

NJ-1041SB
2008

State of New Jersey
GROSS INCOME TAX
FIDUCIARY RETURN
ELECTING SMALL BUSINESS TRUST

For Taxable Year January 1, 2008 - December 31, 2008

5-F

Or Other Taxable Year Beginning _____ 2008, Ending _____, 20__

Check this block if application for Federal extension is attached or enter confirmation number _____

Federal Employer Identification Number	Name of Trust		
Residency Status <input type="checkbox"/> Resident Trust <input type="checkbox"/> Non Resident Trust	Name and Title of Fiduciary		
	Address of Fiduciary (Number and Street or Rural Route)		
	City, Town, Post Office	State	Zip Code

PART I

1. Net pro rata share of S corporation income (attach Schedule(s) NJ-K-1), (if loss enter "0")	1		
2. Net gain or loss from disposition of S corporation's assets	2		
3. Net gain or loss from disposition of S corporation stock	3		
4. Net gain from disposition of property (combine line 2 and line 3), (if loss enter "0")	4		
5. Taxable S corporation portion of income (add Line 1 and line 4)	5		
6. Tax due on S corporation portion of income	6		
7. Credit for income taxes paid to other jurisdictions on S corporation portion of income (from Part I Schedule E, Line 52)	7		
8. Balance of tax due on S corporation portion of income	8		
9. Taxable non S corporation income (from PART II Line 21) .nonresident income percentage _____	9		
10. Tax due on non S corporation income (from PART II Line 24)	10		
11. Credit for income taxes paid to other jurisdictions on non S corporation income (from PART II, Schedule E Line 52)	11		
12. Balance of tax due on non S corporation portion of income	12		
13. Total tax due on S corporation and non S corporation income (add line 8 and Line 12)	13		
14. Estimated payments/prior year credits and tax credits	14		
15. Tax paid by partnerships (attach Schedule(s) NJK-1) 15 _____			
16. Tax paid by partnerships and distributed 16 _____			
17. Balance of tax paid by partnerships (Line 15 minus Line 16)	17		
18. Total payments and credits (add Line 14 and Line 17)	18		
19. Balance of tax due	19		
20. Overpayment	20		
21. Credit to 2009 tax	21		
22. Refund	22		

SIGN HERE

Election Statement: I declare that this trust is a federal Electing Small Business Trust and consents to be taxed as a New Jersey Electing Small Business Trust for tax year 2008.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. If prepared by a person other than taxpayer, this declaration is based on all information of which the preparer has any knowledge.

→ _____
Signature of Fiduciary or Officer Representing Fiduciary Date

→ _____
Signature of Preparer Other than Fiduciary Address Date Fed. ID. No.

Pay amount on Line 19 in full.
Write Federal ID number
on check or money order
and make payable to:

STATE OF NEW JERSEY-TGI
Division of Taxation
Income Tax Audit Branch-ESBT
PO Box 288
Trenton, NJ 08695-0288

Federal Employer Identification Number	Name of Estate or Trust	Name and Title of Fiduciary
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PART II ESBT NON S CORPORATION INCOME

Resident Trust: Complete PART II if the ESBT has non-S corporation income

Nonresident Trust: Complete PART II if the ESBT has non-S corporation income from New Jersey sources

In case of a net loss in any category, enter "0" for that category

6. Interest Tax-Exempt Interest _____	6		
7. Dividends Tax-Exempt Dividends _____	7		
8. Net profits from business (From Part II Schedule A, Line 38)	8		
9. Net gains or income from disposition of property (From Part II Schedule B, Line 42)	9		
10. Net gains or income from rents, royalties, patents, and copyrights (From Part II Schedule C, Line 45)	10		
11. Distributive Share of Partnership Income (Enclose Schedule NJK-1)	11		
12. Net pro rata share of S Corporation Income (Enclose Schedule NJ-K-1)	12		
13. Other Income - State Nature _____	13		
14. Gross Income (Add Lines 6 through 13) If \$10,000 or less, see instructions	14		
15. Distributions (From Part II Schedule D Line 47A)	15		
16. Total Income (Line 14 minus Line 15)	16		
16a. NONRESIDENTS: NJ Income from Part II Schedule G, Line 11 ...	16a		
17. Income Commissions	17		
18. Exemption - Enter \$1,000 (Part-year taxpayers - see instructions) ...	18		
19. Health Enterprise Zone Deduction	19		
20. Total deductions and exemption (Add Lines 17, 18, and 19)	20		
21. Taxable Income (Line 16 less Line 20)	21		

