



# 2022 NORTH DAKOTA PARTNERSHIP INCOME TAX FORM 58

Includes: Schedule FACT  
Schedule K  
Schedule KP  
Schedule K-1

Photo credit:  
ND Tourism

Tax forms, guidelines, and more are  
available at **[www.tax.nd.gov](http://www.tax.nd.gov)**.

---

Email questions to **[individualtax@nd.gov](mailto:individualtax@nd.gov)**.



# Contents

|                                                   |           |
|---------------------------------------------------|-----------|
| Where to get help and forms.....                  | This page |
| Changes for 2022 .....                            | 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 2023) .....            | 3         |
| Withholding from nonresident partners .....       | 3         |
| Composite filing.....                             | 3         |
| Correcting a previously filed return.....         | 4         |
| Reporting federal changes.....                    | 4         |
| W-2/1099 reporting requirement .....              | 4         |
| Disclosure notification .....                     | 4         |
| Use of information .....                          | 4         |
| General instructions for completing Form 58 ..... | 4         |
| Specific line instructions .....                  | 5         |
| Form 58, Page 1, Items A-J .....                  | 5         |
| Schedule FACT .....                               | 5         |
| Schedule K .....                                  | 7         |
| Schedule KP.....                                  | 10        |
| Form 58, Page 1, Lines 1-12.....                  | 12        |
| Schedule K-1.....                                 | 12        |
| Before you file Form 58 .....                     | 14        |

## 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.tax.nd.gov](http://www.tax.nd.gov)**.

## Need help?

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

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

### Email

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 or appointment service

State Capitol Building, 8th Floor  
600 E. Boulevard Ave., Bismarck, ND

Monday through Friday  
8:00 a.m. to 5:00 p.m.  
(except holidays)

Walk-ins are welcome. To assure availability and promptness of service, call in advance to make an appointment.

### 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

Obtain a copy of the North Dakota Taxpayer Bill of Rights on the Office of State Tax Commissioner's website at **[www.tax.nd.gov](http://www.tax.nd.gov)**

## Changes affecting partnerships

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

### REMINDER: Form 58 efilg requirement

House Bill 1082 passed by the 2021 North Dakota Legislature requires a partnership, S corporation, trust, or other passthrough entity with 10 or more owners (or beneficiaries, if a trust) to file its North Dakota income tax return and pay any tax due on it by electronic means. This new requirement applies to returns filed for tax years 2022 and after. For more information about electronic filing of the North Dakota partnership return (Form 58), S corporation return (Form 60), or fiduciary return (Form 38), go to [www.tax.nd.gov](http://www.tax.nd.gov) and click on For Businesses>E-File.

### REMINDER: Change to efilg requirement for W-2s and 1099s

Beginning with returns that are due on January 31, 2023, businesses are required to electronically file Forms W-2 and 1099.

Electronically filing these forms can easily be done in one of the following ways:

- **North Dakota Taxpayer Access Point (ND TAP) at [www.tax.nd.gov/tap](http://www.tax.nd.gov/tap)**

If you do not already have a ND TAP account, select "Sign Up For Access".

- **Third-party accounting software**

A business should check its accounting software or contact the accounting software provider to see if it provides electronic filing of Forms W-2 and 1099 with North Dakota.

For questions and assistance, contact

the Office of State Tax Commissioner by sending an email to [withhold@nd.gov](mailto:withhold@nd.gov) or calling 701-328-1248.

### REMINDER: Changes to employer withholding return and payment requirements

House Bill 1082 passed by the 2021 North Dakota Legislature made the following changes affecting the income tax withholding return and payment requirements for employers:

- Effective for calendar years 2022 and after, an employer may file Form 306, Income Tax Withholding Return, on an annual basis instead of quarterly if the amount of North Dakota income tax withheld in the previous calendar year was less than \$1,000. This is a \$500 increase in the threshold applicable to calendar years before 2022.
- Effective for calendar years 2022 and after, Form 306, Income Tax Withholding Return, and the tax due on it must be submitted electronically on a quarterly basis if the amount of North Dakota income tax withheld in the previous calendar year was \$1,000 or more.

For questions and assistance, contact the Office of State Tax Commissioner by sending an email to [withhold@nd.gov](mailto:withhold@nd.gov) or calling 701-328-1248.

### REMINDER: 2-year extension of 2019 changes to disabled employment credit

In 2019, the North Dakota Legislature expanded the income tax credit for hiring a qualifying developmentally disabled or mentally ill individual. Eligibility for the credit was

extended to all taxpayers (not just C corporations), the credit rate was increased from 5% to 25%, and the wages on which the credit is allowed was changed from the first \$6,000 paid in the first 12 months of employment to the first \$6,000 paid annually. The 2019 changes were effective only for the 2019 and 2020 tax years.

