

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**ACTIVE TRADE OR BUSINESS INCOME
REDUCED RATE COMPUTATION**

Complete one I-335 for each return

I-335

(Rev. 3/21/23)
3410

2023**dor.sc.gov**

Attach I-335 and all supporting Worksheets to SC1040 or SC1041

For the year January 1 - December 31, 2023, or fiscal tax year beginning

2023 and ending

2024

Your name

Your SSN

Spouse's name

Spouse's SSN

- 1a. Amount from Worksheet 1, line 3 1a. \$ _____ .00
- 1b. Total of amounts from each Worksheet 2, line 22, Column C 1b. \$ _____ .00
- 1c. Add line 1a and line 1b. 1c. \$ _____ .00
- 2a. Any adjustments necessary because of at-risk rules, South Carolina net operating losses,
and/or passive activity losses. Enter in brackets if negative. 2a. \$ _____ .00
- 2b. Deductible part of self-employment tax from your federal return on partnership income related
to South Carolina. Do not include the amount from Worksheet 1, line 2 2b. \$ _____ .00
- 2c. Subtract line 2b from line 2a. Enter in brackets if negative 2c. \$ _____ .00
3. Add line 1c and line 2c. If zero or negative, stop 3. \$ _____ .00
4. Amounts reasonably related to personal services of the taxpayer, the taxpayer's spouse, or
any person claimed as a dependent on the taxpayer's Income Tax return. Do
not include amounts from W-2s or guaranteed payments for personal services 4. \$ _____ .00
- ☐ Check here if using Safe Harbor. See instructions for Safe Harbor amount to use.
5. Subtract line 4 from line 3. If greater than zero, enter on SC1040, line I; Schedule NR,
line 39; or SC1041, Part I, line 2d. 5. \$ _____ .00
6. Amounts taxed at entity level (from SC K-1s). 6. \$ _____ .00
7. Subtract line 6 from line 5. If zero or negative, stop 7. \$ _____ .00
8. Tax Year 2023 rate on qualifying active trade or business income 8. **3% (.03)**
9. Tax on active trade or business income (multiply line 7 by line 8) 9. \$ _____ .00
Enter here and on SC1040, line 8 or on SC1041, line 9

Note: A taxpayer may decide annually to have eligible active trade or business income taxed at the reduced rate under SC Code Section 12-6-545 or continue to use the standard graduated 0% to 6.4% rates under SC Code Section 12-6-510 to compute South Carolina tax. For taxpayers filing a joint return, the election is effective for both taxpayers. SC Code Sections are available at **dor.sc.gov/policy**.

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
WORKSHEET 1
PASS-THROUGH INCOME FROM
A SOLE PROPRIETORSHIP

Complete one Worksheet 1 for all Schedules C, C-EZ, and F
Attach Worksheet 1 to your return

I-335A

(Rev. 3/21/23)
3421

2023**dor.sc.gov**

For the year January 1 - December 31, 2023, or fiscal tax year beginning

2023 and ending

2024

Your name

Your SSN

Spouse's name

Spouse's SSN

To use the flat tax rate on active trade or business income, an individual, estate, or trust with pass-through income from one or more Sole Proprietorships or Single-Member LLCs not taxed as corporations must complete Worksheet 1.

Complete only one Worksheet 1 for all federal Schedules C, C-EZ, and F.

1. South Carolina net profit (loss) from all federal Schedules C, C-EZ, and F1. \$ _____ .00
2. Deductible part of self-employment tax related to line 1. Enter the amount
from the federal 1040 if all business income is taxable to South Carolina2. \$ _____ .00
3. Subtract line 2 from line 1 and enter here and on I-335, line 1a3. \$ _____ .00

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
WORKSHEET 2
PASS-THROUGH INCOME FROM A PARTNERSHIP
OR S CORPORATION
Complete a separate Worksheet 2 for each SC K-1
Attach each Worksheet 2 to your return

I-335B(Rev. 3/21/23)
3422**2023**

dor.sc.gov

For the year January 1 - December 31, 2023, or fiscal tax year beginning

2023 and ending

2024

Your name

Your SSN

Spouse's name

Spouse's SSN

To use the flat rate on active trade or business income, an individual, estate, or trust with pass-through income from one or more Partnerships, S Corporations, or LLCs taxed as Partnerships or S Corporations must complete a separate Worksheet 2 for each Partnership, S Corporation, or LLC.

Complete a separate Worksheet 2 for each SC K-1.

