

# FORM 58

INCLUDES:  
SCHEDULE FACT  
SCHEDULE K  
SCHEDULE KP  
SCHEDULE K-1



# 2016 NORTH DAKOTA PARTNERSHIP INCOME TAX

# ND Tax

NORTH DAKOTA  
RYAN RAUSCHENBERGER  
TAX COMMISSIONER

GO TO [WWW.ND.GOV/TAX](http://WWW.ND.GOV/TAX) FOR  
tax forms, guidelines, FAQs and more.

EMAIL ADDITIONAL TAX QUESTIONS TO  
[individualtax@nd.gov](mailto:individualtax@nd.gov)

# Contents

|  |           |
|--|-----------|
| Where to get help and forms.....                 | This page |
| Changes for 2016.....                            | 1         |
| General instructions.....                        | 2         |
| Who must file.....                               | 2         |
| When and where to file.....                      | 2         |
| Extension of time to file.....                   | 2         |
| Penalty and interest.....                        | 2         |
| Estimated tax payment (for 2017).....            | 2         |
| Withholding from nonresident partners.....       | 2         |
| Composite filing.....                            | 3         |
| Correcting a previously filed return.....        | 3         |
| Reporting federal changes.....                   | 4         |
| W-2/1099 reporting requirement.....              | 4         |
| General instructions for completing Form 58..... | 4         |
| Specific line instructions.....                  | 4         |
| Form 58, Page 1, Items A-J.....                  | 4         |
| Schedule FACT.....                               | 5         |
| Schedule K.....                                  | 6         |
| Schedule KP.....                                 | 9         |
| Form 58, Page 1, Lines 1-12.....                 | 10        |
| Schedule K-1.....                                | 11        |
| Before you file Form 58.....                     | 13        |

## Required forms

The following forms are needed to complete Form 58:

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

The following forms may be needed:

|                    |  |
|--------------------|--|
| <b>Form 58-PV</b>  | Partnership return payment voucher   |
| <b>Form 58-EXT</b> | Partnership extension payment voucher                                      |
| <b>Form 101</b>    | Application for extension of time to file a North Dakota income tax return |
| <b>Form PWA</b>    | Passthrough entity withholding adjustment                                  |
| <b>Form PWE</b>    | Nonresident passthrough entity member exemption and certification          |

Download these forms from our website at [www.nd.gov/tax](http://www.nd.gov/tax).

## Need help?

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

[www.nd.gov/tax](http://www.nd.gov/tax)

### E-mail

Individual, estate, trust, partnership, and S corporation income tax—

[individualtax@nd.gov](mailto: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

### Walk-in service

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

## Privacy Act Notification

In compliance with the Privacy Act of 1974, disclosure of a Federal Employer Identification Number (FEIN) or social security number on this form is required under N.D.C.C. §§ 57-01-15 and 57-38-42, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the FEIN or social security number may delay or prevent the processing of this form.



## 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 website at [www.nd.gov/tax](http://www.nd.gov/tax)

## Changes affecting partnerships

Developments, updates, and items of interest relating to partnership income tax

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### April 18 filing deadline for 2016 return

North Dakota income tax filers with an April 15 due date will have until Tuesday, April 18, 2017, to file their 2016 North Dakota income tax returns and pay any tax due on them. The extra time for filing the state return recognizes the movement of the federal income tax filing deadline to April 18, 2017, because of the Emancipation Day holiday in the District of Columbia. This holiday falls on April 16 of each year. Because April 16 falls on Sunday in 2017, the holiday will be observed on Monday, April 17, which pushes the federal due date to Tuesday, April 18.

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### Federal due date and extended due date changes for partnerships

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 114-41; 7/31/2015) changed the due date for Form 1065, U.S. Partnership Return of Income, effective for tax years beginning on or after January 1, 2016. Starting with the 2016 return, the due date is the 15th day of the 3rd month following the end of the tax year (March 15 for calendar year filers). This is one month earlier than the due date under pre-2016 tax year law.

In conjunction with the due date change, the federal legislation also directs the Internal Revenue Service to modify the federal income tax regulations to change the maximum extension period for Form 1065 from 5 months to 6 months. This maintains the same extended due date for Form 1065 (September 15 for calendar year filers).

### Effect of federal changes on filing of North Dakota partnership return.

The regular due date of Form 58, North Dakota Partnership Income Tax Return, is not affected by the federal law change.

It remains the 15th day of the 4th month following the end of the tax year.

North Dakota's long-standing policy has been to recognize an extension of time to file the federal income tax return as an automatic extension of time to file the North Dakota income tax return. With respect to the IRS's change in the maximum extension period for a federal partnership return, North Dakota will follow the federal extended due date, not the number of months. Thus, the extended due date for North Dakota purposes will be the same as the federal extended due date (September 15 for calendar year filers).

