Schedule O
(**11-21**)

Nonoperational Activity

Corporation Name	Federal ID Number	Unitary ID Number, if applicable
		NU

Part I Computation of Nonoperational Activity Elimination

	Column A **Federal**	Column B **Nonoperational**	Column C **Operational**
1. Gross receipts ________ Less returns and allowances ________	1.		1.
2. Cost of goods sold and/or operations	2.		2.
3. Gross Profit – Subtract line 2 from line 1.	3.		3.
4. Dividends and Inclusions	4.	4.	4.
5. Interest	5.	5.	5.
6. Gross Rents	6.	6.	6.
7. Gross Royalties	7.	7.	7.
8. Net Capital Gain (attach federal Schedule D)	8.	8.	8.
9. Net Gain or (Loss) (attach federal Form 4797)	9.	9.	9.
10. Other Income (attach schedule)	10.	10.	10.
11. **Total Income** – Add lines 3 through 10	11.	11.	11.
12. Compensation of Officers (Schedule F-1)	12.	12.	12.
13. Salaries and Wages ________ Less Jobs Credit ________	13.	13.	13.
14. Repairs	14.	14.	14.
15. Bad Debts	15.	15.	15.
16. Rents	16.	16.	16.
17. Taxes (Schedule H)	17.	17.	17.
18. Interest	18.	18.	18.
19. Contributions	19.	19.	19.
20a. Depreciation (attach federal Form 4562)	20a.	20a.	20a.
20b. Less: Depreciation claimed elsewhere	20b.	20b.	20b.
21. Depletion	21.	21.	21.
22. Advertising	22.	22.	22.
23. Pension, profit-sharing plans, etc.	23.	23.	23.
24. Employee benefit programs	24.	24.	24.
25. Reserved for future use			
26. Other deductions (attach schedule)	26.	26.	26.
27. **Total Deductions** – Add lines 12 through 26	27.	27.	27.
28. Taxable Income before federal net operating loss deductions and federal special deductions (subtract line 27 from line 11)	28.	28.	28.
29a. Interest from federal, state, municipal and other obligations not included in line 11		29a.	29a.
29b. Expenses from Income in line 29a above		29b.	29b.
30a. Column B – Net Nonoperational Income (line 28 plus line 29a minus line 29b)		30a.	
30b. Column C – Net Operational Income (line 28 plus line 29a minus line 29b)			30b.
31. Less: Operational Capital Losses no longer offset by a Nonoperational Capital Gain (see instruction 3e)		31. ( )	
32. Net Statutory Adjustments in Nonoperational Activity (see instruction 3f)		32.	
33. Other adjustments. Attach rider (see instruction 3g)		33.	
34. Net Effect of Current Period Nonoperational Activity (combine lines 30a, 31, 32, and 33). Enter total on Form CBT-100S, Schedule K or Schedule K Liquidated, Part III, line 1a.		34.	
35. Recapture of Prior Period Nonoperational Expenses (see instruction 3i)		35.	
36. Adjustment required to eliminate effect of Nonoperational Activity (line 34 plus 35). Carry to Schedule A, Part II, line 17a of Form CBT-100, CBT-100U, or BFC-1 or Schedule A, Part I, line 37b of Form CBT-100S.		36.	

Part II Nonoperational Asset Declaration and/or Reclassification

1.	Prior years' net nonoperational assets acquired				1.	
2.	Current year's nonoperational assets acquired			N.J. Nexus		
	Description	Date Acquired	Federal Basis	Yes	No	
	1.					
	2.					
	3.					
	4.					
	5.					
	6.					
	7.					
	8.					
	9.					
	10.					
	11.					
	12.					
	13.					
	14.					
	15.					
	Total Current Year Acquisitions		2.			
3.	Current year's disposition of **current** year's purchases		3.			
4.	Net current year's acquisitions (line 2 less line 3)				4.	
5.	Current year's disposition of **prior** year's purchases				5.	
6.	**Total Nonoperational Assets** (line 1 plus line 4 minus line 5)				6.	

(1) Have you made a claim to any other taxing jurisdiction with respect to currently held assets (whether or not included above) that nonoperational, nonunitary, or nonbusiness income was derived therefrom? .... ☐ Yes ☐ No

If yes, identify by asset the income, states, and years involved.

a ____________________

b ____________________

c ____________________

(2) Are there or were there liabilities or expenses related to the nonoperational assets declared above? .... ☐ Yes ☐ No

If yes, specify by asset the expenses and liabilities below for all years since acquisition.

a ____________________

b ____________________

c ____________________

(3) Have assets considered operating in nature in prior periods been reclassified during this reporting period as nonoperating?.. ☐ Yes ☐ No

If yes, on a separate rider identify all expenses, by year, previously deducted in prior years. The aggregate total of all years' expenses must be recaptured and included in Entire Net Income in this reporting period. (Schedule O – Part I, line 35).

