

# 2017

# WEST VIRGINIA

## CORPORATION NET INCOME TAX

### INSTRUCTIONS



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## Important Information for 2017

For periods beginning on or after January 1, 2017, annual returns will have a due date of April 17, 2018 (additional day given for Emancipation Day) and an extended due date of October 15, 2018. Fiscal and 52/53 week returns will be due on the 15th day of the fourth month following the end of the period with an extension period of six months.

WV tax code 11-24-13f(5) provides that the Subpart F income and apportionment factors of any Controlled Foreign Corporation (CFC) are to be included in the combined report of a taxpayer making a waters-edge election. Corporations are required to use new Form UB-5, Schedule of Included Controlled Foreign Corporations (CFC), to compute apportionment factors to be included in the waters-edge combined report.

West Virginia requires a check box response regarding whether Disregarded Entities are included with the Corporate Net Income Tax return. If there are disregarded entities, the Tax Return Questionnaire located on page 24 must be completed and attached to the filed return. Failure to attach the required document will result in a delay in processing the return.

**Please note, Schedule A, Calculation of WV Business Capital, Schedule UB-2, Calculation of WV Business Capital for Combined Group, will not be required for 2017 returns. In addition, UB4-CR, Combined Report, Business Capital tabs ONLY, will not be required (UB-4CR Corporate Income Tax tabs are still required).**

### Tax Rates

- For tax years beginning on or after January 1, 2017, the Corporate Net Income Tax Rate is 6.5% (§11-24-4).
- Effective January 1, 2017, taxpayers who had annual remittance of any single tax equal to or greater than \$25,000 during fiscal year 2016 are required to electronically file returns and make payments using Electronic Funds Transfer (EFT) for periods beginning on or after January 1, 2017.
- Failure to comply with the requirement to remit payments by EFT without first obtaining a waiver may result in a civil penalty of three (3) percent of each payment which was to be paid by EFT. Visit our website [www.tax.wv.gov](http://www.tax.wv.gov) for additional information.

### Returned Payment Charge

The Tax Department will recover a \$15.00 fee associated with any returned bank transactions. These bank transactions include but are not limited to the following:

- Direct Debit (payment) transactions returned for insufficient funds.
- Stopped payments.
- Bank refusal to authorize payment for any reason.
- Direct Deposit of refunds to closed accounts.
- Direct Deposit of refunds to accounts containing inaccurate or illegible account information.

Checks returned for insufficient funds will incur a \$28.00 fee.

**The fee charged for returned or rejected payments will be to recover only the amount charged to the State Tax Department by the financial institutions.**

**Important:** There are steps that can be taken to minimize the likelihood of a rejected financial transaction occurring:

- Be sure that you are using the most current bank routing and account information.
- If you have your tax return professionally prepared, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information with your tax preparer by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return at home using tax preparation software, the financial information used from a prior year return often pre-populates the current return as a step saver. It is important that you verify this information by reviewing the bank routing and account information from a current check. This will ensure the information is accurate and current in the event that a bank account previously used was closed or changed either by you or the financial institution.
- If you prepare your tax return by hand using a paper return, be sure that all numbers requesting a direct deposit of refund entered are clear and legible.
- If making a payment using MyTaxes, be sure that the bank routing and account number being used is current.
- If scheduling a delayed debit payment for an electronic return filed prior to the due date, make sure that the bank routing and account number being used will be active on the scheduled date.
- Be sure that funds are available in your bank account to cover the payment when checks or delayed debit payments are presented for payment.

# Taxpayer Responsibilities

## Filing Your Corporate Returns

Returns should be filed by the due date. You may obtain forms by calling 1-800-982-8297. Forms may also be obtained from any of our regional field offices or from the State Tax Department website at [tax.wv.gov](http://tax.wv.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 six months of the due date or the extended due date 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

The information in this booklet is for calendar year 2017 returns and for fiscal year returns beginning in 2017 and ending in 2018. The information in this booklet is intended to help you complete your returns and is not a substitute for tax laws and regulations.

## Assistance

Address questions to the West Virginia State Tax Department, Taxpayer Services Division, PO Box 3784, Charleston, WV 25337-3784 or by telephone at (304) 558-3333 or toll free at 1-800-982-8297.

## 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.

The West Virginia Corporation Net Income Tax 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. Corporations are required to allocate certain types of nonbusiness income to West Virginia and apportion their remaining income. The Corporation Net Income Tax rate is six and one-half percent (.065).

