

S Corporation Form M8 Instructions 2012

What's New for 2012

Factor Percentages have Changed

The property, payroll and sales factors on Schedule M8A have changed. Property and payroll factors have changed from 5% to 3.5%. The sales factor has changed from 90% to 93%. This is effective for tax year 2012 only.

Check Boxes on Form M3 have Changed

The order of the check boxes on Form M8 has changed from previous years. See *Check Boxes* on page 4 for definitions and instructions.

S Corporation Information

Website

www.revenue.state.mn.us

Phone

651-556-3075
(TTY: 711 Minnesota Relay)

Email

businessincome.tax@state.mn.us

We provide our publications in other formats upon request to persons with disabilities.

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Filing Requirements

Corporations doing business in Minnesota that have elected to be taxed as S corporations under section 1362 of the Internal Revenue Code (IRC) must file Form M8.

Who Must File

Any corporation with a valid federal election under IRC section 1362 is considered an S corporation for Minnesota purposes.

The entire share of an entity's income is taxed to the shareholder, whether or not it is actually distributed. Each shareholder must include their share of income on their tax return. However, the S corporation taxes and minimum fee are paid by the entity.

A C corporation is required to file Form M4, *Minnesota Corporation Franchise Tax*, instead of Form M8.

Minimum Fee

An S corporation is subject to a minimum fee if the sum of its Minnesota source property, payroll and sales or receipts is at least \$500,000. However, the S corporation is exempt from the minimum fee if the S corporation is a qualified business participating in a Job Opportunity Building Zone (JOBZ) in Minnesota and all of its property and payroll are within the zone.

The minimum fee is computed on M8A, which is on page 2 of Form M8.

File Electronically

Options are available to electronically prepare and file your S corporation tax return. Electronic filing is a secure, fast and easy way to file. For more information, go to our website at www.revenue.state.mn.us.

Before You File

Complete Your Federal Return

Before you complete Form M8, complete federal Form 1120S and supporting schedules. You will need to reference them.

Minnesota Tax ID Number

Your Minnesota tax ID is the seven-digit number you're assigned when you register with the department. Generally, this is the same as your sales and use tax or Minnesota employer's withholding tax number.

It's important to include your Minnesota tax ID on your return so that any payments you make are properly credited to your account.

If you don't have a Minnesota tax ID, apply for one online at www.revenue.state.mn.us or call 651-282-5225 or 1-800-657-3605.

Due Date

File your return and pay the taxes payable as soon as possible after the end of the tax year, but no later than the due date for filing your federal income tax return.

Generally, the due date is:

- Calendar year returns: March 15, 2013, or
- Fiscal year returns: the 15th day of the third month after the end of your tax year.

If the due date falls on a weekend or legal holiday, returns and payments electronically made or postmarked on the next business day are considered timely.

Extension of Time to File

All S corporations are granted an automatic six-month extension to file Form M8, if the tax payable for the year is paid by the regular due date.

However, if the IRS grants an extension of time to file your federal return that is longer than the Minnesota automatic six-month extension, your state filing due date is extended to the federal due date.

This is a filing extension only. To avoid penalties, you must make an extension tax payment by the regular due date. See *Extension Payment* on the next page for details.

Payments

There are four types of tax payments an S corporation can make — extension, estimated tax, tax return and amended return payments. You can pay electronically, by credit or debit card or by check. (See Payment Options on page 2.)

Note: *If you're currently paying electronically using the ACH credit method, continue to call your bank as usual. If you wish to make payments using the ACH credit method, instructions are available on our website at www.revenue.state.mn.us.*

Continued

General Information (continued)

Extension Payment

Your tax is due by the regular due date, even if you are filing under an extension. Any tax not paid by the regular due date is subject to penalties and interest (see lines 16 and 17 on page 5).

If you're filing after the regular due date, you can avoid penalties and interest by making an extension payment by the regular due date. See *Payment Options* on this page. If you're paying by check, send a completed Form PV81 along with your payment.

Estimated Tax Payments

An S corporation must make quarterly estimated tax payments if the sum of its estimated S corporation taxes, minimum fee, nonresident withholding and composite income tax for all nonresident shareholders electing to participate in composite income tax, less any credits, is \$500 or more.

Payments are due by the 15th day of the fourth, sixth and ninth months of the tax year and the first month following the end of the tax year. If the due date lands on a weekend or legal holiday, payments electronically made or postmarked the next business day are considered timely.

If estimated tax is required for the S corporation taxes/minimum fee, composite income tax, and/or nonresident withholding, include all in the same quarterly payments.

To make an estimated payment, see *Payment Options* above. If you're paying by check, send a completed Form M72 with your payment.

For additional information, see the *S Corporation Estimated Tax instructions*.

Tax Return Payment

If line 19 of Form M8 shows an amount due, you must make a tax return payment (see *Payment Options* above). If you're not required to pay electronically, you may pay by check and send a completed Form PV40 along with your payment.

Penalties and Interest

Late Payment. A late payment penalty is assessed on any tax not paid by the regular due date. The penalty is 6 percent of the unpaid tax.

If you file your return after the regular due date with a balance due, an additional 5 percent penalty will be assessed on the unpaid tax.

Payment Options

If you're required to pay any Minnesota business tax electronically, you must pay all taxes electronically. A 5 percent penalty will be assessed if you fail to do so when required.

■ Pay Electronically Using e-Services

- To pay online—go to www.revenue.state.mn.us and log in to e-Services; or
- To pay by phone—call **1-800-570-3329**.

Both options are free. To be timely, complete your transaction and receive a confirmation number on or before the due date for that payment. When paying electronically, you must use an account not associated with any foreign banks.

■ Pay by Credit or Debit Card

For a fee, you can use your credit or debit card to make a payment through Value Payment Systems, a national company that partners with federal, state and local governments to provide credit and debit card payment services.

To do so:

- Go to payMNTax.com; or
- Call **1-855-9-IPAY-MN**.

The Department of Revenue does not have any financial agreement with Value Payment Systems and does not receive any of its fees.

■ Pay by Check

When making the following payments by check: you must attach Form:

Tax return payment (taxes payable on M8)	PV40
Extension payment	PV81
Estimated tax payments	M72
Amended return payment (taxes payable on M8X)	PV65

Payment instruction can be found on the corresponding form (PV40, PV81, M72 or PV65). Your check authorizes us to make a one-time electronic funds transfer from your account. You may not receive your canceled check.

