

New GIT & CBT Partnership Returns

For 2015

For tax years beginning on or after January 1, 2015, the Division has created two new partnership tax returns, Forms NJ-1065 and NJ-CBT-1065. The Gross Income Tax Act (GIT) at section 54A:8-6 requires entities classified as a partnership for federal income tax purposes having a resident owner or income derived from New Jersey sources to file a Gross Income Tax return, Form NJ-1065. Partnerships with more than two (2) owners and income or loss from New Jersey sources may also be subject to a filing fee. The fee will now be computed and reported on Form NJ-1065.

The Corporation Business Tax Act (CBT) at section 54:10A-15.11 imposes a tax on certain partnerships that have nonresident owners. Partnerships subject to the CBT tax must file Form NJ-CBT-1065. The new forms have been created to help distinguish the differences that exist between the Gross Income Tax and Corporation Business Tax Acts.

The 2015 Form NJ-1065 remains similar to the prior Form NJ-1065 with the exception that the filing fee will now be reported directly on the return. Form PART-100 which previously reported both the GIT filing fee and the CBT tax has been eliminated. The GIT filing fee will now be remitted with the new Partnership Payment Voucher (NJ-1065-V). If the entity is also required to compute and report Corporation Business Tax, the entity must complete and file the new Form NJ-CBT-1065. If the entity has a CBT balance due, it will be remitted with the new Corporation Business Tax-Partnership Payment Voucher (NJ-CBT-V).

General Instructions

Partnership Defined - For tax purposes “partnership” means and shall include a syndicate, group, pool, joint venture and any other unincorporated organization through or by means of which any business, financial operation or venture is carried on and which is not a corporation, trust or estate within the meaning of the New Jersey Gross Income Tax Act. Only entities that qualify for and elect to be treated as a partnership for Federal tax purposes (for example limited liability companies and limited liability partnerships) shall be treated as partnerships under the New Jersey Gross Income Tax Act.

“Tiered” Partnerships - are arrangements wherein one partnership, the upper-tier or “parent” partnership, is a member of, or holds an ownership interest in another partnership (called the lower-tier, or “subsidiary” partnership). Tiered partnerships *must* complete Schedule A, Form NJ-1065 before completing Lines 1 through 11 on the front of Form NJ-1065.

Partner Defined - “Partner” means any owner of a partnership interest.

Nonresident Noncorporate Partner – means an individual, an estate or a trust subject to taxation pursuant to the “New Jersey Gross Income Tax Act” that is not a resident taxpayer or a resident estate or trust under that act.

Nonresident Corporate Partner – means a partner that is not an individual, an estate or a trust subject to taxation pursuant to the “New Jersey Gross Income Tax Act” that is not a corporation exempt from tax pursuant to N.J.S.A. 54:10A-3 and that does not maintain a regular place of business in this State other than a statutory office.

Qualified Investment Partnership – means a partnership that has more than 10 members or partners with no member or partner owning more than a 50% interest in the entity and that derives 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 or securities or 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, but “investment partnership” shall not include a “dealer in securities” within the meaning of section 1236 of the Federal Internal Revenue Code of 1986.

Hedge Fund Status – is met for New Jersey tax purposes if the investment entity's only activity is the purchase, holding or sale of intangible personal property, such as commodities or securities and such intangible personal property is not held for sale to customers as defined at N.J.S.A. 54A:5-8c. A partnership that qualifies for hedge fund status in one year may not meet the requirements every

year. The entity must evaluate its situation on a yearly basis. The entity, not the partner, must make the determination.

Investment Clubs – are usually small groups of individuals who pool their money to invest in stock or other securities. The group usually operates informally with members pledging to pay a regular amount into the club monthly. Some clubs have a committee that gathers information on securities, selects the most promising securities, and recommends that the clubs invest in them. Most clubs require all members to vote for or against all investments, sales trades, and the other transactions.

Investment clubs recognize as their main source of income interest, dividends, and gains on disposition of their stock and securities and usually meet hedge fund status. Investment clubs generally are not considered a business. An investment club is required to file a New Jersey Partnership Form NJ-1065 but is not entitled to deduct any expenses (unless it rises to the level of being in business). The member or partner of the investment club will report their share of the investment club's income or loss as "distributive share of partnership income".

If an “investment club” meets the following criteria, it will be exempt from the \$150 per owner annual partnership filing fee and from the requirement that a partnership make payments on behalf of its nonresident owners. The “investment club” must be an entity that is classified as a partnership for federal income tax purposes, all of the owners are individuals and all of the assets are securities, cash, or cash equivalents. The market value of the total assets of which do not exceed, as measured on the last day of its privilege period, an amount equal to the lesser of \$335,000 or \$46,900 per owner of the entity. The investment club is not required to register itself or its membership interests with the federal Securities and Exchange Commission.