## Exempt Organizations

Any corporation exempt from federal income tax is also exempt from West Virginia Corporation Net Income 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.

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.

## Payment of Tax

**DUE DATE:** A corporation's annual West Virginia Corporation Net Income Tax Return is due on or before the 15th day of the fourth 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 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.

**PAYMENT OPTIONS:** Effective January 1, 2017, taxpayers who had annual remittance of any single tax equal or greater than \$25,000 during fiscal year 2016 are required to electronically file returns and make payments using Electronic Funds Transfer (EFT) for periods beginning on or after January 1, 2017. Returns filed with a balance due may use any of the following payment options: Check or Money Order made payable to the West Virginia State Tax Department, Electronic Funds Transfer or Payment by Credit Card. Visit [tax.wv.gov](http://tax.wv.gov) for additional payment information.

**WHERE TO FILE:** West Virginia Corporation Net Income Tax Returns should be mailed to the West Virginia State Tax Department, Tax Account Administration Division, Corporate Tax Unit, 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 West Virginia extension form (see instructions for Form CNF-120EXT). To avoid interest and penalties, payment must be received on or before the due date of the return.

## Estimated Taxes

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 \$650) and are due in four equal installments on the 15th day of the fourth, sixth, ninth, and twelfth months of the tax year.

## Filing Method

The following filing methods may be used for filing your Corporation Net Income Tax (WV Code §11-24-13a).

**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-120Sched. B, B-1	CNF120U
CNF-120 Sched. C	CNF-120 Sched. NOL	CNF-120APT Sched. A1, A2

CNF-120TC	CNF-120APT Sched. B	CNF-120W
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Tax Return Questionnaire

**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.

**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 UB4-CR is required. Visit [tax.wv.gov](http://tax.wv.gov) to obtain this worksheet.

**COMBINED: (Must complete UB4-CR 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-5	CNF-120 Sched. UB-3
CNF-120 Sched. NOL	CNF-120U	CNF-120TC
CNF-120 Sched. UB-1	CNF-120 Sched. UB-4APT, A1, A2, B1, B2, C	CNF-120W
CNF-120 Sched. C		CNF-120 Sched. UB-5
CNF-120 UB4-CR	UB-4APTSUM	Tax Return Questionnaire

## 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, along with any applicable supporting documents/schedules, 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 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 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:

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 12/31/01	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 12/31/16 –	9.5%
1/1/98 to 12/31/98–	9%	1/1/17 to 12/31/17 –	8%

Contact the West Virginia State Tax Department, Taxpayer Services Division at 1-800-982-8297, for the interest rate in effect for other periods. Also, Administrative Notices may be found online at [tax.wv.gov](http://tax.wv.gov) notifying of adjusted interest rates.

## 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 (.90) 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 Made by the IRS to 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/RAR, return and attaching a copy of the revenue agent's report detailing such adjustments.

## 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 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 for different years may use different line numbers; read the line instructions carefully.
- Any amount paid with the original return should be entered on Line 22 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 24 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 Adjustments to Federal Taxable Income; 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 West Virginia Corporation Net Income 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.

## Reporting West Virginia Income Tax Withholding Credit

A West Virginia Income Tax Withholding Credit is created when a payment is made by another entity for the benefit of the Corporation filing this return.

**Filing** – If you submit your return electronically, it is not necessary to use or submit a CNF-120W. Information will be transmitted electronically once the WV/NRW-2, 1099, or WVK-1 Equivalent issued to the corporation is entered within the software.

**Paper Filed Returns** – If your return is submitted on paper, the total amount of West Virginia tax withheld for the corporation must be shown on your Form CNF-120W, West Virginia Withholding-Credit Schedule Corporation Net Income Tax. A completed CNF-120W *must* be enclosed with your paper return. Failure to submit this document will result in the disallowance of the withholding credit claimed. **Note:** Local or municipal fees cannot be claimed as West Virginia income tax withheld. If the source of the withholding credit is for a nonresident sale of real estate transaction, a Form WV/NRSR must be completed and on file with the State Tax Department prior to submitting a tax return. If withholding credit is related to Form WV/NRSR, please indicate in the box provided on line 21.

## 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. In the “Check Applicable Boxes” section, mark all that apply to the corporate return being filed.

