

**NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
TECHNICAL BULLETIN**

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TAX: PARTNERSHIP

**TOPIC: PARTNERSHIP FILING FEE AND
NONRESIDENT PARTNER TAX**

For tax years beginning on or after January 1, 2015, the Division created two new partnership tax returns, Forms NJ-1065 and NJ-CBT-1065. Form PART-100, which partnerships previously used to report both the gross income tax filing fee and the corporation business tax, is eliminated for tax years beginning on or after January 1, 2015.

PARTNERSHIP FILING FEE

WHO MUST FILE. Every partnership that has income or loss derived from sources in the State of New Jersey, or has any type of New Jersey resident partner, must file Form NJ-1065. Partners subject to the gross income or corporation business tax must report and pay tax on their share of partnership income or loss. In accordance with N.J.S.A. 54A:8-6(b)(2)(A), a partnership that has more than two owners and New Jersey source income (or loss), must pay a per owner filing fee subject to the exceptions discussed below. Partnerships compute and report the filing fee on Form NJ-1065.

DUE DATE. Returns are due on the fifteenth day of the fourth month after the end of the tax year. A partnership that has a filing fee due can request an extension of time to file its Form NJ-1065 and may be granted that extension if it has 80% of the filing fee paid in by the original due date of the return. There is no extension of time for payment of the filing fee. The full amount of the filing fee must be paid on or before the original due date of the NJ-1065 tax return. Along with the filing fee, the partnership must also pay one-half of the tax year's filing fee as a prepayment of the next year's filing fee on that date. If the filing fee is not paid by the original due date of the partnership return (e.g., April 15th for a calendar year partnership), the Division will assess late payment penalties and interest for the filing fee.

AMOUNT DUE. Partnerships must pay \$150 for each individual, trust, estate, or entity, including any "pass-through" entity that owns a partnership interest, up to a maximum of \$250,000. In addition, the partnership must pay one-half of the filing fee for the tax year as the

prepayment towards the filing fee for the next tax year. Nonprofit owners are not exempt from the fee. The total fee amount due is generally determined by the number of K-1's filed by, or due from, the partnership, regardless of whether the partnership is a qualified investment partnership, tiered partnership, or other pass-through entity. The partnership must pay the fee for every owner, even if it does not provide each one with a K-1. With regard to tiered partnerships, each partnership must pay the filing fee required for its partners.

There is no exemption/proration of the fee for partners that own an interest for only a portion of the year. Similarly, there is no exemption/proration of the fee if the partnership was in existence for only part of the tax year for which the NJ-1065 is due. If a partnership dissolves shortly after the end of a tax year before filing the return for that tax year, the filing fee is due for that tax year, plus one-half of that fee as the prepayment towards the filing fee for the next year (the next tax year being a partial year). When "Final Return" is checked off on the NJ-1065 return, no prepayment of the next year's fee is required; however, the filing fee for the final return is required.

The full \$150 filing fee is due for each nonresident partner that has physical nexus with New Jersey. If the partnership has income earned outside New Jersey, the filing fee for nonresident partners that do not have physical nexus with New Jersey may be apportioned based on New Jersey source income. The partnership must use Schedule J of the "Corporation Allocation Schedule" on Form NJ-1065 for nonresident partners lacking nexus.

FORMS. The partnership must remit the filing fee with the Partnership Payment Voucher (NJ-1065-V). Form PART-200-T is to request an extension of time to file Form NJ-1065 if the entity has a filing fee due.

FILING FEE EXCEPTIONS.

Partnership has no New Jersey source income, expenses, or loss. To qualify for this exception, all of the partnership's operations and facilities must be located outside New Jersey. Generally, if the partnership has New Jersey source expenses, deductions, or losses, it will not qualify for this exception. For example, if a partnership owns undeveloped land in New Jersey, the partnership has New Jersey source expenses resulting from real property taxes on the land. On the other hand, fees paid for a New Jersey checking account or to a New Jersey accounting firm are not sourced to New Jersey for purposes of liability for the filing fee. Similarly, the fee paid for filing an annual report in New Jersey, without more, will not be sourced to New Jersey for purposes of filing fee liability. A partnership that has hedge fund status (see below), does not qualify for this exception and a filing fee is due for all partners, unless all of the partnership's operations and facilities are located outside New Jersey.

Partnership is an Investment Club. If the partnership meets the definition of "investment club" (see below), the partnership is exempt from payment of filing fees.

TIME LIMIT FOR ASSESSING ADDITIONAL FILING FEES. Under the Gross Income Tax Act, the Division of Taxation has three years from the date the entity filed its partnership return

or the original due date of the return, whichever is later, to send a bill for additional filing fees. This rule and its exceptions are in N.J.S.A. 54A:9-4.