Name of business:	Column A Federal K-1 amounts	Column B SC K-1 amounts	Column C SC active trade or business amounts
1. Ordinary business income (loss)			1.
2. Net rental real estate income (loss)			2.
3. Other net rental income (loss)			3.
4. Guaranteed payments*			4.
5. Interest income			5.
6. Ordinary/qualified dividends			
7. Royalties			7.
8. Net short-term capital gain (loss)			
9a. Net long-term capital gain (loss)			
9b. Collectibles (28%) gain (loss)			
9c. Unrecaptured section 1250 gain			
10. Net section 1231 gain (loss)			10.
11. Other income (loss)			11.
12. Section 179 deduction			12. ()
13. Other deductions			
14. Self-employment earnings (loss)*			
15. Credits			
16. Foreign transactions			16.
17. Alternative minimum tax (AMT) items			
18. Tax exempt income and nondeductible expenses*			
19. Distributions*			
20. Items affecting shareholder basis**			
21. Other information			
22. Total of Column C			22.

Worksheet 2 combines elements of federal K-1s for the 1065 and the 1120-S.

* Items on the 1065, Schedule K-1 but not on the 1120-S, Schedule K-1.

** Items on the 1120-S, Schedule K-1 but not on the 1065, Schedule K-1.

Ownership Interest: _____%

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INSTRUCTIONS

An individual, estate, or trust receiving income from one or more pass-through businesses can choose to have active trade or business income taxed at a flat Income Tax rate instead of the graduated Income Tax rate that applies to ordinary income. The I-335 is used to identify active trade or business income and calculate the tax.

Taxpayers can decide each year whether or not to use the flat rate. The choice applies to both spouses when filing a joint return.

South Carolina taxable income of an individual, estate, or trust is taxed at a graduated rate. The rate begins at 0% and increases to as much as 6.4%. See SC Code Section 12-6-510, available at dor.sc.gov/policy, for more information.

An individual, estate, or trust can choose instead to use a flat tax rate on active trade or business income from pass-through businesses. The flat rate is 3% for tax years beginning after 2013. A pass-through business is a Sole Proprietorship, Partnership, S Corporation, or LLC taxed as a Sole Proprietorship, Partnership, or S Corporation. See SC Code Section 12-6-545, available at dor.sc.gov/policy, for more information.

For tax year 2023, a taxpayer with South Carolina taxable income less than or equal to \$16,680 cannot benefit from the 3% rate for active trade or business income because the highest graduated tax rate for income less than or equal to \$16,680 is 3%. This does not apply to Partnership partners, S Corporation shareholders, or LLC members who would otherwise pay a flat 6.4% tax. **Do not complete the I-335 if your South Carolina taxable income is less than or equal to \$16,680.**

Active trade or business income or loss does not include passive investment income or expenses related to passive investment, capital gains or losses, guaranteed payments for personal services, or amounts reasonably related to personal services.

A Safe Harbor is available if your total South Carolina taxable income from pass-through entities for which you perform personal services is \$100,000 or less, excluding capital gains and losses. A taxpayer who qualifies for the Safe Harbor can use the Safe Harbor amount as active trade or business income without having to determine the actual amount of personal service income.

A composite return is filed by a pass-through business on behalf of nonresident individuals, trusts, or estates who are partners, shareholders, or members. The partner, shareholder, or member – not the pass-through business – decides whether or not to use the Safe Harbor on a composite return. Any person who has South Carolina income from other sources cannot use the Safe Harbor on a composite return. If the partner, shareholder, or member does not provide an I-338, Composite Return Affidavit, stating they have no other South Carolina income, they can use the flat tax rate on active trade or business income, but cannot take the federal standard or itemized deductions into account.

A shareholder, partner, or member participating in a composite return can choose to report the same income on their Individual Income Tax return (where they may elect to use the Safe Harbor) and take a credit for any tax paid on their behalf on the composite return. Attach the 1099-MISC **for SC purposes only** received from the pass-through business.

Tax credits that can be used against the graduated Income Tax normally imposed on individuals, trusts, and estates also can be used against the optional flat tax available for active trade or business income.

Beginning with the 2021 tax year, a qualified partnership, S Corporation, or LLC can elect to pay the 3% Income Tax on its active trade or business income at the entity level. Electing passthrough entities use the I-435 to calculate their South Carolina active trade or business income and report the tax on the SC1065 or SC1120S. Entities use the SC K-1s to report to their partners, shareholders, or members the amount of South Carolina active trade or business income taxed at the entity level. For more information, see **SC Revenue Ruling #21-15 and SC Revenue Ruling #22-5**, available at dor.sc.gov/policy.

