

WHAT'S NEW THIS YEAR

Line Changes

A loss oval was added to Line 5.

Obsolete Forms

The 2009 PA-20S/PA-65 PA S Corporation/Partnership Information Return Tax Booklet, forms and schedules will not be printed or mailed, and will no longer be available through the department's forms ordering service. The PA-20S/PA-65 including the PA-40 NRC, NRC-I and NRC-O forms and schedules will continue to be available on the department's Web site.

The form PA-V payment voucher will no longer be available because the PA-20S/PA-65 Tax Booklet for tax year 2009 was discontinued. The 2009 Nonresident Withholding Payment substitute voucher will continue to be used by entities using approved software. Otherwise, submit a check or money order. Refer to [Where To File](#).

GENERAL INSTRUCTIONS

Purpose of Form

Form PA-40 NRC is a nonresident consolidated tax return used to report the income losses, deductions, credits, etc on behalf of qualifying electing nonresident individual owners of PA S corporations, partnerships or limited liability companies taxed as partnerships.

Who Must File

A PA S corporation, partnership or limited liability company filing as a partnership may file a PA-40 Nonresident Consolidated Income Tax Return on behalf of its qualifying electing nonresident individual owners (partner, member, or shareholder). There must be more than one owner to make an election to file the PA-40 NRC Consolidated Income Tax Return.

NOTE: If a limited liability company filing as a partnership filed a PA-40 Nonresident Consolidated Income Tax Return on behalf of its qualifying electing nonresident individual owners, the limited liability company is still required to file the RCT-101, PA Corporate Tax Report, and report capital stock/foreign franchise tax.

Filing Requirements

The nonresidents must meet these requirements:

- The owner must be an individual whose tax year is the calendar year. An estate or a trust **may not use** the PA-40 Nonresident Consolidated Income Tax Return.

PA law 72 P.S. § 7301 (I) defines individual as "a natural person and shall include the members of a partnership or association and the shareholders of a Pennsylvania S corporation."

- The owner and the owner's spouse must each be a domiciliary of a state or country other than Pennsylvania at the close of the entity's taxable year.
- The owner and the owner's spouse must not maintain a permanent place of abode in Pennsylvania at the end of the calendar year.

- The owner must have no other Pennsylvania-taxable income derived from, or connected with Pennsylvania sources other than his or her distributive share of income (loss) for the calendar year.
- The owner must elect to join in the filing of the PA-40 Nonresident Consolidated Income Tax Return.

NOTE: The PA-40 Nonresident Consolidated Income Tax Return must be filed separately from all other Pennsylvania tax returns.

The PA S corporation or partnership must complete PA-40 Schedule NRC-I, Directory of Nonresident Owners – Individuals, listing each of its nonresident individual partners, members, or shareholders (owners) that received a PA-20S/PA-65 Schedule NRK-1 and/or a PA-40 Schedule NRC-O, Directory of Nonresident and Foreign Owners – Other Entities, listing every nonresident or foreign owner that is not an individual that received a PA-20S/PA-65 Schedule NRK-1. The PA S corporation or partnership must maintain for inspection at its principal office the following:

- A list of all nonresident owners with all pertinent information for the owners including the names (list by last name or entity in alphabetical order), addresses, Social Security numbers or federal employer identification numbers, ownership interests, distributive shares of total taxable income, tax due before application of payments, credits, shares of tax withheld or payments, and shares of overpayment, if any.
- A signed statement from each qualified nonresident individual listed on the PA-40 Schedule NRC-I, Directory of Nonresident Owners - Individuals evidencing:
 - The individual's election to join in filing a Pennsylvania consolidated group return for the taxable year; and
 - The individual agreed to file the PA-40 Nonresident Consolidated Income Tax Return.

NOTE: If a PA S corporation, partnership or limited liability company filing as a partnership filed a PA-40 Nonresident Consolidated Income Tax Return on behalf of its qualifying electing nonresident individual owners, the owner(s) do not file the PA-40 Individual Income Tax Return.