NONRESIDENTS ONLY:

22. Tax on amount on Line 21 (From Tax Rate Schedule)	22		
23. Income Percentage $\frac{\text{(Line 16a)}}{\text{(Line 16)}} = \text{_____ \%}$			

24. TAX: Residents (From Tax Rate Schedule)			
Nonresidents (Multiply amount from Line 22 _____ x _____ % from Line 23)	24		
Enter Tax - on Line 24 and on Page 1 Line 10			

Federal Employer Identification Number	Name of Estate or Trust	Name and Title of Fiduciary
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PART II SCHEDULE A NET PROFITS FROM BUSINESS List below the type of business, address, and net profit (loss) from each business carried on individually by the taxpayer. Enclose Federal Schedule C or F.

	TYPE OF BUSINESS	ADDRESS	NET PROFIT (LOSS)
37.			
38.	TOTAL (Enter here and on Page 2, Line 8) (If loss enter ZERO)		38

PART II SCHEDULE B NET GAINS OR INCOME FROM DISPOSITION OF PROPERTY List the net gains or income, less net loss, derived from the sale, exchange, or other disposition of property including real or personal whether tangible or intangible. Enclose Federal Schedule D.

	(a) Kind of property and description	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Gross sales price	(e) Cost or other basis as adjusted (see instructions) and expense of sale	(f) Gain or (loss) (d less e)
39.						
40.	Capital Gains Distributions					40
41.	Other Net Gains					41
42.	Net Gains (Add Lines 39, 40, and 41) (Enter here and on Page 2, Line 9) (If loss enter ZERO)					42

PART II SCHEDULE C NET GAINS OR INCOME FROM RENTS, ROYALTIES, PATENTS, AND COPYRIGHTS List the net gains or net income, less net loss, derived from or in the form of rents, royalties, patents, and copyrights as reported on your Federal Income Tax Return. If you have passive losses for Federal purposes, see instructions. Enclose Federal Schedule E.

	(a) Kind of Property	(b) Net Rental Income (loss)	(c) Net Income From Royalties	(d) Net Income From Patents	(e) Net Income From Copyrights
43.					
44.	TOTALS	(b)	(c)	(d)	(e)
45.	Net Income (Combine Columns b, c, d, and e) (Enter here and on Page 2, Line 10) (If loss enter ZERO)				45

PART II SCHEDULE D BENEFICIARIES' SHARES OF INCOME Enclose New Jersey Schedule K-1

	Name and Address of Each Beneficiary	Indicate Residency Status	Social Security Number	DISTRIBUTIONS					
				Column A Total Income		Column B NJ Source Income		Column C Tax Paid by Partnerships	
46.									
47.	TOTAL (Enter amount from Line 47A on PART II, Line 15) (Enter amount from Line 47B on PART II Schedule G, Line 10) (Enter amount from Line 47C on PART I, Line 16)			47A		47B		47C	

Federal Employer Identification Number	Name of Trust	Name and Title of Fiduciary
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**PART I SCHEDULE E
Form NJ-1041SB**

**CREDIT FOR INCOME TAXES PAID TO OTHER
JURISDICTION ON S CORPORATION INCOME**

A copy of other state or political subdivision tax return must be retained with your records.