Part III Computation of Tax Due on Nonoperational Activity

	Activity ________	Activity ________	Total
1. Gross receipts ________ Less returns and allowances ________	1.	1.	1.
2. Cost of goods sold and/or operations	2.	2.	2.
3. Gross Profit – Subtract line 2 from line 1	3.	3.	3.
4. Dividends and Inclusions	4.	4.	4.
5. Interest	5.	5.	5.
6. Gross Rents	6.	6.	6.
7. Gross Royalties	7.	7.	7.
8. Net Capital Gain (attach federal Schedule D)	8.	8.	8.
9. Net Gain or (Loss) (attach federal Form 4797)	9.	9.	9.
10. Other Income (attach schedule)	10.	10.	10.
11. **Total Income** – Add lines 3 through 10	11.	11.	11.
12. Compensation of Officers (Schedule F-1)	12.	12.	12.
13. Salaries and Wages ________ Less Jobs Credit ________	13.	13.	13.
14. Repairs	14.	14.	14.
15. Bad Debts	15.	15.	15.
16. Rents	16.	16.	16.
17. Taxes (Schedule H)	17.	17.	17.
18. Interest	18.	18.	18.
19. Contributions	19.	19.	19.
20a. Depreciation (attach federal Form 4562)	20a.	20a.	20a.
20b. Less: Depreciation claimed elsewhere	20b.	20b.	20b.
21. Depletion	21.	21.	21.
22. Advertising	22.	22.	22.
23. Pension, profit-sharing plans, etc.	23.	23.	23.
24. Employee benefit programs	24.	24.	24.
25. Reserved for future use			
26. Other deductions (attach schedule)	26.	26.	26.
27. **Total Deductions** – Add lines 12 through 26	27.	27.	27.
28. Net Nonoperational Income before federal net operating loss and federal special deductions (subtract line 27 from line 11)	28.	28.	28.
29a. Interest from federal, state, municipal, and other obligations not included above	29a.	29a.	29a.
29b. Expenses from Income in line 29a and not included in line 28 above	29b.	29b.	29b.
29c. Federal 250(a) Deductions	29c.	29c.	29c.
30. Net Current Year's Nonoperational Income (line 28 plus line 29a minus line 29b minus line 29c)	30.	30.	30.
31. **New Jersey's Taxable Portion** – Attach schedule of computation (see Instruction 5). Carry total to Schedule A, Part III of the CBT-100, CBT-100U, BFC-1, or enter total on Form CBT-100S, Schedule K or Schedule K Liquidated, Part III, line 5.	31.	31.	31.
32. Listing of states where Nonoperational Income is being assigned:			

Instructions for Schedule O

Purpose

Schedule O must be completed and included with the Corporation Business Tax return (Form CBT-100, CBT-100U, CBT-100S, or BFC-1) filed by any corporation seeking to treat income, expenses, or assets as nonoperational pursuant to N.J.S.A. 54:10A-6.1 and not subject to apportionment using the business allocation factor.

Schedule O, Part I details the items of nonoperational income and expenses and computes the net adjustment required to eliminate the effect of the nonoperational activity on allocable net income.

Schedule O, Part II allows corporations to declare nonoperational assets or report the reclassification of assets previously deemed operational.

Schedule O, Part III allows the aggregate nonoperational activity to be broken down into separate and discrete activities. If any of these separate activities have nexus with New Jersey, the schedule computes the amount of New Jersey Corporation Business Tax due.

General Provisions

Pursuant to U.S. Supreme Court decisions, New Jersey has made statutory changes to the New Jersey Corporation Business Tax Act (N.J.S.A. 54:10A-6.1). This legislation recognizes that a Constitutional distinction based on the Due Process and Commerce Clauses exists that restricts states from apportioning income, gains, losses, or expenses from activities that have no rational relationship with this State. The terminology used by New Jersey classifies these activities and/or assets as being either operational or nonoperational.

Generally, activities of a multijurisdictional corporation that are operational in nature are apportioned to a taxing jurisdiction by the use of a business allocation formula. New Jersey uses a single sales factor. Activities that are deemed to be nonoperational are not apportioned by general formula but are specifically assigned to the jurisdiction where the nonoperational activity has nexus.

