

# 2023 Nonresident and Out-of-State Partner's Share of Adjustment to Partnership Income

# Arizona Form 165 Schedule K-1(NR)

## Instructions for Partners

### Part 1 - Distributive Share Items from Federal Form 1065, Schedule K-1

Column (c) is your Arizona source income.

- If you are a nonresident individual, use the line numbers on Schedule K-1(NR) to report the amounts in column (c) on your Arizona Form 140NR.
- If you are a nonresident trust or nonresident estate, add lines 4 through 16, column (c), and enter the total on Arizona Form 141AZ, page 2, Schedule A.

If Arizona Form 165 Schedule K-1(NR) shows a loss, you may only claim such losses on your Arizona nonresident return to the extent:

- Those losses are included in:
  - The federal adjusted gross income of an individual, or,
  - The federal taxable income of a trust or an estate.
- The loss is **not** considered to be a passive activity loss for federal purposes. (If it is, the loss will be treated as a passive activity loss for Arizona purposes.)

If the partnership passes through to you a passive activity loss derived from Arizona sources:

- Do not begin the Arizona return with the amounts shown in column (c) of Arizona Form 165 Schedule K-1(NR).
- You must first determine if any portion of the loss has been limited on your federal return due to federal passive activity loss rules.

In addition:

- Only the amount of passive activity loss derived from Arizona sources will be allowed on the Arizona return.
- Any portion of the passive activity loss not allowed on the federal return due to passive activity loss limitations will be limited on the Arizona return.
- That portion of the passive activity loss derived from Arizona sources required to be carried forward for federal purposes will be carried forward for Arizona purposes.

**NOTE:** *The amount of Internal Revenue Code (IRC) § 179 expense deductible is limited to the Arizona portion of the amount deducted on federal Form 1040, Schedule E.*

### Part 2 - Partner's Distributive Share of the Adjustment of Partnership Income from Federal to Arizona Basis

#### Line 15

#### Nonresident Individuals, Estates and Trusts:

Line 15 reflects the amount of partnership income which must be adjusted to determine the difference between Internal Revenue Code § 702(a)(8) and Arizona Revised Statutes § 43-1401(2).

If the amount on line 15, column (c) is a positive number:

- Individual partners, enter this amount as an "other addition to income" on Arizona Form 140NR, line 31.
- Estates or trusts, enter this amount as an "other addition" on Arizona Form 141AZ, page 2, line B3.

If the amount on line 15, column (c) is a negative number:

- Individual partners, enter this amount as an "other subtraction from income" on Arizona Form 140NR, line 41.
- Estates or trusts, enter this amount as an "other subtraction" on Arizona Form 141AZ, page 2, line B9.

#### Corporate partners:

- If the amount on line 15 is positive, enter the amount from line 15, column (a) on Schedule A, line A8 of Form(s) 120 or 120A.
- If the amount on line 15 is negative, enter the amount from line 15, column (a) on Schedule B, line B10 of Form(s) 120 or 120A.

#### Partnerships that are partners:

- If the amount on line 15 is positive, enter the amount from line 15, column (a) on Schedule A, line A4 of Arizona Form 165.
- If the amount on line 15 is negative, enter the amount from line 15, column (a) on Schedule B, line B5 of Arizona Form 165.

### Part 3 - Net Capital Gain (Loss) from Investment in a Qualified Small Business – Information Schedule

Arizona allows individuals, estates and trusts a subtraction from Arizona gross income for any net capital gain derived from investment in a qualified small business if:

- The gain is included in:
  - The individual's federal adjusted gross income, or
  - The federal taxable income of the estate or trust.
- The business in which the partnership invested is determined to be a qualified small business by the Arizona Commerce Authority.

Although the subtraction is only available to individuals, estates and trusts, a partner that is a pass-through entity (estate, partnership, S corporation, or trust) will need this information to calculate the subtraction for the estate or trust, or to complete:

- Arizona Form 141AZ, Schedule K-1 or Schedule K-1(NR), for each beneficiary;
- Arizona Form 120S, Schedule K-1 or Schedule K-1(NR), for each shareholder; or,
- Arizona Form 165, Schedule K-1 or Schedule K-1(NR), for each partner.

#### Line 16

The amount on line 16, column (c), is your share of net capital gain (loss) from investment in a qualified small business that is apportioned to Arizona. To determine if you qualify to claim this subtraction from your Arizona tax return, see the instructions for Arizona Form 140NR or Arizona Form 141AZ.

