

FORM BI-471 Instructions

Business Income Tax Return

(For Subchapter S Corporations, Partnerships, and Limited Liability Companies)

Please print in BLUE or BLACK ink only.

New for 2014

The Business Income Tax Return package, Form BI-471 and related schedules—These forms have been substantially reworked to improve administration, efficiency, and accountability for taxpayers (business income and individual income) and the Vermont Department of Taxes. Please note that aside from certain composite filing requirements noted below, the underlying statutes have not changed.

Form BI-476, Business Income Tax Return Short Form—The short form is available for business income tax entities whose owners are all Vermont residents, which operate only in Vermont, and which are only liable for the \$250 minimum tax. If all conditions are met, entities may file the single-page Form BI-476 in lieu of the full Form BI-471 package. Please see Form BI-476 instructions for more details.

Schedules BI-472 and BI-473 are restructured—Business income tax filers who choose to maintain pass-through status for Vermont income tax purposes should attach Schedule BI-472. Entities paying composite tax (due to statutory requirement or election) should attach Schedule BI-473. (Through 2013, Schedule BI-472 was for S-Corporations, and Schedule BI-473 was for partnerships/LLCs. There is no longer a distinction based on entity type.)

The schedules now provide a clear calculation of the entity's tax liability with regard to nonresident estimated payments or composite tax, required under 32 V.S.A. § 5914 and § 5920.

Schedule BA-406, Credit Allocation Schedule—This schedule is used to allocate tax credits earned or received by entities to shareholders, partners, or members. (Previously reported on Schedule K-1VT.)

Composite filing requirements—Starting with tax year 2013, composite filing is mandatory for entities that have more than 50 nonresidents of Vermont shareholders, partners, or members. Starting with tax year 2014, entities filing composite returns must include all nonresidents of Vermont shareholders, partners, or members in the composite filing. "Partial composite" returns will not be accepted.

Overpayments of nonresident estimated payments—If a business makes estimated payments for nonresidents of Vermont (Form WH-435) in excess of the required amount (currently 6.6% of income), the Department now offers the option of refunding the overpayment to the entity or applying as a credit forward to next year's liability. This is in addition to the previous practice of distributing the full amount to the owners' income tax accounts.

Safe harbor for nonresident estimate payments—The Department will continue to administer safe harbor provisions for nonresident estimated payments. To qualify, entities must make quarterly payments of at least the lower of 90% of the current year or 100% of the prior year's income. Then, make a catch-up payment to pay the full current year liability by the non-extended return due date. Payments made after the original due date will not be considered in determining if the entity meets the safe harbor provision.

Forms and Schedules Summary

- **Form BI-471, Vermont Business Income Tax Return.** For use by those entities not filing federally as a C Corporation to calculate Vermont business income tax liability. These entities include Subchapter S Corporations, Partnerships, and Limited Liability Companies that elect to be treated as S-Corps or Partnerships for federal filing purposes.

NOTE: Form BI-471 is the first page of every return and the return is incomplete without it.

- **Schedule BI-472, Non-Composite Schedule.** Used to determine the amount of Vermont-sourced income distributed to shareholders of Subchapter S Corporations, partners in partnerships, or members of LLCs who **1) are *not* residents of Vermont, where the entity maintains pass-through status and 2) *do not* file a composite return.**
- **Schedule BI-473, Composite Schedule.** Used to determine the amount of Vermont-sourced income distributed to shareholders of Subchapter S corporations, partners in partnerships, or members of LLCs who are ***not* residents of Vermont, but where the entity *does* file a composite return.**
- **Schedule BA-402, Apportionment & Allocation Schedule.** For use by all taxable entities having activity (income or losses) in at least one state/province other than Vermont.
- **Form BA-403, Application for Extension of Time to File Vermont Corporate/Business Income Tax Return.** To request an extension of time to file Vermont Corporate or Business Income Tax Return.
- **Schedule BA-404, Tax Credits Earned, Applied, Expired, and Carried Forward.** To report income tax credits earned, applied, or carried forward by the business.
- **Schedule BA-405, Expired Economic Advancement Tax Incentives (EATI) Credits: Annual Activity Report.** For use by entities for each of the six years following the end of the EATI authorization period.
- **Schedule BA-406, Credit Allocation Schedule.** To allocate tax credits earned in the current year (reported on Schedule BA-404) to shareholders/partners/members.
- **Schedule BA-410, Affiliation Schedule.** For use by Parent S-Corporations that have Qualified Subchapter S Subsidiaries (QSubs) whose activity is included in the activity of this return. Also for use by any business filing a return that includes the activity of one or more other entities that are disregarded for income tax purposes, or otherwise are not filing their own income tax return.
- **Form WH-435, Estimated Income Tax Payments For Nonresident Shareholders, Partners, or Members.** To make estimated tax payments for its non-Vermont shareholders, partners or members, as required by 32 V.S.A. §§ 5914 & 5920. For details, see Technical Bulletin TB-06, Estimated Payments by Corporations, Partnerships and Limited Liability Companies on Behalf of Shareholder, on the Department's website.
- **Schedule K-1VT, Shareholder's, Partner's, or Member's Information.** For all shareholders, partners, or members summarizing the Vermont net taxable income, Vermont nonresident estimated payments, all eligible credits, and adjustment due to Vermont's disallowance of IRS "bonus" depreciation.