Forms are available from our website at www.revenue.state.mn.us.

Late Filing. There is also a penalty if you file after the extended due date and owe tax. The late filing penalty is 5 percent of any tax not paid by the regular due date.

Interest. You must also pay interest on the penalty and tax you are sending in late. The interest rate for 2013 is 3 percent.

Other Penalties. There are also civil and criminal penalties for intentionally failing to file a Minnesota return, evading tax and for filing a frivolous, false or fraudulent return.

Filing Reminders

Accounting Period

You must use the same accounting period for Minnesota as you use for your federal return. If you change your federal accounting period, attach a copy of federal Form 1128, *Application to Adopt, Change or Retain a Tax Year*, to your short-period Minnesota return.

Composite Income Tax

An S corporation may pay composite Minnesota income tax on behalf of its nonresident shareholders who elect to be included in lieu of each shareholder filing his or her own Minnesota return. The electing individuals must not have any Minnesota source income other than the income from this S corporation and other entities electing composite filing.

If you are paying composite income tax for your electing shareholders, check the box for composite income tax on the front of Form M8 and see the line 3 instructions on page 4.

Nonresidents included in the composite income tax are not subject to the nonresident withholding requirements (see the next section).

Continued

General Information (continued)

Nonresident Withholding

S corporations are required to withhold Minnesota income tax for a nonresident shareholder if the shareholder:

- has a legal residence that is not Minnesota;
- is not included in composite income tax;
- has Minnesota distributive income of \$1,000 or more from this S corporation; and
- has income that was not generated by a transaction related to the termination or liquidation of the S corporation in which no cash or property was distributed in the current or prior taxable year.

If you are required to pay nonresident withholding, see the line 4 instructions on page 4.

Nonresident Entertainers: Compensation paid to a nonresident entertainment entity for performances in Minnesota is not subject to Minnesota income tax. Instead, the compensation is subject to a 2 percent withholding tax on the gross compensation the entertainment entity receives for performances in Minnesota.

An S corporation is an entertainment entity if it is paid compensation for entertainment provided by entertainers who are shareholders. An entertainer includes, for example, a musician, singer, dancer, comedian, thespian, athlete or public speaker. If you are defined by law as an entertainment entity, file Form ETR, *Nonresident Entertainer Tax Return*, by April 15 of the following year the income was reported. For additional information, see Withholding Fact Sheet 11, *Nonresident Entertainer Tax*.

If you are an entertainment entity that received compensation for performances in Minnesota and have no other type of Minnesota income, you are not required to file Form M8.

Use of Information

All information on this form is private, except for your Minnesota tax ID number, which is public. Private information cannot be given to others except as provided by state law.

The identity and income information of the shareholders are required under state law so the department can determine the shareholder's correct Minnesota taxable income and verify if the shareholder has filed a return and paid the tax. The Social Security numbers of the shareholders are required under M.S. 289A.12, subd. 13.

Assembling Paper Returns

Arrange your Minnesota schedules in the order they were completed and place them behind your Form M8. Then place your federal return and its schedules behind the Minnesota material. **Do not staple or tape any enclosures to your return.**

Where to File Paper Returns

Mail your Form M8 and all completed Minnesota and federal forms and schedules using a mailing label (below).

If you do not use the label, mail your forms to:

Minnesota S Corporation Income Tax
Mail Station 1770
St. Paul, MN 55145-1770

Reporting Federal Changes

If the Internal Revenue Service (IRS) changes or audits your federal return or you amend your federal return and it affects your Minnesota return or the federal Schedules K-1, you must amend your Minnesota return. File your Form M8X within 180 days after you were notified by the IRS or after you filed your federal amended return.

Annual Reporting of All JOBZ Tax Benefits

Each qualified business participating in a JOBZ zone is required to annually file two forms with the Department of Revenue that are in addition to and separate from the qualified business's tax return.

1. By Oct. 15, 2012, each qualified business must file Form M500, *JOBZ Tax Benefit Report*, to report the amount of taxes the business would have paid in 2011 had it not been in a JOBZ zone.
2. By Oct. 15, 2012, each qualified business must file Form JOBZ1, *Certification of JOBZ Compliance with Business Subsidy Agreement*, to certify to the department that it is in compliance with the terms of its business subsidy agreement.

Failure to submit either of these reports will result in the business being removed from the JOBZ program.

Enclose a copy of the IRS report or your amended federal return with your amended Minnesota return.

If the changes do not affect your Minnesota return or Schedule K-1, you have 180 days to send a letter of explanation to the department. Send your letter and a complete copy of your amended federal return or the correction notice to:

Minnesota S Corporation Tax
Mail Station 5170
St. Paul, MN 55146-5170

If you fail to report as required, a 10 percent penalty will be assessed on any additional tax.

Use a Mailing Label if Filing a Paper Return

Use this mailing label on your own envelope to mail your Form M8 and attachments. (Cut on the dotted line and tape to your envelope.)



MINNESOTA • REVENUE
S Corporation Tax
Mail Station 1770
St. Paul, Minnesota 55145-1770

Completing Form M8

Before you complete Form M8, you must complete the following; you will need to reference them:

- federal Form 1120S and supporting schedules, and
- Schedule KS for each nonresident shareholder and to any Minnesota shareholder who has adjustments to income (see page 10).

Check Boxes

Initial Return

If this is the S corporation's first return filed in Minnesota, check the box on the front of the form.

Composite Income Tax

If you are paying composite income tax for your electing shareholders, check the box for composite income tax on the front of your return and see the instructions for line 3.

Financial Institutions

If you are a financial institution electing to be taxed as an S corporation for federal purposes, check the box on the front of the form.

Qualified Subchapter S Subsidiary (QSSS)

If you are including a qualified subchapter S subsidiary (QSSS) on this return, check the box on the front of your Form M8.

If the parent S corporation has nexus with Minnesota, you must use the parent's federal and state ID number. If the parent does not have nexus, file Form M8 under the federal and state ID numbers of a QSSS with nexus in Minnesota. In any event, a complete copy of the federal Form 1120S must be included with the Minnesota return.

See *Three-Factor Formula for QSSS Filers* on page 7 for more information.

