



North Dakota 2012 Partnership Income Tax

Cory Fong, Tax Commissioner

Form 58

Includes:
Schedule FACT
Schedule K
Schedule KP
Schedule K-1

Need help?

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www.nd.gov/tax

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**Check our FAQs
(frequently asked
questions)**

**E-mail your
questions:**
individualtax@nd.gov

Dear Taxpayer,

Electronic filing for the Form 58 (Partnership Income Tax Return) through the Modernized E-File (MeF) platform is gaining in popularity. Last year, about 42 percent of Form 58 filers chose to file through MeF. If you have used e-file in the past, I hope you will continue to do so this year. And, if you have not used e-file, I encourage you to consider using MeF this year. To learn more about the MeF option, go to our web site at www.nd.gov/tax.

As you prepare to file your 2012 Form 58, please read the instructions in this booklet carefully. The instructions will help you prepare an accurate and complete return. On page 1, you will notice a section, "Special Reminders." In this section, we highlight some of the changes for you to consider as you prepare your 2012 Form 58. One important item to note is that the passthrough withholding and composite income tax rates remain the same as last year at 3.99%, which is among the lowest income tax rates in the country.

If you have any questions, need assistance, or want additional forms, visit our web site at www.nd.gov/tax or contact our office. You'll find information on the inside front cover of this booklet to contact us by phone, e-mail, or in writing.

I invite you to let us know what you think we can do to improve these forms and instructions so that we can serve you better.

Thank you,

Cory Fong,
Tax Commissioner



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Required forms

The following forms are needed to complete Form 58:

Form 58	Partnership return
Schedule FACT	Calculation of North Dakota apportionment factor
Schedule K	Total North Dakota adjustments, credits, and other items distributable to partners
Schedule KP	Partner information
Schedule K-1	Partner's share of North Dakota income (loss), deductions, adjustments, credits, and other items

The following forms may be needed:

Form 58-EXT	Partnership extension payment voucher
Form 101	Application for extension of time to file a North Dakota income tax return
Form PWA	Passthrough entity withholding adjustment

Download these forms from our web site at www.nd.gov/tax.

Need help?

You can download forms and find other information on our web site at:

www.nd.gov/tax

E-mail

Individual income tax—

individualtax@nd.gov

Call

Individual income tax—

Questions **701.328.1247**

Forms **701.328.1243**

Partnership income tax—

Questions **701.328.1258**

Forms **701.328.1243**

Speech/hearing impaired

TDD **800.366.6888**

Write

Office of State Tax Commissioner
600 E. Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599

Office

State Capitol, 16th Floor
Monday through Friday
8:00 a.m. to 5:00 p.m.
(except holidays)

Privacy Act Information

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of a social security number or a federal employer identification number on this form is mandatory and is required under Subsections 1 and 7 of N.D.C.C. § 57-38-31. A social security number or federal employer identification number is used as an identification number by the Office of State Tax Commissioner for file control purposes, recordkeeping, and for cross-checking the taxpayer's files with the Internal Revenue Service.



Taxpayer Bill of Rights

You may get a copy of the North Dakota Taxpayer Bill of Rights by contacting the Office of State Tax Commissioner or by going to our web site at

www.nd.gov/tax

Form 58 Instructions

2012

North Dakota Partnership Income Tax Return

"N.D.C.C." references are to the North Dakota Century Code, which contains North Dakota's statutes.

"N.D. Admin. Code" references are to the North Dakota Administrative Code, which contains North Dakota's rules.

Special Reminders

Withholding and composite return tax rate reduction

Starting with the 2011 tax year, the tax rate for passthrough withholding and composite filing purposes was reduced to 3.99%.

For more information, see "Withholding from nonresident individual partners" and "Composite filing method" on page 3 of this booklet.

New electronic payment options

In prior years, electronic payments could be made using ACH credits. Beginning in early 2013, there will be additional options for making electronic payments. All types of payments, including return payments, estimated payments, or account payments can be made using a credit card, debit card, or electronic check. The fee that is charged by the vendor varies depending on the method of payment. Additional information on each of these payment methods and the fees can be found on our web site. Also note ACH "debit" payments can only be made in conjunction with an electronically filed (MeF) return.

"New" angel fund tax credit

Under pre-2011 tax law, a tax credit was allowed for making an investment in a certified North Dakota angel fund. However, the credit was only available to an individual, estate, trust, or "C" corporation. Starting with the 2011 tax year, the angel fund investment tax credit is allowed to a partnership, "S" corporation, or a limited liability company treated like a partnership or "S" corporation.

The credit is equal to 45% of the amount invested, up to a maximum credit of \$45,000 per tax year. The credit is calculated at the passthrough entity level and passed through to the entity's owners based on their respective ownership interests. For credits based on investments made during the 2012 and subsequent tax years, no more than \$150,000 in credits is allowed to a taxpayer (including a passthrough entity) over the taxpayer's lifetime.

For the 2011 and 2012 tax years only, a taxpayer (including a passthrough entity) may make an irrevocable election to sell, assign, or otherwise transfer an angel fund tax credit to another taxpayer. There are conditions and reporting requirements that must be satisfied to make this election.

For more information on the angel fund tax credit, go to the Office of State Tax Commissioner's web site at www.nd.gov/tax.

New housing incentive fund tax credit

For the 2011 and 2012 tax years only, a new income tax credit is allowed to a taxpayer for contributing monies to a new housing incentive fund administered by the North Dakota Housing Finance Agency (Agency). The credit is equal to the amount contributed to the fund. Upon receipt of a contribution, the Agency will issue a credit certificate to the taxpayer showing the amount of the allowable credit. If the entire credit allowed for the tax year cannot be used, the unused portion may be carried over and used on subsequent years' returns for up to ten tax years. North Dakota taxable income must be increased by the amount of the contribution upon which the credit is based to the extent the contribution reduced federal taxable income.

In the case of a passthrough entity that makes a qualifying contribution, the total allowable credit is passed through to the entity's owners based on their respective ownership interests.

For more information on qualifying for the credit, contact the North Dakota Housing Finance Agency. For more information on how to claim the credit on the North Dakota income tax return, contact the Office of State Tax Commissioner.

New automation and robotic equipment tax credit

Note: This new tax credit does not take effect until the 2013 tax year.

For the 2013 through 2015 tax years only, a new income tax credit is allowed to a taxpayer for purchasing automation and robotic equipment for the purpose of automating a manufacturing process. To qualify, a taxpayer must be certified as a primary sector business by the North Dakota Commerce Department, and the equipment purchased must be approved as qualifying equipment by the Commerce Department. The credit is equal to 20% of the purchase cost of the approved equipment, and is allowed in the tax year in which the purchase is made. If the entire credit cannot be used in the tax year in which the purchase is made, the unused portion may be carried over and used on subsequent years' returns for up to five tax years. The total credits allowed to all taxpayers is limited to \$2 million per calendar year. For more information, see N.D.C.C. § 57-38-01.33.

Schedule FACT instructional change

The instructions to the 2012 Schedule FACT (Calculation of North Dakota Apportionment Factor) have been changed to incorporate new language that applies to a partnership that receives a 2012 North Dakota Schedule K-1 (Form 58) showing amounts in Part 6 (Partnership or corporation partners only). For more information, see page 5 of this booklet.

General instructions

Who must file

A 2012 Form 58, *Partnership Income Tax Return*, must be filed by a partnership that meets both of the following:

- It is required to file a 2012 Form 1065, *U.S. Return of Partnership Income*, or 2012 Form 1065-B, *U.S. Return of Income for Electing Large Partnerships* (see “Investment partnership” below for an exception to this condition); and
- It carries on business, or derives gross income from sources, in North Dakota during its 2012 tax year.

Exception for financial institution. If an entity is a bank, trust company, bank holding company, or other financial institution defined under N.D.C.C. § 57-35.3-01(2), it is subject to the North Dakota financial institution tax and must file Form 35, *Financial Institution Tax Return*. Do not complete nor file Form 58 if required to file Form 35.

Investment partnership. A partnership that elects out of the partnership rules under I.R.C. § 761(a)(1) and does not file a federal partnership return must file a 2012 Form 58 if it carries on investment activity, or derives any gross income from sources, in North Dakota during its 2012 tax year. A 2012 Form 1065 must be completed on a pro forma basis and attached to Form 58.