#### Part 4 – Gain or Loss on the Sale of Virtual Currency and Non-Fungible Tokens – Information Schedule

Arizona allows individuals, estates and trusts a subtraction to the extent not already excluded from Arizona gross income under the internal revenue code, the value of virtual currency and non-fungible tokens (NFT) the taxpayer received pursuant to an airdrop at the time of the airdrop. This paragraph may not be interpreted as providing a subtraction for any appreciation in value that occurs from holding the virtual currency after the initial receipt of the airdrop.

For the purpose of this subtraction, A.R.S. § 43-1028 defines the following:

- **Airdrop** as the receipt of virtual currency through a means of distribution of virtual currency to the distributed ledger addresses of multiple taxpayers.
- **NON-FUNGIBLE TOKENS (NFT)** as a non-fungible cryptographic asset on a blockchain that possesses unique identifiers or other metadata that distinguishes the asset from another token or asset in a manner that makes the asset irreplaceable and non-exchangeable for a similar token or asset.
- **Virtual currency** as a digital representation of value that functions as a medium of exchange, a unit of account and a store of value other than a representation of the U.S. dollar or a foreign currency.
- **Foreign currency** as the coin and paper money of a country other than the United States that is designated as legal tender, circulates and is customarily used and accepted as a medium of exchange in the country of issuance.

Although the subtraction is only available to individuals, estates and trusts, a partner that is a pass-through entity (estate, partnership, S corporation, or trust) will need this information to calculate the subtraction for the estate or trust, or to complete:

- Arizona Form 141AZ, Schedule K-1 or Schedule K-1(NR), for each beneficiary;
- Arizona Form 120S, Schedule K-1 or Schedule K-1(NR), for each shareholder; or,
- Arizona Form 165, Schedule K-1 or Schedule K-1(NR), for each partner.

#### Line 17

Line 17 is your share of the value of virtual currency and non-fungible tokens received at the time of the airdrop.

#### Part 5 – Gain or Loss on the Sale of Virtual Currency and Non-Fungible Tokens - Gas Fees and Non-Fungible Tokens Basis – Information Schedule

Arizona allows individuals, estates and trusts a subtraction for gas fees not already included in the taxpayer's virtual currency or non-fungible tokens basis. For purposes of this subtraction, A.R.S. § 43-1028 defines "Gas Fees" as a fee paid to the operator of a virtual network for the use of the network to facilitate the purchase, sale or exchange of virtual currency or an NFT.

Although the subtraction is only available to individuals, estates and trusts, a partner that is a pass-through entity (estate, partnership, S corporation, or trust) will need this information to calculate the subtraction for the estate or trust, or to complete:

- Arizona Form 141AZ, Schedule K-1 or Schedule K-1(NR), for each beneficiary;
- Arizona Form 120S, Schedule K-1 or Schedule K-1(NR), for each shareholder; or,
- Arizona Form 165, Schedule K-1 or Schedule K-1(NR), for each partner.

#### Line 18

Line 18 is your share of the gas fees included in virtual currency or non-fungible tokens basis

#### Part 6 - Net Capital Gain (Loss) from the Exchange of Legal Tender - Information Schedule

For taxable years beginning from and after December 31, 2017, Arizona allows the exclusion from gross income the amount of net capital gain (loss) derived from the exchange of one kind of legal tender for another kind of legal tender.

- (a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.
- (b) "Specie" means coins having precious metal content.

#### Line 19

The amount on line 19, column (c) is your share of net capital gain (loss) from the exchange of legal tender that is apportioned to Arizona.

#### Part 7 - Net Long-Term Capital Gain Subtraction – Information Schedule

Arizona allows a subtraction from Arizona gross income for a percentage of any net long-term capital gain if:

- The gain arises from assets acquired **after** December 31, 2011,
- The gain is included in:
  - The individual taxpayer's federal adjusted gross income, or,
  - The federal taxable income of the estate or trust.

In addition,

- Only include net long-term gains if you can verify the asset was acquired after December 31, 2011.
- If you cannot verify the asset was acquired after December 31, 2011, treat it as a capital gain asset acquired before January 1, 2012.
- An asset acquired by gift or inheritance is considered acquired on the date it was acquired by the gift-giver, or the deceased.

Although the subtraction is only available to individuals, estates and trusts, a partner that is a pass-through entity (estate, partnership, S corporation, or trust) will need this information to:

- Calculate the subtraction for the estate or trust, or
- To complete:
  - Arizona Form 141AZ, Schedule K-1, or Schedule K-1(NR), for each beneficiary;

- Arizona Form 120S, Schedule K-1, or Schedule K-1(NR), for each shareholder; or
- Arizona Form 165, Schedule K-1, or Schedule K-1(NR), for each partner.

**Line 20**

Line 20, column (d) is your share of net long-term capital gain (loss) from assets acquired after December 31, 2011.