Check the applicable box regarding any disregarded entities. If the “Yes” box is marked, please complete and attach the required Tax Return Questionnaire on page 24.

Attachments and statements required: Attach all additional information and statements required as part of your Form CNF-120 as 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**

**If filing a combined return skip lines 1 through 13 and complete UB Schedules.** Enter total taxable income from your federal income tax return Form 1120 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  
**2**

Enter total increasing adjustments from Form CNF-120, Schedule B, line 13.

Line  
**3**

Enter total decreasing adjustments from Form CNF-120, Schedule B, line 26.

Line  
**4**

Adjusted federal taxable income (line 1 plus line 2 minus line 3). If this corporation is a wholly West Virginia corporation please check the box and skip to line 10. Enter the amount of line 4 in line 10.

Line  
**5**

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

Line  
**6**

Subtract line 5 from line 4. This is your total income subject to apportionment.

Line  
**7**

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

**\*\*IMPORTANT NOTE REGARDING LINE 7\*\*** Form CNF-120APT, Schedule B must be completed and attached. **FAILURE TO ATTACH COMPLETED FORM WILL RESULT IN 100% APPORTIONMENT TO WEST VIRGINIA.**

Line  
**8**

Line 6 multiplied by line 7 (carry this amount to the top of page 2).

Line  
**9**

Enter the result from CNF-120APT from CNF-120APT, Schedule A2, line 12.

Line  
**10**

Multistate corporations should add lines 8 and 9 and wholly West Virginia corporations should enter the amount from line 4.

Line  
**11**

Enter the total from column 6 of Schedule NOL.

Line  
**12**

Subtract line 11 from line 10.

Line  
**13**

REIT Inclusion and other Taxable income

Line  
**14**

Add lines 12 and 13. Combined filers should enter amount from Schedule UB-3, line 20.

Line  
**15**

2017 WV Corporate Tax Rate .065.

Line  
**16**

Multiply line 14 by the Corporate Net Income Tax Rate in line 15.

Line  
**17**

Enter the result from column 2, line 17 of completed Form CNF-120TC. The total amount of credits cannot exceed the net income tax on line 16. If the result is a negative amount, enter zero (0).

Line  
**18**

Subtract line 17 from line 16. This is your Adjusted Corporate Net Income Tax.

Line  
**19**

Prior year carryforward credit from your previous Corporate Net Income Tax return.

Line  
**20**

Enter total estimated tax payments and any extension payment made with Form CNF-120EXT.

Line  
**21**

Enter the total amount of withholding credit from Form NRW-2, Form WVK-1, and/or Form 1099 if filing electronically. Amount must match the total from Form CNF-120W for paper filers. Check box if withholding is from NRSR (nonresident sale of real estate).

Line  
**22**

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

Line  
**23**

Add lines 19 through 22. This total **MUST** match the total on Schedule C.

Line  
**24**

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

Line  
**25**

Subtract line 24 from line 23. This is your company's total payments.

Line  
**26**

If line 25 is larger than line 18 enter your overpayment here.

Line  
**27**

Enter the amount of the overpayment in line 26 that you wish to have credited to 2018 taxes.

Line  
**28**

Enter the amount of the overpayment in line 26 that you wish to have refunded (subtract line 27 from line 26).

Line  
**29**

If line 25 is smaller than line 18, enter the tax due on this line.

Line  
**30**

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

Line  
**31**

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

Line  
**32**

Enter the amount of penalty for underpayment of estimated tax from Form CNF-120U, line 6

Line  
**33**

Add lines 29 through 32. This is the balance due with this return. Make check payable to West Virginia State Tax Department or see [www.tax.wv.gov](http://www.tax.wv.gov) for other payment options.

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## Schedule B

### Adjustments to Federal Taxable Income

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#### Adjustments Increasing Federal Taxable Income

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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 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 CNF-120 Schedule B, line 21. 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 CNF-120 Schedule B, line 4. A taxpayer who is subject to allocation and apportionment makes the adjustment for the cost of the facilities on Form CNF-120APT Schedule A-2, 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 Form CNF-120APT Schedule A-2, 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 of Net Operating Loss 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 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 CNF-120, Schedule B, line 20. If it is a negative figure, enter the amount of the loss on CNF-120, 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** Other increasing adjustments. Please submit a statement of explanation for any amount entered with your return.