Limited liability company (LLC). A limited liability company that is classified as a partnership for federal income tax purposes is treated like a partnership for North Dakota income tax purposes and must file Form 58 if it meets the above conditions for filing.

Nonfiler penalty. If a partnership does not file Form 58 after receiving a thirty-day notice to file by the Office of State Tax Commissioner, a minimum penalty of \$500 may be assessed.

When and where to file

The 2012 Form 58 must be filed no later than:

- April 15, 2013, if filing for the 2012 calendar year; or
- The 15th day of the 4th month following the end of the tax year, if filing for a fiscal year beginning in the 2012 calendar year.

Note: Use the 2011 Form 58 if the partnership’s fiscal year began in the 2011 calendar year.

Mail Form 58 and all required attachments to:

Office of State Tax Commissioner
600 East Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599

Extension of time to file

The extension of time to file the North Dakota return is the same number of months as the extension of time to file the federal return.

An extension of time to file Form 58 may be obtained in one of the following ways:

- Obtain a federal extension.
- Separately apply for a North Dakota extension.

Federal extension. If an extension of time to file the federal partnership return is obtained, it is automatically accepted as an extension of time to file Form 58. If this applies, a separate North Dakota extension does not have to be applied for, nor does the Office of State Tax Commissioner have to be notified that a federal extension has been obtained prior to filing Form 58. The “Extension” circle on page 1 of Form 58 must be marked to indicate that a federal extension has been obtained.

North Dakota extension. If a federal extension is not obtained, but additional time is needed to complete and file Form 58, a separate North Dakota extension may be applied for by filing Form 101, *Application for Extension of Time to File a North Dakota Tax Return*. This is not an automatic extension—there must be good cause to request a North Dakota extension. Form 101 must be postmarked on or before the due date of Form 58. Notification of whether the extension is accepted or rejected will be provided by the Office of State Tax Commissioner. The “Extension” circle on page 1 of Form 58 must be marked to indicate that an extension has been obtained.

Extension interest. If Form 58 is filed on or before the extended due date, and any tax due is paid with the return, no penalty will be charged. Interest on the tax due will be charged at the rate of 12% per year from the original due date of the return to the earlier of the date the return is filed or the extended due date.

Prepayment of tax due. If an extension of time to file Form 58 is obtained and it is expected that there will be a tax balance due, the expected tax balance due may be paid on or before the regular due date. To do so, send a check or money order along with a completed 2012 Form 58-EXT, *Partnership Extension Payment Voucher*, on or before the regular due date of Form 58.

Alternatively, a payment may be sent with a letter containing the following: (1) Name of partnership; (2) Partnership’s FEIN; (3) Partnership’s address and phone number; and (4) Statement that the payment is a 2012 Form 58-EXT payment.

Penalty and interest

The tax due must be paid by the due date (without extension) of Form 58 to avoid penalty and interest charges. However, if an extension of time to file Form 58 was obtained, the tax due may be paid by the extended due date of the return without penalty, but extension interest will apply—see **Extension interest and Prepayment of tax due** on this page.

If Form 58 is filed on or before its due date (or extended due date), but the tax due is not fully paid with the return, a penalty equal to 5% of the unpaid tax or \$5.00, whichever is greater, must be paid.

If Form 58 is not filed on or before its due date (or extended due date), a penalty equal to 5% of the tax due or \$5.00, whichever is greater, for the month the return was due plus 5% of the tax due for each additional month (or fraction of a month) during which the return remains delinquent must be paid. This penalty may not exceed 25% of the tax due.

In addition to any penalty, interest must be paid at the rate of 1% per month (or fraction of a month) except for the month in which the tax was due, on any tax due that remains unpaid after the due date (or extended due date) of the return.

Estimated tax payment

A partnership may, but is not required to, make estimated tax payments of income tax expected to be due on Form 58. To make an estimated payment for the 2013 tax year, send a check or money order along with a completed 2013 Form 58-ES, *Partnership Estimated Tax Payment Voucher*.

Withholding from nonresident individual partners

A partnership must withhold North Dakota income tax at the rate of 3.99% (.0399) from the distributive share of North Dakota income of its nonresident individual partners. This requirement does not apply to actual distributions made by the partnership to nonresident individual partners during the tax year; instead, the withholding amount is calculated on the partners' year-end distributive share of income and is reported on the Form 58 filed for the tax year. An amount less than 3.99% of the distributive share may be withheld if the partner meets certain conditions—see Form PWA for details. Withholding is not required if:

- The distributive share of North Dakota income is less than \$1,000; or
- The nonresident individual partner elects to have his or her distributive share of North Dakota income included in, and the tax on it calculated under, the composite filing method—see “Composite filing method” in the next section for more information.

The amount withheld for a partner is reported in Column 7, Schedule KP, Form 58. The partnership must submit a payment with Form 58 for the total withholding reported on Schedule KP. See the instructions to Schedule KP and Schedule K-1 (Form 58) for more information.

Publicly traded partnership. A publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal income tax purposes is not subject to this withholding requirement if it reports each unitholder with a North Dakota distributive share of income over \$500 on Form 58, Schedule KP.

Composite filing method

A composite filing method is available to a partnership with one or more eligible partners. Under this method, a partnership files one return, called a “composite return,” on behalf of one or more eligible partners. The composite return and the partnership's payment of the income tax calculated on it satisfies the North Dakota income tax filing and payment obligations of the eligible partners who elect to be included in it. Therefore, the electing partners do not have to file their own North Dakota income tax return to report or pay tax on their distributive share of North Dakota income.

The use of the composite filing method by a partnership is optional, and is a choice that it may make on a year-to-year basis. The partnership does not have to obtain prior approval to use the composite filing method, and it may file a composite return regardless of whether it has income or a loss for the tax year.

Exception to withholding. A partnership does not have to withhold North Dakota income tax from the distributive share of North Dakota income of an eligible partner who elects to be included in a composite return.

Eligible partner. An eligible partner is an individual who:

- Is a nonresident of North Dakota; and
- Does not have any North Dakota income from other than the partnership or any other partnership, S corporation, trust, or limited liability company (filing as a partnership).

An eligible partner may elect to be included in a composite return regardless of the amount of the partner's distributive share of North Dakota income (or loss). In the case of a loss, the composite tax is zero.

Composite filing method procedure. The distributive share of North Dakota income of an electing partner is multiplied by the highest individual income tax rate (3.99% for the 2012 tax year) to determine the partner's composite income tax. (If the North Dakota distributive share is a loss, the composite tax is zero.) No North Dakota adjustments, deductions, or tax credits are allowed in calculating the tax due under the composite filing method. The Form 58 serves as the composite return. The composite income tax calculated for a partner is reported in Column 8, Schedule KP, Form 58. The partnership must submit a payment with Form 58 for the total composite income tax reported on Schedule KP.

Election. If an eligible partner agrees to be included in a composite return, the partnership's calculation and reporting of a composite income tax for the partner in Column 8 of Schedule KP of Form 58 constitutes the partner's election to be included in the composite return.

Correcting a previously filed return

If a partnership needs to correct an error on Form 58 after it is filed, the partnership must file an amended return. There is no special form for this purpose. See “How to prepare an amended return” below.

If a partnership paid too much tax because of an error on its 2012 Form 58, the partnership generally has three years from the later of the due date (excluding extensions) of the return or the date the return was actually filed in which to file an amended return to correct the error and claim a refund of the overpayment.

See N.D.C.C. § 57-38-40 for other time periods that may apply.

How to prepare an amended 2012 return

1. Obtain a blank 2012 Form 58.
2. Enter the partnership's name, current address, FEIN, etc., in the top portion of page 1 of Form 58.
3. Mark the “Amended return” circle at the top of page 1 of Form 58.
4. Complete Schedules FACT, K, and KP using the corrected information. Then complete lines 1 through 3 on page 1 of Form 58.
5. Complete line 4 on page 1 of Form 58 by entering the total taxes due from the previously filed 2012 Form 58, page 1, line 3.
6. Complete line 5 (overpayment) or line 8 (tax due), whichever applies. If there is an overpayment on line 5, enter the full amount on line 7 (refund). On an amended return, the amount credited to the next year's estimated tax (line 6) may not be increased or decreased.
7. Attach a statement explaining the reason(s) for filing the amended return. If it is because of changes the partnership or the IRS made to the partnership's 2012 Federal Form 1065 (or 1065-B), attach a copy of the amended federal return or IRS notice.
8. Complete and provide a corrected Schedule K-1 (Form 58) to the partners, as required.