NOTE: Distribution of nonresident estimated payments will not happen if Schedules K-1VT are not attached and correct.

Who Must File

Effective for tax years beginning on or after Jan. 1, 1997, every Subchapter S Corporation, Partnership and Limited Liability Company which engages in activities in Vermont must file a return with the Commissioner of Taxes. **This includes entities receiving income as a shareholder, partner, or member.**

NOTE: Single member LLCs which have elected to be classified for federal purposes as disregarded entities and report their entity's activity on federal Form 1040, Schedule C, or federal Form 1120 are not required to file Form BI-471.

Note for Income Tax Filers and Preparers

Form BI-471 is designed to accommodate a large number of taxpayers with varying degrees of organizational and financial complexity. Vermont's instructions cannot anticipate and do not attempt to address every situation or tax position possible under the Internal Revenue Code.

For businesses that maintain pass-through treatment to individual (or corporate, etc.) owners, Vermont individual (or corporate, etc.) income tax laws are used to determine taxable income and tax for those owners, and could supersede the instructions for Form BI-471 and related schedules. Taxpayers that have complex federal tax positions are encouraged to thoroughly research all applicable statutes and regulations.

Dates for Filing and Payments

Subchapter S Corporation, Partnership, and Limited Liability Company returns are due on the date prescribed for filing under the Internal Revenue Code. For calendar year filers, this date will generally be March 15. For fiscal year filers, the return is due the 15th day of the third month following the end of the fiscal year.

The payment of the annual entity tax of \$250 and any additional tax including required nonresident estimated payments or composite tax is due on or before the original due date of the return.

Entities holding federal extensions may file 30 days after the extended federal due date. These entities must file **Form BA-403** by the original return due date. ***An extension of time to file does not extend the time to pay the tax due.*** Any tax due, including the Vermont minimum tax, must be paid by the original due date of the return. Any tax due which is unpaid by the original due date will accrue interest and late payment penalties.

What to Include with the Filing:

- Form BI-471
- Schedule BA-402 – Required if the entity had income, loss, or activity in any jurisdiction other than Vermont. Schedule BA-402 must be prepared and attached to properly report apportionment percentage. Returns with no Schedule BA-402 will be automatically adjusted to 100% Vermont apportionment.
- Schedule BI-472 or Schedule BI-473
- Schedule K-1VT – Required for each shareholder, partner, or member. Composite filers may prepare a single Schedule K-1VT which aggregates information for all nonresidents of Vermont.

NOTE: Do **NOT** include Schedule K-1VT to demonstrate income/loss, payments, credits, etc. **received** as a shareholder, partner, or member of another business. Inclusion of Schedules K-1VT issued by other entities **will** delay processing. Such information should be included as a statement, as directed in the instructions for Schedules BI-472 and BI-473.

- Vermont Statements or Explanations – as required by the instructions below.
- Federal Information – The first 5 pages of the federal income tax return filed (Form 1065 or Form 1120S). Federal Schedule K-1s are not required with the original filing. However, the Vermont

Department of Taxes reserves the right to require a complete copy of the federal income tax returns and all federal schedules at any point during review or audit of the Vermont filing.

Estimated Taxes and Estimated Payments

For tax years beginning Jan. 1, 1997, Subchapter S Corporations, Partnerships, and Limited Liability Companies are given pass-through tax treatment whereby tax is imposed on the income of the business only at the shareholder, partner, or member level. The pass-through entity is liable for the minimum annual (entity) tax of \$250 for each taxable year beginning on or after Jan. 1, 1998.

The entity is also obligated to make payments for nonresident shareholders, partners, or members (individually or composite) for the income attributable to Vermont at the second lowest marginal individual income tax rate. **For tax years 2018 and forward, that rate is 6.6%.** Each payment is a credit against the shareholder's, partner's, or member's individual income tax liability, or the composite tax liability.

