have filed with the Internal Revenue Service had they been required to file one. S corporations complete lines 1 through 9 and line 11. Partnerships complete line 10 only. S corporations and partnerships complete lines 12 through 16 as applicable. Add the amounts in column 1 and column 2 and divide the result by the number 2 to determine the average capital in column 3.

Computation of Business Franchise Tax

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. If you do not qualify for the special allowance, skip lines 12 and 13. Instead, enter the amount from line 11 on line 14.

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 SPF-100APT 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 of Form SPF-100APT to determine their apportionment factor for Business Franchise Tax.

APPORTIONMENT FACTOR: Complete Schedule B of Form SPF-100APT, Apportionment Factors for Multistate Corporations. Enter Part 1, line 8 or Part 3, column 3.

*****IMPORTANT NOTE REGARDING LINE 15*****

FORM SPF-100APT, SCHEDULE B MUST BE COMPLETED AND ATTACHED. FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA!

Multiply line 14 by line 15 and enter the result here and on line 5 of Form SPF-100 (page 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 of column 4 on line 1 of the Summary of Business Franchise Tax Credits (SPF-100TC).

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 claim this credit.

Line 21 Enter the Business Franchise Tax liability from line 6 of Form SPF-100, less the subsidiary credit.

Line 22 Enter the total on line 2 of SPF-100TC, Summary of Business Franchise Tax Credits.

SPF-100APT

Schedules A1 & A2: Allocation of Nonbusiness Income for S Corporations Only

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 includes 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 if the property is located in West Virginia. Nonbusiness income from tangible personal property is allocated to West Virginia if the property is utilized in West Virginia or the property was located in West Virginia at the time of its sale. Nonbusiness income from intangible personal property is allocated to West Virginia if the corporation's commercial domicile is located in West Virginia or, in the case of patents and 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 SPF-100APT. Only those types of nonbusiness income listed on Schedule A1 and A2 of Form SPF-100APT can be allocated. Any other type of income that the corporation classifies as nonbusiness must be apportioned.

Line 8 Enter the amount from column 3, line 8 of Schedule A1 on line 7 of Form SPF-100, Schedule A.

Line 12 Enter the amount from column 3, line 12 of Schedule A2 on line 11 of Form SPF-100, Schedule A.

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, Form SPF-100APT 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, Form SPF-100APT, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Schedule B, Form SPF-100APT, Part 2.

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 SPF-100APT, Parts, 1, 2, and 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 by no later than the normal due date of your return.

You must receive 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 principal place of business; description of the kind(s) of business in which you are engaged; detailed statement of how sales are made in West Virginia; 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
P.O. 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 or 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 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 or improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its values at the beginning and ending of the taxable period. However, the Tax Commissioner may require or allow averaging by monthly values if such method is required to properly reflect the average value of the taxpayer's property for the taxable year.

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

Line
1

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

PAYROLL FACTOR. The payroll factor shall include the total 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 SPF-100APT.

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 West Virginia during the taxable year by the taxpayer for compensation. Compensation is paid in West Virginia if any of the following tests, applied consecutively, are met:

- A. The employee's service is performed entirely within West Virginia;
- B. The employee's service is performed both within and without West Virginia but the service performed without West Virginia is "incidental" to the employee's service within West Virginia (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 West Virginia, the employee's compensation will be attributed to West Virginia (1) if the employee's base of operations is in West Virginia; or (2) 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 West Virginia; or (3) 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 West Virginia. 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 in 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 point.

SALES FACTOR. The term "sales" means all gross receipts of the taxpayer that are business income. Thus, 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 SPF-100APT.

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 if:

1. 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.
2. 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 West Virginia. 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 purpose 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 West Virginia.

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 West Virginia than any other state, based on the cost of performance; or
3. 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 West Virginia. Gross receipts from the rental, lease, or licensing of tangible personal property are in West Virginia if the property

is located in West Virginia. 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 West Virginia.

Determine the sales factor by entering the appropriate amount on line 3. Enter the 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, 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. Then 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 column 3, line 8 on Form SPF-100, Schedule A, line 9, and Schedule B, line 15.

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 formula 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 operations 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 West Virginia, has made no pick ups or deliveries within West Virginia, and has traveled less than 50,000 miles in West Virginia during the taxable year; or
- B. The motor carrier neither owns nor rents any tangible personal property located in West Virginia except vehicles, and made no more than 12 trips into or through West Virginia during the taxable year.

Under either (A) or (B), the mileage traveled in West Virginia may not be more than five 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 the result in column 3. State the result as a decimal fraction and round to six (6) places after the decimal. Enter the six (6) digit decimal fraction from column 3 on line 9 of Form SPF-100, Schedule A.

FINANCIAL ORGANIZATIONS – SPECIAL SINGLE 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 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 fifty percent (.5) 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 of 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 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; or
4. An amount held in an escrow or trust account with respect to property described above.

However, 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.

SPF-100U

Use this form for the West Virginia 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.

S corporations and partnerships 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 an S corporation or partnership did not pay enough estimated tax by any of the due dates, it may be charged the penalty. This is true even if the S corporation or partnership is due a refund when its return is filed. The penalty is figured separately for each installment due date. Therefore, the S corporation or partnership 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
9

If an underpayment exists in any of the columns in line 9, complete Part IV to figure the penalty for that period.

Line
1

Enter your Business Franchise Tax after credits (line 8 of SPF-100). 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 here. 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.

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 SPF-100U. Follow the line by line instructions on Form SPF-100U.

Part III – Calculate Your Underpayment

Line
3

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 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.

Lines
19
& 20

For underpayments involving periods after January 1, 2013, use the interest rate established biannually by the State Tax Commissioner. You can contact the West Virginia State Tax Department, Taxpayer Services Division, at (304) 558-3333 or toll free within West Virginia 1-800-422-2075 to get rate information. Request message #510.

Line
22

If you have completed this form to determine your penalty for underpaying your estimated Business Franchise Tax, enter the amount on line 20 of Form

SPF-100.

Part IV – Calculating the Penalty

Complete lines 11 through 22 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 instructions for lines 19 and 20.

Line
11

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 S corporations and the 15th day of the 4th month for partnerships. The payment of estimated tax is applied against underpayments of required installments in the order the installments are required to be paid, regardless of which installment the payment pertains to.

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

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

Form SPF-100W Instructions

A – Payer information:

- Enter the name and address of the payer from which you received the 1099, K-1, or 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		1211 Date tax year ending (MMYY)
	Address		Enter WV withholding Only
	COLUMBUS OH 43085	5000.00	
	City, State, ZIP	Income Subject to WV WITHHOLDING	