**Line 13** Add lines 1 through 12. Enter the total on Form CNF-120, line 2.

**Adjustments Decreasing Federal Taxable Income**

**Line 14** 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 15** 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 16** Enter the amount of US Government obligation interest or dividends included in federal but exempt from state tax, less related expenses deducted on your federal return. Attach supporting documentation.

**Line 17** Enter total salary expense not allowed on your federal return due to claiming the federal jobs credit and include a copy of Federal Form 3800 or 5884.

**Line 18** Enter the total foreign dividend gross-up (IRC Section 78) from Federal Form 1120, Schedule C, line 15.

**Line 19** Enter the total subpart F income (IRC Section 951) from Federal Form 1120, Schedule C, line 14.

**Line 20** See instructions for CNF-120 Schedule B, line 8. If Foreign Source Income from worksheet line 4 is positive, enter amount here.

**Line 21** See instructions for CNF-120 Schedule B, line 4. Multistate corporations must use CNF-120APT, Schedule A-2, line 9.

**Line 22** 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 23** Other decreasing adjustments. Please submit a statement of explanation for any amount entered with your return.

**Line 25** 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 Form CNF-120, Schedule B-1 to determine the amount of the allowance.

**Line 26** Add lines 24 and 25. Enter the amount here and on CNF-120, line 3.

**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.



Attach copy of worksheets supporting the calculation of average monthly balance.



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



CNF-120, line 1 plus CNF-120, Schedule B, line 13 minus line 24, plus Form CNF-120APT, Schedule A-2, lines 9, 10, and 11.

## Schedule C Schedule of Tax Payments

Use this schedule to list any Corporation Net Income Tax payments made which the taxpayer is applying to this return. List the following for each payment: name of corporation making payment; FEIN of corporation making the payment; date of payment; type of payment (estimated payment, including application of overpayment from prior year, and extension payments made with an extension return); and amount of payments. The total amount of payments must equal the amount reported on Form CNF-120, line 23.

## CNF-120TC Summary of Corporation Net Income Tax Credits

The CNF-120TC, Summary of Corporation Net Income Tax Credits, is a form used by corporations to summarize the tax credits that they claim against their Corporation Net Income Tax liability. In addition to completing the CNF-120TC, each tax credit has a schedule or form that is used to determine the amount of credit that can be claimed. Please note that some tax credit schedules require a completed application to be submitted and approved before the tax credit schedule can be filed. Both the CNF-120TC and the appropriate credit calculation schedule(s) or form(s) must be attached to your return in order to claim a tax credit.



Total credits: Add lines 1 through 16. Enter the amount in column 2, Credits Used, on CNF-120, line 17. For additional information and a copy of the tax credit schedules and applications please visit [tax.wv.gov](http://tax.wv.gov).

## 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 West Virginia net operating loss carry forward deduction on Form CNF-120, line 11 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 Form CNF-120, Schedule B, line 6. The West Virginia net operating loss carryforward deduction is entered on Form CNF-120, line 11.

**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 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 Form CNF-120, line 11 of the current year's tax return must equal the sum of Form CNF-120, Schedule NOL, column 6. 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. *Please note: It is not necessary to file an amended return when filing 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.**

# CNF-120APT

## Allocation and Apportionment for Multistate Corporations

### Schedules 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 tax.wv.gov.

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

Line  
8

Enter the amount from Form CNF-120APT, Schedule A1, column 3, line 8 on Form CNF-120, line 5.

Line  
12

Enter the amount from Form CNF-120APT, Schedule A2, column 3, line 12 to Form CNF-120, line 9.

### 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 Form CNF-120APT, Schedules A1 and A2 must be apportioned to West Virginia by using the appropriate apportionment formula. Completion of CNF-120, 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 Form CNF-120APT, Schedule B, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Form CNF-120APT, Schedule B, 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 CNF-120APT, Schedule B 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 Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

### Multistate Corporations – Four Factor Formula

**Part 1 – 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 Form CNF-120APT, 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 on Form CNF-120APT, Schedules A1 and A2.

**The denominator** (column 2) 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** (column 1) 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.

**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 on Form CNF-120APT, Schedules A1 and A2.

**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 CNF-120APT, Schedule A1, line 8, 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 (CNF-120APT, Schedule A1, line 8)  
\$ \_\_\_\_\_ Equals Form CNF-120APT, Schedule B, line 3, column 2.  
\$ \_\_\_\_\_

**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(1)(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 here and on Form CNF-120, line 7.