**Line 21**

Line 21 is your share of the partnership's net long-term capital gain from investment in a qualified small business that is included in the amount on line 20, column (d). *The amount on line 21 cannot be included in your subtraction for any net long-term capital gain from assets acquired after December 31, 2011.*

For more information, see the instructions for Arizona Form 140PY or Arizona Form 141AZ.

**Line 22**

Line 22 is your share of the partnership's net long-term capital gain (loss) from the exchange of legal tender that is included in the amount on line 20, column (d). *The amount on line 22 cannot be included in your subtraction for any net long-term capital gain from the exchange of legal tender from assets acquired after December 31, 2011.*

**Worksheet for Long-Term Capital Gain Subtraction for Assets Acquired After December 31, 2011 (Worksheet)**

To determine if you qualify to claim a subtraction from income on your Arizona personal income tax return:

- **Nonresident partner**, complete the worksheet included in the instructions for Arizona Form 140NR. Use only the amount of Arizona-sourced, net long-term capital gain (loss) entered on line 21, column (d), and line 22, column (d) to figure the subtraction on the Worksheet included in the instructions for Arizona Form 140NR
- **Nonresident Estate or Trust partner**, use only the amount of Arizona-sourced, net long-term capital gain (loss) entered on line 21, column (d), and line 22, column (d) to complete the Worksheet included in the instructions for Arizona Form 141AZ.
  - If the net long-term capital gain (loss) in Part 6 and Part 7 is distributed to the beneficiaries, the Worksheet will assist the estate or trust in completing the *Net Long-Term Capital Gain Subtraction – Information Schedule*, on Arizona Form 141AZ Schedule K-1, or Schedule K-1(NR) for each beneficiary,

- **Partnership or S corporation partner**, use only the amount of Arizona-sourced, net long-term capital gain (loss) entered on line 21 column (d), and line 22 column (d) to figure the subtraction on the Worksheet. The Worksheet will assist the partnership or S corporation in completing the *Net Long-Term Capital Gain Subtraction – Information Schedule*, on:
  - Arizona Form 165 Schedule K-1 or Schedule K-1(NR), for each partner, or
  - Arizona Form 120S, Schedule K-1 or Schedule K-1(NR) for each shareholder.
- **C Corporation or Exempt Organization partner**, this subtraction is not allowed for a C corporation or an exempt organization. The information in Part 7 is informational only and is not required to be reported by the C corporation or the exempt organization.

**Part 8 – Partner's Share of the Partnership's Pass-Through Entity Tax Credit**

If the partnership is making the election to pay tax at the entity level on its pass-through income **AND** you as the nonresident individual or estate and trust partner did not opt out of that election, Part 8 provides you with your *pro-rata* share of the pass-through credit.

**Line 23**

Line 23 is your share of the pro-rata share of the partnership's PTE Tax Credit.

Individuals, enter this amount on Credit Form 355, Part 1, line 1.

Estates and trusts, see the instructions for Form 141AZ, line 19 to claim this credit.

**Line 24**

Line 24 is your pro-rata share of the partnership's Arizona PTE taxes paid in 2023 for taxable year 2022.

Individuals that *did not make the Small Business Income election*, add this amount back on Form 140NR, page 5, line L.

Individuals that **made the Small Business Income election**, add this amount back on Form 140NR-SBI, line 24.

*Estates and trusts*, add this amount back on Form 141AZ, Schedule B, line B3.

**Line 25**

Line 25 is your pro-rata share of the partnership's Arizona PTE taxes paid in 2023 for taxable year 2023.

Individuals that *did not make the Small Business Income election*, add this amount back on Form 140NR, page 5, line L.

Individuals that **made the Small Business Income election**, add this amount back on Form 140NR-SBI, line 24.

*Estates and trusts*, add this amount back on Form 141AZ, Schedule B, line B3.

**Line 26**

Line 26 is the partner's pro-rata share of comparable PTE Taxes paid from other states in 2023 for taxable year 2022. Individuals that *did not make the Small Business Income election*, add this amount back on Form 140NR, page 5, line L.

Individuals that **made the Small Business Income election**, add this amount back on Form 140NR-SBI, line 24.

*Estates and trusts*, add this amount back on Form 141AZ, Schedule B, line B3.

**Line 27**

Line 27 is the partner's pro-rata share of comparable PTE Taxes paid from other states in 2023 for taxable year 2023. Individuals that *did not make the Small Business Income election*, add this amount back on Form 140NR, page 5, line L.

Individuals that **made the Small Business Income election**, add this amount back on Form 140NR-SBI, line 24.

*Estates and trusts*, add this amount back on Form 141AZ, Schedule B, line B3.