48.	S Corporation income actually taxed by other jurisdiction during tax year (indicate name _____) <i>(Do not combine the same income taxed by more than one jurisdiction.) Amount on Line 48 cannot exceed amount on Line 49</i>	48		
49.	S Corporation Income Subject to Tax by New Jersey. (From Page 1, Line 5)	49		
50.	Maximum Allowable Credit (48) _____ x _____ = (Divide Line 49 into Line 48) (49) (NJ Tax on S Corporation Income, Page 1, Line 6)	50		
51.	Income tax paid to other jurisdiction on S Corporation Income	51		
52.	Credit Allowed. (Enter lesser of Line 50 or Line 51 here and on Page 1, Line 7)	52		

**PART II SCHEDULE E
Form NJ-1041SB**

**CREDIT FOR INCOME TAXES PAID TO OTHER
JURISDICTION ON NON S CORPORATION INCOME**

A copy of other state or political subdivision tax return must be retained with your records.

48.	Non S Corporation income actually taxed by other jurisdiction during tax year (indicate name _____) <i>(Do not combine the same income taxed by more than one jurisdiction.) Amount on Line 48 cannot exceed amount on Line 49</i>	48		
49.	Non S Corporation Income Subject to Tax by New Jersey. (From Page 2, Line 16)	49		
50.	Maximum Allowable Credit (48) _____ x _____ = (Divide Line 49 into Line 48) (49) (NJ Tax on non S Corporation Income, Page 1, Line 10)	50		
51.	Income tax paid to other jurisdiction on non S corporation income	51		
52.	Credit Allowed. (Enter lesser of Line 50 or Line 51 here and on Page 1, Line 11)	52		

**SCHEDULE
NJK-1**
(Form NJ-1041SB)
2008

STATE OF NEW JERSEY
Division of Taxation
Beneficiary's Share of Income

For Calendar Year 2008, or Fiscal Year Beginning _____, 2008 and ending _____, 20____

PART I				General Information											
Beneficiary Information				Trust Information											
Federal Identification Number				Federal Identification Number											
Name				Name of Estate or Trust											
Street Address				Name of Fiduciary											
				Street Address											
City	State	Zip Code		City	State	Zip Code									
Check Applicable Box Individual <table style="margin-left: 100px;"> <tr> <td>Resident</td> <td>NonResident</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table> <input type="checkbox"/> Final NJK-1 <input type="checkbox"/> Amended NJK-1				Resident	NonResident	<input type="checkbox"/>	<input type="checkbox"/>	Check Applicable Box Trust <table style="margin-left: 100px;"> <tr> <td>Resident</td> <td>NonResident</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>				Resident	NonResident	<input type="checkbox"/>	<input type="checkbox"/>
Resident	NonResident														
<input type="checkbox"/>	<input type="checkbox"/>														
Resident	NonResident														
<input type="checkbox"/>	<input type="checkbox"/>														

PART II				Beneficiary's Share of Income			
		Total Distribution	New Jersey Source Income Distributed			Tax Paid by Partnerships and Distributed	
Net Income From Trust							

NJ-1041SB INSTRUCTIONS

The New Jersey Electing Small Business Trust (ESBT) election

A federal Electing Small Business Trust makes an election to be taxed as a New Jersey Electing Small Business Trust by filing a New Jersey Gross Income Tax Fiduciary Return, Form 1041SB and signing the election statement at the bottom of the return.

S corporation portion of income: For the S corporation portion of income, the ESBT waives its right to claim a minimum taxable income threshold, an exemption, deductions for distributions and for income commissions, and consents to have all of the trust's income taxed at the maximum tax rate in effect.

Non S corporation portion of income: For the non S corporation portion of income, the ESBT can claim a minimum taxable income threshold if total income from the non S corporation portion, after distributions but before exemptions or deductions, is less than the filing threshold. In addition, non S corporation income can be reduced by an exemption and deductions can be taken for the distributions and income commissions sourced to the non S corporation portion income.

Federal S corporation which did not make the New Jersey S election: If the trust has S corporation income earned outside of New Jersey from federal S corporations which did not make the New Jersey S election or if the trust did not receive NJ-K-1(s), a Reconciliation Worksheet B or Worksheet B Liquidated must be completed to determine the trust's reportable income for New Jersey income tax purposes. Reconciliation Worksheet B and Worksheet B Liquidated are contained in Tax Topic Bulletin GIT-9S, *Income from S corporations*.