Qualified Business Participating in a JOBZ Zone

If you are a qualified business participating in a JOBZ zone in Minnesota and all of your property and payroll are within the zone, you are not required to pay a minimum fee. Check the box on the front of Form M8.

Out of Business (final return)

If the S corporation is out of business and/or is not required to file Form M8 in future years, check the "Out of Business" box on the front of the form.

If you checked the "technical termination" box on your federal Form 1120S, you must attach a copy of your federal return to your Form M8.

Line Instructions

Round amounts to whole dollars. Decrease amounts less than 50 cents and increase amounts 50 cents or more to the next higher dollar.

Corporate Partners: When completing Form M8 and Schedules KS, be sure to include any amounts reported on the Schedule KPC you received as a partner of a partnership (include Schedule KPC with your return).

Line 1—S Corporation Taxes

Enter the total of the following S corporation taxes on line 1, and check the applicable boxes to indicate the tax types included. Show the detail for each type of tax and the percentage apportioned to Minnesota. Multiply that amount by 9.8 percent (.098)—the corporate tax rate—to determine your Minnesota tax. For each tax, enclose a separate schedule showing your computation.

- Determine the tax on the Minnesota portion of passive income subject to federal tax. Enclose a copy of the federal schedule used to figure your federal tax.
- Determine the tax on the Minnesota portion of recognized built-in gain and net capital gain subject to federal tax.
- If the S corporation is paying the LIFO recapture tax (figured for the last year the corporation was a C corporation) over a four-year period, include this year's installment.

Line 2—Minimum Fee

Complete M8A of Form M8 to determine the minimum fee to enter on line 2. See the M8A instructions beginning on page 7.

You are exempt from the minimum fee if you are a qualified business participating in a JOBZ zone in Minnesota and all of your property and payroll are within the zone.

Line 3—Composite Income Tax

To determine line 3, you must first figure the amount of composite tax attributed to each electing shareholder. See the instructions for line 34 of Schedule KS on page 12.

Add the composite income tax attributed to all electing shareholders (the total of lines 34 from all KS schedules), and enter the result on line 3 of Form M8.

Line 4—Nonresident Withholding

To determine line 4, you must first figure the amount to withhold for each nonresident shareholder. See the instructions for line 35 of Schedule KS on page 12.

Add the withholding required for all nonresident shareholders (the total of lines 35 from all KS schedules), and enter the result on line 4 of Form M8.

If you received a signed and dated Form AWC, *Alternative Withholding Certificate*, from one or more shareholders, check the box provided on line 4 of Form M8. You must include the certificate(s) when you file your return.

Line 6—Employer Transit Pass Credit

If you provided transit passes at a reduced cost to your employees for use in Minnesota, complete and enclose Schedule ETP, *Employer Transit Pass Credit*.

Enter the amount of the credit that is being claimed directly by the S corporation and not passed through to the shareholders.

Line 6 cannot exceed the total of S corporation taxes and the minimum fee (sum of lines 1 and 2).

Line 8—Minnesota Nongame Wildlife Fund

You can help preserve Minnesota's rare and endangered animals and plants by donating to this fund. Your donation will be added to your total tax and will decrease your refund or increase your balance due. Monies donated are deductible the following year.

For more information, go to the Minnesota Department of Natural Resources website at www.dnr.state.mn.us.

Line 10—Enterprise Zone Credit

If your business has been certified and approved by the Minnesota Department of Employment and Economic Development (DEED) as employment property in an enterprise zone, enter the credit that is being claimed directly by the S corporation and not passed through to the shareholders. Enclose Schedule EPC.

For details about the zones, go to the DEED website at www.positivelyminnesota.com.

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M8 (continued)

Line 11—JOBZ Jobs Credits

A refundable jobs credit, based on higher-paying jobs, is available to qualified businesses operating in a JOBZ zone. A qualified business must have signed a Business Subsidy Agreement with the zone administrator. Complete and enclose Schedule JOBZ, *JOBZ Tax Benefits*.

Enter the total jobs credit that is being claimed directly by the S corporation and not passed through to the shareholders.

For details about the zones, go to the DEED website at www.positivelyminnesota.com.

Line 12—Cattle Tuberculosis Testing Credit

If you own cattle in Minnesota and you incurred expenses during the year to test your cattle for tuberculosis, you may qualify for a credit of 25 percent of your total expenses. To determine line 12, follow the steps below:

- 1 Expenses you incurred to conduct tuberculosis testing on your cattle in Minnesota . . . _____
- 2 The credit is limited to 25% (.25) of your expenses25
- 3 Multiply step 1 by step 2 _____

Enter the result from step 3 on line 12. You cannot pass this credit to your shareholders.

Expenses incurred in a calendar year in which tuberculosis testing of cattle in Minnesota is not federally required are not allowed in claiming the credit.

Line 13—Estimated Tax and Extension Payments

Enter your total prepayments, including:

- your total 2012 estimated tax payments made in 2012 and 2013, paid either electronically or with Form M72;
- any 2012 extension payment, paid electronically or with PV81, that was made by the regular due date when filing under an extension; or
- the portion of your 2011 refund applied to your 2012 estimated tax.

Line 16—Penalty

Penalties are collected as part of the tax and are in addition to any additional charge for underpaying estimated tax. If you are paying your tax after the regular due date, include the appropriate penalties on line 16.

Late Payment. If the tax is not paid by the regular due date, a penalty is due of 6 percent of the unpaid tax on line 15.

Late Filing. If you file your return after the extended due date and owe tax, you must pay a late filing penalty. The late filing penalty is 5 percent of the unpaid tax on line 15.

Balance Not Paid. If you file your return after the regular due date and owe tax, an additional penalty is due. The additional penalty is 5 percent of the unpaid tax on line 15.

Payment Method. If you are required to pay electronically and do not, an additional 5 percent penalty applies to payments not made electronically, even if your paper check is sent on time.

Line 17—Interest

You must pay interest on the unpaid tax and penalty from the regular due date until the total is paid. The interest rate for calendar year 2013 is 3 percent.

To figure how much interest you owe, use the following formula with the appropriate interest rate:

$$\text{Interest} = (\text{tax} + \text{penalty}) \times \# \text{ of days late} \times \text{interest rate} \div 365$$

Line 18—Additional Charge for Underpayment of Estimated Tax

If you did not pay the correct amount of estimated tax by the due dates, you may have to pay an additional charge for underpaying or not paying estimated tax.