Estimated payments are due on the 15th day of the 4th, 6th, and 9th months of the tax year and the 1st month of the subsequent year. For calendar year entities, these dates are normally April 15, June 15, September 15, and January 15. These payments are made using Form WH-435. Other methods of payment may result in both the entity and its members not receiving proper credit.

Certain S Corporations, Partnerships, and Limited Liability Companies may file and remit the estimated tax payments on behalf of nonresident shareholders, partners, and members annually, on January 15, instead of quarterly. To qualify, the entity must have a single (nonresident) shareholder, partner or member and a tax liability of \$250 or less in the prior year, *or* two or more shareholders, partners or members and a tax liability of \$500 or less in the prior year.

Interest, Late Fees, and Penalties

Interest is charged on payments not made on or by the statutory due date. The rate of interest is established each year with reference to the average prime rate.

Payments not made and returns not filed when due are subject to a failure to pay/file penalty of 5% per month of the outstanding liability up to 25%. If the filing is more than 60 days late from the original due date, even if no tax is due, a \$50 late penalty applies unless timely filed under extension. The Commissioner of Taxes may abate penalties for reasonable cause.

Consolidated Returns

Affiliated entities with identical ownership may elect to file a consolidated Vermont return. Income of Subchapter S Subsidiaries (QSSS) are included in the parent's return if it is included in the parent's federal return. A consolidated Vermont return must include only entities that have income allocated or apportioned to Vermont. Attach a statement to Form BI-471 including the name and FEIN of all companies included in the consolidated return. Once the election to file consolidated has been made, entities must continue filing on a consolidated basis until the Commissioner of Taxes authorizes separate filing.

Composite Returns

Definition: A composite return is a return filed by an entity on behalf of its eligible nonresident shareholders, partners, or members stating the income allocable to the included shareholders, partners, or members, and paying tax on their behalf. Composite returns relieve the included shareholders, partners, or members from the responsibility of filing individual income tax returns, as long as they do not have any other income or activity in Vermont that triggers a filing requirement.

Who May File Composite: Any entity with nonresident shareholders, partners, or members may file a composite return. An election for composite filing shall be binding for a period of five years. Every nonresident shareholder, partner, or member must be included in a composite filing.

Who Must File Composite: For tax years 2013 and later, any entity with more than 50 nonresident shareholders, partners, or members *must* file a composite return, including and paying tax for all nonresident owners.

Tax Rate: The composite filing tax rate for 2018 and forward is linked to the second highest marginal personal income tax rate which is 7.6%. The quarterly estimated payment requirements described above also apply to composite returns.

Refunds: To the extent that the composite tax due is less than the estimated tax payments made by the entity on behalf of its nonresident shareholders, partners or members, the refund must be paid to the entity and not to the individual shareholders, partners, or members.

Other requirements: A signature on a composite return indicates that the information presented on that return is true, correct, and complete. The Department of Taxes may contact the Subchapter S Corporation, Partnership, or Limited Liability Company for further information about the return.

It is recommended that composite filers maintain a power of attorney (POA) with their records that is signed by each qualified nonresident shareholder, partner, or member. The POA gives the Sub-chapter S Corporation, Partnership, or Limited Liability Company the authority to act on behalf of the shareholder, partner, or member. The Department may ask the composite filer to submit a copy of a POA before disclosing confidential information pertaining to the return.

The POA form is available at the Department's website "Forms" page:

<http://tax.vermont.gov/research-and-reports/document-library/tax-forms/business-and-corp>

Notes on Pass-through Tax Credits:

Tax credits are reported on Schedule BA-404, and, unless a composite return is being filed, are passed through to the shareholders, partners, or members via Schedule BA-406.

Composite credits are reported on Schedule BI-473.

Credit calculation schedules and credit allocation schedules must be attached to the return, along with any other documentation required by the credit program.

Appeals

All appeals for any return adjustment, assessment, bill, and reduced refund should be addressed to: Vermont Department of Taxes, PO Box 1645, Montpelier, VT 05601-1645. Appeals must be received within 60 days of the notice of adjustment, assessment, or denial of refund.

Facsimile Substitute Forms

Any facsimile or substitute form must be approved by the Department of Taxes prior to its use. If you use computer-generated returns, the software company is responsible for requesting approval and receiving an assigned bar code. **A \$25 fee may be assessed for a taxpayer or preparer who files returns that cannot be processed or require special steps to process.** Call (802) 828-2512 for further information on facsimile or substitute forms.

Business Income Tax Return Instructions

Please use blue or black ink only.

Please do not staple or bind your return. You may use binder clips, paper clips, or rubber bands.