Use Worksheets 1 and 2 to identify pass-through income and remove passive investment income, expenses related to passive investment, capital gain, capital losses, and guaranteed payments for personal service. Complete one Worksheet 1 for all South Carolina pass-through income from one or more Sole Proprietorships or Single Member LLCs not taxed as a C Corporation. This income is shown on the federal Schedules C, C-EZ, and F. If you have pass-through income from one or more Partnerships, S Corporations, or LLCs taxed as Partnerships or S Corporations, complete a separate Worksheet 2 for each SC K-1 received.

Instructions for Worksheet 1

Line 1: Net profit (loss)

Enter the total of South Carolina net profit (loss) amounts from federal Schedule C, Schedule C-EZ, and Schedule F.

Line 2: Self-employment tax

Enter the amount of deductible self-employment tax from the federal 1040 that applies to line 1. The entire amount applies unless one or more of the Schedules C and F are from a multi-state business or business not taxable to South Carolina.

Line 3: Total income from Schedules C, C-EZ, and F

Subtract line 2 from line 1. Enter this amount on I-335, line 1a.

Instructions for Worksheet 2

Enter amounts from the federal K-1 in Column A. Enter amounts from the SC K-1 in Column B. Enter South Carolina active trade or business amounts in Column C. Do not enter in Column C any capital gains or losses or passive investment income or losses. Include South Carolina active trade or business amounts that were taxed at the entity level, but do not enter an amount in Column C greater than the total South Carolina income (loss) amount shown in Column B.

Line 1: Ordinary business income (loss)

In Column C, enter amounts from Column B that are not capital gains or losses or passive investment income or losses.

Line 2 and Line 3: Net rental real estate income (loss)/other net rental income (loss)

In Column C, enter from Column B only rental income from the active trade or business of renting property if, based on all the facts and circumstances, the pass-through business either provides significant services or has substantial expenses in the rental business. The determination is based in part on the number of people employed to provide services and the types and amounts of expenses, other than depreciation. Examples of qualifying rents are those from operating a hotel or a short-term car rental business. See IRC Section 1362(d) and applicable regulations for more information.

Line 4: Guaranteed payments (from partnerships)

In Column C, enter Column B guaranteed payments for use of capital that are not passive investment income. Do not include guaranteed payments for services.

Line 5: Interest income

Interest income is considered passive income and is not included in Column C unless it results from the sale of:

- stock in trade
- inventory
- property held for sale to customers in the ordinary course of trade or business
- services performed in the ordinary course of trade or business

Line 6: Ordinary/qualified dividends

Dividends are not included in active trade or business income or loss because they are passive investment income.

Line 7: Royalties

Royalties are considered passive investment income and are not included in Column C unless they are from the ordinary course of a trade or business of franchising or licensing property, or are active business computer software royalties as defined in IRC Section 543(d).

Line 8 through line 9c: Net short-term and long-term capital gains (losses), collectibles (28%) gain (loss), and unrecaptured section 1250 gain

Active trade or business income or loss does not include these amounts.

Line 10: Net section 1231 gain (loss)

After determining if gains and losses are capital, enter in Column C the net of ordinary gains and losses, but not capital gains or losses.

Line 11: Other income (loss)

In Column C, do not enter Column B capital gains or losses or passive investment income or losses.

Line 12: Section 179 deduction

In Column C, enter amounts from Column B that are not capital gains or losses or passive investment income or losses.

Line 13, Line 14, and Line 15: Other deductions, self-employment earnings (loss), and credits

Active trade or business income or loss does not include these amounts.

Line 16: Foreign transactions

In Column C, adjust for any Column B foreign income exclusion if it:

- increases or decreases active trade or business income, and
- affects taxable income that is not passive investment income or expenses related to passive investment income

Line 17 through Line 21: Alternative minimum tax (AMT) items, tax exempt income and nondeductible expenses, distributions, items affecting shareholder basis, and other information

Active trade or business income or loss does not include these amounts.

Line 22: Total of Column C

Include all amounts from each Worksheet 2, line 22 on I-335, line 1b.

Instructions for I-335**Line 1: Totals from Worksheets**

Line 1a: Enter the total from line 3 of Worksheet 1.

Line 1b: Enter the total of all amounts from each Worksheet 2, line 22, Column C.

Line 1c: Enter the total of line 1a and line 1b.

Line 2: Adjustments and deductible part of self-employment tax

Line 2a: An adjustment may be required in determining the amount subject to the reduced rate. The adjustment may be positive or negative.