Credit for taxes paid to other jurisdictions: The trust may be eligible for a credit for taxes paid to other jurisdictions if S corporation income and the gain on disposition of the S corporation assets, and/or the non S corporation income were taxed by both New Jersey and another jurisdiction. A credit is not allowed for any tax imposed by another jurisdiction on S corporation source income which is allocated to New Jersey based on the corporation's New Jersey allocation factor.

Separate credit calculations must be made for the S corporation portion of income, using Part I, Schedule E, and for the non S corporation portion of income, using Part II, Schedule E, and for each jurisdiction. Information on calculating the credit can be found in Tax Topic Bulletin GIT-3B, *Credit For Taxes Paid to Other Jurisdictions (Business/Nonwage Income)*.

PART I - Line by Line Instructions

Line 1 – Net pro rata share of S corporation income – In case of a net loss, enter "0" on Line 1.

Resident trust – Enter the total of pro rata share of S corporation income reported on the NJ-K-1(s) received from New Jersey electing S corporation(s) or from the Reconciliation Worksheet B or Worksheet B Liquidated prepared for the trust.

Nonresident trust – Enter the trust's S corporation income allocated to New Jersey reported on the NJ-K-1(s) received from New Jersey electing S corporation(s) or from the Reconciliation Worksheet B or Worksheet B Liquidated prepared for the trust.

Line 2 – Net gain or loss from disposition of S corporation's assets

Resident trust - Enter the total gain/loss from disposition of S corporation's assets reported on the NJ-K-1(s) received from New Jersey electing S corporation(s) or from the Reconciliation Worksheet B Liquidated prepared for the trust.

Nonresident trust – Enter the trust's net gain from disposition of S corporation's assets allocated to New Jersey reported on the NJ-K-1(s) received from New Jersey electing S corporation(s) or from the Reconciliation Worksheet B Liquidated prepared for the trust. In case of a net loss, enter "0" on Line 2.

Line 3 – Net gain or loss from disposition of S corporation stock

Resident trust - Enter the net gain or loss from the disposition S corporation stock and distributions in excess of the adjusted basis of the S corporation stock. The gain or loss and taxable excess distribution must be determined using the New Jersey adjusted basis of the stock. Information on calculating the New Jersey adjusted basis and the New Jersey gain or loss on disposition of S corporation shares can be found in Tax Topic Bulletin GIT-9S, *Income from S Corporations*.

Nonresident trust – Make no entry on Line 3.

Line 4 – Net gain from disposition of property

Combine Line 2 and Line 3 and enter the net gain. In case of a net loss, enter "0" on line 4.

Line 5 – Taxable S corporation portion of income

Add Line 1 and Line 4

Line 6 - Tax due on S corporation portion of income

Multiply Line 5 by .0897.

Line 7 – Credit for income taxes paid to other jurisdictions on S corporation portion of income

To determine the credit(s) allowed for income taxes paid to other jurisdictions on S corporation portion of income complete Part I, Schedule(s) E.

Instructions for Part I, Schedule E – Credit for income taxes paid to other jurisdictions on S corporation income:

A separate credit calculation must be made for each jurisdiction that the trust is claiming a credit for taxes paid on S corporation income and/or a gain from disposition of the S corporation's assets.

A credit is not allowed for any tax imposed by another jurisdiction on S corporation income or on gain from disposition of the S corporation's assets, which is allocated to New Jersey based on the corporation's New Jersey allocation factor.

In calculating the credit, the income in the numerator, Line 48, must be included in the denominator, Line 49. The tax paid to the other jurisdiction is limited to the tax actually paid to the other jurisdiction on the amount of income reported in the numerator. The New Jersey tax amount used in the calculation, on Line 50, is limited to the New Jersey tax reported on Part I, Line 6.

Total the credit(s) allowed from Line 52 and enter the result on Line 7. Include all credit calculations with the return.

Line 8 – Balance of tax due on S corporation portion of income

Subtract Line 7 from Line 6

Line 9 – Taxable non S corporation income Line

Resident Trust - Enter amount from Part II, Line 21

Nonresident Trust - Enter amount from Part II, Line 21, and in the space provided, enter the income percentage from Part II, line 23

Line 10 – Tax due on non S corporation income

Enter amount from Part II, Line 24

Line 11- Credit for income taxes paid to other jurisdictions on non S corporation income

To determine the credit(s) for income taxes paid to other jurisdictions on non S corporation portion of income complete Part II, Schedule(s) E.

