

GIT and CBT Partnership Returns For 2019

The Division has two partnership tax returns: Forms NJ-1065 and NJ-CBT-1065. The Gross Income Tax Act (GIT) at N.J.S.A. 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, 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 is calculated and reported on the NJ-1065.

The Corporation Business Tax Act (CBT) at N.J.S.A. 54:10A-15.11 imposes a tax on certain partnerships that

have nonresident owners. Partnerships subject to the CBT tax must file the NJ-CBT-1065. The separate forms help distinguish the differences that exist between the Gross Income Tax and Corporation Business Tax Acts.

The filing fee is reported directly on the NJ-1065. The GIT filing fee is remitted with the Partnership Payment Voucher (NJ-1065-V). If the entity is also required to calculate and report Corporation Business Tax, the entity must complete and file the NJ-CBT-1065. If the entity has a CBT balance due, it is remitted with the Corporation Business Tax–Partnership Payment Voucher (NJ-CBT-V).

General Instructions

Definitions

Partnership, for tax purposes, means and includes 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 that 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) are treated as partnerships under the New Jersey Gross Income Tax Act.

“Tiered” Partnerships are arrangements in which 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, NJ-1065 before completing lines 1 through 11 on the front of the NJ-1065.

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” does 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 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 the investment club cannot exceed, as measured on the last day of its privilege period, an amount equal to the lesser of \$352,700 or \$49,400 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 any type of 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 by 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 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/partnerships.shtml> or email the Division of Revenue and Enterprise Services at e-GovServices@treas.nj.gov.

NJ-1065 filers that do not use the services of a paid tax preparer and who have less than 10 partners have the option to file by electronic means or on paper.

What to File

The following forms and statements must be included with the 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 in its entirety may result in no credit.
- Schedule CBT-160-P, Underpayment of Estimated N.J. Partnership Tax, must be included if the entity calculated 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 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 NJ-1065E available for all applicable partners.

When to File

Returns for calendar year 2019 are due April 15, 2020. 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 **NJ-CBT-1065** to:
 NJ Division of Taxation
 Revenue Processing Center
 PO Box 194
 Trenton NJ 08646-0194

Mail your completed **CBT-206** to:
 NJ Division of Taxation
 Revenue Processing Center
 Extension of Time to File NJ-CBT-1065
 PO Box 642
 Trenton NJ 08646

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

NJ Division of Taxation
Revenue Processing Center
Corporation Business Tax – Nonresident Partner Tax
PO Box 642
Trenton NJ 08646

Note: Do not attach the NJ-CBT-V to or mail with your 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 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” on the front of your NJ-CBT-1065. If you did not obtain a federal extension and you need more time to file your 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 a CBT-206, Partnership Application for Extension of Time to File NJ-CBT-1065. The applicable payment must accompany this form. Your CBT-206 must be postmarked on or before the original due date for the return. See specific instructions found on back of the 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 NJ-CBT-1065 may be granted if at least 90% of the total tax reported on your 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 the 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 an 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 must make installment payments of 25% of that tax on or before the 15th day of each of the fourth, sixth, and ninth months of the privilege period and on or before the 15th day of the first month after the close of the privilege period.

Estimated payments must be filed and paid electronically. To file and pay electronically, visit the Division’s website.

Partnerships are not to file the CBT-150, Corporation Business Tax Statement of Estimated Tax. The CBT-150 is a Corporation Business Tax form, not a partnership form.

Accounting Method

A partnership’s accounting method(s) used for the NJ-1065 must be the same as the accounting methods(s) used for federal Form 1065.

Accounting Periods

The 2019 NJ-1065 should be used for Calendar Year 2019 or for a fiscal year that began in 2019. If filing for a fiscal year or a short tax year, enter at the top of your 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

To get New Jersey tax forms:

- Visit our website at www.njtaxation.org
- Write to:
NJ Division of Taxation
Taxpayer Form Services
PO Box 269
Trenton NJ 08695-0269

Assistance from a Division representative is available by contacting the Division’s Customer Service Center at 609-292-6400.

Electronic Filing Assistance

For electronic filing assistance:

- Call the Division of Revenue and Enterprise Services’ Call Center at (609) 292-9292.
- Download the needed formats from the New Jersey Division of Revenue and Enterprise Services’ website at:
www.state.nj.us/treasury/revenue

Amended Return or Federal Change

An amended NJ-CBT-1065 must be filed if an amended federal Form 1065 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 must 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. When an amendment to the 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 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 NJ-1065, whether or not an amended federal Form 1065 was filed for that year.

To amend your original NJ-CBT-1065, get a blank NJ-CBT-1065 for the tax year that is to be amended, and check the "Amended Return" box on the front 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 part 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 part 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 an 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 part of a month may be imposed for failure to file.

A late filing penalty of 5% per month (or part 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 calculated at 3% above the prime rate for every month or part 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 deliberately fails to file a return, files a fraudulent return, or attempts to evade the tax in any way may be liable for a penalty up to \$7,500 or imprisonment for three to five years, or both.

Rounding Off to Whole Dollars

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

Signatures

The NJ-CBT-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 their 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 does not need to 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.

Line-by-Line Instructions

Reporting Period

If you are reporting for a period other than Calendar Year 2019, 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 nonresident 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;
- This is a tiered partnership.

Nonresident Partners Tax (Lines 1–13)

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

Line 1 – Total Income

Enter the total income from line 12 of the NJ-1065.

Line 2 – Total Nonresident Noncorporate Partner Share of Tax

Enter the amount from line 2c, column J, of Partners Directory on the NJ-1065.

Line 3 – Total Nonresident Corporate Partner Share of Tax

Enter the amount from line 2c, column K, of Partners Directory on the 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 the CBT-160-P. Check the box if the entity qualified for an exception to the imposition of interest or if the partnership calculated 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 2018

Enter the total amount of estimated payments made. Also, enter your credit forward request from line 12 of your 2018 NJ-CBT-1065.

Line 9 – Payment From CBT-206

Enter the amount of the payment remitted with your 2019 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 your completed 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 2020

Enter the amount of the overpayment shown on line 11 that you want forwarded to your 2020 NJ-CBT-1065.

Line 13 – Refund

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