Reporting federal changes

If the Internal Revenue Service (IRS) changes or audits the federal partnership return, or if a partnership files an amended federal partnership return, an amended North Dakota Form 58 must be filed within ninety days after the final determination of the IRS changes or the filing of the amended federal return. Enclose a copy of the IRS audit report or the amended federal partnership return with the amended North Dakota Form 58.

W-2/1099 reporting requirement

Every partnership doing business in North Dakota that is required to file Federal Form 1099 or W-2 must also file one with the Office of State Tax Commissioner. For more information, obtain the guideline *Income Tax Withholding: Information Returns*.

Use of information

All of the information on Form 58 and its attachments is confidential by law and cannot be given to others except as provided by state law. Information about the partners is required under state law so the Office of State Tax Commissioner can determine the partner's correct North Dakota taxable income and verify if the partner has filed a return and paid the tax.

General instructions for completing Form 58

Complete Form 58 as follows:

1. Complete Federal Form 1065 (or 1065-B) in its entirety.
2. Complete Items A through J at the top of page 1 of Form 58—see page 4.
3. Complete Schedule FACT on page 2 of Form 58—see page 5.
4. Complete Schedule K on page 3 of Form 58—see page 5.
5. Complete Schedule KP on page 5 of Form 58—see page 8.
6. Complete lines 1 through 10 on page 1 of Form 58—see page 9.
7. Complete Schedule K-1, if required, for the partners—see page 9.

Rounding of numbers. Numbers may be entered on the return in dollars and cents, or they may be rounded to the nearest whole dollar. If rounding, drop the cents if less than 50 cents and round up to the next whole dollar amount if 50 cents or higher. For example, \$25.36 becomes \$25.00, and \$25.50 becomes \$26.00.

Fiscal year filers. The tax year for North Dakota income tax purposes must be the same as the tax year used for federal income tax purposes. Use the 2012 Form 58 if the

partnership's taxable year began in the 2012 calendar year. *Note: Use the 2011 Form 58 if the taxable year began in the 2011 calendar year.*

Specific line instructions for page 1 of Form 58, Items A-J

Complete Items A through J at the top of page 1 of Form 58. Then complete Schedule FACT, Schedule K, and Schedule KP before completing lines 1 through 10 on page 1 of Form 58.

Item A Tax year

The same tax year used for federal income tax purposes (as indicated on the federal partnership return) must be used for North Dakota income tax purposes. Mark the applicable circle. If the partnership uses a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2012 Form 58 only if the partnership's tax year began in the 2012 calendar year.

Item B Name and address

Enter the legal name of the partnership on the first line of the name and address area. If the partnership publicly operates under a fictitious or assumed name (which, in most states, must be recorded or registered with the state), enter that name on the second line of the name and address area.

Item C Federal EIN

North Dakota uses the federal employer identification number (FEIN) for identification purposes. Enter the federal employer identification number from page 1 of Federal Form 1065 (or 1065-B).

Item D Business code number

Enter the business code number from the NAICS code list found on the Office of State Tax Commissioner's website at www.nd.gov/tax. Enter the code that most closely describes the industry in which the partnership derives most of its income.

**Item E
Date business started**
Enter the date the business started from page 1 of Federal Form 1065 (or 1065-B).

Item F Indicators

Mark all applicable circles, as follows:

Initial return. Mark this circle if this is the first return filed in North Dakota by the partnership.

Final return. Mark this circle if this is the last return to be filed in North Dakota by this partnership.

Farming/ranching partnership. Mark this circle if this is an LLC that is registered as a farming and ranching LLC with the North Dakota Secretary of State.

Filed by an LLC. Mark this circle if the entity filing this return is a limited liability company (LLC).

Composite return. Mark this circle if one or more nonresident individual partners have elected to be included in a composite return. See "Composite filing method" on page 3 for more information.

Amended return. Mark this circle if this return is being filed to correct a previously filed 2012 Form 58. See "Correcting a previously filed return" on page 3 for more information.

Extension. Mark this circle if a federal or state extension of time to file the return was obtained. See "Extension of time to file" on page 2 for more information.

Item G Number of partners

Enter the total number of partners. Also enter the number of each type of partner.

Item H Professional service partnership

If the partnership is a professional service partnership, mark the "Yes" circle for Item H(1) and enter the type of profession for Item H(2). Mark the "No" circle for Item H(1) if the partnership is not a professional service partnership.

A "professional service partnership" is a partnership that engages in the practice of law, accounting, medicine, or any other profession in which the capital or the services of employees are not a material income-producing factor. The services performed by the partners themselves must be the primary income-producing factor. A professional service partnership does not include one that primarily engages in wholesale or retail sales activity, manufacturing activity, or any other type of activity in which the capital or the services of employees are a material income-producing factor.

Item I Publicly traded partnership

If the partnership is a publicly traded partnership, mark the "Yes" circle. Otherwise, mark "No." A "publicly traded partnership" is a partnership in which interests in it are either traded on an established securities market or are readily tradable on a secondary market.

Item J Tiered partnership

If the partnership holds an interest in one or more other partnerships or limited liability companies, mark the "Yes" circle. Otherwise, mark "No." If the "Yes" circle is marked, the partnership must attach a statement to Form 58 on which it lists the name and federal employer identification number of each partnership or limited liability company in which it holds an interest.

Instructions for Schedule FACT (Form 58, page 2)

Did you receive a North Dakota Schedule K-1 from a passthrough entity?

If you received a North Dakota Schedule K-1 and are required to complete Schedule FACT, include the apportionment factor amounts from your North Dakota Schedule K-1, lines 40 and 41 in the corresponding columns.

All partnerships must complete the applicable portions of Schedule FACT as follows:

If a partnership has ONLY individual, estate, and trust partners and is a:

- **100% North Dakota partnership**
If the partnership conducted all of its trade or business within North Dakota during the tax year, skip lines 1 through 13 and enter 1.000000 on line 14.
- **Multistate partnership**
If the partnership conducted its trade or business both within and without North Dakota during the tax year, complete lines 1 through 14 of Schedule FACT. However, if all of the partners consist of only North Dakota resident individuals, estates, and trusts, skip lines 1 through 13, and enter 1.000000 on line 14.

If a partnership has any partner OTHER THAN an individual, estate, or trust:

- Complete lines 1 through 14 of Schedule FACT.

For guidance on completing Schedule FACT, see N.D.C.C. § 57-38.1 and N.D. Admin. Code § 81-03-09.

Instructions for Schedule K (Form 58, page 3)

All partnerships must complete Schedule K. The purpose of this schedule is to show the total amount of North Dakota adjustments, credits, and other items distributable to its partners. These items may be applicable to the preparation of the partners' North Dakota income tax returns.

If the partnership is a partner in another North Dakota partnership, include on the applicable lines of Schedule K similar adjustments, credits, etc., received from the other partnership as shown on the North Dakota Schedule K-1 (Form 58) received from the other partnership.

Line 1 Income from state, local, and foreign securities and bonds

Enter on this line the total interest and dividends from foreign securities and from securities (or bonds) of state and local governments exempt from federal income tax. **Do not** include interest income from securities (or bonds) issued by North Dakota or its political subdivisions. If any portion of the non-North Dakota source income is treated as nonbusiness income subject to allocation under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08, do not include the nonbusiness income portion on this line. Include the nonbusiness portion on Schedule K, line 23.

Line 2 State and local income taxes

Enter on this line the total taxes measured by income that were incurred by the partnership and deducted in calculating the partnership's ordinary income (loss). Include franchise or privilege taxes measured by income paid to any taxing authority including a foreign country.

Line 3 Interest from U.S. obligations

Enter on this line all interest income from U.S. obligations and from securities the interest from which is specifically exempted from state income tax by federal statute. Include the portion of dividend income from a mutual fund attributable to the fund's investment in the same kinds of securities.