Effect of a Consolidated Group Return

Unless rejected, the department considers the PA-40 Nonresident Consolidated Income Tax Return a return filed on behalf of a group of electing nonresident individuals that meet the individual filing requirements of Pennsylvania personal income tax law. The department's acceptance of a PA-40 Nonresident Consolidated Income Tax Return is conditional upon review to determine that it is a complete return and that all documentation was submitted. This return is subject to revocation upon audit or review. The department retains the right at any time to require the filing of a PA-40 Individual Income Tax return from any of the individual partners or shareholders. The department also retains the right to withdraw and modify the authority to file a PA-40 Nonresident Consolidated Income Tax Return.

IMPORTANT: A participating individual owner may not change his or her election to file from PA-40 Nonresident Consolidated Income Tax Return to a PA-40 Individual Income Tax Return or vice versa after filing the Pennsylvania tax return. Any electing nonresident individual owner that discovers other Pennsylvania-source income (loss) is responsible for filing a separate PA-40, Individual Income Tax Return for such PA-source income (loss). However, the nonresident individual owners may lose the benefit of offsetting losses in classes of income where there is income (loss) for either the newly discovered Pennsylvania-source income (loss) previously included with the PA-40 Nonresident Consolidated Income Tax Return.

When To File

For calendar year 2009, the PA S corporation or partnership must file a PA-40 Nonresident Consolidated Income Tax Return on behalf of its qualifying electing nonresident individual owners on or before April 15, 2010, unless an extension of time to file has been granted.

Where to File

Any PA S corporation, partnership, or limited liability company filing on behalf of its qualifying electing nonresident individual owners, must submit a PA-40 Nonresident Consolidated Income Tax Return with or without payment and the appropriate schedules to:

PA DEPARTMENT OF REVENUE
CONSOLIDATED RETURN
PO BOX 280418
HARRISBURG PA 17128-0418

If the Pennsylvania personal income tax due on the taxable income allocable to nonresidents that are individuals, estates or trusts exceeds the tax withheld, the final payment is due on the date prescribed for the filing of the PA-40 Nonresident Consolidated Income Tax Return or with an extension request.

If the tax of the nonresident owners exceeds the nonresident withholding tax payments, the entity must pay the deficiency by the date prescribed for filing the PA-40 Nonresident Consolidated Income Tax Return. The entity makes the final/catch-up payment with the PA-40 Nonresident Consolidated Income Tax Return or with an extension request.

There are two ways to make a final withholding payment or final catch up payment for nonresidents that are individual owners. Follow these instructions:

With Approved Software Form

- If using approved software, submit payment along with the 2009 Nonresident Withholding Payment substitute voucher in the same envelope with the PA-40 Nonresident Consolidated Income Tax Return or extension request. Do not staple payment to your return or the substitute voucher.

Without Approved Software Form

- Submit payment with the PA-40 Nonresident Consolidated Income Tax Return or extension request. Print the last four digits of the entity's federal employer identification number (FEIN) and 2009 Final Nonresident Withholding on the check or money order made payable to the PA Dept. of Revenue.

- Submit payment in the same envelope with the PA-40 Nonresident Consolidated Income Tax Return or extension request. Do not staple payment to your return.

Mailing Address for Final Withholding Payment with Extension Request

Submit the final withholding payment or final catch-up payment for the PA-40 Nonresident Consolidated Income Tax Return along with form REV-276, Application for Extension of Time to File, send to:

PA DEPARTMENT OF REVENUE
BUREAU OF INDIVIDUAL TAXES
PO BOX 280504
HARRISBURG PA 17128-0504

Overpayment of Withholding for Nonresident Owners

PA S corporations, partnerships and limited liability companies taxed as partnerships must submit a written request if it did not file a PA-40 Nonresident Consolidated Income Tax Return and wants a refund, or to carry-forward to the next tax year the entire amount of tax withheld or the excess over the withholding passed through to the nonresident owners that are individuals, estates or trusts.

Send to:

PA DEPARTMENT OF REVENUE
BUREAU OF INDIVIDUAL TAXES
PO BOX 280509
HARRISBURG PA 17128-0509

SPECIFIC INSTRUCTIONS

Federal Employer Identification Number (FEIN)

Enter the FEIN of the PA S corporation or partnership.

PA S Corporation Name or Partnership Name

Enter the complete name of the entity or business.

First Line of Address

Enter the street address. If the address has an apartment number, suite, or RR number, enter after the street address.