The 2021 legislature reinstated the 2019 changes for two additional tax years—2021 and 2022—after which the changes will expire, and the law will revert to how it read prior to 2019.

To qualify for the credit, an employer must apply for and obtain from the North Dakota Department of Human Services, Vocational Rehabilitation Division, a letter certifying that the individual has a severe development or mental disability, is eligible for the agency's services, and requires customized or supported employment to become employed.

See Form 58, Schedule K, line 22.

### Staying on top of developments

Businesses or other interested persons may sign up to receive email notifications when a newsletter or other important information is issued by the Office of State Tax Commissioner. There is a separate update list for each tax type administered by the Tax Commissioner. To sign up, go to [www.tax.nd.gov](http://www.tax.nd.gov) and select "Email Sign-Up" under "News Center".



# Form 58 Instructions

# 2022

## 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 2022 Form 58, Partnership Income Tax Return, must be filed by a partnership that meets both of the following:

- It is required to file a 2022 Form 1065, U.S. Return of Partnership Income.
- It carries on business, or derives gross income from sources, in North Dakota during the 2022 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 2022 Form 58 if it carries on investment activity, or derives any gross income from sources, in North Dakota during its 2022 tax year. A 2022 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.

### Disaster recovery tax exemptions.

Exemptions from state and local tax filing and payment obligations are available to out-of-state businesses and their employees who are in North Dakota on a temporary basis for the sole purpose of repairing or replacing natural gas, electrical, or telecommunication transmission property that is damaged, or under

threat of damage, from a state- or presidentially-declared disaster or emergency. For more information, go to [www.tax.nd.gov](http://www.tax.nd.gov).

### Electronic Filing

Partnerships with 10 or more owners are required to file the North Dakota income tax return and pay any tax due on it by electronic means.

### When and where to file

The 2022 Form 58 must be filed on or before (1) April 15, 2023, if filing for the 2021 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 2022 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 2021 Form 58 if filing for a fiscal year beginning in the 2021 calendar year.**

**If not required to file electronically,** 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 2022 Form 58-EXT.

Alternatively, a check or money order may be sent with a letter containing the following: (1) name of partnership, (2) partnership's FEIN, (3) partnership's address and phone number, and (4) statement that the payment is a 2022 Form 58-EXT payment.

### Penalty and interest

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 by its due date (or extended due date), but the total amount of tax due is not paid by the due date (or extended due date), a penalty equal to 5% of the unpaid tax or \$5.00, whichever is greater, must be paid.

If Form 58 is filed after its due date (or extended due date), and there is an unpaid tax due on it, a penalty equal to 5% of the unpaid tax due or \$5.00, whichever is greater, for the month the return was due plus 5% of the unpaid 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 return's due date (or extended due date).

### Estimated tax payment (for 2023)

A partnership may, but is not required to, make estimated income tax payments. For more information, including payment options, obtain the 2023 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" on this page 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 2022 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 this page. 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 2022 return" below.

If a partnership paid too much tax because of an error on its 2022 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 2022 return

1. Obtain a blank 2022 Form 58.
2. Enter the partnership's name, current address, FEIN, etc., in the top portion of page 1 of Form 58.
3. Fill in 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 2022 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 2022 Federal Form 1065, 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 and see "Annual Filing Requirements - W-2 and 1099."

### Disclosure notification

Upon written request from the chairman of a North Dakota legislative standing committee or Legislative Management, the law requires the Office of State Tax Commissioner to disclose the amount of any deduction or credit claimed on a tax return. Any other confidential information, such as a taxpayer's name or federal employer identification number, may not be disclosed.

### 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 Federal Form 1065 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 5.
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 7.
5. Complete Schedule KP on page 5 of Form 58—see page 10.
6. Complete lines 1 through 12 on page 1 of Form 58—see page 12.
7. Complete Schedule K-1, if required, for the partners—see page 12.

**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 2021 Form 58 if the partnership's taxable year began in the 2021 calendar year. **Note:** Use the 2020 Form 58 if the taxable year began in the 2020 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. Fill in the applicable circle. If the partnership uses a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2022 Form 58 only if the partnership's tax year began in the 2022 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. If filing an amended return, enter the most current address.

### 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.

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

### Item F - Indicators

Fill in applicable circles, as follows:

**Initial return.** Fill in circle if this is the first return filed in North Dakota by the partnership.

**Final return.** Fill in circle if this is the last return to be filed in North Dakota by this partnership.

### Farming/ranching partnership.

Fill in 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.** Fill in circle if the entity filing this return is a limited liability company (LLC).

