


Estates and Trusts

Understanding Income Tax



New Jersey is known for Jersey sweet corn, shown here at a farm in Mercer County.

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Types of Estates and Trusts

Nonresident estate or trust means an estate or trust that is not a resident.

Resident estate means the estate of a decedent who was domiciled in New Jersey at the time of death.

Domicile means the place and state you consider your permanent home.

Resident trust means:

- A trust, or part of a trust, consisting of property transferred by will of a decedent who at the time of death was domiciled in New Jersey; **or**
- A trust, or part of a trust, consisting of the property of a person domiciled in New Jersey:
 - a) At the time the property was transferred to the trust, if the trust or part of a trust was then irrevocable; or if it was then revocable and subsequently has not become irrevocable; or
 - b) At the time the trust, or part of a trust, became irrevocable, if it was revocable when the property was transferred to the trust but has since become irrevocable (See definitions below).

A **revocable trust** is a legal arrangement designed to hold someone's assets for the benefit of their heirs. It is revocable because it can be altered or canceled. Ownership of the property contained in the trust can be restored to the person who created it.


An **irrevocable trust** – or portion of a trust – also contains someone's assets, but ownership of that property cannot revert back to the person who created it.

Grantor trusts allow the grantor, the person providing the property for the trust, to keep control over the income – or the money or property that produces income – for a named beneficiary. The grantor is considered the owner of the property and its income and pays tax on the income and distributions attributable to the trust.

A grantor trust must file a [Form NJ-1041](#). If the grantor trust income is reportable by or taxable to the grantor for federal income tax purposes, it also is taxable to the grantor, and not the trust, for New Jersey Income Tax purposes. The grantor trust must report all of its income and also deduct distributions to the grantor equal to the total income reported.

The grantor's name, address, and identification number must be listed on the beneficiary's or grantor's share of income, Schedule NJK-1 ([Form NJ-1041](#)).

Charitable remainder trusts and charitable unitrusts are subject to Income Tax filing requirements because they are not operated exclusively for charitable purposes. For more information, see TB-64, *Charitable Remainder Trusts*.



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Estate and Trust Filing Requirements

A fiduciary is a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary, trust, or similar capacity for any person.

The fiduciary of every resident estate or trust must file a New Jersey Gross Income Tax Fiduciary Return ([Form NJ-1041](#)) if gross income was more than \$10,000 for the tax year.

The fiduciary of every nonresident estate or trust that had income from New Jersey sources also must file if gross income received from all sources (both inside and outside New Jersey) during the tax year was more than \$10,000.

Part-year estates or trusts must prorate the filing threshold of \$10,000 based on the number of months covered by the return to determine whether or not they are required to file a return.

Tax Year

The tax year of the estate or trust must be the same as the tax year used for federal purposes and cannot be longer than 12 months.

New Jersey Tax Nexus

A resident estate or trust does not have sufficient nexus (a tax presence) with New Jersey and is not subject to New Jersey tax if it has no:


- Physical assets in New Jersey; **and**
- Income from New Jersey sources; **and**
- Trustees or executors in New Jersey.

The fiduciary of an estate or trust that meets all of the above requirements must file [Form NJ-1041](#). Check the box on line 26 of the return, and include a statement written by the fiduciary certifying that the estate or trust is not subject to tax.

An institutional trustee has New Jersey tax nexus if the institution conducts business in offices located in New Jersey, even if the office administering the estate or trust is located outside New Jersey.

Electing Small Business Trusts

A federal Electing Small Business Trust can elect to be taxed in New Jersey in the same manner as for federal tax purposes. The [NJ-1041SB](#) contains the New Jersey election information and filing instructions.



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Estates Other Than of a Deceased Individual

For New Jersey tax purposes, the term “estate” refers only to the estate of a deceased person. The State Income Tax liability of a minor, a person who is legally declared incompetent, or of any person who is suffering from some other legal disability must be reported on a New Jersey resident return ([Form NJ-1040](#)) or nonresident return ([Form NJ-1040NR](#)). The returns must be filed under the name and Social Security number of the disabled individual and signed by the guardian or conservator.

Trusts Exempt From Tax

Trusts that form part of a pension or profit-sharing plan, and trusts that are taxable as corporations for federal income tax purposes, are not required to file [Form NJ-1041](#) or pay New Jersey Income Tax.

Estimated Tax Payments

An estate or trust is required to make quarterly estimated tax payments for any tax year in which its estimated tax is expected to be more than \$400.

Exceptions. New Jersey follows the federal exception under I.R.C. Section 6654. Therefore, the following are not required to make estimated payments for any tax year that ends within two years of the decedent’s death:

- A decedent’s estate; or
- A trust that is considered to be owned by the decedent if the trust will receive the residue of the decedent’s estate under the will, or if no will is admitted to probate, the trust primarily responsible for paying debts, taxes, and expenses of administration. Generally, the residue of the estate is the property that remains after specific gifts and expenses are distributed.