## 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.

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 Form CNF-120, line 7.

## 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. 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:

- Making, acquiring, selling, or servicing loans or extensions of credit.
- 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 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 on Form CNF-120, Schedule B-1.

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 Form CNF-120, line 7.

## CNF-120U

Use this form to determine if any penalty for underpayment of estimated West Virginia Corporation Net Income Tax is due 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 on Form WV/CNF-120ES 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 \$650.00 (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 (.90) of the tax due for the filing period.

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. The underpayment of estimated tax penalty rate will be 8% in 2017.

### Part I: All Filers Must Complete this Part

Line  
1

Enter your Corporation Net Income Tax after credits (Form CNF-120, line 18). If this amount is less than \$650.00, skip lines 2 and 3 and enter 0 on line 5.

Line  
2

Multiply the amount on line 1 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  
3

Enter the Corporation Net Income Tax after credits from your 2016 return. If you did not file a 2016 return leave this line blank.

Line  
4

Enter the smaller of line 2 or line 3. If line 3 is blank enter the amount from line 2. This is the amount you should have paid in estimated tax for this taxable year.

Line  
5

Enter the amount from line 4. This is the amount of estimated 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 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  
23

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  
29

If any of the columns in line 29 shows an underpayment, complete Part IV to figure the penalty for that period.

#### Part IV: Calculate the Penalty

Complete lines 31 through 42 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, 2018, see the instructions for lines 39 and 40.

Line  
31

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 4th 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.

For underpayments involving periods after January 1, 2018, use the interest rate established by the State Tax Commissioner. You can contact the West Virginia State Tax Department, Taxpayer Services Division, at 1-800-982-8297 to get rate information. Administrative Notices adjusting interest rates may also be found online at tax.wv.gov.

If you have completed this form to determine your penalty for underpaying your estimated Corporation Net Income Tax, enter the amount on line 6 and on Form CNF-120, line 32.

## Combined Reporting

**COMBINED CORPORATION NET INCOME 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 that were incurred by an entity in a period in which the entity filed separately, 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 UB4-CR Combined Report.** The purpose of the Schedule UB4-CR 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 return.

The Schedule UB4-CR is a three tab Microsoft Excel spreadsheet for entering Corporate Net Income Tax data. The individual group types, Regular Entities, Motor Carriers, and Financial Organizations 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 UB4-CR can be filed. Specific line instructions are contained on the schedule under the tab labeled Instructions.

The Schedule UB4-CR is located on the Tax Department website at tax.wv.gov and is formatted to Tax Department specifications in a common Microsoft Excel 97-2003 format for consistency. The UB4-CR 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](mailto:taxcit@wv.gov) if filing a paper return.

**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-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 group from Schedule UB4-CR 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 UB4-CR 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 UB4-CR 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 UB4-CR for each group.

Line  
2c

Income/other tax based upon net income from line 2c of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.