Where the trade or business of the taxpayer is directed or managed in New Jersey, all nonbusiness income will be specifically assigned to New Jersey to the extent permitted by the United States Constitution.

In all cases, whether assigned to New Jersey or another jurisdiction, nonbusiness income will **not** be subject to allocation.

There is a presumption, which must be overcome by the taxpayer by clear and convincing evidence, that all the activities of a separate corporate entity are operational in nature. It is the intention of the New Jersey Division of Taxation to consider activities to be operational to the maximum extent permitted by the United States Constitution. However, for corporations making nonbusiness or nonoperational claims (or nonunitary claims for taxpayers filing separate returns) to this State, or to other jurisdictions, if it is determined that the nonoperational activity has nexus to New Jersey, the resulting assignment of income may exceed the New Jersey tax liability that would otherwise have been due had a nonoperational claim not been made.

Nonoperational Income Explained

Nonoperational income is derived from tangible and intangible property when either the acquisition, management, use, or disposition did not constitute an integral part of the taxpayer's trade or business operations.

Nonoperational assets are not acquired, managed, used, or disposed of in the normal or ordinary course of business. They also do not generate operational expenses or income during their holding period.

In making the operational or nonoperational determination, the Division will classify income as being operational if it meets either the transactional, functional, or operational test.

The **transactional** test will determine whether the acquisition, management, use, or disposition of property is in the regular course of the corporation's trade or business. A transaction or activity can occur in the regular course of business even though the taxpayer has not regularly engaged in such transactions if it is reasonable to conclude that transactions or activities of that type are customary for the kind of business being conducted. The determination of operational income under the transactional test requires not only knowledge of how often the taxpayer's trade or business has engaged in transactions of the type at issue, but also whether such transactions are likely to occur at all in that trade or business.

The **functional** test will determine whether property or activities that do not rise to the level of constituting a trade or business would still be deemed operational if that property from which income and expenses are derived is or was an integral or functional component to or a part of the taxpayer's regular trade or business operations.

Income and expenses derived from activities occurring infrequently, including transactions made in liquidation, are operational if that property was used in the business operations. The functional test focuses on the function played by the property in the corporation's trade or business, and it applies similarly to tangible as well as intangible property. Income, gains, losses, or expenses arising from transactions involving intangible property, for example corporate stock, or an ownership interest in a partnership, is operational in nature if the corporation held that intangible or the underlying property represented as an integral or functional component of its trade or business.

The **operational** test will determine whether intangible property served an operational rather than an investment function. The relevant inquiry focuses on the objective characteristics of the intangible property's acquisition or use and the relation to the corporation's overall activities. This test will include as operational income all other income or gain that the State is not prohibited from taxing by the United States Constitution.

Tax Treatment of Nonoperational Activity
Expenses are deductible only to the extent that they are connected with operational property or income. Corporate expenses related to nonoperational income are not deductible at all except in terms of assigning and taxing income from nonoperational activities that have nexus to New Jersey.

If property had been classified as operational property in prior periods and is later demonstrated to have been nonoperational and is subsequently disposed of, all expenses, without limitation, deducted in prior periods related to the nonoperational property must be added back and recaptured as income in the tax period of disposition of such property.

If a prior period's income had been classified as serving an operational function and is later demonstrated not to have been serving an operational function, all expenses, without limitation, deducted in prior periods related to such income must be added back and recaptured in the year when that occurs.

General corporate expenses including administrative, taxes, and interest that cannot be specifically allocated between operational and nonoperational activity shall be assigned to same by the ratio of the average value of assets producing nonoperational income to the average value of the total assets of the corporation.

Only the receipts attributable to operational activity are to be used in computing the allocation factor.

Instructions

Combined groups must complete a separate Schedule O for each member claiming nonoperational income.

Part I

1. **Column A** represents Federal Taxable Income before net operating loss and special deductions and must be the same amount as reported on Schedule A, Form CBT-100, CBT-100U, or BFC-1. If Form CBT-100S is being filed, the adjustments made to convert S corporation income to C corporation income should be interpolated to the corresponding lines of this schedule.
2. **Column C** represents total operational activity that will be apportioned to all taxing jurisdictions using the business allocation factor. Columns B and C should always total to column A with respect to lines 1 through 28.
3. **Column B** represents total nonoperational income, gains, losses, and attributable expenses that are not apportioned but are specifically assigned. The income and expense items must be related to assets declared on Schedule O – Part II.

   a. **Lines 4 through 11** reflect the revenues, gains, or losses generated by nonoperational assets.

   b. **Lines 12 through 27** reflect the direct and indirect expenses associated with the nonoperational assets. Submit a statement detailing the basis and the accounting controls employed in assigning direct and indirect expenses to the nonoperational assets.