**Composite return.** Fill in this circle **only if** (1) the partnership has one or more nonresident partners eligible to be included in a composite filing and (2) **all** of them elected to include their distributive shares of North Dakota source income in a composite filing. See "Composite filing" on page 3 for more information.

**Amended return.** Fill in circle if this return is being filed to correct a previously filed 2022 Form 58. See "Correcting a previously filed return" on page 3 for more information.

**Extension.** Fill in 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 24, 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.

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 81-03-09-21 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. For more complete information on the payroll factor, see N.D. Admin. Code §§ 81-03-09-22 through 81-03-09-25.

### 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 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. For more complete information, see N.D. Admin. Code §§ 81-03-09-26 through 81-03-09-31 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 81-03-09-30.

#### 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.

**Schedule K-1 from another passthrough entity.** Include on the applicable lines of Schedule K any adjustments, credits, etc., from a North Dakota Schedule K-1, as instructed in the partner or beneficiary instructions to that form.

**Reminder: Be sure to attach to Form 58 any prescribed schedule or other supporting document specified in the instructions.**

## Property tax clearance

North Dakota Century Code § 57-01-15.1 provides that, before certain state tax incentives may be claimed, a taxpayer must obtain a property tax clearance record from each North Dakota county in which the taxpayer holds a 50 percent or more ownership interest in real property. The property tax clearance record(s) must be attached to the North Dakota tax return on which the incentive is claimed. Certain tax incentives on Form 58, Schedule K, are subject to this requirement. The incentives subject to this requirement are identified in the box at the top of Schedule K.

If the partnership is claiming any of the specified incentives, it must complete the property tax clearance section at the top of Schedule K. If the partnership is required to attach a property tax clearance record, obtain one by completing the form Property Tax Clearance Record, which is available on the Office of State Tax Commissioner's website.

## 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 24.

## 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 4 Renaissance zone exemption

Enter on this line the amount from Schedule RZ, Part 7, line 1c. **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 2022 tax year by 45% and enter the result on this line. See N.D.C.C. Ch. 57-38.5. **Attach a copy of the Qualified Seed Capital Business Investment Reporting Form. Or, if claiming a seed capital investment credit from a North Dakota Schedule K-1, attach a statement identifying the qualified business in which the investment was made.**

## 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 2022 tax year by 30% and enter the result on this line. The partnership is allowed no more than \$250,000 in total credits for investments made in tax years 2005 and after.

See N.D.C.C. Ch. 57-38.6. **Attach a copy of the Ag Commodity Processing Facility Investment Reporting Form. Or, if claiming an agricultural commodity processing facility investment credit from a North Dakota Schedule K-1, attach a statement identifying the facility in which the investment was made.**

**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. See N.D.C.C. § 57-38-01.22. **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. See N.D.C.C. § 57-38-01.23. **Attach a statement showing the calculation of the credit.**

**Line 12**  
**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 12a.** Enter the allowable credit on this line.

**Line 12b.** Enter the number of eligible interns employed during the 2022 tax year. Disregard this line if the credit is from a passthrough entity.

**Line 12c.** Enter on this line the total compensation paid to eligible interns during the 2022 tax year (as shown on their 2022 Form W-2s). Disregard this line if the credit is from a passthrough entity.

**Line 13**  
**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. **Attach a statement showing the computation of the base amount and the credit.**

**Line 14**  
**Endowment fund tax credit**  
A tax credit is allowed for making a contribution to a qualified endowment fund. For more information, see Schedule QEC (for filers of Forms 38, 40, 58, and 60) **Attach Schedule QEC.**

**Lines 14a and 14b.** Enter on these lines the applicable amounts from Schedule QEC.

**Lines 14c and 14d.** Enter on these lines an endowment fund credit and the related contribution amount shown on a North Dakota Schedule K-1 received from an estate, trust, partnership, or S corporation.

**Line 15**  
**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 15a.** Enter the allowable credit on this line.

**Line 15b.** Enter the number of eligible employees whose first 12 months of employment ended during the partnership's 2021 tax year.

**Line 15c.** Enter the total compensation paid to the eligible employees' during their first 12 consecutive months of employment ending in the partnership's 2021 tax year.