NOTE: If the street address along with the apartment number, suite, or RR number does not fit on the first line of address, enter the street address on the second line of address and the apartment number, suite, or RR number on the first line of address.

Second Line of Address

Enter the post office box, if appropriate. If there is no post office box, leave the second line of address blank.

IMPORTANT: If the address has only a post office box, enter on the first line of address.

City, State, and ZIP Code

Enter the appropriate information in each box.

Type of Business Entity

Fill in the appropriate oval

Business Activity

Enter a brief description of the primary activity (business activity) of the PA S corporation, partnership or limited liability company.

Amended Return

If the return is amended, fill in the oval.

An amended PA-40 Nonresident Consolidated Income Tax Return can only be filed to adjust the amounts on a return for increases or decreases in amounts due to amendments made by the entity to PA-20S/PA-65 Schedule NRK-1 or to correct errors. An amended PA-40 Nonresident Consolidated Income Tax Return cannot be filed to include a newly electing nonresident individual owner or to reverse an election to include a nonresident individual owner income.

Final Return

If the PA S corporation, partnership or limited liability company is out of business, fill in this oval. Enter the date the entity went out of existence, and explain the reason for filing a final return.

Total Number of Nonresidents

Enter the number of all nonresident owners. Submit the PA-40 Schedule NRC-1, Directory of Nonresident Owners – Individuals.

Number of Nonresident Individuals Electing

Enter the number of eligible nonresident individual owners electing to file on the PA-40 Nonresident Consolidated Income Tax Return.

NOTE: A PA-20S/PA-65 Schedule NRK-1 for each electing nonresident individual owner must accompany the PA-40 Nonresident Consolidated Income Tax Return.

Lines 1 through 6. Total Pennsylvania-Source Taxable Income (Loss)

Enter the PA net taxable income (loss), by income class, from the PA-20S/PA-65 Schedule NRK-1 of the electing nonresident individual owners. If a loss, fill in the oval next to the line.

IMPORTANT: Guaranteed payments for services, as shown on the PA-20S/PA-65 Schedule NRK-1 of a nonresident consolidated electing partner, must be added to the appropriate class of income.

Line 7. Pennsylvania Tax Due Before Allowable Credits

Multiply the total on Line 6 by 3.07 percent (0.0307) to calculate the Pennsylvania income tax due before allowable credits.

Line 8. Total Pennsylvania Tax Withheld and Submitted from Electing Nonresident Individual Owners (Including carryover credit from the prior year)

Enter the total of each electing nonresident's portion of tax withheld from the PA-20S/PA-65 Schedules NRK-1. If every nonresident individual owner elects to file the PA-40 Nonresident Consolidated Income Tax Return, the tax withheld should equal the total nonresident withholding payments made by the PA S corporation or partnership. This figure comes from the withholding account and includes quarterly payments, as well as any carry-over credit from the prior year.

Line 9. Total Other Credits

If there is an amount on Line 9, submit a PA-20S/PA-65 Schedule OC with a supporting statement detailing which credits have been used.

Line 10. Total Pennsylvania Credits

Add Lines 8 and 9.

Line 11. Tax Due

If Line 7 is more than Line 10, enter the difference. If the amount due is less than \$1, the department does not require payment but does require the entity to file the PA-40 Nonresident Consolidated Income Tax Return.

Line 12. Overpayment

If line 10 is more than Line 7, enter the difference. The department will not refund an overpayment less than \$1. Complete Lines 13a and/or 13b.

Line 13a. Refund Amount

Enter the amount of Line 12 to be refunded to the PA S corporation, partnership or limited liability company.

Line 13b. Credited Amount

Enter the amount of Line 12 to be credited to the 2010 Nonresident Withholding Account. The department will not credit an overpayment of less than \$1.

IMPORTANT The total of Lines 13a and 13b must equal Line 12.

Sign This Return

- The person designated as the general partner, limited liability company member, S corporation officer, and/or authorized partner or representative must sign and date the PA-40 Nonresident Consolidated Income Tax Return.
- Provide the telephone number of the person who signed the return, where the department may call between 8:30 a.m. and 5 p.m.
- If someone other than the tax partner, member, shareholder or other responsible person prepared the PA-40 Nonresident Consolidated Income Tax Return, enter the preparer's name and telephone number, and the date the return was prepared.