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### Schedule K and K-1 changes

On Schedule K (Form 58), line 20 (Housing Incentive Fund tax credit) was split into two lines. The credit amount is to be entered on line 20a, and the amount of the contribution on which the credit is based must be entered on the new line 20b. A corresponding change was made to Schedule K-1 (Form 58). The instructions for these schedules were revised accordingly. These changes were made because a partner may have to add part or all of the contribution amount to taxable income on the partner's North Dakota income tax return. For more information on the adjustment to North Dakota taxable income, see the instructions to the partner's North Dakota income tax return.

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### Schedule FACT changes

A minor change was made to Schedule FACT of Form 58 to combine lines 11a and 11b into one line. A more substantial change was made to expand the Schedule FACT instructions to provide information on how to calculate the apportionment factor, including what is to be included in its property, payroll, and

sales factor components. The additional instructions are intended to provide basic information. For more complete details, including special provisions for certain industries or unique circumstances that may apply, taxpayers are advised to see N.D.C.C. ch. 57-38.1 and N.D. Admin. Code ch. 81-03-09. The text of these statutory and administrative rule provisions can be accessed on the Office of State Tax Commissioner's website at [www.nd.gov/tax](http://www.nd.gov/tax) (click on the "Tax Resources" tab).

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### Oil and gas royalty payment withholding

Oil and gas royalty payments made to certain owners of a nonworking interest in North Dakota oil and gas production are subject to North Dakota income tax withholding. This includes owners that are business entities, such as a partnership, if the principal place from which the business operations are directed or managed is located outside North Dakota. If North Dakota income tax is withheld from a partnership's oil or gas royalty payments, the partnership must claim credit for the withheld tax on Form 58, page 1, line 4, and must attach a copy of Form 1099-MISC to support the claimed amount.

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### Electronic filing of Form 58

Form 58, North Dakota Partnership Income Tax Return, may be filed electronically through the Modernized E-File (MeF) system. Through a partnership with the Internal Revenue Service, the MeF system allows both the federal and North Dakota partnership income tax returns to be submitted at the same time. For a list of the software vendors who support the electronic filing of the 2016 North Dakota Form 58, go to the North Dakota Office of State Tax Commissioner's website at [www.nd.gov/tax](http://www.nd.gov/tax).

# Form 58 Instructions

# 2016

## 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.

## General instructions

### Who must file

A 2016 Form 58, *Partnership Income Tax Return*, must be filed by a partnership that meets both of the following:

- It is required to file a 2016 Form 1065, *U.S. Return of Partnership Income*, or 2016 Form 1065-B, *U.S. Return of Income for Electing Large Partnerships*.
- It carries on business, or derives gross income from sources, in North Dakota during the 2016 tax year.

**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 2016 Form 58 if it carries on investment activity, or derives any gross income from sources, in North Dakota during its 2016 tax year. A 2016 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 as required, a minimum \$500 penalty may be assessed if the failure continues after receiving a thirty-day notice to file from the Office of State Tax Commissioner.

### When and where to file

The 2016 Form 58 must be filed on or before (1) April 15, 2017, if filing for the 2016 calendar year, or (2) the 15th day of the 4th month following the end of the tax year, if filing for a fiscal year beginning in the 2016 calendar year. If the due date falls on a Saturday, Sunday, or holiday, the return may be filed on or before the next day that is not a Saturday, Sunday, or holiday.

*Note: Use the 2015 Form 58 if filing for a fiscal year beginning in the 2015 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

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 extended due date for North Dakota purposes is the same as the federal extended due date.

**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.

**Extension interest.** If Form 58 is filed on or before the extended due date, and the total amount of 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, any tax expected to be due may be paid on or before the regular due date to avoid paying extension interest. For more information, including payment options, obtain the 2016 Form 58-EXT.

Alternatively, a check or money order may be sent with a letter containing the following: (1) name of partnership; (2) last four digits of the partnership's FEIN; (3) partnership's address and phone number, and (4) statement that the payment is a 2016 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 total amount of tax due is not 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 (for 2017)

A partnership may, but is not required to, make estimated income tax payments. For more information, including payment options, obtain the 2017 Form 58-ES.

### Withholding from nonresident partners

A partnership must withhold North Dakota income tax at the rate of 2.90% from the year-end distributive share of North Dakota income of a nonresident partner. See "Publicly traded partnership" below for an exception to this requirement.

**Nonresident partner.** For purposes of this withholding requirement, a nonresident partner means:

- an individual who is not domiciled in North Dakota;
- a trust, including a grantor trust, that is not organized under North Dakota law. This only includes trusts that are subject to income tax; or
- a passthrough entity that has a commercial domicile outside North Dakota. A passthrough entity includes a partnership, S corporation, limited liability company treated like a partnership or S corporation, and any other similar entity.

**Exemption from withholding.** No withholding is required if any of the following apply:

- The distributive share of North Dakota income is less than \$1,000.
- The nonresident partner elects to include the distributive share in a composite filing—see “Composite filing” on this page.
- The nonresident partner is a passthrough entity and elects exemption from withholding on its distributive share of North Dakota income. For more information, obtain Form PWE.