<p><b>Line 2d</b></p>	<p>Federal depreciation/amortization for wholly WV corporation water/air pollution control facilities from line 2d of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 4g</b></p>	<p>Cost of wholly WV water/air pollution control facilities from line 4g of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 2e</b></p>	<p>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 UB4-CR for each group.</p>	<p><b>Line 4h</b></p>	<p>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 UB4-CR for each group.</p>
<p><b>Line 2f</b></p>	<p>Federal net operating loss from line 2f of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 4i</b></p>	<p>Allowance for obligations/investments from line 4i of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 2g</b></p>	<p>West Virginia Neighborhood Investment Program Tax Credit (charitable contributions to NIPA) from line 2g of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group..</p>	<p><b>Line 4j</b></p>	<p>Other decreasing adjustments. Enter decreasing adjustments from line 4j of the Corporate Net Income Tax tab of Schedule UB4-CR for each group. Submit a statement of explanation for any amount entered with your return.</p>
<p><b>Line 2h</b></p>	<p>Net operating loss from sources outside US from line 2h of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 5</b></p>	<p>Total decreasing adjustments – add lines 4a through 4j for each group.</p>
<p><b>Line 2i</b></p>	<p>Foreign Taxes deducted on your federal return from line 2i of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 6</b></p>	<p>Adjusted Taxable Income – add lines 1 and 3, and subtract line 5 for each group.</p>
<p><b>Line 2j</b></p>	<p>Enter Qualified Production Activity Deduction taken under IRC §199 from line 2j of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 7</b></p>	<p>Total non-business income allocated everywhere from line 7 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 2k</b></p>	<p>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 UB4-CR for each group.</p>	<p><b>Line 8</b></p>	<p>Total non-unitary business income from line 8 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 2l</b></p>	<p>Other increasing adjustments. Enter increasing adjustments from line 2l of the Corporate Net Income Tax tab of Schedule UB4-CR for each group. Submit a statement of explanation for any amount entered with your return.</p>	<p><b>Line 9</b></p>	<p>Income subject to apportionment – subtract lines 7 and 8 from line 6 for each group.</p>
<p><b>Line 3</b></p>	<p>Total increasing adjustments – add lines 2a through 2l for each group.</p>	<p><b>Line 10</b></p>	<p>Enter the amount from line 10 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<b>DECREASING ADJUSTMENTS TO FEDERAL TAXABLE INCOME</b>			
<p><b>Line 4a</b></p>	<p>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 UB4-CR for each group.</p>	<p><b>Line 11</b></p>	<p>WV apportionment factor (round to six [6] decimal places) from line 11 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 4b</b></p>	<p>Interest expense on obligations/securities not allowed in determining federal taxable income from line 4b of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 12</b></p>	<p>WV apportioned income – line 10 multiplied by line 11 for each group.</p>
<p><b>Line 4c</b></p>	<p>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 UB4-CR for each group.</p>	<p><b>Line 13</b></p>	<p>Non business income allocated to WV from line 13 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 4d</b></p>	<p>Foreign dividend gross-up (IRC Sec. 78) from line 4d of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 14</b></p>	<p>Non-unitary business income apportioned to WV from line 14 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>
<p><b>Line 4e</b></p>	<p>Subpart F income (IRC Sec. 951) from line 4e of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 15</b></p>	<p>WV taxable income-add lines 12, 13, and 14 for each group.</p>
<p><b>Line 4f</b></p>	<p>Taxable income from sources outside US from line 4f of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>	<p><b>Line 16</b></p>	<p>WV net operating loss from line 16 of the Corporate Net Income Tax Tab of Schedule UB4-CR for each group.</p>

Line  
17

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

Line  
18

REIT Inclusion and other taxable income, from line 18 of Corporate Net Income Tax Tab of the UB4-CR, for each group.

Line  
19

WV Net Taxable income – add lines 17 and 18.

Line  
20

Combined total WV net taxable income (add lines 19, groups 1 through 3). Enter total here and on Form CNF-120, line 14.

Line  
21

West Virginia NOL remaining unused must match CNF-120, Schedule NOL, column 7.

## Schedule UB-4APT Allocation and Apportionment for Multistate Corporations

### Schedules 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 [tax.wv.gov](http://tax.wv.gov).

Determine the nonbusiness income allocated to West Virginia and outside West Virginia by completing UB-4APT, Schedule A1 and A2 for each member of the unitary group. Only those types of nonbusiness income listed on UB-4APT, Schedules A1 and A2 can be allocated. All other types of income that the corporation classifies as nonbusiness must be apportioned.

Line  
8

Enter the amount from UB-4APT, Schedule A1, column 3, line 8 on the Corporate Net Income Tax Tab of the Schedule UB4-CR, line 7.

Line  
12

Enter the amount from UB-4APT, Schedule A2, column 3, line 12 on the Corporate Net Income Tax Tab of the Schedule UB4-CR, line 13.

### 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 UB-4APT, Schedules A1 and A2 must be

apportioned to West Virginia by using the appropriate apportionment formula. **Completion of UB-4APT, Schedules B1 and B2 is required for each member of the unitary group 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 UB-4APT, Schedule B1 and B2, Part 3. If you are filing for a motor carrier, follow the apportionment instructions for Schedule UB-4APT Schedules B1 and B2, Part 2.

Multistate corporations will use the standard apportionment formula of payroll, property, and sales, with the sales factor double weighted, and will complete UB-4APT, Schedules B1 and B2 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 Tax Unit, PO Box 1202, Charleston, WV 25324-1202.

### Multistate Corporations – Four Factor Formula

**Part 1 – To determine your West Virginia apportionment percentage, first determine the following factors for each member of the unitary groups:**

**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 UB-4APT, Schedules 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 UB-4APT, Schedules A1 and A2.