Do not enter on this line interest income from securities of the Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), and Government National Mortgage Association (Ginnie Mae), nor from a federal income tax refund or repurchase agreement. **Attach a statement identifying the specific securities from which the interest was derived.**

Line 4 Renaissance zone exemption

Enter on this line the amount from Schedule RZ, Part 1, line 16. **Attach Schedule RZ.**

Line 5 New or expanding business income exemption

If the partnership qualified for the new or expanding business income exemption under N.D.C.C. ch. 40-57.1, enter the exempt portion of the partnership's trade or business income. See N.D. Admin. Code § 81-03-01.1-06 for guidance on how to calculate the amount of the exempt income. **Attach a statement showing the calculation of the exempt income.**

Line 6 Eminent domain gain

Enter on this line the taxable portion of a gain from the disposition of property due to the exercise of eminent domain.

Line 7a Renaissance zone historic property preservation tax credit

Enter on this line the amount from Schedule RZ, Part 4, line 10. **Attach Schedule RZ.**

Line 7b Renaissance fund organization investment tax credit

Enter on this line the amount from Schedule RZ, Part 5, line 7. **Attach Schedule RZ.**

Line 7c Renaissance zone nonparticipating property owner credit

Enter on this line the amount from Schedule RZ, Part 6, line 9.

Line 8 Seed capital investment credit

If the partnership invested in a qualified business for purposes of the seed capital investment tax credit, multiply the total amount invested during the 2012 tax year by 45% and enter the result on this line.

**Line 9
Ag commodity investment credit**

If the partnership invested in a qualified business for purposes of the agricultural commodity processing facility investment tax credit, multiply the total amount invested during the 2012 tax year by 30% and enter the result on this line.

**Line 10
Biodiesel or green diesel fuel supplier credit**

If the partnership is a licensed supplier of biodiesel or green diesel fuel, it is allowed a credit equal to five cents per gallon for blending biodiesel or green diesel fuel having at least a 5% blend ("B5") that meets ASTM specifications. For this purpose, a "supplier" means a person who distributes the biodiesel or green diesel fuel from a terminal in North Dakota. Enter the credit on this line. **Attach a statement showing the calculation of the credit.**

**Line 11
Biodiesel or green diesel fuel seller credit**

If the partnership is a licensed seller of biodiesel or green diesel fuel, it is allowed a credit equal to 10% of the costs to adapt or add equipment to its facility to enable it to sell diesel fuel having at least a 2% biodiesel or green diesel blend ("B2") that meets ASTM specifications. For this purpose, a "seller" means a person who acquires the fuel from a wholesale supplier or distributor for resale to a consumer at a retail location. Except for costs incurred before January 1, 2005, include eligible costs incurred before the tax year in which sales of the eligible biodiesel or green diesel fuel begin. The credit is allowed in each of five tax years, starting with the tax year in which sales of the eligible biodiesel or green diesel fuel begin. Enter the credit on this line. **Attach a statement showing the calculation of the credit.**

**Line 12
Energy device tax credits**

If the partnership installed a qualifying geothermal, biomass, solar, or wind energy device on property it owns or leases in North Dakota, it is allowed a credit equal to 3% of the costs of acquisition and installation. The credit is allowed in each of five tax years, starting with the tax year in which the installation is completed. For more information, see N.D.C.C. § 57-38-01.8. **Attach a statement describing the device, a detailed list of the costs of acquisition and installation, and the date the device was completely installed.**

**Line 12a
Geothermal device tax credit - installed after December 31, 2008**

Enter the amount of credit for a geothermal device installed *after December 31, 2008*.

**Line 12b
Geothermal device tax credit - installed before January 1, 2009**

Enter the amount of credit for a geothermal device installed *before January 1, 2009*.

**Line 12c
Biomass, solar, or wind energy device credit**

Enter the amount of credit for the installation of a biomass, solar, or wind energy device.

**Line 13
Certified ND nonprofit development corporation investment credit**

If the partnership purchased membership in, paid dues to, or made a contribution to a certified North Dakota nonprofit development corporation, multiply the total amount paid (but no more than \$8,000) by 25% and enter the result on this line. **Attach a copy of the Certified Nonprofit Development Corporation Investment Reporting Form.**

**Line 14
Employer internship program credit**

If the partnership hired an eligible college student under a qualifying internship program set up in North Dakota, it is allowed a credit equal to 10% of the compensation paid to the intern. For details, see N.D.C.C. § 57-38-01.24. The partnership is allowed no more than \$3,000 of credits for all tax years.

Line 14a. Enter the allowable credit on this line.

Line 14b. Enter the number of eligible interns hired during your 2012 tax year. *Disregard this line if the credit is from a passthrough entity.*

Line 14c. Enter on this line the total compensation paid to eligible interns during the 2012 tax year (as shown on their 2012 Form W-2s). *Disregard this line if the credit is from a passthrough entity.*

**Line 15
Microbusiness credit**

If the partnership is certified as a microbusiness by the North Dakota Commerce Department, it is allowed a tax credit equal to 20% of the eligible cost of new investment in property and new employment. For details, see N.D.C.C. § 57-38-01.27. The partnership is allowed no more than \$10,000 of tax credits for all tax years.

Line 15a. Enter the allowable credit on this line.

Line 15b. Enter on this line the amount of qualifying new investment made during the 2012 tax year on which the credit was based. *Disregard this line if the credit is from a passthrough entity.*

Line 15c. Enter on this line the amount of compensation paid for qualifying new employment during the 2012 tax year on which the credit was based. *Disregard this line if the credit is from a passthrough entity.*

**Line 16a
Research expense credit**

If the partnership conducted qualified research in North Dakota, it is allowed a tax credit on qualified research expenses in excess of base period research expenses. The credit is equal to 25% of the first \$100,000 of excess qualified expenses plus an additional credit on excess qualified expenses over \$100,000 at a credit rate that is dependent on the tax year in which it first conducted qualified research in North Dakota. For details, see N.D.C.C. § 57-38-30.5. Enter the allowable credit on this line.

**Line 16b
Purchased research expense credit**

Enter on this line a research credit that you obtained from another taxpayer through a sale, assignment, or transfer. For details, see N.D.C.C. § 57-38-30.5.

**Line 17
Endowment fund tax credit**

If the partnership made a charitable contribution to a qualified endowment fund in North Dakota, it is allowed a tax credit equal to 40% of the contribution, up to a maximum credit of \$10,000. For details, see N.D.C.C. § 57-38-01.21.

Line 17a. Enter the allowable credit on this line.

Line 17b. Enter on this line the amount of charitable contribution made to a qualified endowment fund in North Dakota during the 2012 tax year on which the credit is based.

**Line 18
Workforce recruitment tax credit**

If the partnership employs extraordinary recruitment methods to hire an employee to fill a hard-to-fill position in North Dakota, it is allowed a tax credit equal to 5% of the compensation paid during the first 12 months to the employee hired to fill that position. The credit may be claimed in the first taxable year

beginning after the employee completes the first 12 consecutive months of employment. For details, see N.D.C.C. § 57-38-01.25.

Line 18a. Enter the allowable credit on this line.

Line 18b. Enter the number of eligible employees whose first 12 months of employment ended in 2011.

Line 18c. Enter the total compensation paid during the eligible employees' first 12 consecutive months of employment ending in 2011.

**Line 19
Credit for wages paid to a mobilized employee**

Enter on this line the amount from Schedule ME, line 13. **Attach Schedule ME.**

**Line 20a
Angel fund investment credit**

A credit is allowed for making a qualified investment in a North Dakota angel fund. The credit is equal to 45% of the total qualified investments made during the tax year, up to a maximum credit of \$45,000. Enter the allowable credit on this line. Please see the investment reporting form provided by the angel fund for additional instructions.

Do not include on this line a credit that the partnership elected to sell, assign, or transfer to another taxpayer. For the conditions and reporting requirements applicable to a transfer of the credit, see N.D.C.C. § 57-38-01.26.

**Line 20b
Purchased angel fund investment credit**

Enter on this line an angel fund investment credit obtained from another taxpayer through a sale, assignment, or transfer. For details, see N.D.C.C. § 57-38-01.26.

**Line 21
Housing incentive fund credit**

A credit is allowed for making a qualified contribution to the Housing Incentive Fund under N.D.C.C. § 57-38-01.32. Enter on this line the total credit amount shown on the credit certificate issued to the partnership by the North Dakota Housing Finance Agency.