**Withholding procedure.** This withholding requirement applies to a nonresident partner’s year-end distributive share of North Dakota income, which is determined at the end of the partnership’s tax year and reported on Form 58, Schedule KP, Column 6. The requirement does not apply to actual distributions made to a nonresident partner during the tax year. The withholding amount is calculated and reported on Schedule KP, Column 7. If a nonresident partner meets certain conditions, an amount less than the amount calculated at the 2.90% tax rate may be withheld. For the qualifying conditions, see Form PWA. A partnership must submit a payment for the total amount of withholding reported on Schedule KP, Column 7, with Form 58 when it is filed.

**Publicly traded partnership.** A publicly traded partnership, as defined under Internal Revenue Code § 7704(b), does not have to withhold North Dakota income tax from its unitholders if it meets both of the following:

- It is treated as a partnership for federal income tax purposes.

- It reports on Form 58, Schedule KP, every unitholder with a North Dakota distributive share of income of over \$500.

### Composite filing

A composite filing method is available to a partnership with one or more eligible nonresident partners. Under this method, a partnership calculates the North Dakota income tax on an eligible nonresident partner’s year-end distributive share of North Dakota income and pays the tax with Form 58. The tax is calculated at the highest individual income tax rate (which is 2.90% for the 2016 tax year), and no adjustments, deductions, or tax credits are allowed in calculating the tax. A composite filing satisfies the North Dakota income tax filing and payment obligations of the eligible nonresident partners included in it, which means they do not have to separately file their own North Dakota income tax returns. The composite filing method is optional and does not require prior approval from the Office of State Tax Commissioner, and a choice to use it may be made on a year-to-year basis.

**Eligible nonresident partner.** For purposes of this composite filing method, a nonresident partner has the same meaning as that used for withholding income tax from nonresident partners—see “Withholding from nonresident partners” on page 2. A nonresident partner is eligible to be included in a composite filing if both of the following apply:

- The nonresident partner’s only source of income within North Dakota is one or more passthrough entities. A passthrough entity includes a trust, partnership, S corporation, limited liability company treated like a partnership or S corporation, and any other similar entity.
- The nonresident partner elects to be included in a composite filing. An election is indicated by the partnership’s calculation and reporting of a tax amount for the nonresident partner on Form 58, Schedule KP, Column 8. (If the distributive share is a loss, the tax is zero.)

The distributive share of North Dakota income included in a composite return is subject to tax even if it is under \$1,000.

### Composite filing method procedure.

The tax under the composite filing method is calculated and reported on Form 58,

Schedule KP, Column 8. A partnership must submit a payment for the total tax reported on Schedule KP, Column 8, with Form 58 when it is filed.

### 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 2016 return” below.

If a partnership paid too much tax because of an error on its 2016 Form 58, the partnership generally has three years from the due date of the return (excluding extensions) or the date the return was actually filed, whichever is later, in which to file an amended return to 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 2016 return

1. Obtain a blank 2016 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. However, unless there is an increase in the amount reported on Schedule KP, Column 6, of the amended return, enter on Schedule KP, Column 7, the same amount reported on the previously filed return. Then complete lines 1 through 3 on page 1 of Form 58.
5. On line 5 of page 1 of Form 58, enter the total taxes due from the previously filed 2016 Form 58, page 1, line 3.
6. Complete line 7 (overpayment) or line 10 (tax due), whichever applies. If there is an overpayment on line 7, enter the full amount on line 9 (refund). On an amended return, the amount credited to the next year’s estimated tax (line 8) 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 2016 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 6.
5. Complete Schedule KP on page 5 of Form 58—see page 9.
6. Complete lines 1 through 12 on page 1 of Form 58—see page 10.
7. Complete Schedule K-1, if required, for the partners—see page 11.

**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 2016 Form 58 if the partnership's taxable year began in the 2016 calendar year. *Note: Use the 2015 Form 58 if the taxable year began in the 2015 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 12 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 2016 Form 58 only if the partnership's tax year began in the 2016 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 or federal EIN) 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](http://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 partners have elected to be included in a composite filing. See "Composite filing" on page 3 for more information.

**Amended return.** Mark this circle if this return is being filed to correct a previously filed 2016 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 and the number of each type of partner.

### Item H Professional service partnership

Indicate whether the partnership is 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**

Indicate whether the partnership is a publicly traded partnership. 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**

Indicate whether the partnership holds an interest in one or more other partnerships or limited liability companies. If it does, attach a statement to Form 58 showing 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)**

### **General instructions**

All partnerships must complete the applicable portions of Schedule FACT.

**If the partnership has ONLY individual, estate, and trust partners, complete Schedule FACT as follows:**

- **100% North Dakota partnership**  
If the partnership conducted all of its 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. 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 the partnership has a partner OTHER THAN an individual, estate, or trust, complete lines 1 through 14 of Schedule FACT.**

### **Apportionment factor in general**

In general, the apportionment factor is a product of a formula consisting of an equally-weighted average of three factors: property, payroll, and sales. Each factor represents the percentage of the partnership’s North Dakota activity compared to its total activity everywhere. A partnership multiplies its business income by the apportionment factor to determine the portion of its business income attributable to North Dakota.

