

## How are nonresidents and part-year residents taxed?

If you were a nonresident of New York State, you are subject to New York State tax on income derived from New York State sources. If you were a resident of New York State for only part of the tax year, you are subject to New York State tax on all income you received while you were a resident of the state and on income you received from New York State sources while you were a nonresident. To compute the amount of tax due, use Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*. You will compute a base tax as if you were a full-year resident, then determine the percentage of your income that is subject to New York State tax and the amount of tax apportioned to New York State.

## Who must file?

### New York State nonresidents and part-year residents

You must file Form IT-203 if you meet any of the following conditions:

- You have income from a New York source (see below and page 8) and your New York AGI (*Federal amount* column) is more than your New York State standard deduction. Complete Form IT-203, lines 1 through 31 and compare the line 31 *Federal amount* to your standard deduction from the table on page 29 of these instructions.
- You want to claim a refund of any New York State, New York City, or Yonkers income taxes withheld from your pay.
- You want to claim any of the New York State, New York City, or Yonkers refundable or carryover credits listed in the charts beginning on page 9.
- You were a part-year resident and you are subject to a separate tax on any lump-sum distributions for your resident period derived from or connected with New York sources (Form IT-230, *Separate Tax on Lump-Sum Distributions*). See *Other forms you may have to file* on page 13.
- You incurred a net operating loss (NOL) for New York State personal income tax purposes for the tax year, without incurring a similar NOL for federal income tax purposes. See *New York State net operating loss* on page 49 for more information.

## Nonresidents – New York source income

For nonresidents *New York source income* is the sum (with adjustments for special accruals as defined on page 48) of income, gain, loss, and deduction from:

- real or tangible personal property located in New York State (including certain gains or losses from the sale or exchange of an interest in an entity that owns real property in New York State or owns shares of stock in a cooperative housing corporation where the cooperative units relating to the shares are located in New York);
- services performed in New York State;
- a business, trade, profession, or occupation carried on in New York State whether or not as an employee (see TSB-M-10(9)I, *Income Received by a Nonresident Related to a Business, Trade, Profession, or Occupation Previously Carried on Within New York State*); **and**
- a New York S corporation in which you are a shareholder (including installment income from an IRC 453 transaction).

New York source income also includes:

- your distributive share of New York State partnership income or gain;
- your share of New York State estate or trust income or gain;
- lottery winnings won in the New York State lottery, if the prize was won on or after October 1, 2000, and the total proceeds of the prize are more than \$5,000;
- any gain from the sale, transfer, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold, when the real property comprising the units of such cooperative housing corporation is located in New York State;
- any income you received related to a business, trade, profession, or occupation previously carried on in this state, whether or not as an employee, including but not limited to, covenants not to compete and termination agreements (for additional information, see Form IT-203-F, *Multi-Year Allocation Form*, and its instructions);

- in the case of a shareholder in an S corporation that has made the election to be a New York S corporation, and the S corporation has distributed an installment obligation under IRC section 453(h)(1)(A) to the shareholders, any gain recognized on the receipt of payments from an installment obligation for federal income tax purposes;
- in the case of a shareholder in an S corporation that has made the election to be a New York S corporation, and the S corporation has made an election under IRC section 338(h)(10), any gain recognized on the deemed asset sale for federal income tax purposes;
- in the case of a shareholder in an S corporation that has made the election to be a New York S corporation, and that S corporation terminates its taxable status in New York, any income or gain recognized on the receipt of payments from an installment sale contract entered into when the S corporation was subject to tax in New York; and
- any gain recognized by you for federal income tax purposes from the sale or transfer of a partnership interest, where the sale or transfer:
  - is subject to the provisions of Internal Revenue Code (IRC) section 1060, and
  - occurred on or after April 10, 2017.

The amount of the gain to be included in New York source income is determined in a manner consistent with the applicable methods and rules for allocation under Article 22 in the year that the assets were sold or transferred.

New York source income **does not include** the following income even if it was included in your federal adjusted gross income:

- certain pensions that are exempt from New York State taxation by reason of U.S. Code, Title 4, section 114 (see line 10 instructions on page 21), and annuities and pensions that meet the New York State definition of an annuity, unless the annuity is employed in or used as an asset of a business, trade, profession, or occupation carried on in New York State;
- interest, dividends, or other income from intangible personal property, or gains from the sale or exchange of intangible personal property, unless the intangible personal property

is employed in a business, trade, profession, or occupation in New York State;

- compensation you received for active service in the United States military (see *Members of the armed forces* on page 49);
- your income earned in New York State as a military spouse if (1) you are a nonresident of New York State, and (2) you are in New York State solely to be with your spouse who is a member of the armed services present in New York State in compliance with military orders (for more information, see TSB-M-10(1)I, Military Spouses Residency Relief Act and TSB-M-19(3)I, Veterans Benefits and Transition Act of 2018 );
- your income as a shareholder of a corporation that is a New York C corporation;
- compensation you received from an interstate rail carrier, interstate motor carrier, or an interstate motor private carrier for regularly assigned duties performed in more than one state;
- compensation you received from an interstate air carrier if 50% or less of that compensation is earned in New York State;
- compensation paid to you if (1) you are engaged on a vessel to perform assigned duties in more than one state as a pilot licensed under U.S. Code, Title 46, section 7101, or (2) you perform regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one state.

### **Part-year residents – New York source income**

For part-year residents *New York source income* is the sum of the following with adjustments for special accruals as defined on page 48:

- 1) all income reported on your federal return for the period you are a resident of New York State; **and**
- 2) the New York source income for the period you were a nonresident of New York State.