Who Must File

Every partnership that has income or loss derived from sources in the State of New Jersey, or has a New Jersey resident partner, must file Form NJ-1065. Form NJ-CBT-1065 must be filed when the entity is required to calculate a tax on its nonresident partner(s). Partners subject to the gross income or corporation business taxes still must report and pay tax on their share of partnership income or loss.

How to File

Electronic Filing Mandate

Partnerships subject to the provisions of the Corporation Business Tax Act (that is partnerships that remit tax based on any nonresident corporate and nonresident noncorporate partner's allocable share of NJ partnership income) that utilize the services of a paid preparer must file all their returns completed by that practitioner via electronic means. Payments of the partnership liabilities along with the submission of payment related returns (PART-200-T and CBT-206) must

also be made electronically either by the partnership or by a paid tax practitioner.

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. To obtain the electronic filing and payment formats or to obtain additional information on electronic filing and payment options visit the New Jersey Division of Revenue and Enterprise Services Website at <http://www.state.nj.us/treasury/revenue> or call the Division of Revenue and Enterprise Services Call Center at 609-292-9292.

NJ-1065 filers that do not use the services of a paid tax preparer and who have less than ten partners have the option to file by electronic means or on paper.

What to File

The following forms and statements must be included with Form NJ-CBT-1065:

- Schedule T “Tiered Partnership Payment Schedule” if the entity is claiming credit for tax remitted on its behalf by another entity. The Name, Federal EIN and Share of New Jersey Tax reported on Line 1 of Part III of each Schedule NJK-1 must be reported. Failure to complete Schedule T “Tiered Partnership Payment Schedule” in its entirety may result in no credit.
- Schedule CBT-160-P “Underpayment of Estimated N.J. Partnership Tax” must be attached if the entity computed an interest charge on an underpayment of installment payments or an exception to the imposition of interest.

The Division may require that the complete Federal Form 1065 including all schedules and supporting attachments; and any other documentation or information deemed necessary to be submitted during the course of an audit.

If at any time during the course of an audit the Division deems it necessary, the partnership must make a Form NJ-1065E available for all applicable partners.

When to File

Returns for calendar year 2015 are due April 18, 2016. Fiscal year returns are due the 15th day of the fourth month after the end of the tax year.

Any short period return must be filed by the due date of the Federal Form 1065. The partnership should use the most current form available from the Division of Taxation.

Postmark Date. All New Jersey income tax returns postmarked on or before the due date of the return are considered to be filed on time. Returns postmarked after the due date are deemed to be late. The filing date for a late return is the day the return is received by the Division, not the postmark date.

Where to File

Mail your completed Form **NJ-CBT-1065** to:

NJ Division of Taxation - Revenue Processing Center
PO Box 194
Trenton NJ 08646-0194

Mail your completed Form **CBT-206** to:

NJ Division of Taxation - Revenue Processing Center
Nonresident Partners Tax
PO Box 642
Trenton NJ 08646

Mail your completed Form **NJ-CBT-V** to:

NJ Division of Taxation - Revenue Processing Center
Corporation Business Tax Nonresident Partner Tax
Form NJ-CBT-V
PO Box 642
Trenton NJ 08646

NOTE: Do not attach Form NJ-CBT-V to or mail with your Form NJ-CBT-1065.

Extension of Time to File

If a five-month extension is obtained for filing Federal Form 1065, then an automatic five-month extension is granted for submitting your Form NJ-CBT-1065. A copy of your application for Federal extension, Federal Form 7004, must be filed with your New Jersey return. Check the box labeled “Application for Federal Extension is attached” at the top of Form NJ-CBT-1065. If you did not obtain a Federal extension and you need more time to file your New Jersey Form NJ-CBT-1065, Federal Form 7004 must be submitted as your request to New Jersey on or before the original due date of the return.

In addition, any partnership that has a tax due must file Form CBT-206, "Partnership Application for Extension of Time to File NJ-CBT-1065". The applicable payment must accompany this form. Form CBT-206 must be postmarked on or before the original due date for the return. See specific instructions found on back of Form CBT-206.

There is no extension of time to pay the tax due. Penalties and interest are imposed whenever the tax is paid after the original due date.

A five-month extension of time to file your Form NJ-CBT-1065 New Jersey Partnership Return, may be granted if at least 90% of the total tax reported on your Form NJ-CBT-1065 when filed is paid in the form of a tiered partnership payment, estimated payment(s) or other payment(s) made by the original due date.