**Line 22
Professional service partnership guaranteed payments**

Lines 22a through 22c apply only if the partnership marked "Yes" to Item H on page 1 of Form 58. See the instructions to Item H on page 4.

Line 22a. Enter the total guaranteed payments from Federal Form 1065, Schedule K, line 4, or from Federal Form 1065-B, Schedule K, line 7.

Line 22b. Enter the portion of the amount on line 22a that was made to individual partners as a reasonable salary for personal services, regardless of where the services were performed. Do not include any guaranteed payments for other than personal services.

Line 22c. Enter the portion of the amount on line 22b that was made to nonresident individual partners for personal services performed within North Dakota.

**Line 23
Allocable (nonbusiness) income**
Lines 23a and 23b apply only if the partnership:

- Is a multistate partnership, i.e., it carries on its trade or business activity both within and without North Dakota;
- Has one or more nonresident individual, estate, or trust partners; and
- Has nonbusiness income as defined under N.D. Admin. Code § 81-03-09-03.

Nonbusiness income is not apportioned using the apportionment factor (from Schedule FACT) but is allocated within or without North Dakota as provided under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08 and N.D. Admin. Code § 81-03-09-09. Expenses must be attributed to the nonbusiness income in a manner which fairly distributes all of the partnership's expenses to its business and nonbusiness income.

If the partnership has an item of nonbusiness income subject to allocation, the partnership must take this into account when calculating the North Dakota distributive share of income or loss reportable on Schedule KP and Schedule K-1 (Form 58) for a nonresident individual, estate, or trust partner. See the instructions to Schedule KP, Column 6, for more information. In addition to completing lines 23a and 23b, the partnership must attach the following to Form 58:

- A statement on which each item of nonbusiness income is shown along with its related expenses.
- A statement explaining the basis for treating the item of income as nonbusiness income subject to allocation.

- If an item of nonbusiness income is allocated to a state other than North Dakota, a copy of that other state's income tax return must be attached. If the partnership is not required to file an income tax return with the other state, the partnership must indicate this in the attached statement.

Line 23a. Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

Line 23b. Enter the portion of the amount on line 23a that is allocable to North Dakota.

**Line 24
Disposition of I.R.C. Section 179 property**

Lines 24a through 24d apply only if the partnership sold, exchanged, or disposed of property for which an I.R.C. Section 179 deduction was passed through to the partners. *Note: The partnership is required to report this same information on a separate statement attached to Federal Form 1065, Schedule K, line 20c.*

For lines 24a through 24d, multiply the corresponding combined amount for all partners as reported on Federal Form 1065, Schedule K, line 20c, by the apportionment factor from Schedule FACT, line 14, and enter the result. However, if the property disposed of is treated as a nonbusiness asset the gain or loss from which is subject to allocation under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08, subtract the amounts for that asset before multiplying by the apportionment factor. Include the nonbusiness gain or loss from the disposition on Schedule K, line 23.

Instructions for Schedule KP (Form 58, page 5)

Schedule KP must be completed to provide information about each partner. In the case of a nonresident individual partner only, the schedule must show the partner's distributive share of North Dakota income (loss) and the amount of North Dakota income tax withheld or the amount of composite income tax paid on the partner's distributive share of North Dakota income. If the partnership has more than seven partners, complete and attach additional schedules as needed to list all partners. If more than one Schedule KP is needed, complete lines 1 through 4 on only one of them, and include the combined amount for all of the schedules on that one schedule.

All Partners (Columns 1 through 5)

Columns 1 and 2

Enter the full name, address, and federal identification number as shown on the partner's Federal Schedule K-1. In Column 1, enter the name on the first line, and the complete mailing address on the second line. If the partner is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner's name, address, and identifying number.

Column 3

Identify the entity type of the partner by entering the applicable code letter as follows:

Entity type	Code letter
Individual.....	I
C corporation.....	C
S corporation.....	S
Partnership.....	P
Estate.....	E
Trust.....	T
Exempt organization.....	O

Note: A "C corporation" is a corporation that files Federal Form 1120; an "S corporation" is a corporation that files Federal Form 1120S; and the "Trust" entity type only applies to a trust that files Federal Form 1041, or, in lieu of filing Federal Form 1041, elects an alternative reporting method under the federal income tax regulations.

If the partner is a limited liability company (LLC) that is a disregarded entity for federal income tax purposes or a nominee on Federal Schedule K-1, enter the code letter for the type of entity of the entity's owner. If the LLC is treated like a partnership for federal income tax purposes, enter "P." If the LLC is treated like an S corporation for federal income tax purposes, enter "S."

Column 4

Enter the partner's ownership percentage as provided in the partnership agreement. (*This percentage may differ from the partner's profit or loss percentage.*)

Column 5

For a partnership other than an electing large partnership, enter the sum of the following items from the partner's Federal Schedule K-1 (Form 1065), Part III:

Column 6 Worksheet

For nonresident individual partners only—see instructions to Schedule KP, Column 6.

1. Partner's amount from Schedule KP, Column 5.....	1	_____
2. Professional service partnership only: Guaranteed payments for services only included in the amount on line 1.....	2	_____
3. Allocable income (less related expenses) included in the amount on line 1.....	3	_____
4. Interest from U.S. obligations included in the amount on line 1.....	4	_____
5. Add lines 2, 3, and 4.....	5	_____
6. Apportionable income (loss). Subtract line 5 from line 1.....	6	_____
7. Apportionment factor from Schedule FACT, line 14.....	7	_____
8. Multiply line 6 by line 7.....	8	_____
9. Professional service partnership only: Guaranteed payments for services performed within North Dakota	9	_____
10. Allocable income (less related expenses) reportable to North Dakota	10	_____
11. Add lines 8, 9 and 10. Enter result in Column 6.....	11	_____

- Box 1** Ordinary business income (loss)
Box 2 Net rental real estate income (loss)
Box 3 Other net rental income (loss)
Box 4 Guaranteed payments
Box 5 Interest income
Box 6a Ordinary dividends
Box 7 Royalties
Box 8 Net short-term capital gain (loss)
Box 9a Net long-term capital gain (loss)
Box 10 Net section 1231 gain (loss)
Box 11 Other income (loss)
Box 12 Section 179 deduction
Box 13 Other deductions (*In the case of an individual, trust, or estate partner, only include deductions that are allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.*)
Box 20 Include the gain (loss) from an I.R.C. Section 179 property disposition. For purposes of calculating the gain or loss, include all of the Section 179 deduction passed through to the partner, regardless of whether or not the partner actually deducted all of it.

Electing large partnership. For an electing large partnership, enter the sum of the following items from the partner's Federal Schedule K-1 (Form 1065-B):

- Box 1** Taxable income (loss) from passive activities
Box 2 Taxable income (loss) from other activities
Box 3 Qualified dividends

- Box 4a** Net capital gain (loss) from passive activities
Box 4b Net capital gain (loss) from other activities
Box 9 Other—(*Include only those items that would be included in the determination of adjusted gross income.*)

Nonresident Individual Partners Only (Columns 6 through 8)

Column 6 Nonresident individual only

Complete Column 6 for each nonresident individual partner. Except as provided below, multiply the partner's amount in Column 5 by the apportionment factor from Schedule FACT, line 14, and enter the result in Column 6.

Exception: Complete the **Column 6 Worksheet** on page 8 to calculate the amount to enter in Column 6 if any of the following apply:

- The partnership is a professional service partnership that made guaranteed payments for services performed by nonresident individual partners. These payments are not apportioned, but are allocated to the state where the services were performed by the partner. See the instructions to Item H on page 4 for the definition of a professional service partnership.

- The partnership has an item of nonbusiness income subject to allocation. See the instructions to North Dakota Schedule K, line 23, on page 7 for more information.
- The amount in Column 5 includes interest from U.S. obligations.

Column 7 Nonresident individual only

If the partner is a nonresident individual, and the amount in Column 6 is \$1,000 or more, multiply the amount in Column 6 by 3.99% (.0399) and enter the result in Column 7. However, the following exceptions apply:

- If the nonresident individual partner completed a Form PWA, enter the amount from line 6 of Form PWA in Column 7, and mark the circle under "Form PWA."
- If the nonresident individual partner elected to be included in a composite return, leave Column 7 blank and see the instructions to Column 8.