"Mixed forms" warning - The Department of Taxes *cannot* process a return package which includes Vermont forms and schedules from multiple sources. All forms and schedules must be from the same software vendor, or all original forms issued by the Department. Filing a package of forms from different sources will result in delayed processing, a request for a processable return, and the assessment of a manual processing fee.

If a business is owned entirely by Vermont residents and operates entirely within Vermont, please review Form BI-476, which is a simplified form for certain Vermont companies to file and pay business income tax.

Header Information - Please complete all fields.

Name/Address - Print or type the entity name and address in the space provided. Specify the Foreign Country if the address is outside the United States.

Check all applicable boxes for the characteristic(s) of the return. If filing as a composite filer, note that you are making a binding election.

Enter the entity's **Federal Employer Identification Number**.

Enter the **beginning and ending dates of the entity's fiscal year**, covered by this return, in the requested format (YYYYMMDD.)

Enter the **primary 6-digit North American Industrial Classification System (NAICS) number**. See www.census.gov/naics to research your company's code, if necessary.

Check the box indicating the **federal tax form filed**. See Line 1 instructions below if the entity is permitted to file as an individual/sole proprietor.

Preliminary Questions – Please answer each of the preliminary questions lettered A through G.

Question B - Note that if the answer to question B is “Yes,” then Schedule BA-402 must be completed and attached to the return.

Question C – Starting in 2008, Vermont individual income, including income passed through to individuals, must be calculated without regard for federal “bonus” depreciation allowed certain assets under IRC 168(k). If the entity took advantage of the bonus depreciation provisions, enter the net adjustment to entity income as a result of disallowing bonus depreciation. (In the year an asset is placed in service, report a positive number – an increase in net income due to decreased depreciation expense for Vermont compared to federal. For later periods, the adjustment will be a negative number.) Attach a statement to detail the difference. If the entity did not take advantage of the bonus depreciation provisions, enter -0-.

If the company did take advantage of bonus depreciation, income/loss on all schedules must be recalculated to disallow the effects of the bonus depreciation. Include a copy of a pro-forma federal Schedule 4562 to show depreciation deduction adjusted to disallow bonus depreciation.

Question G Check this box if 32 V.S.A. § 5920(f) or § 5920(g), relating to entities engaged solely in operating affordable housing projects or operating federal new market tax credit projects, applies. If you check the box, you must attach authorization or documentation to support the applicability of either of these sections.

For tax years 2015 and forward, also check Box G if § 5920(h) applies. Publicly-traded partnerships are exempt from the estimated payment requirements of § 5920(c), but are required to send to the Department information including the name, address, taxpayer identification number, and amount of Vermont source income for every partner that had greater than \$500 Vermont source income for the tax year. Please send the information in electronic and secure format.

Tax Computation Section

Exceptions Check the applicable box if any of the following exceptions apply.

Small farms as defined in Title 32 V.S.A. § 5832(2)(A), pay an annual entity tax of \$75.00. The entity must be solely owned by active participants and have gross receipts of less than \$100,000. A real estate venture is not considered a farm. Partnerships and LLCs must provide a copy of the federal Schedule F.

Entities with **no Vermont activity** are not required to pay the annual entity tax.

Investment clubs whose assets do not exceed \$20,000 and whose income does not exceed \$5,000 are not required to pay the annual entity tax. Attach a copy of the balance sheet.

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Partnerships electing not to be taxed as partnerships, under Internal Revenue Code Sec. 761 or Check-the-Box Regulations are not required to pay the annual entity tax. Provide a statement as to the election being taken and cite the authority for the election.

Line-by-Line Instructions

TAX COMPUTATION

- Line 1** **Vermont minimum entity tax** - Enter the minimum entity tax of \$250, or the amount due under any applicable exception.
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- Line 2a** **For non-composite entities, nonresident estimated payment requirement** - If the entity does not file a composite return, enter the amount from Schedule BI-472, Line 19. Otherwise, enter -0-.
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- Line 2b** **For non-composite entities only - Overpayment distributed to owners via Schedule K-1VT:** Enter the sum of all Schedules K-1VT, Lines 5 and 6, then subtract Schedule BI-472, Line 19. This cannot be a negative number.
- This amount will be distributed to the entity's owners and applied to their income tax accounts. Overpayments generated by real estate withholding payments (Form BI-471, Lines 9 and 10) must be distributed to shareholders and are not available to refund, credit forward, or pay the minimum entity tax unless a composite return is filed.
-
- Line 2c** Enter the sum of Lines 2a and 2b.
-
- Line 3** **For composite entities** - If the entity files a composite return, enter the amount of Vermont composite tax due, from Schedule BI-473, Line 24. Otherwise, enter -0-.
-
- Line 4** **Vermont apportionment of entity level taxes** - Subchapter S Corporations subject to federal income tax on items such as built-in gains, capital gains, or LIFO recapture, apply the corporate income tax rate provided in the instructions for Form CO-411 to the Vermont apportioned/allocated tax base. Enter the tax due on Line 4. Provide a statement that details the nature and calculation of the tax amount.
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- Line 5** Use this line to report use tax due. When a seller does not charge the buyer Vermont Sales Tax on an item taxable in Vermont, the buyer must pay Vermont Use Tax. Nontaxable items such as food and clothing are excluded. Taxable items sold over the internet, by mail-order, by phone, or bought out-of-state and used in Vermont generally qualify. Use tax applies whether you are resident or nonresident. The use tax rate is the same as the sales tax rate: 6%.
-
- Line 6** **Total tax due** - Add Lines 1, 2c, 3, 4, and 5.