**The denominator** (column 2) 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** (column 1) 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 UB-4APT, Schedules A1 and A2.

**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 UB-4APT, Schedule A1, line 8, 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 (on UB-4APT Schedule A1, line 8)
\$ _____	Equals UB-4APT, Schedule B1, column 2, line 3.

**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(l)(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 here and on the Corporate Net Income Tax Tab of the UB4-CR, line 11.

## 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.

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 here and on the UB4-CR Corporate Net Income Tax Tab, line 11.

## 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.

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 on Schedule UB-4APT, Schedule C.

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 here and on the UB4-CR Corporate Net Income Tax Tab, line 11.

## Schedule C – Allowance for Governmental Obligations/ Obligations Secured by Residential Property

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 UB-4APT Schedule C to determine the amount of the allowance applicable to each entity of the unitary group. 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 copy of worksheets supporting the calculation of average monthly balance.



Average the beginning and ending balance of the total assets of the individual entity, as shown in the consolidation balance sheet of your Federal return.



UB4-CR line 1 plus line 3 minus line 5, plus UB-4APT Schedule A2, line 9, 10, & 11.

## Schedule UB-4APTSUM – Allocation and Apportionment for Unitary Group

Schedule UB-4APTSUM, Allocation and Apportionment Summary for a Unitary Group, is a schedule used to provide a summary of the business activity of multiple companies within a unitary group. This schedule must be submitted when filing a combined report.

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 UB-4APT, Schedules A1 and A2, must be apportioned to West Virginia by using the appropriate apportionment formula for your Unitary Group. The apportionment formula used will depend upon how your combined group is classified. Combined groups can be classified as financial organizations, motor carriers or regular entities.

The following Schedule UB-4APT, Allocation and Apportionment for Multistate Corporations, schedules **must be completed for each member of the Unitary Group** shown on your Combined Report:

UB-4APT Schedule A1 – EVERYWHERE Allocation of Nonbusiness Income for Multistate Businesses

UB-4APT Schedule A2 – WEST VIRGINIA Allocation of Nonbusiness Income for Multistate Businesses

UB-4APT Schedule B1 – Apportionment Factors for Multistate Businesses

UB-4APT Schedule B2 – Apportionment Factors for Non-Unitary Multistate Businesses Income

UB-4APT Schedule C – Allowance for Governmental Obligations/Obligations Secured by Residential Property

Schedule UB-4APTSUM is a schedule that adds the amounts shown on each member's UB-4APT Schedule B1 and summarizes it for the Combined Group.

### UB-4APTSUM Part 1 - Regular Factor

**Line 1 – Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, column 1, line 1, add them together and enter that total here.

**Line 1 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 1, add them together and enter that total here.

**Line 1 – Column 3 – Decimal Fraction** – 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.

**Line 2 – Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, column 1, line 2, add them together and enter that total here.

**Line 2 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 2, add them together and enter that total here.

**Line 2 – Column 3 – Decimal Fraction** – 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.

**Line 3 – Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, column 1, line 3, add them together and enter that total here.

**Line 3 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 3, add them together and enter that total here.

**Line 4 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 4, add them together and enter that total here.

**Line 5 – Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, column 1, line 5, add them together and enter that total here.

**Line 5 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 5, add them together and enter that total here.

**Line 5 – Column 3 – Decimal Fraction** – 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.

**Line 6 – Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, column 1, line 6, add them together and enter that total here.

**Line 6 – Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, column 2, line 6, add them together and enter that total here.

**Line 6 – Column 3 – Decimal Fraction** – 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.

**Line 7 – Column 3** – Add lines 1, 2, 5, and 6 of column 3.

**Line 8 – Column 3** – Line 7 divided by the number 4, reduced by the number of factors showing zero in column 2, lines 1, 2, 5, and 6. Enter six (6) digits after the decimal. This amount must match the apportionment factors shown on UB-3, column 1, line 11.

### **UB-4APTSUM Part 2 – Motor Carrier Factor**

**Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, Part 2, column 1, add them together and enter that total here.

**Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, Part 2, column 2, add them together and enter that total here.

**Column 3 – Decimal Fraction** – 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. This amount must match the apportionment factor on UB-3, column 2, line 11.

### **UB-4APTSUM Part 3 – Financial Organization Factor**

**Column 1 – Combined Group West Virginia** – take entries from each individual UB-4APT Schedule B1, Part 3, column 1, add them together and enter that total

here.