NONRESIDENT PARTNER TAX

WHO MUST FILE. In accordance with N.J.S.A. 54:10A-15.11, a partnership must pay a tax on behalf of its nonresident partner(s) that have New Jersey allocated income. A partnership must file Form NJ-CBT-1065 when the entity is required to calculate a tax on its nonresident partner(s). When a nonresident partner files a New Jersey income tax return, such as an NJ-1040NR or CBT-100, the partner must be sure to attach a copy of its NJK-1 to take a credit for the tax paid by the partnership on the partner's behalf.

DUE DATE. Returns are due on the fifteenth day of the fourth month after the end of the tax year. A partnership that has a tax due can request an extension of time to file its Form NJ-CBT-1065 and may be granted an extension of time if it has 90% of the total tax reported on Form NJ-CBT-1065 paid in by the original due date of the return. The nonresident partner tax must be paid by the original due date for filing Form NJ-CBT-1065. If the nonresident partner tax is not paid by the original due date of the partnership return (e.g. April 15th for a calendar year partnership), the Division will assess late payment penalties and interest for the tax due.

AMOUNT DUE. The tax rate is 6.37% for nonresident noncorporate partners (e.g., individuals, trusts, and estates), and 9% for nonresident corporate partners of the allocable share of entire net income.

FORMS. The partnership must remit the nonresident partner tax with the Corporation Business Tax Partnership Payment Voucher (NJ-CBT-V). Form CBT-206 is to request an extension of time to file the NJ-CBT-1065 if the entity has a tax due. Form CBT-160-P is used to determine and report the underpayment of estimated New Jersey partnership tax.

ESTIMATED PAYMENTS. Partnerships are required to make installment payments of estimated tax. Partnerships must make quarterly installment payments of 25% of the nonresident partner tax on or before the fifteenth day of the fourth, sixth, and ninth months of the privilege period and on or before the fifteenth day of the first month following the close of the privilege period. The estimated payments must be filed and paid electronically through the Division of Taxation's [online partnership service](#).

PARTNERSHIPS NOT REQUIRED TO REMIT TAX.

In accordance with N.J.S.A. 54:10A-15.11a, the following types of partnerships are not required to remit the nonresident partner tax:

1. *A partnership listed on a United States national stock exchange.*
2. *A partnership that is a "qualified investment partnership." To meet the definition of qualified investment partnership, the entity must have more than 10 members or partners (for a limited exception to this requirement, see N.J.A.C. 18:7-1.21); no*

member or partner may own more than a 50% interest in the entity; and it must derive at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks, securities, foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities. The term “qualified investment partnership” does not include a “dealer in securities” within the meaning of 26 U.S.C. §236.

3. *A partnership that is an investment club.* To meet the definition of investment club, the entity must meet these criteria: be classified as a partnership for federal income tax purposes; all of the owners must be individuals; all of the assets must be securities, cash or cash equivalents; the market value of the total assets must not exceed an amount equal to the lesser of \$335,000 or \$46,900 per owner (for tax year 2015), with amounts subject to an annual inflation adjustment; and the entity is not required to register itself or its membership interests with the federal Securities and Exchange Commission.

NONRESIDENT PARTNER TAX EXEMPTIONS

A partnership is not required to pay the nonresident partner tax for the types of exempt partners listed below. The partner must declare its exemption on Form NJ-1065E, and submit the form to the partnership. This form is not filed with the return. The partnership must retain these forms in its records.

1. *An IRC 501(c)(3) entity or a corporate partner that is exempt from the corporation business tax pursuant to N.J.S.A. 54:10A-3.* A complete list of the N.J.S.A. 54:10A-3 exempt corporations can be found on the back of Form NJ-1065-E. If the partnership pays the nonresident partner tax for an exempt entity, the exempt entity may file a claim for refund, which must include proof of the tax payment.
2. *A corporate partner that has a regular place of business in New Jersey.* Regular place of business refers to a bona fide office (other than a statutory office), factory, warehouse, or other space of the corporation that is regularly maintained, occupied, and used by the corporation in carrying on its business and in which one or more regular employees are in attendance. The corporation must own or rent the “regular place of business” (the cost being born directly by the corporation and not by a related entity or person).
3. *Any retirement plan approved by the Internal Revenue Service.*

TIME LIMITS FOR ASSESSING ADDITIONAL NONRESIDENT PARTNER TAX.

Under the Corporation Business Tax Act, the Division has four years from the date the entity filed its partnership return or the original due date of the return, whichever is later, to send a bill for additional nonresident partner tax. This rule and its exceptions are in N.J.S.A. 54:49-6(b).

ELECTRONIC FILING AND PAYMENT

Partnerships required to remit tax based on any nonresident corporate and nonresident noncorporate partner's allocable share of New Jersey partnership income that utilize the services of a paid preparer must file all their returns completed by that practitioner via electronic means. The partnership or paid tax practitioner must make electronic payments of the partnership liabilities along with the submission of payment related returns (PART-200-T and CBT-206).

In addition, partnerships with 10 or more partners must also file all returns electronically, regardless of whether or not they utilize the services of a paid tax preparer.

Note: A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.