**Line 16**  
**Credit for wages paid to a mobilized employee**  
Enter on this line the amount from Schedule ME, line 13. N.D.C.C. § 57-38-31. **Attach Schedule ME.**

**Lines 17 through 19**  
**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 schools, high schools, and colleges located in North Dakota. A separate credit is allowed for each of the three categories of school—primary school, high school, and college. 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 list of the eligible schools within each of the three categories of schools is provided on page 14.**

**Election.** A partnership may elect, on a contribution by contribution basis, to treat a contribution as having been made during the 2022 tax year if it is made on or before the due date, including extensions, for filing the 2022 Form 58. Make the election by attaching to the return a document containing the following:

1. A statement that the election is being made.
2. Name of qualifying school.
3. Date of contribution.
4. Amount of contribution.

To qualify, a contribution must be made directly to, or specifically designated for the exclusive use of, a qualifying school.

#### **School network or organization.**

If a contribution is made payable to the account or fund of a school network or organization that governs or benefits multiple schools, the contribution will qualify only if the partnership specifically designates it for the use of a qualifying school, and the network or organization separately accounts for the funds on behalf of that school. The partnership must obtain a statement from the network or organization that identifies the qualifying school and the amount contributed to it. If the qualifying school falls into both the primary and high school categories, also see the next paragraph.

**Schools in both primary and high school categories.** 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 high school category (9th through 12th grades), a separate credit is allowed for the portion of the contribution designated for use within each school category. The partnership must obtain a statement from the qualifying school or the school network or organization that identifies the qualifying school and shows the amount contributed within each category of school. If the partnership does not obtain a statement, one-half of the total contribution will be deemed to have been made to each category of school.

**Line 17.** Enter on this line the allowable credit for contributions to qualified nonprofit private primary schools.

**Line 18.** Enter on this line the allowable credit for contributions to qualified nonprofit private high schools.

**Line 19.** Enter on this line the allowable credit for contributions to qualified nonprofit private colleges.

#### **Line 20**

##### **Angel investor investment credit**

**Important! This line is only for credits attributable to investments made in qualified businesses by angel funds organized and certified on or after July 1, 2017.**

If a partnership is a member of a North Dakota angel fund that is organized and certified on or after July 1, 2017, a credit is allowed to the partnership if it participates in a qualified investment made by the angel fund in a qualified business. The angel fund is required to provide a Participating Angel Investor Statement to the partnership, which evidences the partnership's investment. For qualified investments made after June 30, 2017, that fall into the partnership's 2022 tax year, multiply the investment amount by the applicable credit rate shown on the statement. If a partnership participates in more than one qualified investment during the tax year, calculate the credit separately for each Participating Angel Investor Statement received and add the separately calculated amounts.

Enter the credit amount on this line. **Do not enter on this line an angel investor credit from a North Dakota Schedule K-1.**

A partnership is not allowed to claim an angel investor credit from another passthrough entity. See N.D.C.C. § 57-38-01.26 (effective for investments made after June 30, 2017).

**Attach a copy of the Participating Angel Investor Investment Statement.**

#### **Line 21**

##### **Automation tax credit**

**Important! This line only applies to the automation income tax credit program in effect for the 2019 through 2022 tax years.**

If the partnership qualified for the automation tax credit under N.D.C.C. § 57-38-01.36, enter on this line the amount of the credit shown on the

credit approval letter issued to the partnership by the North Dakota Office of State Tax Commissioner.

#### **Line 22**

##### **Credit for hiring an individual with a developmental disability or mental illness**

A tax credit is available for employing an individual with a developmental disability or mental illness. To qualify, an employer must apply for and obtain certification from the North Dakota Department of Human Services, Vocational Rehabilitation Division, that the individual has a severe disability, is eligible for the agency's services, and requires customized or supported employment to become employed. The credit is equal to 25% of the wages paid to the individual during the tax year, up to a maximum credit of \$1,500 per year. The credit is allowed for each eligible individual hired. **Attach a copy of the certification letter from Human Services.**

#### **Line 23**

##### **Professional service partnership guaranteed payments**

Lines 23a through 23c apply only if the partnership marked "Yes" to Item H on page 1 of Form 58. See the instructions to Form 58, page 1, Item H, on page 5.

**Line 23a.** Enter the total guaranteed payments from Federal Form 1065, Schedule K, line 4.

**Line 23b.** Enter the portion of the amount on line 24a 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 23c.** Enter the portion of the amount on line 23b that was made to nonresident individual partners for personal services performed within North Dakota.

#### **Line 24**

##### **Allocable nonbusiness income**

Lines 24a and 24b 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, on page 10 for more information. In addition to completing lines 24a and 24b, 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.

### Worksheet for Schedule KP, Column 6

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

**Line 24a.** Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

**Line 24b.** Enter the portion of the amount on line 24a that is allocable to North Dakota.

### Line 25 Disposition of I.R.C. Section 179 property

Lines 25a through 25d 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 24.

For lines 25a through 25d, 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 24.