An example of a positive adjustment is a current year South Carolina suspended loss flowing through from a pass-through business that the taxpayer is not allowed to use because:

- the taxpayer does not have basis,
- the taxpayer does not have sufficient at-risk amounts, or
- the loss is a passive activity loss under IRC Section 469.

Examples of negative adjustments are:

- previously suspended losses from a pass-through business that the taxpayer is now allowed to use because the taxpayer now has basis or is at risk, or
- a net operating loss carryforward from ownership of a Sole Proprietorship that the taxpayer may now use, if the losses carried forward are South Carolina active trade or business losses.

Enter brackets around the adjustment on line 2a if the adjustment is a negative amount. Enter 0 on line 2a if no adjustments are necessary.

Line 2b: The deductible part of self-employment tax is a business expense. Enter the amount from your federal 1040 attributable to income from a Partnership or LLC taxed as a Partnership and related to South Carolina. Do not include the amount already included on Worksheet 1, line 2.

Line 2c: Subtract line 2b from line 2a.

Line 3: Totals after adjustments

If the adjustment in line 2c is positive, add line 1c and line 2c. If the adjustment in line 2c is negative, subtract line 2c from line 1c.

Line 4: Amounts reasonably related to personal services

Enter amounts reasonably related to personal services of you, your spouse, and any dependent you claimed on your Income Tax return. Do not include amounts from W-2s or guaranteed payments for personal services. For more information, see **SC Revenue Ruling #08-2** or superseding advisory opinion, available at dor.sc.gov/policy.

If you qualify and choose to use the Safe Harbor, you may use 50% of your qualifying income as being not reasonably related to personal services instead of identifying the actual amount related to personal services. See the Rules for Using Safe Harbor below.

Check the box if you elect to use the Safe Harbor. On line 4, enter 50% of the income received from pass through businesses for which you performed personal services.

Line 5: Active trade or business income deduction

Subtract line 4 from line 3 and enter on line 5. If the amount is greater than zero, enter the amount as a deduction on the appropriate line on SC1040, Schedule NR, or SC1041, whichever applies. Do not proceed if the result is zero or negative. You have no income to be taxed at the flat rate and all your income will be taxed at the graduated rate.

Line 6: Amounts taxed at entity level

Enter the total amount of active trade or business income taxed at the entity level.

If you're a partner in a Partnership, you can find this amount on line 14 of your SC1065 K-1. If you're a shareholder of an S Corporation, you can find this amount on line 13 of your SC1120S K-1.

Line 7: Taxable active trade or business income

Subtract line 6 from line 5. If the result is zero or negative, stop. You do not have any active trade or business income to be taxed on your SC1040 or SC1041 at the flat rate.

Line 8: Tax rate for active trade or business income

The flat tax rate on active trade or business income is 3%.

Line 9: Tax on active trade or business income

Multiply the amount on line 7 by the tax rate on line 8. Enter on line 9 and on SC1040, line 8, or on SC1041, line 9.

Rules for using Safe Harbor

If you qualify and use the Safe Harbor, you can choose to claim 50% of your qualifying income as being not reasonably related to personal services instead of identifying the actual amount related to personal services. A decision to use the Safe Harbor applies to both spouses filing a joint return. For more information and examples on how to calculate the Safe Harbor method, see **SC Revenue Ruling #08-2** or superseding advisory opinion, available at dor.sc.gov/policy.

Step 1: Determine if the Safe Harbor is available.

To claim the Safe Harbor, your total South Carolina taxable income from pass-through entities for which you perform personal services must be \$100,000 or less, excluding capital gains and losses. Eligibility for married couples filing a joint return is determined by their combined income.

Step 2: Computation of personal service income and Safe Harbor.

Once you determine that the Safe Harbor is available in Step 1, then you can determine the amount of the Safe Harbor before deciding whether or not to use it. Do not include Schedule C, Schedule F, SC K-1s with losses, or SC K-1s from interests where no personal services are performed. Do not include personal service income from an entity in any amount greater than the amount of pass-through taxable income from that entity.

Social Security Privacy Act Disclosure

It is mandatory that you provide your Social Security Number on this tax form if you are an individual taxpayer. 42 U.S.C. 405(c)(2)(C)(i) permits a state to use an individual's Social Security Number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SCDOR must provide identifying numbers, as prescribed, for securing proper identification. Your Social Security Number is used for identification purposes.

The Family Privacy Protection Act

Under the Family Privacy Protection Act, the collection of personal information from citizens by the SCDOR is limited to the information necessary for the SCDOR to fulfill its statutory duties. In most instances, once this information is collected by the SCDOR, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.