If the partnership includes the distributable share of income from another partnership in its apportionable business income, include in the numerator and denominator of each factor the partnership’s proportionate share of the other partnership’s apportionment factors—see the specific line instructions for more information. Do not include in the factors any property, payroll, or sales related to allocable nonbusiness income—see the instructions to Form 58, Schedule K, line 26, on page 8 for what constitutes allocable nonbusiness income.

If the amount of any factor’s denominator is zero, exclude that factor from the calculation.

Special apportionment rules may apply in the case of certain industries or unique circumstances. For additional information on the apportionment factor, see N.D.C.C. ch. 57-38.1 and N.D. Admin. Code ch. 81-03-09.

### **Specific line instructions**

#### **Property Factor**

##### **Lines 1 through 6 Owned and rented property**

Enter on the applicable line the average value of real and tangible personal property owned and rented by the partnership. For owned property, this generally means the average of the original cost (before depreciation) used for federal income tax purposes. For rented property, this generally means the amount of rent paid multiplied by eight. Certain property items are subject to special rules. Do not include amounts related to construction in progress. Include on line 5 the partnership’s share of the property factor from a North Dakota Schedule K-1 (Form 58), Part 6, lines 43 and 44.

The average value of owned and rented property is assigned to North Dakota if the property is located in North Dakota. The amount attributable to mobile property is generally assignable to North Dakota based on a ratio of the property’s time spent in North Dakota. For more complete information on the property factor, see N.D. Admin. Code §§ 81-03-09-15 through 21 and 81-03-09-33.

#### **Payroll Factor**

##### **Line 8**

Enter the amount of total compensation paid to employees for the tax year. This includes gross wages, salaries, commissions, and any other form of remuneration paid to the employees. Use the amount before deductions for deferred compensation, flexible spending plans, and other payroll deductions. Do not include amounts paid for employee benefit plans that are not considered taxable wages to the employee. An employee is an individual treated as an employee under the usual common law rules, which generally mirror an individual’s status for purposes of unemployment compensation and the Federal Insurance Contribution Act. Do not include on this line guaranteed payments to partners.

Compensation of an employee’s services performed entirely within North Dakota is assigned to North Dakota. For an employee whose services are performed in more than one state, compensation is generally assigned to North Dakota based on the amount of compensation reported to North Dakota for unemployment compensation purposes. Whether or not state income tax was withheld from an employee’s compensation does not affect where the compensation is assigned for apportionment factor purposes. Include on this line in the applicable column the partnership’s share of the payroll factor from a North Dakota Schedule K-1 (Form 58), Part 6, lines 43 and 44. For more complete information on the payroll factor, see N.D. Admin. Code §§ 81-03-09-22 through 25.

#### **Sales Factor**

##### **Line 9 Everywhere sales**

Enter the partnership’s total sales or receipts, less returns or allowances, for the tax year. Sales generally means all gross receipts of a partnership. However, the types of sales or gross receipts included in the sales factor depend on the nature of the partnership’s regular business activities and may include amounts other than sales reported on

Form 1065, line 1. Include on this line the partnership's share of the everywhere sales from a North Dakota Schedule K-1 (Form 58), Part 6, line 43.

**Line 10  
North Dakota sales**

For sales of tangible property, the sale is assigned to North Dakota if the destination of the property is in North Dakota, regardless of the shipping terms. For sales of other than tangible property, the sale is assigned to North Dakota if the income-producing activity which gave rise to the receipt is performed in North Dakota. Include on this line the partnership's share of the North Dakota sales from a North Dakota Schedule K-1 (Form 58), Part 6, line 44. For more complete information, see N.D. Admin. Code §§ 81-03-09-26 through 31 and 81-03-09-34.

**Line 11  
Throwback sales**

Enter the amount of sales shipped from a location in North Dakota that are delivered to the U.S. government or to another state or country where the sales are not subject to a tax measured by income in that jurisdiction. For more complete information, see N.D. Admin. Code §§ 81-03-09-29 and 30.

**Line 14  
Apportionment factor**

Divide line 13 by the number of factors having an amount greater than zero in column 1 on lines 7, 8, and 12. Enter the result on this line.

## 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 the adjustments, credits, etc., 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 interest and dividend income from state, local, and foreign securities and bonds that is exempt from federal income tax. Do not include interest income from securities or bonds issued by North Dakota or its political subdivisions. Do not enter on this line any income that is treated as nonbusiness income subject to allocation under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08. Include the nonbusiness income on Schedule K, line 26.