   Example 1 – Direct Expenses
   Corporation A, a manufacturer of shoes, purchased 1,000 shares of stock of Corporation B, a car wash company located outside New Jersey, for $15,000 as a passive investment that it claims is a nonoperational asset. Corporation A purchased these shares by borrowing $10,000 at a 9% interest rate, and by utilizing excess funds of $5,000. The first year's interest was $900, and the corporation was charged a processing fee of $250 on the loan. Both the interest expense ($900) and the processing fee ($250) are direct expenses of the asset purchased and should be included in the nonoperational column (column B).

   Example 2 – Indirect Expenses
   Corporation C has a substantial cash flow to the point that it maintains a separate division to manage and control all of its excess funds (both operational and claimed nonoperational funds). Corporation C must assign the direct expenses associated with the nonoperational assets and apportion the remaining indirect divisional expenses on a reasonable basis (e.g., value of operational assets to nonoperational assets) and apportion part of the corporate overhead on some reasonable basis (e.g., value of the part of the division to the total corporation).

   Indirect corporate expenses, including general and administrative expenses, interest expenses, and taxes, shall be assigned to nonoperational assets by the ratio of the average value of assets producing nonoperational income to the average value of the total assets of the corporation.

   c. **Lines 29a and 29b** reflect the financial activity of nonoperational tax-exempt assets and operational tax-exempt assets.

d. **Line 30a** reflects the net income from nonoperational activities. It is the total of line 28 plus line 29a minus line 29b.

e. **Line 31 –** If nonoperational capital gains are used to offset operational capital losses in determining Federal Taxable Income, the amount of the operational capital loss offset must be subtracted from the total nonoperational income to effect the elimination of the nonoperational activity from entire net income.

f. **Line 32 –** Enter the adjustments required to reflect the elimination of New Jersey adjustments to Federal Taxable Income on nonoperational activity reported originally on the applicable lines of Schedule A (Part II of Forms CBT-100, CBT-100U, or BFC-1, or Part I of CBT-100S).

Example 3
Corporation D reported dividend income of $1,000 from various nonsubsidiary companies, of which the corporation claimed that $300 in dividends from Corporation E is nonoperational income. Since 50% of the $300 is excluded on line 27, an adjustment subtracting $150 from nonoperational income is required to eliminate the double exclusion.

g. **Line 33 –** Enter any other adjustments required to properly reflect the elimination of the nonoperational income. Submit a separate rider detailing this amount. Report the federal 250(a) deductions attributed to GILTI and FDII amounts here and on Part III, line 29c.

h. **Line 34** is the sum of lines 30a, 31, 32, and 33 and represents the net adjustments required to eliminate the effect of nonoperational income from entire net income for current period activity. Enter the total on Form CBT-100S, Schedule K or Schedule K Liquidated, Part III, line 1a.

i. **Line 35** reflects the recapture of prior period deductions when in prior periods property had been classified as operational property and is later demonstrated to have been nonoperational property and is subsequently disposed of, all expenses, without limitation, deducted in prior periods related to the nonoperational property must be added back and recaptured as income in the period of disposition of such property.

j. **Line 36** is the sum of lines 34 and 35 and is the total adjustment required to eliminate the effect of nonoperational activity from entire net income. The total on this line is carried to Schedule A, Part II, line 17a of Form CBT-100, CBT-100U, or BFC-1 or Schedule A, Part I, line 37b of Form CBT-100S.

Part II

1. **Nonoperational assets defined.** Nonoperational assets are assets **not** acquired, managed, used, or disposed of in the normal or ordinary course of business, or that did not generate business expenses or income during their holding period. In determining the operational versus nonoperational asset status, and hence the income and gains, and expenses and losses associated therewith, the corporation shall not recognize as nonoperational any asset that does not meet either the transactional, functional, or operational tests.
2. **Line 1 –** Prior Years' Net Nonoperational Assets
Enter the total original federal basis for all nonoperational assets acquired prior to the current period that the corporation still owns and claims to be nonoperational assets to New Jersey.
3. **Line 2 –** Current Year's Nonoperational Assets
   a. **Description –** Enter the quantity purchased and the general nature of the asset purchased (e.g., 1 each – machinery, 1 each – building, 100 shares – XYZ, $2,000 – Bonds, etc.).

   b. **Date Acquired –** Indicate the date the asset was first acquired. If the asset was acquired in a prior year and its status changed from operational to nonoperational in the current reporting period, then enter as a second date the date such status changed in this reporting period.