You may also owe an additional charge if the sum of lines 1 and 2 (less any credits on lines 10 through 13), composite income tax on line 2 or nonresident withholding on line 3, is more than \$500.

Complete Schedule EST, *Additional Charge for Underpayment of Estimated Tax*, to determine the additional charge for underpaying estimated tax. Compute the underpayment charge separately for the S corporation taxes/minimum fee and for each nonresident shareholder who has \$500 or more of either composite income or nonresident withholding tax.

Enter the total charge, if any, on line 18. Enclose the schedule with your return.

Line 19—Amount Owed

Add lines 15 through 18. This is the amount of tax you owe. Be sure to check the appropriate box on line 19 to indicate your method of payment. See *Payment Options* on page 2.

Line 20—Overpayment

If line 14 is less than the sum of lines 9 and 18, subtract line 14 from the sum of lines 9 and 18. Enter the result on line 19 and enter zero on line 20.

If you have an overpayment, you may choose to have it direct deposited into your bank account. You may also choose to apply all or a portion of your overpayment toward your 2013 estimated tax account.

Line 21—2013 Estimated Tax

Skip this line if you owe additional tax.

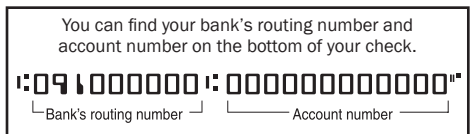
If you are paying 2013 estimated tax, you may apply all or a portion of your refund to your 2013 estimated tax. Enter the portion of line 20 you want to apply toward your 2013 estimated tax.

Line 22—Refund

If you want to request your refund to be direct deposited into your bank account, complete line 23. Your bank statement will indicate when your refund was deposited to your account. Otherwise, skip line 23 and your refund will be sent to you in the mail.

Line 23—Direct Deposit of Refund

If you want your refund to be directly deposited into your checking or savings account, enter the routing and account numbers. You must use an account not associated with any foreign banks.



The **routing number** must have nine digits.

The **account number** may contain up to 17 digits (both numbers and letters). Enter the number and leave out any hyphens, spaces and symbols.

If the routing or account number is incorrect or is not accepted by your financial institution, your refund will be sent to you in the form of a paper check.

By completing line 23, you are authorizing the department and your financial institution to initiate electronic credit entries, and if necessary, debit entries and adjustments for any credits made in error.

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M8 (continued)

Signature

The return must be signed by a principal officer of the corporation.

If you paid someone to prepare your return, the preparer must also sign. The preparer's ID number and phone number should also be included.

You may check the box in the signature area to give us your permission to discuss your return with the paid preparer. This authorization remains in effect until you notify the department in writing (either by mail or fax) that the authorization is revoked.

Checking the box does not give your preparer the authority to sign any tax documents on your behalf or to represent you at any audit or appeals conference. For these types of authorities, you must file a power of attorney or Form REV184 with the department.

Email address

If the department has questions regarding your return and you want to receive correspondence electronically, indicate the email address below your signature. Check a box to indicate if the email address belongs to an employee of the S corporation, the paid preparer or other contact person.

By providing an email address, you are authorizing the department to correspond with you or the designated person over the Internet and you understand that the entity's nonpublic tax data may be transmitted over the Internet.

You also accept the risk that the data may be accessed by someone other than the intended recipient. The department is not liable for any damages that the entity may incur as a result of an interception.

Frequently Asked Questions

Q: I filed federal Form 2553 with the IRS to elect to become an S corporation. Do I also need to file a similar form with Minnesota?

A: No. Once you have filed Form 2553 with the IRS and it has been approved, Minnesota automatically accepts your S corporation status.

Q: Does Minnesota allow a parent S corporation to elect to treat its subsidiary as a QSSS (Qualified Subchapter S Subsidiary)?

A: Yes. Minnesota conforms to this federal treatment. The parent S corporation that owns a QSSS must file a single Form M8 reporting the income, deductions and credits for both the parent and the QSSS, as described in Revenue Notice 98-09.

Q: When I file a single QSSS return, how do I determine the minimum fee?

A: Complete a separate M8A and figure the minimum fee based on each company's factors. Enter the sum of all minimum fees on the Form M8.

Q: When determining composite income tax, can I reduce the taxable income by a prior year's net operating loss?

A: No. Only the current year's income is included when determining composite income tax.

Q: If the S corporation does business in a reciprocity state (Michigan or North Dakota) and the sole shareholder is a Minnesota resident, does the shareholder have to file a return in the other state?

A: Yes. The shareholder would be required to file a return in the other state. The income earned by an S corporation does not qualify for exemption under the reciprocity agreements.

Q: What information will I need to pay taxes electronically?

A: To pay electronically online or by phone you will need your user name, password and your bank routing and account numbers. When paying electronically, you must use an account not associated with any foreign banks.

Completing M8A

Complete M8A to determine your Minnesota source income and minimum fee.

Note: If you conduct all your business in Minnesota, check the box above line 1. Complete columns A and B₁ and enter 1.00000 (for 100 percent) on line 18, column B₁ (and the remaining columns, as needed).

If a qualified subchapter S subsidiary (QSSS) is **not** included on your return, complete columns A and B₁.

If a QSSS is included, read “Three-Factor Formula for QSSS Filers” below.” Each QSSS **must** have a Minnesota tax ID number. Column A must include the total amounts of all S corporations included on Form M8 and column B₁ is for the QSSS designated filer. The remaining columns are for each of the other S corporations in the group that have a Minnesota apportionment factor. If you need more than three columns, attach additional forms as needed.

Three-Factor Formula

Minnesota uses a weighted three-factor formula comprised of property, payroll and sales (which includes gross earnings, receipts and rents received) during the tax year to determine the apportionment factor.

For tax year 2012, the factor weights are 0.035 for property, 0.035 for payroll and 0.93 for sales (receipts).

To determine the Minnesota apportionment factor, first determine your property, payroll and sales factors.

If column A of line 6, 10 or 14 of M8A is zero, you are not able to use the three-factor apportionment formula prescribed by law. Rather, use the factor weights provided below:

- If the only missing factor is either property or payroll, change the sales factor weight in column D from 0.93 to 0.96373, and the weight of the remaining factor from 0.035 to 0.03627.
- If the only missing factor is sales, change the weight of both the property and payroll factors on lines 8 and 12 from 0.035 to 0.50.

