

**Corporation Net Income Tax:  
Nonbusiness Income**

*This publication provides general information and is not meant to be a substitute for tax laws or regulations.*

Any non-exempt corporation (domestic or foreign) that engages in business or that derives income from property, activity or other sources in West Virginia is subject to the Corporation Net Income tax. When determining West Virginia taxable income, multi-state corporations are required to allocate certain items of nonbusiness income and apportion the remaining business income based on the single sales factor.

**Nonbusiness income:** all income that is not earned from transactions and activity in the regular course of the taxpayer's trade or business.

If a taxpayer's business activities take place both in and out of West Virginia, and they are subject to a net income tax in another state, certain items of nonbusiness income may be allocated to the state where it was earned. All other net income must be apportioned. However, if a taxpayer's business is conducted entirely within West Virginia, all their net income is subject to the West Virginia Corporation Net Income Tax regardless of whether it is business or nonbusiness income.

Under W. Va. Code §11-24-7(d), certain types of income that can be classified as nonbusiness income include but are not limited to:

**Rents and Royalties from real and tangible personal property**

- Tangible personal property nonbusiness income allocation is determined by:
  - (1) the ratio of the properties used in West Virginia as compared to other states, or
  - (2) totally if the taxpayer's principal place of business is in West Virginia but the taxpayer is not organized or taxable in the state where the tangible personal property is used.

**Capital Gains or Losses**

- Capital gains or losses from sales of property located in West Virginia that are not related to the taxpayer's trade or business are allocable to West Virginia.
- Capital gains or losses from sales of tangible personal property are allocable to West Virginia if they are nonbusiness income and (1) the property was located in West Virginia at the time of the sale, or (2) the taxpayer's principal place of business is in West Virginia and the taxpayer is not taxable in the state where the property is located.
- Capital gains or losses from sales of intangible personal property are nonbusiness income if the taxpayer's principal place of business is in West Virginia.

**Interest**

- Interest income is nonbusiness income when it is earned from intangible property that was not created in the regular course of business or the reason for acquiring and holding the intangible property is not related to the taxpayer's trade or business.

**Dividends**

- Dividend income is presumed to be nonbusiness income unless a taxpayer is primarily engaged in the business of making investments.

**Patent or Copyright Royalties**

- Patent and copyright royalties that are nonbusiness income are allocated to West Virginia (1) if the patent or copyright is used by the taxpayer in West Virginia, or (2) if the taxpayer's principal place of business is in West Virginia but the patent or copyright was used in a state where the taxpayer is not taxable.

**Corporate Partner's Distributive Share:** Any income, gain, loss, deduction, or credit distributed to a corporate partner is apportionable to West Virginia as business income.

**For more information, you can:**

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email [taxhelp@wv.gov](mailto:taxhelp@wv.gov)
- Go Online to [tax.wv.gov](http://tax.wv.gov)