**Line 2  
State and local income taxes**

Enter on this line the 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 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), Government National Mortgage Association (Ginnie Mae), or from a federal income tax refund or repurchase agreement. **Attach a statement identifying the specific securities from which the interest was derived.**

**Line 4a  
Renaissance zone exemption  
(Projects approved before 8/1/13)**

Enter on this line the amount from Schedule RZ, Part 7, line 1c. **Attach Schedule RZ.**

**Line 4b  
Renaissance zone exemption  
(Projects approved after 7/31/13)**

Enter on this line the amount from Schedule RZ, Part 7, line 1h. **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 business income. See N.D. Admin. Code § 81-03-01.1-06 for guidance on calculating 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 7, line 4. **Attach Schedule RZ.**

**Line 7b  
Renaissance fund organization investment tax credit**

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

**Line 7c  
Renaissance zone nonparticipating property owner tax credit**

Enter on this line the amount from Schedule RZ, Part 7, line 6. **Attach Schedule RZ.**

**Line 8  
Seed capital investment tax 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 2016 tax year by 45% and enter the result on this line.

**Line 9  
Ag commodity investment tax 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 2016 tax year by 30% and enter the result on this line.

**Line 10  
Biodiesel or green diesel fuel blending tax 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. The blending must be done in North Dakota. 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 sales equipment tax 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 North Dakota 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**

*Note: Except for certain wind energy devices, the income tax credit for installing a biomass, geothermal, solar, or wind energy device expired December 31, 2014, and is not allowed for a device installed on or after January 1, 2015. For a wind energy device only, if the installation of the device commenced before January 1, 2015, the credit is allowed if the installation is completed before January 1, 2017.*

Complete this line only if any of the following apply:

- The partnership completed the installation of a qualifying biomass, geothermal, solar, or wind energy device before January 1, 2015, and
  - the 2016 tax year is one of the five tax years in which the credit is allowed for the installation, or
  - the 2016 tax year is one of the eligible carryover years for an unused tax credit attributable to the installation.

- The partnership commenced installation of a qualifying wind energy device before January 1, 2015, and the installation was completed prior to January 1, 2017.
- The partnership owned an interest in another partnership (or limited liability company treated like a partnership) and is claiming its share of an allowable credit shown on a North Dakota Schedule K-1 received from the partnership.

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.** Enter the amount of credit for a geothermal device.

**Line 12b. Biomass, solar, or wind device.** Enter the amount of credit for a biomass, solar, or wind energy device.

**Line 13  
Employer internship program tax 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 13a.** Enter the allowable credit on this line.

**Line 13b.** Enter the number of eligible interns hired during the 2016 tax year. *Disregard this line if the credit is from a passthrough entity.*

**Line 13c.** Enter on this line the total compensation paid to eligible interns during the 2016 tax year (as shown on their 2016 Form W-2s). *Disregard this line if the credit is from a passthrough entity.*

**Line 14  
Microbusiness tax 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 property and 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 14a.** Enter the allowable credit on this line.

**Line 14b.** Enter on this line the amount of qualifying new investment in property made during the 2016 tax year on which the credit is based. *Disregard this line if the credit is from a passthrough entity.*

**Line 14c.** Enter on this line the amount of compensation paid for qualifying new employment during the 2016 tax year on which the credit is based. *Disregard this line if the credit is from a passthrough entity.*

**Line 15  
Research expense tax credit**

A credit is allowed for conducting qualified research in North Dakota. For details, see N.D.C.C. § 57-38-30.5. Enter the allowable credit on this line.

**Line 16  
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 16a.** Enter the allowable credit on this line.

**Line 16b.** Enter on this line the amount of the qualifying contribution made during the 2016 tax year on which the credit is based.

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

**Line 17b.** Enter the number of eligible employees whose first 12 months of employment ended during the partnership’s 2015 tax year.

**Line 17c.** Enter the total compensation paid to the eligible employees’ during their first 12 consecutive months of employment ending in the partnership’s 2015 tax year.

**Line 18**  
**Credit for wages paid to a mobilized employee**

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

**Line 19**  
**Angel fund investment tax 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.

**Line 20**  
**Housing incentive fund tax credit**

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

**Line 20a.** Enter the allowable credit on this line.

**Line 20b.** Enter on this line the amount of the contributions made during the 2016 tax year on which the credit is based.

**Line 21**  
**Automation tax credit**

A credit is allowed under N.D.C.C. § 57-38-01.33 to a primary sector business for purchasing new or used automation machinery or equipment. Application must be made to the North Dakota Commerce Department for approval of the purchases. Enter on this line the amount of the credit shown on the credit approval letter received from the Office of State Tax Commissioner.

**Lines 22 through 24**  
**Nonprofit private school tax credits**

Tax credits are allowed under N.D.C.C. § 57-38-01.7 for making charitable contributions to qualifying nonprofit private primary, secondary, and higher education schools located in North Dakota. A separate credit is allowed for each of the three categories of school—primary, secondary, and higher education. For each category of school, the credit equals 50% of the contributions made to all eligible schools within the category. *(Note: For a partner other than another passthrough entity, additional limitations on the allowable credit apply at the partner level.)* A partnership may elect, on a contribution by contribution basis, to treat a contribution as having been made during the 2016 tax year if it is made on or before the due date, including extensions,

**Column 6 Worksheet**

**For nonresident partners and tax-exempt organization partners only—see instructions to Schedule KP, Column 6.**

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

for filing the 2016 Form 58. *For a list of the eligible schools within each of the three categories of schools, see the table on page 12 of this booklet.*

To qualify, a contribution must be made directly to, or specifically designated for the exclusive use of, a qualifying school. If a contribution is made to an account or fund that benefits both qualifying and nonqualifying schools, the contribution will qualify only if the donor specifically designates it for the exclusive use of a qualifying school and the account or fund separately accounts for the funds on behalf of the qualifying school. The donor must obtain a statement from the administrator of the account or fund that identifies the qualifying school and shows the amount contributed to it.