- If you are missing two factors, change the weight of the remaining factor to 1.00.

Petitioning to Use Another Method of Allocation

State law (M.S. 290.20, subd. 1a and Minnesota Rules 8020.0100, subp. 3) allows entities to request permission from the department to allocate all, or any part of, taxable net income in a manner other than the three-factor formula or by applying the methodology contained in Revenue Notice 08-04.

To request permission, complete Form ALT, *Petition to Use Alternative Method of Allocation* (see Revenue Notice 04-07).

Permission will be granted only if you can show that the three-factor formula does not properly and fairly reflect your Minnesota income, and that the alternative formula you have chosen does.

Property Factor

If you are not required to complete federal Schedule L (Form 1120S), you may want to do so to determine the property factor. Enclose the completed federal Schedule L (Form 1120S) or a copy of the S corporation's balance sheet with your return.

The property factor consists of tangible property which includes land, buildings, machinery, equipment, inventories and other tangible personal property valued at original cost.

Original cost is your cost or original basis when you acquired the property. Depreciation and fair market value are not considered.

M8A, lines 1-9

In column A, lines 1-5, enter the total property items for your entire business.

Continued

Three-Factor Formula for QSSS Filers

If your federal Form 1120S includes a qualified subchapter S subsidiary (QSSS), you must file a single Form M8. However, for computing the minimum fee and allocating income for nonresidents, each entity must compute their own income, deductions, factors and credits separately. Provide a worksheet that separates these items for each entity. Also, attach a copy of Schedule M8A with each entity's name, address, federal and Minnesota tax ID numbers and include it with the filing.

Resident Shareholders

Under Minnesota law, the entire income of Minnesota residents is subject to Minnesota income tax, regardless of the S corporation apportionment factors.

Nonresident Shareholders

In determining the amount of income to be included on a nonresident shareholder's Minnesota income tax return, Form M1, a determination must be made as to whether the S corporation parent and the QSSS are engaged in a single unitary business.

Nonresident shareholders will need to know their Minnesota apportioned share of the combined income for those entities that are part of the same unitary business. The weighted three-factor formula determined on M8A must be used to apportion the combined income of the parent and QSSS.

The apportionment formula is computed by adding the apportionment ratios of all unitary entities with nexus in Minnesota. The numerators of these apportionment factors would include the property, payroll and sales (or receipts) attributed to Minnesota for each entity having nexus in Minnesota. The denominators of the apportionment factors include the property, payroll and sales (or receipts) in all locations for all the entities in the unitary business.

If the S corporation parent or any of the QSSSs are not engaged in a single unitary business, a nonresident shareholder is only subject to tax on an apportioned share of the income earned by those entities that have nexus with Minnesota.

The income from such entities for nonresident shareholders is apportioned to Minnesota using the weighted three-factor apportionment formula determined under M.S. 290.191. A separate apportionment formula is calculated for each entity with nexus in Minnesota. Only the property, payroll and sales (receipts) numerators and denominators for that entity are used to apportion the shareholder's income for that entity.

Complete a Schedule KS for each nonresident shareholder.

M8A (continued)

In column B₁ (and remaining columns as needed), enter the property items for your business in Minnesota.

Line 1. Add the beginning and ending year inventories, divide by two and enter the result on line 1. This is your average value of inventory for your business for the tax year.

Line 2. Add the beginning and ending year values of the buildings, machinery, equipment and other tangible property and divide by two. Enter the result on line 2.

Line 3. Add the land's beginning and ending year values and divide by two. Enter the result on line 3.

Line 4. For financial institutions only. See the apportionment instructions on this page.

Line 5. Rented property is based on the actual rent you paid for property (land, buildings, equipment, etc.) used during the tax year. The rents you receive are included in the sales factor.

To determine the value of rented property, multiply the rent paid for the tax year by eight.

Payroll Factor

M8A, line 10

In column A, enter your total payroll paid or incurred for the tax year in connection with the entire business.

In column B₁ (and the remaining columns as needed), enter your total payroll paid or incurred in Minnesota, or paid for labor performed in Minnesota, for the tax year in connection with the business.

Sales Factor

M8A, line 14

The sales factor includes all sales, rents, gross earnings or receipts received in the ordinary course of your business, except:

- interest;
- dividends;
- sales of capital assets under IRC section 1221;
- sales of property used in the trade or business, except sales of leased property that is regularly sold as well as leased; and
- sales of stock or sales of debt instruments under IRC section 1275(a)(1).

Financial Institutions: See *Apportionment for Financial Institutions* in the next column.

Determining Minnesota Sales

Real Property

Sales, rents, royalties and other income from real property are attributed to the state in which the property is located.

Tangible Personal Property

Sales of tangible personal property are attributed to Minnesota if the property is received by a purchaser within Minnesota and the S corporation is taxed in this state, regardless of the f.o.b. point or other condi-

tions of sale, or the ultimate destination of the property.

Tangible personal property delivered to a common or contract carrier or foreign vessel for delivery to a purchaser in another state or nation is a sale in that state or nation, regardless of f.o.b. point or other conditions of sale.

Property is received by a purchaser in Minnesota if the recipient is located in this state, even if the property is ordered from outside Minnesota.

Continued

Apportionment for Financial Institutions

In general, a financial institution is any national or state bank, bank holding company, savings and loan, or any other corporation that does business that a bank or other financial institution would be authorized to do.

Financial institutions complete M8A the same way as other S corporations, except for lines 4 and 14.

Line 4—Property Factor

The property factor for financial institutions includes certain intangible property.

The following are considered Minnesota property:

- coin and currency located in Minnesota
- lease financing receivables, to the extent the property is located in Minnesota
- secured loans if real or tangible personal property is located in Minnesota
- unsecured (or secured by intangible property) consumer loans to Minnesota residents
- unsecured (or secured by intangible property) commercial loans if the proceeds are applied in Minnesota
- credit card receivables if the fees and charges are regularly billed to Minnesota
- receivables from merchant discount income if the merchant is located in Minnesota, and
- securities, money market instruments and secondary market assets apportioned to Minnesota, in the ratio of Minnesota deposits to all deposits if a regulated financial institution, or in the ratio of Minnesota gross business income to total gross business income if unregulated.