Instructions for Part II, Schedule E – Credit for income taxes paid to other jurisdictions on non S corporation income:

A separate credit calculation must be made for each jurisdiction that the trust is claiming a credit for taxes paid on non S corporation income.

In calculating the credit, the income in the numerator, Line 48, must be included in the denominator, Line 49. The tax paid to the other jurisdiction is limited to the tax actually paid to the other jurisdiction on the amount of income reported in the numerator. The New Jersey tax amount used in the calculation, on Line 50, is limited to the New Jersey tax reported on Part I, Line 10.

Total the credit(s) allowed from Line(s) 52 and enter the result on Line 11. Include all credit calculations with the return.

Line 12 – Balance of tax due on non S corporation portion of income

Subtract Line 11 from Line 10

Line 13 – Total tax due on S corporation and non S corporation income

Add Line 8 and Line 12.

Line 14 – Estimated payments/prior year credits and tax credits

Enter the total of estimated tax payments, prior year credits and the Sheltered Workshop Tax Credit from Partnership or LLC and include NJK-1 with return.

Line 15 – Tax paid by partnerships

Enter the tax paid by partnerships in behalf of a nonresident trust and reported on the trust's Schedule(s) NJK-1. Copies of the NJK-1(s) must be included with the return.

Line 16 – Tax paid by partnerships and distributed

Enter the amount from Part II, Schedule D, Line 47C - tax paid by partnerships and distributed to nonresident beneficiaries.

Line 17 – Balance of tax paid by partnerships

Subtract Line 16 from Line 15.

Line 18 – Total payments and credits

Enter the total of lines 14 and 17. .

Lines 19 and 20 – If Line 18 is less than Line 13 enter the balance due on Line 19. If Line 18 is more than Line 13 enter the overpayment on Line 20.

Information and instructions for calculating late penalties and interest, and estimated tax payments are included in the Fiduciary Income Tax Return booklet.

Line 19 - Balance of tax due

Attach payment by check or money order, payable to “State of New Jersey – TGI” and a completed payment voucher (Form NJ-1041-V) and mail to: State of New Jersey-TGI, Division of Taxation, Income Tax Audit Branch-ESBT, PO Box 288, Trenton, NJ 08695-0288.

Line 21 – Credit to 2009 tax

Enter amount of overpayment from Line 20 you wish to credit to 2009

Line 22 – Refund

Subtract Line 21 from Line 20.

Signature and Date

The return must be signed and dated by the individual fiduciary or by the authorized officer of the organization receiving, having custody or control and management of the income of the trust and having the authority to make the election.

PART II – INSTRUCTIONS - NON S CORPORATION INCOME

Part II is for the reporting of non S corporation income, deductions and credits.

A **Resident Trust** must complete Part II if it has non S corporation income.

A **Nonresident Trust** must complete Part II, and Part II, Schedule G, if it has non S corporation income from New Jersey sources, whether or not distributed.

Complete applicable Part II Schedules and include with return

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Line 15 - Distributions – Enter total distributions of non S corporation income from Part II, Schedule D, line 47A. Do not include distributions of S corporation income.

Line 17 - Income Commissions - Enter income commissions paid or accrued and which are specifically related to the non S corporation gross income reported on Line 14, Part II. Do not include any income commissions paid or accrued on S corporation income reported in Part I.

INSTRUCTIONS FOR SCHEDULE NJK-1

A **resident beneficiary** is subject to New Jersey gross income tax on the ESBT’s net non S corporation income actually distributed or required to be distributed during the taxable year.

A **nonresident beneficiary** is subject to New Jersey gross income tax on the ESBT’s net non S corporation sourced to New Jersey which was actually distributed or required to be distributed during the taxable year.

Prepare a Schedule NJK-1 for each beneficiary using the information listed on Part II Schedule D, Form NJ-1041SB. Include the NJK-1(s) with Form NJ-1041SB.