If a contribution is made to a qualifying school that provides education in one or more grades in both the primary school category (kindergarten through 8th grades) and the secondary school category (9th through 12th grades), a separate credit is allowed for the portion of the contribution designated for the exclusive use of each school category. The donor must obtain a statement from the qualifying school that identifies the qualifying school and shows the amount contributed to each category of school. If the donor does not obtain a statement showing how the contribution is allocated to each category of school, one-half of the total contribution will be deemed to have been made to each category of school.

**Line 22.** Enter on this line the allowable credit for contributions to qualified nonprofit private primary schools.

**Line 23.** Enter on this line the allowable credit for contributions to qualified nonprofit private high schools.

**Line 24.** Enter on this line the allowable credit for contributions to qualified nonprofit private colleges.

**Line 25**  
**Professional service partnership guaranteed payments**

Lines 25a through 25c 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 25a.** Enter the total guaranteed payments from Federal Form 1065, Schedule K, line 4, or from Federal Form 1065-B, Schedule K, line 7.

**Line 25b.** Enter the portion of the amount on line 25a 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 25c.** Enter the portion of the amount on line 25b that was made to nonresident individual partners for personal services performed within North Dakota.

**Line 26**  
**Allocable nonbusiness income**

Lines 26a and 26b apply only if the partnership meets all of the following:

- It is a multistate partnership, i.e., it carries on its trade or business activity both within and without North Dakota.
- It has one or more nonresident individual, estate, or trust partners.
- It has allocable nonbusiness income. Generally, all income received by a partnership is considered business income unless clearly classifiable as nonbusiness income. The classification of income by the labels used to describe it—for example, interest, dividends, rents, royalties, operating income, or nonoperating income—is generally not relevant in determining whether income is business or nonbusiness income. For more information, see 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). See the instructions to Schedule KP, Column 6, for more information. In addition to completing lines 26a and 26b, 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 26a.** Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

**Line 26b.** Enter the portion of the amount on line 26a that is allocable to North Dakota.

**Line 27  
Disposition of I.R.C. Section 179  
property**

Lines 27a through 27d 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 27a through 27d, 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 Form 58, Schedule K, line 26.

**Instructions for  
Schedule KP  
(Form 58, page 5)**

Schedule KP must be completed to provide information about each partner. 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 name, mailing address, and partner’s identifying number as shown on the partner’s Federal Schedule K-1. If the partner is a single member limited liability company (LLC) that is 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 C corporation, partnership, or S corporation, enter the code letter for that particular entity type.

**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:

- 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 Partners and Tax-Exempt Organization Partners Only (Columns 6 through 8)

For purposes of Columns 6 through 8, a nonresident partner means:

- an individual who is not domiciled in North Dakota;
- a trust, including a grantor trust, that is not organized under North Dakota law. This only includes trusts that are subject to income tax; or
- a passthrough entity that has a commercial domicile outside North Dakota. A passthrough entity includes a partnership, S corporation, limited liability company treated like a partnership or S corporation, and any other similar entity.

For a tax-exempt organization partner, only report its distributive share of North Dakota income in Column 6. Columns 7 and 8 do not apply to a tax-exempt organization partner.

### Column 6 Nonresident partner and tax-exempt organization partner only

Complete Column 6 for each nonresident partner and tax-exempt organization 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 Form 58, page 1, Item H, on page 4 for more information.
- The partnership has an item of nonbusiness income subject to allocation. See the instructions to Form 58, Schedule K, line 26, on page 8 for more information.
- The amount in Column 5 includes interest from U.S. obligations.

### Column 7 Nonresident partner only

If a nonresident partner's distributive share of North Dakota income in Column 6 is \$1,000 or more, multiply the amount in Column 6 by 2.90% (.029) and enter the result in Column 7. However, the following exceptions apply:

- If a nonresident partner gives you a completed Form PWA, enter the amount from line 6 of Form PWA in Column 7 and fill in the circle under "Form PWA or Form PWE."
- If a nonresident partner gives you a completed Form PWE, leave Column 7 blank and fill in the circle under "Form PWA or Form PWE."
- If a nonresident partner elected to be included in a composite filing, leave Column 7 blank and see the instructions to Column 8.

See "Withholding from nonresident partners" on page 2 for more information.

### Column 8 Nonresident partner only

*Note: Leave Column 8 blank if Column 7 was completed for the nonresident partner.*

Complete Column 8 for each nonresident partner electing to be included in a composite filing. Multiply the amount in Column 6 by 2.90% (.029) 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" on page 3 for more information.