See "Withholding from nonresident individual partners" on page 3 for more information.

Column 8 Nonresident individual only

Complete Column 8 for each nonresident individual partner who elected to be included in a composite return. Multiply the nonresident individual partner's amount in Column 6 by 3.99% (.0399) and enter the result in Column 8. If the amount in Column 6 is zero or less, enter zero in Column 8. See "Composite filing method" on page 3 for more information.

Specific line instructions for page 1 of Form 58, lines 1-10

**Complete Schedule FACT,
Schedule K, and Schedule KP before
completing lines 1 through 10 on
page 1 of Form 58.**

Line 4 Estimated tax payments

Enter the amount paid with the 2012 Form 58-EXT and 2012 Form 58-ES plus any overpayment to apply from the 2011 return. However, if this is an amended return, do not enter the amount paid with the 2012 Form 58-EXT, 2012 Form 58-ES, or

overpayment applied from the 2011 return; instead, enter the amount of the total taxes due from line 3 of the previously filed original or amended 2012 Form 58.

Line 6 Application of overpayment to 2013

If there is an overpayment on line 5, the partnership may elect to apply part or all of it as an estimated payment toward its 2013 tax liability. To make the election, enter the portion of line 5 to be applied on line 6. If this election is made, the election and the amount applied may not be changed after the return is filed. If this is an amended return, do not make an entry on this line.

Line 8 Tax due

A tax due must be paid in full with the return when the return is filed. See the instructions to line 10 for payment options.

Line 9 Penalty and Interest

The Office of State Tax Commissioner will notify the partnership of any penalty and interest payable on a tax due shown on Form 58. However, the partnership may calculate the penalty and interest amounts and include them in the balance due on Form 58.

Penalty. Calculate the penalty amount as follows:

- If Form 58 is filed on or before the due date (or extended due date), but the full amount of the tax due is not paid with the return, the penalty is equal to 5% of the unpaid tax or \$5.00, whichever is greater.
- If Form 58 is not filed on or before the due date (or extended due date), the penalty is equal to 5% of the tax due or \$5.00, whichever is greater, for the month in which the return was due plus 5% of the tax due for each additional month (or fraction of a month) during which the return remains delinquent, not to exceed 25% of the tax due.

Interest. Calculate the interest amount as follows:

- If an extension of time to file Form 58 was obtained, extension interest is calculated at the rate of 12% per year on any tax due from the due date of the return to the earlier of the extended due date or the date the return was filed.

- If any tax due is not paid by the due date (or extended due date) of the return, interest is calculated at the rate of 1% per month (or fraction of a month) on the unpaid tax, except for the month in which the return was due.

Line 10 Balance due

If paying by paper check or money order, make it payable to "ND State Tax Commissioner." Instead of a paper check or money order, the balance due may be paid electronically through an Automated Clearing House (ACH) credit transaction or online through Link2Gov Corporation, a national electronic payment service.

To pay by means of an ACH transaction, go to www.nd.gov/tax and click on "S Corp and Partnership" on the left-hand side of the page. Then click on "Electronic Payment."

To pay online through Link2Gov Corporation, go to www.ndtaxpayment.com. Link2Gov charges a fee for its service, none of which goes to the State of North Dakota. The amount of the fee will be provided during the transaction with an option to continue or cancel the transaction.

Instructions for completing Schedule K-1

A partnership is not subject to North Dakota income tax. Instead, the partners are responsible for reporting and paying any applicable North Dakota income tax on their shares of the partnership's income reportable to North Dakota.

North Dakota Schedule K-1 (Form 58) must be used by a partnership to provide information that partners will need to complete a North Dakota income tax return. The information to be included in the schedule will depend on the type of partner.

North Dakota Schedule K-1 (Form 58) must be completed and given to:

- Each nonresident individual, estate, or trust partner.
- Each partnership or corporation partner having a North Dakota adjustment or tax credit as reported on Form 58, Schedule K, line 1 through 21, and, each partnership or corporation partner owning a share of the apportionment factors calculated on Form 58, Schedule FACT.

- Each North Dakota resident individual, estate, or trust partner having a North Dakota adjustment or tax credit as reported on Form 58, Schedule K, lines 1 through 21.

A North Dakota Schedule K-1 (Form 58) does not have to be completed nor given to a North Dakota resident individual, estate, or trust if there are no North Dakota adjustments or tax credits on Schedule K. All income of a North Dakota resident individual, estate, or trust is subject to North Dakota income tax, regardless of its source.

In addition to the North Dakota Schedule K-1 (Form 58), the partnership must provide the partner with a copy of the *Partner's Instructions for North Dakota Schedule K-1 (Form 58)*.

A copy of all North Dakota Schedule K-1s must be enclosed with Form 58 along with any required supplemental statements.

Amended schedule. If a partnership files an amended Federal Form 1065 (or 1065-B), or if the IRS makes any changes to the partnership's federal return, the partnership must file an amended Form 58 for the same tax year, and must issue amended North Dakota Schedule K-1s to its partners. Mark the "Amended" circle at the top of the North Dakota Schedule K-1 (Form 58).

Final schedule. Mark the "Final" circle at the top of the North Dakota Schedule K-1 (Form 58) if it is the last one to be issued by the partnership to the partner.

Part 1 Partnership information

Items A and B

Enter the name, address, and federal employer identification number (FEIN) of the partnership shown on the partner's Federal Schedule K-1.

Part 2 Partner information

Item C

Enter the social security number or federal employer identification number (FEIN) of the partner shown on the partner's Federal Schedule K-1. If the partner is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner's identifying number.

Item D

Enter the name and address of the partner shown on the partner's Federal Schedule K-1. If the partner is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner's name and address.

Item E

Enter the same code letter shown in Column 3 of Schedule KP of Form 58.

Item F

If the partner is an individual, estate, or trust, mark the applicable circle to indicate the legal residency status of the partner for North Dakota income tax purposes. If an individual partner changed his or her legal residency to or from North Dakota during the tax year, mark the part-year resident status. In the case of an estate or trust partner, only the full-year resident or full-year nonresident status will apply.

Item G

For only a nonresident individual partner, indicate whether the partner is included in a composite return filed by the partnership by marking the applicable circle.

Item H

Enter the partner's profit and loss percentages shown on the partner's Federal Schedule K-1.

Item I

Enter the partner's ownership percentage as provided in the partnership agreement.

Part 3 All partners— North Dakota adjustments and tax credits

If there are any North Dakota adjustments or tax credits on Form 58, Schedule K, lines 1 through 21, complete this part for all partners.

Nonresident individual, estate, or trust partner only.

Lines 1 and 2

Multiply each amount shown on Form 58, Schedule K, lines 1 and 2, by the same percentage used to determine the partner's distributive share of income (loss) from the partnership. Then, multiply this result by the apportionment factor from Schedule FACT, line 14. Enter the result on the corresponding line of Part 3, lines 1 and 2.

Lines 3 through 5

Enter the partner's share of each amount shown on Form 58, Schedule K, lines 3 through 5, on the corresponding lines of Part 3, lines 3 through 5.

Line 6

Multiply the amount on Form 58, Schedule K, line 6, by the same percentage used to determine the partner's distributive share of income (loss) from the partnership. Then, multiply the result by the apportionment factor from Schedule FACT, line 14. Enter the result on Part 3, line 6.

Lines 7 through 21

Enter the partner's share of each amount shown on Form 58, Schedule K, lines 7 through 21, on the corresponding lines of Part 3, lines 7 through 21.

Other partners.

Enter the partner's share of each amount shown on Form 58, Schedule K, lines 1 through 21, on the corresponding lines of Part 3, lines 1 through 21.

Part 4 Nonresident individual, estate, or trust partner only— North Dakota income (loss)

Complete Part 4 for only a nonresident individual, estate, or trust partner.

Line 22 Partnership's apportionment factor

Enter the partnership's apportionment factor from Schedule FACT, line 14.