Secondary market assets are obligations that are not originally solicited or entered into by the owner. They include secured,

consumer and commercial loans and lease financing, credit card, and merchant discount receivables.

Line 14—Sales or Receipts Factor

Financial institutions use a receipts factor instead of a sales factor.

Include the gross income from activities in the ordinary course of business, including income from securities and money market instruments.

The following are considered Minnesota income:

- interest income from loans secured by real or tangible personal property located in Minnesota
- interest on consumer loans not secured by real or tangible personal property if the borrower is a Minnesota resident
- interest on commercial loans not secured by real or tangible personal property if the proceeds are applied in Minnesota
- merchant discount income if the merchant is located in Minnesota
- receipts from travelers checks if purchased in Minnesota
- receipts from credit cards if regularly billed in Minnesota
- receipts for regulated financial institutions from securities, based on the ratio of total deposits from Minnesota to total deposits in and outside Minnesota
- receipts for nonregulated financial institutions from securities, based on the ratio of gross business income from Minnesota to total gross business income
- receipts from secondary market assets treated in the same way as securities
- receipts from the performance of services if the services are received in Minnesota.

M8A (continued)

Sales of tobacco products, beer, wine and other alcoholic beverages to someone licensed to resell the products only within the state of ultimate destination is a sale in the destination state.

Receipts from leasing or renting tangible personal property, including finance leases and true leases, are attributed to the state in which the property is located. Receipts from the lease or rental of moving property are attributed to Minnesota to the extent the moving property is used in Minnesota.

The extent of use is determined as follows:

- A motor vehicle is used wholly in the state in which it is registered.
- Receipts from rolling stock are assigned to Minnesota in the ratio of miles traveled in Minnesota to total miles traveled.
- Receipts from aircraft are assigned to Minnesota in the ratio of landings in Minnesota to total landings.
- Receipts from vessels, mobile equipment and other mobile property are assigned to Minnesota in the ratio of days the property is in Minnesota to the total days of the tax year.

Intangible Property

Sales of intangible property are attributed to the state in which the property is used by the purchaser.

Royalties, fees and similar income not qualifying for the foreign royalty subtraction, received for the use of or the privilege of using intangible property (such as patents, copyrights, trade names, franchises or similar items) are attributed to the state in which the property is used by the purchaser.

Intangible property is attributed to Minnesota if the purchaser uses the property, or rights in the property, to conduct business within this state, regardless of the location of the purchaser's customers.

If the property is used in more than one state, then the sales or royalties must be apportioned to Minnesota pro rata based on the portion of use within this state.

If you cannot determine the portion of use in Minnesota, then exclude the sales or royalties from both the numerator and denominator of the sales factor.

Personal Services

Receipts from the performance of personal services are attributed to the state in which the services are received.

Receipts from services provided to a corporation, partnership or trust may only be attributed to a state in which it has a fixed place of doing business.

If you can't determine where the service was received, or if it was received in a state where the corporation, partnership or trust doesn't have a fixed place of business, use the location of the office of the customer from which the service was ordered.

If you can't determine the ordering office, use the office location to which the service was billed.

Minimum Fee

M8A, lines 19–21

S corporations are subject to a minimum fee if the sum of its Minnesota source property, payroll and sales or receipts is at least \$500,000.

However, if you are a qualified business participating in a JOBZ zone in Minnesota and all your property and payroll are within the zone, you are exempt from the minimum fee. Enter zero on line 21 of M8A and on line 2 of Form M8.

M8A, line 19—Adjustments

The minimum fee is determined by your total Minnesota property, payroll and sales.

In some cases the property, payroll and sales used for computing the minimum fee will be different than those used for apportionment. The following adjustments should be made to your Minnesota factors on line 19.

Add: All tangible property owned or rented that is not included on line 6 of M8A. Some examples include construction in progress, idle property, any nonbusiness property or rent expense. The amounts should be determined in the same manner as the amounts on lines 1–5.

Subtract:

- JOBZ zone minimum fee adjustment from Schedule JOBZ (enclose a copy of Schedule JOBZ).
- Any amounts included on lines 6, 10 or 14 that represent your share of the factors passed through from partnerships.
- For financial institutions only, the amount of intangible property listed on line 4.
- The reduction of property owned for a short taxable year. To determine, multiply the sum of line 1 and line 2 by a fraction: the numerator is 365 minus the number of days in the tax year; the denominator is 365.

Enclose a schedule showing the computation and pass-through information of any adjustments listed on M8A, line 19.

Completing Schedule KS

Complete and provide Schedule KS to each nonresident shareholder and any Minnesota shareholder who has adjustments to income.

Purpose

An S corporation must provide each nonresident shareholder, and any Minnesota shareholder with adjustments to income, with enough information for them to complete a Minnesota income tax return and determine their correct Minnesota tax.

Schedule KS is used to provide shareholders with the information they need to file a Minnesota income tax return. The schedule shows each shareholder their specific share of the S corporation's income, credits and modifications. Be sure to provide the shareholder a copy of both the front and back of the completed Schedule KS and the instructions.

If there are no modifications or credits and there are no nonresident shareholders, you do not have to provide Schedule KS.

You must enclose with your Form M8 copies of the Schedules KS and attachments issued to your shareholders and copies of your federal Schedules K and K-1.

If you are required to amend your federal S corporation return or you have been audited by the IRS, you must file Form M8X and Schedules KS, if appropriate. See *Reporting Federal Changes* on page 3.

Line Instructions

Enter the name, address and identifying number of the shareholder. A \$50 penalty will be assessed for each incorrect tax ID number used for a shareholder after being notified by the department that the number is incorrect.

JOBZ ID number. If the S corporation is a qualified business participating in a JOBZ zone, you must provide on each shareholder's Schedule KS the assigned 10-digit JOBZ ID number through which the tax benefits are claimed. If you don't know the JOBZ ID number, call the department at 651-556-6836.

Calculate lines 1–20 the same for all resident and nonresident shareholders. Calculate lines 21–35 for nonresident shareholders only.

Corporate Partners: When completing Schedules KS, be sure to include any amounts reported on the Schedule KPC you received as a partner of a partnership (include Schedule KPC with your return).