An extension of time to file Form NJ-CBT-1065 does not extend the time for filing the tax returns of the partners.

Time Limits for Assessing Additional Tax

Partnerships that are required to file Form NJ-CBT-1065 are subject to owing a nonresident partner tax. The nonresident partner tax is subject to the Corporation Business Tax Act. The Corporation Business Tax Act has a four year statute of limitations (time allowed by law) for the Division of Taxation to send a bill. The Division generally 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 the entity a bill for additional nonresident partner tax. There is no time limit

if the entity did not file a partnership return, or if the entity filed a false or fraudulent return with the intent to evade tax. The time limit may be extended in certain circumstances.

Estimated Payments

Partnerships are required to make installment payments of estimated tax. Partnerships that are subject to tax payments shall make installment payments of 25% of that tax on or before the 15th day of each of the fourth month, sixth month, and ninth month of the privilege period and on or before the 15th day of the first month succeeding the close of the privilege period.

Estimated payments must be filed and paid electronically. To file and pay electronically, visit the Division of Taxation website at <http://www.state.nj.us/treasury/taxation>

Partnerships are not to file Form CBT-150 "Corporation Business Tax Statement of Estimated Tax." Form CBT-150 is a Corporation Business Tax form, not a Partnership Form.

Accounting Method

A partnership's accounting method(s) used for Form NJ-1065 shall be the same as the accounting methods(s) used for Federal Form 1065.

Accounting Periods

The 2015 Form NJ-1065 should be used for calendar year 2015, or for a fiscal year, which began in 2015. If filing for a fiscal year or a short tax year, enter at the top of Form NJ-CBT-1065 the month and day the tax year began, and the month, day and year that it ended. The partnership's tax year for New Jersey income tax purposes must be the same as its tax year for Federal income tax purposes.

Forms and Assistance

New Jersey tax forms may be obtained by:

- Downloading the needed forms from our Web site at <http://www.state.nj.us/treasury/taxation/>
- Writing to:

NJ DIVISION OF TAXATION
TAXPAYER FORM SERVICES
PO BOX 269
TRENTON NJ 08695-0269

Assistance from a Division representative is available Monday through Friday from 8:30 a.m. to 4:30 p.m. by contacting the Division's Customer Service Center at 609-292-6400.

Electronic Filing Assistance

Electronic filing assistance can be obtained by:

- Calling the Division of Revenue and Enterprise Services Call Center at 609-292-9292.
- Downloading the needed formats from the New Jersey Division of Revenue and Enterprise Services Website at: <http://www.state.nj.us/treasury/revenue>

Amended Return or Federal Change

An amended Form NJ-CBT-1065 must be filed if an amended Federal Form 1065 return is filed, or if the Internal Revenue Service changes or corrects any item of income, gain or loss previously reported. The amended New Jersey return shall be filed within 30 days of the date the amended Federal Form 1065 is filed or, in the case of a Federal audit, within 90 days after the final determination of the change. Where an amendment to Form NJ-CBT-1065 results in a need to amend the Schedules NJK-1, an amended Schedule NJK-1 must be forwarded to the Division of Taxation and to each partner.

An amended Form NJ-CBT-1065 and an amended Schedule NJK-1 for each partner must also be filed to correct any error on or reflect any change to the original Form NJ-1065, whether or not an amended Federal Form 1065 was filed for that year.

To amend your original Form NJ-CBT-1065, get a blank Form NJ-CBT-1065 for the tax year that is to be amended and check the "Amended Return" box at the top of the form. Complete the form entering the corrected information and attach an explanation of the changes. Entities subject to the "Electronic Filing Mandate" as explained on page 2 under "How to File" are required to file their amended return electronically. Entities that are not subject to the "Electronic Filing Mandate" have the option of filing their amended partnership return electronically or mailing it to:

NJ Division of Taxation
Revenue Processing Center
PO Box 194
Trenton NJ 08646-0194

Penalty and Interest Charges

A penalty of \$100 for each month or fraction of a month will be imposed for a partnership that is required to file electronically, but fails to do so. In addition, a late filing penalty of 5% per month (or fraction of a month) up to a maximum of 25% of the outstanding tax liability will also be imposed.

The Division may impose a penalty against the partnership if the partnership is required to file Form NJ-CBT-1065 and (1) fails to file the return on time, including any extension, (2) files a return that fails to show all the information required, or (3) fails to file an amended partnership return within 90 days of the date a final Federal determination or disallowance is issued or within 90 days of the date the amended Federal Form 1065 is filed, unless the failure is due to reasonable cause and not due to willful neglect.