## 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.....           | <b>I</b> |
| C corporation.....        | <b>C</b> |
| S corporation.....        | <b>S</b> |
| Partnership.....          | <b>P</b> |
| Estate.....               | <b>E</b> |
| Trust.....                | <b>T</b> |
| Exempt organization ..... | <b>O</b> |

**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**

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 4c** Total 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.

### **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 **Worksheet for Schedule KP, Column 6** on this page 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 5 for more information.
- The partnership has an item of nonbusiness income subject to allocation. See the instructions to Form 58, Schedule K, line 24, on page 9 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 5 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 3 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 through 12 on page 1 of Form 58.

#### Line 4 Income tax withholding

Enter the North Dakota income tax withholding shown on a 2022 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 2021 North Dakota Schedule K-1 if the entity that issued it has a fiscal tax year ending in the partnership's 2022 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 2022 Forms 58-EXT and 58-ES plus any overpayment applied from the 2021 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 2023

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 2023 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 by 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 filed after its due date (or extended due date), and there is an unpaid tax due on it, a penalty equal to 5% of the unpaid tax due (with a \$5.00 minimum) applies for the month the return was due, plus 5% of the unpaid tax due (with a \$5.00 minimum) for each month or fraction of a month the return remains unfiled, not to exceed the greater of 25% of the unpaid tax due or \$25.00.

**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 an electronic check or a debit or credit card. The electronic check option is free. North Dakota contracts with a national payment service to provide the debit or credit card option. There is a fee for the debit or credit option, none of which goes to the State of North Dakota. To pay online, go to **[www.tax.nd.gov/payment](http://www.tax.nd.gov/payment)**.
- **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, go to our website at **[www.tax.nd.gov](http://www.tax.nd.gov)**.

If paying with a paper check or money order, complete a 2022 Form 58-PV payment voucher and enclose it with the payment. Make the check or money order payable to "ND State Tax Commissioner," and write the last four digits of the partnership's FEIN and "2022 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. In the case of certain credits



reported on Schedule K-1 (Form 58), additional supporting information must be provided with Schedule K-1 — see the instructions to Part 3.

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 22, 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 22, 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 Form 58, the partnership 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 an eligible 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 22, 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 22

Enter on the corresponding lines the partner's share of each amount shown on Form 58, Schedule K, lines 7 through 22. Also, for the following lines, additional supporting information must be provided with Schedule K-1:

**Lines 8 and 9.** Provide a statement identifying the qualified business or qualified agricultural commodity processing facility in which the qualifying investment was made.

**Line 15.** Provide a statement identifying the qualified nonprofit organization and the qualified endowment fund to which the qualifying contribution was made.

**Line 21.** Provide a statement identifying the angel fund that made the qualified investment in the qualified business.

## 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 23 Partnership's apportionment factor

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

### Lines 24 through 37 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 24 through 37.

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.

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 27 (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 24 through 37 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 28.

## 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 38 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 39 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 40  
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 42 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 43 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 2022 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 2023 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. All other required North Dakota schedules and forms (other than North Dakota Schedule K-1 forms).
6. North Dakota Schedule K-1 forms.
7. Required supporting statements.
8. Complete copy of Form 1065 (or 1065-B) including Federal Schedule K-1 forms.

A balance due may be paid electronically (see page 12 of these instructions). If paying with a paper check, enclose the check and a 2022 Form 58-PV payment voucher with the return.

### Qualified nonprofit private schools (for Form 58, Schedule K, lines 17 through 19)

For purposes of the credits on Form 58, Schedule K, lines 17 through 19, the following lists the qualifying schools in each school category. (Note: These lists are subject to change.)

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

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

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

|                                                   |                                                |
|---------------------------------------------------|------------------------------------------------|
| Anne Carlsen Center (Jamestown)                   | Our Redeemer's Christian School (Minot)        |
| Bishop Ryan Catholic School (Minot)               | Prairie Learning Education Center (Raleigh)    |
| Dakota Adventist Academy (Bismarck)               | School of the Holy Family (Mandan)             |
| Dakota Memorial School (Minot)                    | 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)       |
| New Testament Baptist Christian School (Larimore) | Trinity Jr/High School (Dickinson)             |
| Oak Grove Lutheran Middle/High School (Fargo)     | Williston Trinity Christian School (Williston) |

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

|                                              |                                            |
|----------------------------------------------|--------------------------------------------|
| Jamestown College (Jamestown)                | United Tribes Technical College (Bismarck) |
| Trinity Bible College (Ellendale)            | University of Mary (Bismarck)              |
| Turtle Mountain Community College (Belcourt) | ND Independent College Fund (Bismarck)     |