All Shareholders— lines 1–20

KS, line 1

Determine the interest you received from all non-Minnesota state and municipal bonds. Include the Minnesota portion of exempt-interest dividends if less than 95 percent of the exempt-interest dividends are from Minnesota state and municipal bonds.

Enter the shareholder's pro rata share of this amount on line 1.

KS, line 2

Determine the state income tax deducted in arriving at ordinary income or net rental income of the S corporation.

Do not include the minimum fee, the built-in gains tax, capital gains tax, LIFO recapture tax or excess net passive income tax in this amount.

Enter the shareholder's pro rata share of this amount on line 2.

KS, line 3

Expenses or interest deducted on your federal return that relate to income not taxed by Minnesota must be added back to the shareholder's Minnesota income.

Enter the shareholder's pro rata share of any federal deductions that are attributable to income not taxed by Minnesota, other than U.S. government bond interest or other federal obligations.

If you had expenses attributable to interest or mutual fund dividends from U.S. bonds, see line 9 of Schedule KS. Do not include these expenses on line 3.

Enclose an explanation or statement showing your computation.

KS, line 4

If, during the year, your total investment in qualifying property was more than \$200,000 or if you elected more than \$25,000 in section 179 expensing, your shareholders must add back to Minnesota 80 percent of the difference between the expensing allowed for federal and for state tax purposes. Your shareholders will be allowed to subtract their share of the addition in equal parts over the next five years when they file their state tax returns.

If you completed federal Form 4562 to claim the section 179 expensing for federal tax purposes, you must also complete lines 1 through 12 on a separate federal Form 4562

(referred to as your Minnesota Form 4562 below), to determine the amount required to be added back for Minnesota purposes.

Recalculate line 12 of your Minnesota Form 4562 using the same information from your federal Form 4562 and the following modifications:

- Subtract \$475,000 from line 1 of your federal Form 4562, and enter the result on line 1 of your Minnesota Form 4562.
- Enter line 2 of federal Form 4562 on line 2 of your Minnesota Form 4562.
- Subtract \$1,800,000 from line 3 of your federal Form 4562, and enter the result on line 3 of your Minnesota Form 4562.
- Enter the information from lines 6 and 7 of federal Form 4562 on lines 6 and 7 of your Minnesota Form 4562. However, if you have section 179 expensing from a flow through entity, use the amount from line 10 of Schedule KPC instead of the amount from line 11 of federal Schedule K-1.
- Enter line 10 of federal Form 4562 on line 10 of your Minnesota Form 4562.
- Recalculate lines 4, 5, 8, 9, 11 and 12 of your Minnesota Form 4562. The result on line 12 of Minnesota Form 4562 cannot be more than line 1 of that form.

Enter the shareholder's pro rata share of the amount on line 12 of the Minnesota Form 4562 on line 4 of Schedule KS.

KS, line 5

If you chose on your federal return the special depreciation allowance for certain qualified property, your shareholders must add back 80 percent of the bonus depreciation to Minnesota.

Follow the steps below to determine the shareholder's share to enter on line 5 of Schedule KS:

- 1 Add line 14 and line 25 of your federal Form 4562 _____
- 2 Total of any bonus depreciation amounts passed through to the S corporation as a partner of a partnership (from line 8 of Schedule KPC). _____
- 3 Add steps 1 and 2 _____
- 4 Multiply step 3 by the shareholder's percentage of stock ownership _____

Enter the result from step 4 on line 5 of the shareholder's Schedule KS.

Continued

KS (continued)

Federal bonus depreciation subtraction.

For five years following the addback year, your shareholders may be able to subtract one-fifth of the addback on their Minnesota income tax return. See the instructions for Form M1 for details.

KS, line 6

If you are an employer who provides prescription drug coverage to your retirees, include on line 6 the shareholder's pro rata share of the federal tax-exempt subsidies you received for continuing these pension benefits.

KS, line 7

Enter the shareholder's pro rata share of any fines, fees and penalties that were deducted as business expenses paid to a government entity or nongovernment regulatory body as a result of a violation of law, or the investigation of any potential violation of law. This does not include amounts identified in a court order or settlement agreement as restitution or as an amount paid to come into compliance with the law.

KS, line 8

Leave this line blank. There are no federal changes that have not been adopted by Minnesota.

Continue to check our website for updates.

KS, line 9

Interest earned on certain direct federal obligations is taxable on the federal return, but is not taxable on the state return.

Determine the net interest you received from primary obligations issued by the U.S. government, such as savings bonds and treasury notes, that are held directly by the S corporation. Do not include obligations where the U.S. government is only a guarantor. Be sure to subtract any investment interest and other expenses you deducted on the federal return that relate to this income.

Enter the shareholder's pro rata share of this amount on line 9.

KS, line 10

Enter the shareholder's pro rata share of the amounts from lines 17 and line 30 of Schedule JOBZ.

KS, line 11

Leave this line blank. There are no federal changes that have not been adopted by Minnesota.

Continue to check our website for updates.

KS, line 12

Enter the shareholder's pro rata share of the Employer Transit Pass Credit that is passed through to the shareholders.

KS, line 13

Enter the shareholder's pro rata share of the Enterprise Zone Credit that is passed through to the shareholders.

KS, line 14

Enter the shareholder's pro rata share of the 2012 credit for increasing research activities that is passed through to the shareholders.

If the business qualifies, the credit cannot be claimed by the S corporation and the full credit must be passed through to the shareholders.

KS, line 15

Enter the shareholder's share of the Historic Structure Rehabilitation Credit based on the shareholder's share of the S corporation's assets, or as specifically allocated in the S corporation's organizational documents, as of the last day of the taxable year.

You must also include the NPS project number, which is provided on the credit certificate you received from the State Historic Preservation Office of the Minnesota Historical Society when the project was completed and placed into service.

KS, line 16

Enter the shareholder's pro rata share of the JOBZ Jobs Credit that is passed through to the shareholders.

KS, line 17

If, for regular tax purposes, you elected the optional 60-month write-off under IRC section 59(e) for all property in this category, skip lines 17–20. No adjustments are necessary.

Intangible drilling costs (IDCs) from oil, gas and geothermal wells are a tax preference item to the extent that the excess IDCs exceed 65 percent of the net income from the wells. The tax preference item is computed separately for oil and gas properties and for geothermal properties.