PAYMENTS AND CREDITS

- Line 7** **Prior Year Overpayment Applied** - Enter the amount of any prior year overpayment to be applied to the current tax year.
-
- Line 8** **Payments with Extension** - Enter the amount of payment(s) made with an extension application (Form BA-403) or any other estimated payments made via forms **other than** Form WH-435 or Form RW-171, Schedule A.
-
- Line 9** **Real estate withholding paid for this entity with Form RW-171, REW Schedule A** - Enter the amount of nonresident real estate withholding withheld by the buyer of real estate this business sold. (Form RW-171, Schedule A)
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- Line 10** **Real estate withholding distributed to this entity by a different company through a Schedule K-1VT** - Enter the amount of nonresident real estate withholding distributed to this entity by another entity. (From Schedule K-1VT, Line 6, on which this business is the shareholder/partner/member.) Include a statement indicating the name(s) and FEIN(s) of entities through which payments were received, and amount(s) of payments. Do **NOT** attach a copy of the Schedule K-1VT issued to this company. Processing delays will result.

The sum of Lines 9 and 10 should equal the sum of Schedule K-1VT, Line 6, across all Schedules K-1VT attached to this return.

Line 11 **Nonresident estimated payments paid by this entity with Form WH-435** - If the business had Vermont nonresident owners, enter the total amount paid on behalf of nonresident owners with Form WH-435 for the current tax year, including any catch-up payment, if applicable.

Line 12 **Nonresident estimated payments distributed to this entity by a different company through a Schedule K-1VT** - Enter the amount of any nonresident estimated payments distributed to this entity by a different company. (From Schedule K-1VT, Line 5, on which this business is the shareholder/partner/member.) Include a statement indicating the name(s) and FEIN(s) of entities through which payments were received, and amount(s) of payments. Do **not** attach a copy of the Schedule K-1VT issued to this company. Processing delays will result.

The sum of Lines 11 and 12 should equal or be greater than the sum of Schedule K-1VT, Line 5, across all Schedules K-1VT attached to this return.

Line 13 **Total payments** - Add Lines 7 through 12.

RECONCILIATION

Line 14 **Balance due** - If Line 6 is greater than Line 13, enter the difference. Otherwise, enter -0-. Also, enter the amount from Line 14 to the Balance Due line at the bottom of page 1 of the return.

Line 15 **Payment attached to this return** - Enter the amount of the payment attached to this return. Payment may be included directly with this return (attach by paperclip to the front page) **or** with payment coupon Form BI-470. Make checks payable to **Vermont Department of Taxes**.

Line 16 **Overpayment** - If Line 6 is less than the sum of Lines 13 and 15, enter the difference.

Line 17 **Overpayment to be credited to next tax year** - Enter the amount of overpayment to be credited to next year's tax liability. (Payments from Lines 9 and 10 not available as a credit forward unless a composite return is filed.)

Line 18 **Overpayment to be refunded** - Enter the amount of overpayment to be refunded. (Payments from Lines 9 and 10 not available as a refund unless a composite return is filed.)

SIGNATURE SECTION

The return must be signed by an officer or agent of the entity and the preparer. Please make your check payable to the Vermont Department of Taxes. Please write your FEIN number on your check and clip your check to the front of your return. Please do not staple the check to your return.

If authorizing the Department of Taxes to discuss this return and attachments with your preparer, check "Yes" for this question. This will not authorize the Department of Taxes to discuss the filing status of the shareholders, partners, or members. Each individual must authorize such disclosure.

Contacting the Department

Mailing address:

Vermont Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Taxpayer Services: (802) 828-5723
Email Address: tax.corporate@vermont.gov
Web site Address: <http://tax.vermont.gov>
Forms: (802) 828-2515