## Specific line instructions for page 1 of Form 58, lines 1-12

**Complete Schedule FACT, Schedule K, and Schedule KP before completing lines 1 through 12 on page 1 of Form 58.**

### Line 4 Income tax withholding

Enter the North Dakota income tax withholding shown on a 2016 Form 1099 or North Dakota Schedule K-1. Be sure the state identified on the Form 1099 is North Dakota. Also enter the North Dakota income tax withholding shown on a 2015 North Dakota Schedule K-1 if the entity that issued it has a fiscal tax year ending in the partnership's 2016 tax year. Do not enter on this line North Dakota extraction or production taxes withheld from mineral interest income, such as an oil or gas royalty, because they are not income taxes. **Attach a copy of the Form 1099 or North Dakota Schedule K-1.**

### Line 5 Estimated tax payments

Enter the amount paid with the 2016 Forms 58-EXT and 58-ES plus any overpayment applied from the 2015 Form 58. However, if filing an amended return, do not enter any previously paid estimated tax amount; instead, enter the amount of the total taxes due from line 3 of the previously filed original or amended return.

### Line 8 Application of overpayment to 2017

If there is an overpayment on line 7, the partnership may elect to apply part or all of it as an estimated payment toward its 2017 tax liability. To make the election, enter the portion of line 7 to be applied on line 8. 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 10  
Tax due**

A tax due must be paid in full with the return when the return is filed. See the instructions to line 12 for payment options.

**Line 11  
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 total amount of 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 the total amount of 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 12  
Balance due**

The balance due must be paid in full with the return. The payment may be made electronically in one of the following ways.

- **Online**—A payment may be made online with a debit or credit card or electronic check. North Dakota contracts with a national payment service to provide this option. There is a fee for this service, none of which goes to the State of North Dakota.

- **Electronic funds transfer**—A payment may be made by means of an Automated Clearing House (ACH) credit transaction that the taxpayer initiates through its banking institution.

For more information and to make an electronic payment, go to our website at [www.nd.gov/tax](http://www.nd.gov/tax).

If paying by check or money order, make it payable to “ND State Tax Commissioner,” and write the last four digits of the partnership’s FEIN and “2016 Form 58” on the check or money order. A check must be drawn on a U.S. or Canadian bank, be in U.S. dollars, and use a standard 9-digit routing number. A check drawn on a foreign bank (except one in Canada) cannot be accepted.

## 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 its partners with information they 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 partner for which the partnership is required to report the North Dakota distributive share of income on Form 58, Schedule KP, Column 6.
- Each partner to which a share of a North Dakota adjustment or tax credit from Form 58, Schedule K, lines 1 through 24, is distributable.
- Each partnership or corporation partner for the purpose of reporting a share of the apportionment factors from Form 58, Schedule FACT.
- Each tax-exempt organization partner.

If there are no North Dakota adjustments or tax credits on Form 58, Schedule K, lines 1 through 24, a North Dakota Schedule K-1 does not have to be given to a North Dakota resident individual, estate, or trust.

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-1 forms must be enclosed with Form 58 along with any required supporting 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-1 forms to its partners. Fill in the “Amended” circle at the top of the North Dakota Schedule K-1 (Form 58).

**Final schedule.** Fill in 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 2 Partner information

**Item E**

Enter the code letter for the partner from Form 58, Schedule KP, Column 3.

**Item F**

If the partner is an individual, estate, or trust, fill in 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 a nonresident partner, indicate whether the partner is included in a composite filing by filling in the applicable circle.

**Item I**

Enter the partner’s ownership percentage from Form 58, Schedule KP, Column 4.

## 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 24, complete this part for all partners.

**Lines 1 and 2**

Enter on the corresponding lines the amount determined by multiplying 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.

**Lines 3 through 5**

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

**Line 6**

Enter on this line the amount determined by multiplying 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.

**Lines 7 through 24**

Enter on the corresponding lines the partner's share of each amount shown on Form 58, Schedule K, lines 7 through 24.

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

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

**Line 25 Partnership's apportionment factor**

Enter the partnership's apportionment factor from Form 58, Schedule FACT, line 14.

**Lines 26 through 39 Income and loss items**

Except as provided under **Exceptions 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 26 through 39.

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.

**Qualified nonprofit private schools (for Form 58, Schedule K, lines 22 through 24)**

For purposes of the credits on Form 58, Schedule K, lines 22 through 24, the following lists the qualifying schools in each school category. (Note: These lists are subject to change.)