Lines 23 through 36 Income and loss items

Except as provided under **Exception 1 through 3** below, multiply the corresponding amount from the partner's Federal Schedule K-1, Part III, boxes 1 through 13, and any I.R.C. § 179 property disposition gain (loss) included in box 20 by the partnership's apportionment factor from Schedule FACT, line 14, and enter the result on the corresponding line of Part 4, lines 23 through 36.

For "Other deductions" from box 13 of Federal Schedule K-1, only include deductions that are allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.

For purposes of calculating the gain or loss for I.R.C. § 179 property dispositions included in box 20 of the Federal Schedule K-1, include all of the Section 179 deduction passed through to the partner, regardless of whether or not the partner actually deducted all of it.

Exception 1: Professional service partnership. If the partnership is a professional service partnership, calculate the amount to enter on line 26 (guaranteed payments) by adding the following two amounts:

- Guaranteed payments for services performed within North Dakota by the partner; and
- Guaranteed payments for other than personal services multiplied by the partnership's apportionment factor from Schedule FACT, line 14.

Exception 2: Allocable (nonbusiness) income. If the partnership treated any part of a distributable item of income from the partner's Federal Schedule K-1 as nonbusiness income subject to allocation, calculate the amount to enter on the corresponding line of this part in the following steps:

1. Subtract the net nonbusiness income (gross amount less related expenses) from the applicable distributable amount shown on the Federal Schedule K-1.
2. Multiply the remaining distributive amount, if any, (from step 1) by the partnership's apportionment factor from Schedule FACT, line 14.
3. Add the result (from step 2) to the portion, if any, of the net nonbusiness income **allocable to North Dakota**, and enter the result on the corresponding line of Part 4.

Note: *If any portion of the net nonbusiness income removed from the distributable amount (in step 1 above) is allocable outside North Dakota, do not enter it anywhere on North Dakota Schedule K-1 (Form 58).*

Exception 3: Interest from U.S. obligations. Do not include interest from U.S. obligations in determining the amount to enter on Part 4, line 27.

If the calculation of any amount on lines 23 through 36 of Part 4 was affected by the removal or inclusion of net nonbusiness income, attach a statement to the partner's North Dakota Schedule K-1 (Form 58) identifying the net nonbusiness income and showing the calculation of the amount entered on the applicable line(s) of Part 4.

Part 5 Nonresident individual partner only

Complete Part 5 for a nonresident individual partner only.

Line 37 ND distributive share of income (loss)

Enter the partner's North Dakota distributive share of income (loss) from Form 58, Schedule KP, Column 6.

Line 38 ND income tax withheld

Enter the amount of North Dakota income tax withheld from the partner's North Dakota distributive share of income from Form 58, Schedule KP, Column 7.

Line 39 ND composite income tax

Enter the amount of North Dakota composite income tax on the partner's North Dakota distributive share of income from Form 58, Schedule KP, Column 8.

Part 6 Partnership or corporation partner only

The apportionment factors are used to determine North Dakota apportioned income. Complete Part 6 only for a partner that is a partnership, corporation, or other entity treated like a partnership or corporation.

Line 40 North Dakota factors

Enter the partner's share of the partnership's North Dakota apportionment factor amounts from Schedule FACT, Column 2, lines 7, 8, and 12 in the corresponding column.

Line 41 Total factors

Enter the partner's share of the partnership's total factor amounts from Schedule FACT, Column 1, lines 7, 8, and 12 in the corresponding column.

Before you file Form 58

Signatures

The return must be signed and dated by a general partner, or an authorized representative of the partnership.

If the partnership pays someone other than one of its partners or an employee of the partnership to prepare the return, the paid preparer also must sign and date the return.

Preparer authorization check-off

The partnership may authorize the North Dakota Office of State Tax Commissioner (Tax Department) to discuss matters pertaining to its 2012 Form 58 with the preparer who signed it. To do so, mark the circle in the lower right-hand corner of page 1 of Form 58 next to the signature area. This authorization applies only to the individual whose signature and printed name appear in the paid preparer section of the signature area. It does not apply to the firm, if any, shown in that section.

By marking the circle, the partnership authorizes the Tax Department to contact the preparer to answer any questions that may arise during the processing of the partnership's return. It also authorizes the preparer to respond to questions and to provide any information missing from the return, to contact the Tax Department to inquire about the status of the return's processing and related refund or payment, and to respond to Tax Department notices that the partnership shares with the preparer pertaining to math errors or return preparation. *(Tax Department notices will not be sent directly to the preparer.)*

This authorization automatically expires on the due date (excluding extensions) for filing the **2013 Form 58**.

This authorization **does not** authorize the preparer to receive a refund check, to bind the partnership in any way (including any additional tax liability), or to represent the partnership before the Tax Department for any other purpose. To expand the preparer's authorization, the partnership must complete and file North Dakota Form 500, *Authorization to Disclose Tax Information and Designation of Representative*, with the Tax Department.

Assembling a paper return

Please assemble Form 58 and its required attachments in the following order:

1. Form 58.
2. Schedule FACT.
3. Schedule K.
4. Schedule KP.
5. North Dakota Schedule K-1s.
6. Supporting statements required in instructions.
7. Complete copy of Form 1065 (or 1065-B) including Federal Schedule K-1s.

Staple all documents (except check or money order) together at the **top center** of Form 58. Enclose a check or money order made payable to: ND State Tax Commissioner. **Do not send cash.**

2012

Partner's Instructions for North Dakota Schedule K-1 (Form 58)

Purpose of schedule

North Dakota Schedule K-1 (Form 58) is provided to you by the partnership to show your share of the income, gains, losses, deductions, and other items from the partnership that you need to complete your North Dakota income tax return. These instructions will assist you in transferring the amounts from the schedule to your North Dakota income tax return.

Partnership or corporation partner. If you are a partnership, corporation, or other entity treated like a partnership or corporation, you have received North Dakota Schedule K-1 to show your share of the partnership's North Dakota statutory adjustments or tax credits. You have also received the North Dakota Schedule K-1 to show your share of the partnership's apportionment factor that may affect the preparation of your North Dakota income tax return. See Instructions to Part 3 and Part 6.

Resident individual, estate, or trust partner. If you are a North Dakota resident individual, estate, or trust, you must report to North Dakota your entire share of the partnership's income, gains, losses, and deductions that are included in your federal taxable income. You have received North Dakota Schedule K-1 only to show your share of the partnership's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return. See the instructions to Part 3.

Nonresident individual, estate, or trust partner. If you are a nonresident individual, estate, or trust, you must report to North Dakota your share of the partnership's income, gains, losses, and deductions that are apportioned and allocated to North Dakota based on the partnership's activity in North Dakota. These items are shown in Part 4 of North Dakota Schedule K-1. Unless you are a nonresident individual who elected to include your share of these items in a composite return filed on your behalf by the partnership, you must file a North Dakota income tax return to report and pay the required income tax on them.

Composite return election. If you are a nonresident individual who elected to include your share of the partnership's North Dakota income, gains, losses, and deductions in a composite return filed by the partnership, you are not required to file a North Dakota individual income tax return. If this applies to you, you received North Dakota Schedule K-1 to show your share of these items and the composite income tax paid on them. If you later choose to file your own North Dakota individual income tax return, follow the instructions below to transfer the amounts from North Dakota Schedule K-1 to your return.

Amended Schedule K-1 (Form 58). If you received an amended North Dakota Schedule K-1 (Form 58) from the partnership, and you previously filed a North Dakota income tax return, you must file an amended North Dakota income tax return to report the changes in income, gains, losses, and deductions. You also must attach a copy of the amended North Dakota Schedule K-1 (Form 58) to your amended North Dakota income tax return.

Note: Any reference to another North Dakota form and line number contained in these instructions is a reference to the form to be used for the 2012 tax year. Therefore, report the amounts from the 2012 North Dakota Schedule K-1 on your 2012 North Dakota return. However, if you and the partnership do not have the same tax year, enter the amounts on the North Dakota return that you file for the tax year in which the partnership's tax year ends. For example, if you file on a calendar year basis, and the partnership's tax year ends in February 2013, report the amounts on your 2013 return.

Part 3 All partners—North Dakota adjustments and tax credits

Note: Wherever you see "Not applicable" in the right-hand column of the following lists, it means that the item does not apply to the return being completed; do not enter the item on the return.