**Column 2 – Combined Group Everywhere** – take entries from each individual UB-4APT Schedule B1, Part 3, column 2, add them together and enter that total here.

**Column 3 – Decimal Fraction** – 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. This amount must match the apportionment factors shown on UB-3, column 3, line 11.

## **UB-5 Schedule of Included Controlled Foreign Corporations (CFC)**

**What is the purpose of the UB-5 Schedule?** West Virginia code 11-24-13f(5) provides that the subpart f income and apportionment factors of any Controlled Foreign Corporation (CFC) (as defined in Internal Revenue Code (IRC Sec 952) are to be included in the combined report of a taxpayer making a waters-edge election.

Use form WV UB-5, Schedule of Partially-Included Controlled Foreign Corporations (CFC), to compute apportionment factors required to be included in the waters-edge combined report.

**What is a Controlled Foreign Corporation?** In general, a foreign corporation is a corporation that is not created or organized in the U.S. or under the laws of the U.S. or any state. A CFC is any foreign corporation that is more than 50% owned or considered to be owned per the IRC Section 958(b) by U.S. shareholders.

**How is the apportionment factor determined?** For each CFC, the apportionment factors are determined by multiplying each component of the apportionment factor by a fraction. The numerator of the fraction is the current taxable year total Subpart F income defined in the IRC Section 952 and the denominator is the current taxable year earnings and profits (E&P) as defined in Section 964.

### **Specific Instructions**

West Virginia Regulation 13d.9.c.2. is to be used in coordination with West Virginia Code Section 11-24-13(f)(a)(5) to compute the Partial Inclusion Ratio. Listed below are the individual rows to be completed.

**Row (a)** Corporation Name

**Row (b)** Subpart F income (total to be included in Federal taxable Income on page 1 Line 1 )

**Row (c)** Current Year Earnings & Profits

**Row (d)** Partial Inclusion Ratio Percentage (Row b divided by Row c)

**Row (e)** Average Property Everywhere

**Row (f)** Row e multiplied by Row (d) (Forward total to UB-4APT, Line 1, Column 2)

**Row (g)** Payroll Everywhere

**Row (h)** Row g multiplied by Row d (Forward total to UB-4APT, Line 2, Column 2)

**Row (i)** Sales Everywhere

**Row (j)** Row i multiplied by Row d (Forward total to UB-4APT, Lines 3, 5 and 6, Column 2)

### **Tax Return Questionnaire**

The Tax Return Questionnaire on page 24 should be completed and submitted with your return. However, if you have indicated on page 1 that disregarded entities are included in your return you MUST submit the Tax Return Questionnaire and include the name and FEIN of each disregarded entity.

# Form CNF-120W Instructions

**A – Payer information:**

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

**B – Taxpayer Information:**

- Enter the FEIN and name of the taxpayer. Make sure the Federal Employer Identification Number(s) agree with your statements and are correct. If the payment was made on behalf of a subsidiary, affiliate, or a disregarded entity, enter their name and FEIN here rather than the name and FEIN of the entity filing the return, and attach an explanatory statement with your return.
- Enter the amount of income subject to West Virginia withholding.

**C – WV Tax Withheld:**

- Enter the amount of West Virginia Tax Withheld from payer.
- Check the source of withholding.
- Form 1099
- WVK-1
- WV/NRW-2
- Enter the tax year ending date of the corporate filer.

A – Payer Information	B – Taxpayer Information	C – WV Tax Withheld
<b>1</b> <div style="border: 1px solid black; padding: 2px;">123456789</div> Payer ID from 1099, K-1, and/or NRW-2 <b>JSMITH INC</b> Payer Name <b>123 ANY STREET</b> Address <b>PORTLAND ME 04103</b> City, State, ZIP	<b>ABC COMPANY</b> Name <b>555555555</b> FEIN <div style="border: 1px solid black; padding: 2px; text-align: right;"><b>5000.00</b></div> Income Subject to WV WITHHOLDING	<div style="border: 1px solid black; padding: 2px; text-align: right;"><b>500.00</b></div> WV WITHHOLDING Check the appropriate box <input checked="" type="checkbox"/> 1099 <input type="checkbox"/> K-1 <input type="checkbox"/> NRW-2 <div style="border: 1px solid black; padding: 2px; display: inline-block;"><b>1215</b></div> Date tax year ending (MMYY) <b>Enter WV withholding Only</b>