**Primary Schools (Grades K through 8)**

|   |   |
|---|---|
| Academy for Children (Fargo)                              | Nativity Elementary School (Fargo)                |
| Anne Carlsen Center (Jamestown)                           | New Testament Baptist Christian School (Larimore) |
| Bishop Ryan Catholic School (Minot)                       | Oak Grove Lutheran Elementary School (Fargo)      |
| Brentwood Adventist Christian School (Bismarck)           | Ojibwa Indian School (Belcourt)                   |
| Cathedral of the Holy Spirit Elementary School (Bismarck) | Our Redeemer's Christian School (Minot)           |
| Children's Montessori Center (Fargo)                      | Prairie Learning Education Center (Raleigh)       |
| Christ the King Elementary School (Mandan)                | Prairie Voyager Adventist School (Grand Forks)    |
| Dakota Memorial School (Minot)                            | Red River Adventist Elementary School (Fargo)     |
| Dakota Montessori School (Fargo)                          | Shanley High-Sullivan Middle School (Fargo)       |
| Dickinson Adventist Christian School (Dickinson)          | Shiloh Christian School (Bismarck)                |
| Dickinson Trinity Jr/High School (Dickinson)              | St Alphonsus Elementary School (Langdon)          |
| Forest River School (Fordville)                           | St Anne Elementary School (Bismarck)              |
| Grace Lutheran Elementary School (Fargo)                  | St Ann's Catholic School (Belcourt)               |
| Grand Forks Montessori Academy (Grand Forks)              | St Bernard Mission School (Fort Yates)            |
| Hillcrest SDA School (Jamestown)                          | St Catherine Elementary School (Valley City)      |
| Holy Family – St. Mary's Elementary School (Grand Forks)  | St John's Academy (Jamestown)                     |
| Holy Spirit Elementary School (Fargo)                     | St John's Elementary School (Wahpeton)            |
| Hope Christian Academy (Dickinson)                        | St Joseph Elementary School (Mandan)              |
| Johnson Corners Christian Academy (Watford City)          | St Joseph Elementary School (Devils Lake)         |
| Light of Christ 7th and 8th Grade Academy (Bismarck)      | St Joseph's Elementary School (Williston)         |
| Little Flower Elementary School (Rugby)                   | St Mary's Elementary School (Bismarck)            |
| Martin Luther School (Bismarck)                           | St Michael's Elementary School (Grand Forks)      |
| Missouri Valley Montessori School (Bismarck)              | Trinity Christian School (Williston)              |
|   | Trinity Elementary East School (Dickinson)        |
|   | Trinity Elementary School (West Fargo)            |
|   | Trinity Elementary West School (Dickinson)        |
|   | Victory Christian School (Jamestown)              |

**High Schools (Grades 9 through 12)**

|  |   |
|--|---|
| Anne Carlsen Center (Jamestown)                  | New Testament Baptist Christian School (Larimore) |
| Bishop Ryan Catholic School (Minot)              | Oak Grove Lutheran High School (Fargo)            |
| Dakota Adventist Academy (Bismarck)              | Our Redeemer's Christian School (Minot)           |
| Dakota Memorial School (Minot)                   | Prairie Learning Education Center (Raleigh)       |
| Dickinson Trinity Jr/High School (Dickinson)     | Shanley High-Sullivan Middle School (Fargo)       |
| Hope Christian Academy (Dickinson)               | Shiloh Christian School (Bismarck)                |
| Johnson Corners Christian Academy (Watford City) | St Mary's Central High School (Bismarck)          |
|  | Trinity Christian School (Williston)              |

**Colleges (Education above 12th grade)**

- Jamestown College (Jamestown)
- Trinity Bible College (Ellendale)
- United Tribes Technical College (Bismarck)
- University of Mary (Bismarck)
- ND Independent College Fund (Bismarck)

For purposes of calculating the gain or loss for I.R.C. § 179 property dispositions included in box 20 of 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 29 (guaranteed payments) by adding the following two amounts:

- Guaranteed payments for services performed within North Dakota by the partner.
- 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).

If the calculation of any amount on lines 26 through 39 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.

**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 30.

## Part 5 Nonresident partner and tax-exempt organization partner only

Complete Part 5 for a nonresident partner and a tax-exempt organization partner for which an amount was required to be entered on Form 58, Schedule KP, Column 6.

### Line 40 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 41 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 42 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

Complete Part 6 for a partner that is a partnership, corporation, or other entity treated like a partnership or corporation.

### Line 43 North Dakota factors

Enter in the corresponding column the partner's share of the partnership's North Dakota apportionment factor amounts from Form 58, Schedule FACT, Column 2, lines 7, 8, and 12.

### Line 44 Total factors

Enter in the corresponding column the partner's share of the partnership's total factor amounts from Form 58, Schedule FACT, Column 1, lines 7, 8, and 12.

## 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 2016 Form 58 with the preparer who signed it. To do so, fill in the circle next to the signature area in the lower right-hand corner of page 1 of Form 58. 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.

This authorization allows 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 be sent only to the partnership.)*

This authorization automatically expires on the due date (including extensions) for filing the 2017 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.

### 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-1 forms.
6. Required supporting statements.
7. Complete copy of Form 1065 (or 1065-B) including Federal Schedule K-1 forms.

A balance due may be paid electronically (see page 11 of these instructions). If paying by check or money order, make it payable to "ND State Tax Commissioner" and enclose it with the return. Do not staple documents together.