   c. **Federal Basis –** Indicate the **original** federal tax basis used to carry the asset for federal income tax purposes.

   d. **New Jersey Nexus –** Indicate whether the nonoperational asset has a New Jersey nexus. Answer "YES" where the asset was physically located in New Jersey or where any of the activity related to its purpose, or its management, or its use, or its disposition, took place in whole or in part within this State during any portion of its holding period.
4. **Line 3 – Current Year's Disposition of Nonoperational Assets.** Enter the original federal tax basis of any assets purchased in the current period and disposed of during the current period and included on line 2 of the Schedule O, Part II.
5. **Line 5 – Current Year's Disposition of Prior Year Purchases.** Enter the original federal tax basis of any prior year purchases disposed of during the current period.
6. **Additional Questions – All** questions must be answered. Provide the appropriate responses and, where necessary, provide the additional information requested. If additional space is required, provide supplementary riders.

Part III

1. Part III details and computes the applicable amounts of New Jersey Corporation Business Tax due on

nonoperational activities that may be wholly or partially taxable by New Jersey.

2. **Lines 1 through 30** separately detail the income and expense items applicable for **each** nonoperational activity. Attach additional schedules as required if the number of activities exceeds two.

3. **Line 31 –** Enter the portion of the net nonoperational income for each activity taxable to New Jersey. Detail the methodology and the computation on a separate rider. See instruction 6 below for specific guidelines on the extent nonoperational activity is taxable by New Jersey. Carry the total nonoperational income to Schedule A, Part III of the CBT-100, CBT-100U, or BFC-1. Enter the total on Form CBT-100S, Schedule K or Schedule K Liquidated, Part III, line 5.

4. **Line 32 –** List all other states, if any, to which each nonoperational activity or income has been taxed. If the income was taxed as part of a combined reporting group as operational income, place an asterisk by that state's name.

5. Nonoperational income, less attributable expenses, will be taxed by New Jersey when either the activity or property itself has nexus to New Jersey or when the corporation's principal place of business management or direction is in New Jersey.

   a. When the nonoperational activity itself does not have nexus to New Jersey other than by reason of the taxpayer's principal place of business management being in New Jersey, the nonoperational income related to that activity, less attributable expenses, will be assigned to and taxed in New Jersey using the business allocation factor from the entity's Schedule J to the extent it is not taxed in other jurisdictions. If 100% of the income is attributable to New Jersey, carry the total income subject to tax to Schedule A, Part III of the CBT-100, CBT-100U, or BFC-1 and to Schedule O, Part III, line 31.

   b. Nonoperational net rents and royalties from real or tangible personal property located in New Jersey for at least a portion of the filing period are 100% taxable by New Jersey to the extent the asset maintained physical situs in New Jersey.

   c. Nonoperational gains and losses from sales or exchanges of real or tangible personal property located in New Jersey during at least part of the filing period or the holding period of the assets are 100% taxable to New Jersey to the extent the asset maintained physical situs in New Jersey.

   d. Nonoperational gains and losses from sales or exchanges of intangible property, including capital assets where intangible property is wholly or in part managed, controlled, or accounted for by employees or agents located in New Jersey during at least part of the holding period of the asset are 100% taxable to New Jersey to the extent of the ratio of expenses for the controlling employees or agents in New Jersey to those expenses everywhere.

   e. Nonoperational interest and dividends where the underlying investment is wholly or in part researched, managed, controlled, or accounted for by employees or agents located in New Jersey are 100% taxable to New Jersey to the extent of the ratio of expenses of the controlling employees or agents in New Jersey to those expenses everywhere.

   f. Nonoperational rents and royalties from patents, copyrights, trademarks, service marks, secret processes, and formulas, franchises and like property are 100% taxable to the extent of the business allocation factor reported to New Jersey by the user of the underlying property for that period.

   g. Other nonoperational income constitutionally taxable by New Jersey will be taxed to a reasonable extent based upon the facts and circumstances.

6. Net nonoperational losses cannot be used to offset taxable operational income in current, prior, or future periods.

   a. A net loss in any discreet, separate, nonoperational activity may not be used to reduce the net income or tax liability of any other discrete, separate, nonoperational activity in current, prior, or future periods.

FYI **For the rare instances that GILTI and FDII could be considered nonoperational income:**

- Include the GILTI and FDII income amounts on Part I, line 4 and Part III, line 4, as applicable

- Report the federal 250 deductions attributed to GILTI and FDII amounts on Part I, line 33 and Part III, line 29c.