Estate and Trust Income Reporting Requirements

Resident Estates and Trusts

You must report all taxable income received during the tax year from all sources, both inside and outside New Jersey. Do not include income from exempt obligations on the taxable income lines of [Form NJ-1041](#). You can find information on income from exempt obligations in [Nontaxable Investment Income](#).

Nonresident Estates and Trusts

Income from all sources. You must report income from all sources, both inside and outside New Jersey.



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New Jersey source income. Income from sources within New Jersey for a nonresident estate or trust means those items that are earned, received, or acquired from the following sources:

- Remuneration received for services rendered in New Jersey;
- Net income from a business, trade, or profession located in New Jersey;
- Rents or royalties from real property (such as land or buildings) and tangible personal property (such as cars or furniture) or from other business activities located in New Jersey;
- Net gains from a disposition (such as a sale or lease) of real property or business property located in New Jersey;
- Net gambling winnings from a casino, racetrack, or other source located in New Jersey, and New Jersey Lottery winnings from prize amounts over \$10,000;
- Net distributive share of partnership income allocated to New Jersey;
- Net pro rata (proportional) share of S corporation income allocated to New Jersey from a New Jersey electing S corporation.

New Jersey source income **does not include:**

- Income or gains from intangible personal property (such as patents or trademarks) unless it is earned, received, or acquired in connection with a trade, business, or occupation carried on in New Jersey;
- Distribution of interest from a corporate bond; or
- Dividends from publicly traded stocks.

Pension, Annuity, and IRA Income


Generally, pension and annuity income received by a survivor or beneficiary is taxable if they exceed the decedent's previously taxed contributions to those retirement plans. If the pension or annuity was subject to the New Jersey Inheritance Tax, the value of the pension or annuity for New Jersey Inheritance Tax purposes is considered to be the decedent's previously taxed contributions and is deductible in determining the taxable amount received. For more information, see [Retirement Income](#).

A nonresident estate or trust must include pension, annuity, or IRA income paid or distributed as income from all sources and report it on the "Other Income" line of [Form NJ-1041](#). It is excludable from "New Jersey source income."

Beneficiary Filing Requirements

Resident Beneficiary

A resident beneficiary reports all income distributed from estates or trusts.



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A **resident beneficiary** must file either a New Jersey resident return ([Form NJ-1040](#)) or fiduciary return ([Form NJ-1041](#)) if gross income received from all sources (both inside and outside New Jersey) during the tax year was:

- More than \$10,000 for a filing status of single; married/CU partner, filing separate return; or estates or trusts; or
- More than \$20,000 for a filing status of married/CU couple, filing joint return; head of household; or qualifying widow(er)/surviving CU partner.

A beneficiary filing a part-year resident return whose annual income from all sources (inside and outside New Jersey) exceeds the filing threshold amount for their filing status is subject to New Jersey Income Tax on the portion of income received while a New Jersey resident. Part-year residents see [Part-Year Residents](#).

Nonresident Beneficiary

A **nonresident beneficiary** who had income from New Jersey sources must file a New Jersey nonresident return ([Form NJ-1040NR](#)) or a fiduciary return ([Form NJ-1041](#)) if their gross income received from all sources (both inside and outside New Jersey) during the tax year was:

- More than \$10,000 for a filing status of single; married/CU partner, filing separate return; or estates or trusts; or
- More than \$20,000 for a filing status of married/CU couple, filing joint return; head of household; or qualifying widow(er)/surviving CU partner.


Income from all sources is determined and reported as if the beneficiary were a New Jersey resident. The total is used to determine whether the beneficiary must file a New Jersey Income Tax return.

New Jersey source income. Income from an estate or trust retains the same source in the hands of the beneficiary as it had in the hands of the estate or trust.

For example, a distribution of a trust's income from rental property located in New Jersey retains its taxability as New Jersey source rental income for the beneficiary receiving the distribution.

A nonresident beneficiary's New Jersey source income from an estate or trust includes:

- Remuneration (i.e., wages or self-employed income) received for services rendered in New Jersey;
- Net income from a business, trade, or profession located in New Jersey;
- Rents or royalties from real and tangible personal property or from other business activities located in New Jersey;
- Net gains from a disposition (such as a sale or lease) of real property or business property located in New Jersey;



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- Net gambling winnings from a casino, racetrack, or other source located in New Jersey, and New Jersey Lottery winnings from prize amounts over \$10,000;
- Net distributive share of partnership income allocated to New Jersey;
- Net pro rata share (proportional share) of S corporation income allocated to New Jersey from a New Jersey electing S corporation.