A penalty of \$100 for each month or fraction of a month may be imposed for failure to file.

A late filing penalty of 5% per month (or fraction of a month) up to a maximum of 25% of the outstanding tax liability when a return is filed after the due date or extended due date may also be imposed.

A late payment penalty of 5% of the outstanding tax balance may be imposed.

Interest will be computed at 3% above the prime rate for every month or fraction of a month the tax is unpaid, compounded annually. At the end of each calendar year, any tax, penalties, and interest remaining due (unpaid) will become part of the balance on which interest is charged.

Fraudulent Returns

Any person who willfully fails to file a return, files a fraudulent return, or attempts to evade the tax in any manner may be liable for a penalty not to exceed \$7,500 or imprisonment for a term between three years and five years, or both.

Rounding Off to Whole Dollars

Money items on the return and schedules may be shown in whole dollars (eliminate amounts under 50 cents; enter amounts over 50 cents as the next higher dollar amount).

Line By Line Instructions

Reporting Period

If you are reporting for a period other than calendar year 2015, enter the beginning and ending dates of your fiscal year.

Partnership Name, Address, Identification

Enter the exact legal name, trade name, if any, and address of the partnership. The legal name is the name in which the business owns property or acquires debt. Enter the trade name, registered alternate name, (d/b/a name) if different from the partnership's legal name.

Enter the partnership's Federal Employer Identification Number (FEIN), principal business activity and date the business was started.

Enter the number of resident partners and the number of non-resident or foreign partners in the spaces provided. Each partner's residency status must be determined as of the close of the partnership's tax year.

Check the appropriate boxes to indicate whether the return is a(n)

- Initial return;
- Final return; or
- Amended return.

Check the appropriate boxes to indicate if

- An application for a Federal extension is attached

Signatures

Form NJ-1065 is not considered to be a return unless signed, either by a general partner, limited liability company member or, if applicable, a receiver, trustee in bankruptcy, or assignee.

Anyone who prepares a partnership return for a fee must sign the return as a "Paid Preparer" and must enter his or her social security number or federal practitioner tax identification number. The company or corporation name and Federal Employer Identification Number, must be included, if applicable. The preparer required to sign the partnership return must sign it by hand; **signature stamps or labels are not acceptable**. If someone prepares the return at no charge, the paid preparer's area need not be completed. A tax preparer who fails to sign the return or provide a correct tax identification number may incur a \$25 penalty for each omission

Nonresident Partners Tax (Lines 1-13)

Any entity that was required to calculate a tax on its nonresident partner(s) on Form-NJ-1065 must complete Lines 1 through 13 of Nonresident Partners Tax.

Line 1 – Total Income

Enter the "Total Income" from Line 12 of Form NJ-1065 "Partnership Return".

Line 2 – Total Nonresident Noncorporate Partner Share of Tax

Enter the amount from Line 2c, Column J of Partners Directory on Form NJ-1065.

Line 3 – Total Nonresident Corporate Partner Share of Tax

Enter the amount from Line 2c, Column K of Partners Directory on form NJ-1065.

Line 4 – Total Tax

Add Lines 2 and 3.

Line 5 – Penalty for Underpayment of Estimated Tax

Enter the amount of interest due from Line 18 of Form CBT-160-P. Check the box if the entity qualified for an exception to the imposition of interest or if the partnership computed an interest charge on the underpayment of installment payments.

Line 6 – Total Due

Add Lines 4 and 5.

Lines 7 – Total from Tiered Partnership Payment Schedule

Enter the total tax paid on behalf of partnership from Schedule T.

Line 8 – Estimated Payments/Credits from 2014

Enter the total amount of estimated payment made. Also, enter your credit forward request from Line 14 of your 2014 Return PART-100.

Line 9 – Payment from CBT-206

Enter the amount of the payment remitted with your 2015 Partnership Application for Extension of Time to File NJ-CBT-1065.

Line 10 – Total Balance Due

Subtract Lines 7-9 from Line 6 and enter the balance due. Make check payable to “State of New Jersey- CBT” and remit with completed Form NJ-CBT-V “Corporation Business Tax-Partnership Payment Voucher”.

Line 11 – Overpayment

Subtract Lines 7-9 from Line 6 and enter the overpayment.

Line 12 – Credit to 2016

Enter the amount of the overpayment shown on Line 11 that you want forwarded to your 2016 NJ-CBT-1065.

Line 13 – Refund

Enter the amount of the overpayment shown on Line 11 that you want refunded.