Lines 1-21

Form ND-1 filer:
Include the amount from this schedule:

Lines 1-2	On:
Line 3	Not applicable
Line 4	Form ND-1, line 7
Line 5	Sch. RZ, Part 1, line 14
Line 6	Form ND-1SA, line 2
Line 7a	Not applicable
Line 7b	Sch. RZ, Part 4, line 7
Line 7c	Sch. RZ, Part 5, line 4
Line 8	Sch. RZ, Part 6, line 6
Line 9	Sch. ND-1TC, line 4
Line 10	Sch. ND-1TC, line 3
Line 11	Sch. ND-1TC, line 6
Line 12a	Sch. ND-1TC, line 7
Lines 12b-13	Sch. ND-1TC, line 14b
Line 14	Not applicable
Line 15	Sch. ND-1TC, line 8a
Line 16	Sch. ND-1TC, line 9a
	Sch. ND-1TC, line 10a

Line 17a	Sch. ND-1TC, line 12
Line 17b	See instructions to ND-1, line 4a
Line 18	Sch. ND-1TC, line 13a
Line 19	Sch. ND-1TC, line 15
Line 20a	Sch. ND-1TC, line 11a
Line 20b	Sch. ND-1TC, line 11b
Line 21	Sch. ND-1TC, line 19

Form 38 filer:

Include the amount from this schedule:	On:
Lines 1-2	Not applicable
Line 3	Form 38, page 2, Part 1, line 4a
Line 4	Sch. RZ, Part 1, line 14
Line 5	Form 38, page 2, Part 1, line 4d
Line 6	Not applicable
Line 7a	Sch. RZ, Part 4, line 7
Line 7b	Sch. RZ, Part 5, line 4
Line 7c	Sch. RZ, Part 6, line 6
Lines 8-11	Form 38, page 1, line 3
Lines 12a-13	Not applicable
Lines 14-16	Form 38, page 1, line 3
Line 17a	Form 38, page 1, line 3
Line 17b	See instructions to Form 38, Part 1, line 2
Lines 18-21	Form 38, page 1, line 3

Form 40 filer:

Include the amount from this schedule:	On:
Line 1	Sch. SA, line 4
Line 2	Sch. SA, line 3
Line 3	Sch. SA, line 11
Line 4	Sch. RZ, Part 1, line 14
Line 5	Page 1, line 9
Line 6	Sch. SA, line 16
Line 7a	Sch. RZ, Part 4, line 7
Line 7b	Sch. RZ, Part 5, line 4
Line 7c	Sch. RZ, Part 6, line 6
Line 8	Sch. TC, line 12
Line 9	Sch. TC, line 15
Line 10	Sch. TC, line 13
Line 11	Sch. TC, line 14
Line 12a-12c	Sch. TC, line 3
Line 13	Sch. TC, line 8
Line 14	Sch. TC, line 18
Line 15	Sch. TC, line 17
Line 16	Sch. TC, line 5
Line 17a	Sch. TC, line 16
Line 17b	Sch. SA, line 5
Line 18	Sch. TC, line 21
Line 19	Sch. TC, line 22
Line 20a	Sch. TC, line 19
Line 20b	Sch. TC, line 20
Line 21	Sch. TC, line 23

Form 35 filer:

Include the amount from this schedule:

Line 1	On: Sch. SA, line 4
Line 2	Sch. SA, line 3
Line 3	Not applicable
Line 4	Sch. RZ, Part 1, line 14
Lines 5-6	Not applicable
Line 7a	Sch. RZ, Part 4, line 7
Line 7b	Sch. RZ, Part 5, line 4
Line 7c	Sch. RZ, Part 6, line 6
Line 8-16	Not applicable
Line 17a	Form 35, page 1, line 24
Line 17b	Sch. SA, line 5
Line 18-20b	Not applicable
Line 21	Form 35, page 1, line 25

Form 60 filer:

Include the amount from this schedule:

Lines 1-2	Not applicable
Line 3	Sch. K, line 1
Line 4	Sch. K, line 2
Line 5	Sch. K, line 3
Line 6	Not applicable
Line 7a	Sch. K, line 4a
Line 7b	Sch. K, line 4b
Line 7c	Sch. K, line 4c
Line 8	Sch. K, line 5
Line 9	Sch. K, line 6
Line 10	Sch. K, line 7
Line 11	Sch. K, line 8
Line 12a	Sch. K, line 9
Lines 12b-13	Not applicable
Line 14	Sch. K, line 10a
Line 15	Sch. K, line 11a
Line 16	Sch. K, line 12a
Line 17a	Sch. K, line 13a
Line 17b	Sch. K, line 13b
Line 18	Sch. K, line 14a
Line 19	Sch. K, line 15
Line 20a	Sch. K, line 16a
Line 20b	Sch. K, line 16b
Line 21	Sch. K, line 17

Form 58 filer: Include the amounts from lines 1-21 of this schedule on the applicable lines of Schedule K of Form 58.

**Part 4
Nonresident individual, estate, or trust partners only— North Dakota income (loss)**

Line 22

Enter the partnership’s apportionment factor from Schedule FACT, line 14.

Lines 23-36

If you are a nonresident individual, estate, or trust, lines 23 through 36 of Part 4 show your share of the partnership’s North Dakota income, gains, losses, and deductions that you must report on your North Dakota income tax return. Transfer these amounts to your North Dakota income tax return as instructed below based on the type of return you are filing.

If the full amount of any item is not included in your adjusted gross income on your federal income tax return because of limitations on the deductibility of a passive activity loss, capital loss, section 179 deduction, or for any other reason, enter on your North Dakota return only that portion of the item included in your federal adjusted gross income.

Attach a statement to your North Dakota income tax return explaining any difference between an amount shown on North Dakota Schedule K-1 (Form 58) and the amount reported on your North Dakota income tax return.

Form ND-1 filer (nonresident only):

Include the amount from this schedule:	On Schedule ND-1NR, Column B:
Lines 23-26	Line 6
Lines 27-28	Line 2
Line 29	Line 6
Lines 30-32	Line 4
Line 33	Line 8
Lines 34-35	Line 6
Line 36	Line 4

Form 38 filer (nonresident only):

Include the amount from this schedule:	On Tax Computation Schedule, Part 2, Column B:
Lines 23-26	Line 5
Line 27	Line 1
Line 28	Line 2
Line 29	Line 5
Lines 30-31	Line 4
Line 32	Line 4 or 7
Line 33	Line 8
Lines 34-35	Line 5
Line 36	Line 4 or 7

**Part 5
Nonresident individual partner only**

Lines 37 through 39 apply only to a nonresident individual partner.

Line 37

This is the net amount of your North Dakota distributive share of income (loss) from the partnership. Do not enter the amount from this line anywhere on your return. ***It is for your information only.***

If you have a North Dakota distributive share of income of \$1,000 or more, the partnership was required to withhold North Dakota income tax from it at the rate of 3.99% unless you elected to include it in a composite return filed by the partnership.

Line 38

If applicable, the amount shown on this line is the amount of North Dakota income tax withheld by the partnership from your North Dakota distributive share of income. Include this amount on Form ND-1, line 28. **Attach a copy of North Dakota Schedule K-1 (Form 58) to your return.**

Line 39

If you elected to include your North Dakota distributive share of income (loss) in a composite return, the amount shown on this line is the amount of North Dakota composite income tax paid on your behalf by the partnership. If you made this election, you are not required to file your own North Dakota individual income tax return. ***This is for your information only.***

Note: *If you later choose to file your own North Dakota individual income tax return, you may claim this amount as a tax payment on Form ND-1, line 28. Attach a copy of the North Dakota Schedule K-1 (Form 58) to your return to support the amount claimed.*

**Part 6
Partnership and corporation partner only**

Lines 40 and 41 apply only to a partner that is a partnership, corporation, or other entity treated like a partnership or corporation.

Form 40 filer:

Include the amount from this schedule:
Line 40-41 On: Sch. FACT, or Sch. CR, Part II

Form 35 filer:

Include the amount from this schedule:
Line 40-41 On: Sch. FACT

Form 60 filer:

Include the amount from this schedule:
Line 40-41 On: See instructions to Form 60, Sch. FACT

Form 58 filer:

Include the amount from this schedule:
Line 40-41 On: See instructions to Form 58, Sch. FACT