New Jersey source income **does not include:**

- Income or gains from intangible personal property unless it is earned, received, or acquired in connection with a trade, business, or occupation carried on in New Jersey;
- Distribution of interest from a corporate bond; or
- Dividends from publicly traded stocks.

A beneficiary filing a part-year nonresident return whose income from all sources (both inside and outside New Jersey) for the year is more than the filing threshold amount for their filing status is subject to New Jersey Income Tax on income earned from New Jersey sources.

That applies even though the income from New Jersey sources reported for the period of non-residence was equal to or less than the filing threshold.

Beneficiary Income Reporting Requirements

Net losses in one category of income cannot be applied against income or gains in another category. **In case of a net loss in any category, enter "0" in that category.**

Income Category and Return Year

The income distributed to a beneficiary is reported on the beneficiary's Income Tax return in the category "Income From Estates and Trusts," which is part of the "Other" income line.

The ending date of the tax year of the estate or trust determines the tax year in which the beneficiary reports income from the estate or trust. For example, an estate's fiscal tax year is April 1, 2019, to March 31, 2020. The beneficiary reports income from the estate on their 2020 calendar year return since the estate's tax year ended in 2020.

Distributed Income

Generally, the income or gains of an estate or trust that were paid, deemed to have been paid, credited, or required to be distributed to a beneficiary are taxable to the beneficiary.



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An estate or trust that files a New Jersey fiduciary return must provide each beneficiary with a Schedule NJK-1 ([Form NJ-1041](#)) that lists the beneficiary's reportable income distributed by the estate or trust and the New Jersey source income reportable by a nonresident beneficiary.

Beneficiary who has not received an NJK-1. Due to reporting differences between New Jersey and the IRS, beneficiaries must get information from the fiduciary to properly determine the distributed income to report on a New Jersey Income Tax return.

You can find explanations about New Jersey income reporting requirements in the New Jersey resident (Form NJ-1040), nonresident (Form NJ-1040NR), and fiduciary ([Form NJ-1041](#)) return instructions. You also can find information in [Income From Partnerships](#), [Income From S Corporations](#), and the [Taxpayer Guide to Being an Executor](#).

Pass-Through Business Alternative Income Tax Credit

Members in partnerships or S corporations pay taxes on the entity's profits through their individual tax returns. A new law allows the entity to pay the tax, and the member to receive a tax credit for the payment.

Enclose a copy of your Schedule PTE-K-1 or Schedule NJK-1 with your return.

Pension, Annuity, and IRA Income

Generally, pension and annuity income received by a survivor or beneficiary are taxable to the extent that they exceed the decedent's previously taxed contributions.

If the pension or annuity was subject to the New Jersey Inheritance Tax, its value is considered to be the decedent's previously taxed contributions and is therefore deductible in determining the taxable pension, annuity, or IRA income received.

The following income must be reported on Form [NJ-1040](#), [NJ-1040NR](#), or [NJ-1041](#) and does **not** qualify for the pension exclusion:

- Taxable portions of pension, annuity, or IRA income that are paid directly to an individual beneficiary. They are reported in the category "Income in Respect of a Decedent" and included on the "Other" income line;
- Taxable portions of pension, annuity, or IRA income distributed from an estate or trust to a beneficiary. They are reported by the beneficiary as "Income From Estates and Trusts" on the "Other" income line.

A beneficiary **can exclude a rollover** of distributions from an inherited traditional IRA, Roth IRA, or other eligible plan from New Jersey income if the rollover qualifies for deferral for federal income tax purposes. The income is reportable when it is reportable for federal tax purposes.

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Pension or annuity income paid or distributed to a nonresident is not New Jersey source income, but must be included in income from all sources (Column A of [Form NJ-1040NR](#).)

Roth IRA distributions are *not taxable* for New Jersey purposes if they are not taxed for federal purposes.

For more information about pension and IRA income, see [Retirement Income](#).

Grantor Trusts

The grantor should report the trust's income as if it were earned by the grantor. The income is reported in the same income categories as reported on the [NJK-1, Form NJ-1041](#) (i.e., interest, dividends, partnership income) and **not** as income from estates and trusts.

Tax-Exempt Charitable Organization

New Jersey does not tax income distributed to an exempt charitable organization, even if the income is permanently and irrevocably set aside in an invested income account.

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The forms and amounts referred to in this Bulletin are those for Tax Year 2020. This document is designed to provide guidance to taxpayers and is accurate as of the date issued.

Any reference in this publication to a spouse also refers to a spouse who entered into a valid same-sex marriage in another state or foreign nation and a partner in a [civil union \(CU\)](#) recognized under New Jersey law.