Enter the shareholder's pro rata share of the following: IDCs allowed for regular tax purposes under section 263(c), (but not including any section 263(c) deduction for nonproductive wells) less the amount that would be allowed had the IDCs been amortized over a 120-month period starting with the month the well was placed in production.

KS, line 18

Gross income from oil, gas and geothermal properties are used in determining if the excess IDCs exceed 65 percent of the net income from the wells.

Enter the shareholder's pro rata share of the aggregate amount of gross income within the meaning of section 613(a) from all oil, gas and geothermal properties that was received or accrued during the tax year.

KS, line 19

Deductions allocable to oil, gas and geothermal properties are used in determining if the excess IDCs exceed 65 percent of the net income from the wells.

Enter the shareholder's pro rata share of any deductions allocable to oil, gas and geothermal properties. Do not include any deductions for nonproductive wells.

KS, line 20

In the case of oil wells and other wells of nonintegrated oil companies, enter the shareholder's pro rata share of the amount by which the depletion deduction exceeds the adjusted basis of the property at the end of the tax year.

In computing the year-end adjusted basis, use the rules of section 1016. However, do not reduce the adjusted basis by the current year's depletion. Figure the excess amount separately for each property. If the depletion deduction for any property does not exceed the adjusted basis at year-end, do not include a tax preference amount for that property.

Nonresident Shareholders —Lines 21–35

KS, line 21

The Minnesota source gross income is used to determine whether a nonresident shareholder is required to file a Minnesota income tax return or has the option to elect composite income tax.

Enter the shareholder's pro rata share of the S corporation's Minnesota source gross income. Minnesota source gross income is the total amounts apportioned to Minnesota that are included on line 6 of federal Form 1120S, lines 17, 19, and 20a of Form 8825 and (other than losses), 3a, 4, 5a, 6, 7, 8a, 9 and 10 of Schedule K (1120S).

Continued

KS (continued)

KS, lines 22–31

From the nonresident shareholder's federal Schedule K-1 (1120S), enter the Minnesota portion of the amounts on lines 22 through 31.

On line 30, include any items from the Schedule K-1 that are not specifically labeled on lines 22-29 and 31.

Line 31 refers to the Minnesota apportioned amount of federal section 179 expense from the federal Schedule K-1, not the amount calculated on line 4 for the Minnesota addition.

All income of a Minnesota resident is taxed by Minnesota, regardless of the source.

Composite Income Tax and Nonresident Withholding

KS, line 33

When determining the shareholder's share of the S corporation's Minnesota source distributive income, you must make adjustments for any items you passed through to the shareholder on lines 1 through 11 of the shareholder's Schedule KS.

Follow the steps below to determine line 33:

- 1 The difference between the shareholder's federal section 179 deduction from box 11 of federal Schedule K-1 (1120S) and line 4 of the shareholder's Schedule KS _____
- 2 Federal bonus depreciation amount from line 5 of the shareholder's Schedule KS _____
- 3 Add step 1 and step 2 _____
- 4 Multiply step 3 by 80% (.80) _____
- 5 Line 6 of the shareholder's Schedule KS _____
- 6 Add step 4 and step 5 _____
- 7 Multiply step 6 by line 18 of M8A _____
- 8 Combine lines 22–31 of the shareholder's Schedule KS _____
- 9 Combine step 7 and step 8 _____
- 10 JOBZ subtraction from line 10 of shareholder's Schedule KS _____

11 To the extent allowed by law, enter one-fifth of the shareholder's share of the federal bonus depreciation that was added back in a year the shareholder elected to be included in composite income tax _____

12 To the extent allowed by law, enter one-fifth of the shareholder's share of the section 179 expensing that was added back in a year the shareholder elected to be included in composite income tax _____

13 Add steps 10, 11 and 12 _____

14 Subtract step 13 from step 9 _____

Enter the result from step 14 on line 33 of the shareholder's Schedule KS. This amount is the shareholder's adjusted Minnesota source distributive income.

KS, line 34

Composite Income Tax

Nonresident shareholders must pay tax if their Minnesota gross income is more than the minimum filing requirement for the year (\$9,750 for 2012).

Skip this line if the nonresident shareholder *did not* elect the S corporation to pay composite income tax on his or her behalf.

To determine the amount of composite income tax to pay on behalf of each electing shareholder, follow the steps below:

- 1 Multiply line 33 of Schedule KS by 7.85% (.0785) _____
- 2 Add lines 12 through 16 of Schedule KS _____
- 3 Subtract step 2 from step 1 _____

The result in step 3 is the amount you are required to pay on behalf of the electing shareholder. Enter this amount on line 34 of the shareholder's Schedule KS and check the box to indicate the shareholder's election to be included.

If the shareholder elects to be included in composite income tax but has zero tax due, enter zero on line 34. Even though the amount may be zero, be sure to check the box to indicate the election.

Once you have completed all the KS schedules for your electing nonresident shareholders, add the amounts on line 34 of all the schedules and enter the total on line 3 of Form M8. This is the amount of composite income tax you are required to pay on behalf of your electing shareholders.

KS, line 35

Nonresident Withholding

Nonresident shareholders who are not included in the composite income tax may be subject to withholding. See *Nonresident Withholding* on page 3 to determine if your nonresident shareholders are subject to Minnesota withholding.

To determine the amount of tax to withhold for each nonresident shareholder, follow the steps below:

- 1 Multiply line 33 of Schedule KS by 7.85% (.0785) _____
- 2 Add lines 12 through 16 of Schedule KS _____
- 3 Subtract step 2 from step 1 _____

The result in step 3 is the amount you are required to withhold from the nonresident shareholder, unless the individual submits Form AWC, *Alternative Withholding Certificate*.

If the individual submits Form AWC, withhold the amount from line 6 of the certificate. Check the box provided on line 35 of the shareholder's Schedule KS and also on line 4 of Form M8. Be sure to enclose a copy of the certificate when you file your return.

If the individual submits a false or fraudulent Form AWC, the department may require you to withhold the maximum percentage from that individual in the future, even if an exemption certificate is submitted.

Be sure to inform your shareholders that they must include their Schedule KS when they file their Form M1 to claim the Minnesota withholding. If the schedule is not included, the department will disallow the withholding and assess the tax or reduce their refund.