

New York

★ The Empire State ★



GENERAL

Forms request	518-457-5431 212-639-9675 (NYC)
Tax assistance	518-457-5181
Website (state)	www.tax.ny.gov
Website (city)	www.nyc.gov/finance
Refund information	518-457-5149

NEW FOR 2015

Forms IT-2 and IT-1099-R. Two new forms are required to report information from federal Forms W-2 and certain Forms 1099-R that taxpayers receive instead of attaching the federal forms to the New York return.

Metropolitan Commuter Transportation Mobility Tax (MCTMT). Individuals who are subject to the MCTMT are now required to report and pay their MCTMT on their personal income tax return, Form IT-201 or Form IT-203.

New York itemized deduction. The current 25% and 50% New York itemized deduction limitation for taxpayers with New York AGI over \$1 million has been extended through tax year 2017.

Credit revisions. New rules apply for the family tax relief credit, the rehabilitation of historic properties credit, the Empire State film production and post-production credits, the EZ and ZEA wage tax credits, the general corporation tax credit, and the New York City enhanced real property tax credit.

Youth tax credit program name change. The program, previously known as the New York youth works tax credit program, is now called the Urban youth jobs program tax credit.

New credits. New credits are available for MCTMT claim of right, musical and theatrical production, workers with disabilities, claim for brownfield redevelopment, and employee training incentive programs.

Resident beneficiary accumulation distribution. A new addition modification must be made if, for tax years beginning on or after January 1, 2014, the taxpayer was the beneficiary of a trust that, in any tax year, was not subject to tax because it met the conditions of Tax Law section 605(b)(3)(D) (except for an incomplete gift non-grantor trust).

Homeless veterans assistance fund. Taxpayers may donate any whole dollar amount to be used to support homeless veterans.

RESIDENCY STATUS

Residents are taxed on income from all sources, including income from sources outside of NYS. A person domiciled in the state of New York is considered a resident, unless one of the nonresident exceptions is met (see *Nonresidents* in the next column). A person can have only one domicile. In general, *domicile* is defined as the place intended to be the permanent home. It is the place a person returns to after a vacation, business assignment, educational leave or military assignment. A domicile does not change until a person can demonstrate abandonment of the New York domicile and establishment of a new permanent domicile outside of NYS.

Additionally, even if one's domicile is in another state, individuals are considered NYS residents if they maintain a permanent place of abode in the state for more than 11 months of the year and

spend 184 days or more in New York during the taxable year.

Part-year residents meet the definition of resident for only part of the year. Part-year residents pay tax on all income for the period they were residents of NYS, and tax on New York-source income only for the period of NYS nonresidency.

Nonresidents pay tax on income received from NYS sources. A nonresident is a person who was not a resident of NYS for any part of the year. In general, a person who is domiciled in NYS is a resident. However, even if one's domicile is in NYS, a person can still be treated as a nonresident if all three of the following conditions in *either* Group A or Group B, below, are met:

Group A:

- 1) The taxpayer did not maintain any permanent place of abode in NYS during the year.
- 2) The taxpayer maintained a permanent place of abode outside NYS during the entire taxable year.
- 3) The taxpayer spent 30 days or less in NYS during the taxable year.

Group B:

- 1) The taxpayer was in a foreign country for at least 450 days during any period of 548 consecutive days.
- 2) The taxpayer, spouse (unless legally separated) and/or minor children of the taxpayer spent 90 days or less in NYS during this 548-day period.
- 3) During the nonresident portion of the taxable years in which the 548-day period begins and ends, the taxpayer was present in NYS for no more than the number of days which bears the same ratio to 90 as the number of days in such portion of the taxable year bears to 548. The following formula illustrates this rule.

$$\frac{\text{(Number of days in nonresident portion} \div 548) \times 90}{\text{Maximum number of days allowed in New York}}$$

Residents of New York City and Yonkers. New York City (NYC) residents are subject to an additional NYC resident tax. Yonkers residents are subject to a resident income tax surcharge. Nonresidents of Yonkers who work in Yonkers are subject to a nonresident earnings tax. Taxpayers who change their NYC or Yonkers resident status during the year must complete Form IT-360.1, *Change of City Resident Status*. Taxpayers must pay NYC resident tax or the Yonkers resident income tax surcharge for the part of the year that they live in NYC or Yonkers.

Military. Members of the armed forces who are not domiciled in NYS are not considered residents even if they maintain a permanent place of abode in the state for more than 11 months of the year and spend 184 days or more in NYS. This also applies to military spouses domiciled in another state but located in NYS solely to be with their spouse (who is a member of the armed forces in NYS in compliance with military orders).

Nonresident members of the armed forces are not taxed on their military pay and that pay cannot be used to determine their NYS tax. See *Subtraction S-7* in the Form IT-203 instructions.

The spouse's exempt income is included in the federal amount column on Form IT-203 but not included in the NYS amount column. Enter the code "M2" on line F of Form IT-203 to indicate the reason the income is not included in the NYS amount column.



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FILING REQUIREMENTS

Residents are required to file a NYS return if they are required to file a federal return. Residents not required to file a federal return must still file with the state under the conditions in the table below.

Taxpayer is:	Federal AGI + NY additions exceeds:
Single and can be claimed as a dependent on another person's federal return.	\$ 3,100
All others	4,000

Residents are also required to file if they want to claim a refund of NYS, NYC or City of Yonkers tax withheld or want to claim refundable or carryover credits.

Part-year and nonresidents are required to file if they received New York-source income *and* meet any of the conditions outlined below.

- Have NYS income and New York AGI is more than the NYS standard deduction.
- Want to claim a refund of any NYS, NYC or Yonkers income taxes withheld from pay.
- Want to claim refundable or carryover credits.
- Are subject to separate tax on a lump-sum distribution.
- Incurred an NOL for state purposes without a similar NOL for federal purposes.

FORMS TO FILE

Form IT-201, Resident Income Tax Return. For use by NYS residents. Residents of NYC and Yonkers report their city income tax or surcharge on the state return.

Form IT-203, Nonresident and Part-Year Resident Income Tax Return. For use by part-year and nonresidents of New York State. Nonresidents who earned wages or self-employment (SE) income from within the city of Yonkers must also file Form Y-203, *Yonkers Nonresident Earnings Tax Return*.

Form IT-201-D, Resident Itemized Deduction Schedule.

Form IT-203-D, Nonresident and Part-Year Resident Itemized Deduction Schedule.

Form IT-201-ATT, Other Tax Credits and Taxes. Use for resident returns.

Form IT-203-ATT, Other Tax Credits and Taxes. Use for part-year and nonresident returns.

Form IT-370, Application for Automatic Six-Month Extension of Time to File for Individuals.

Form IT-2105, Estimated Income Tax Payment Voucher for Individuals.

Form IT-201-V, Payment Voucher for Income Tax Returns. Use when making a payment by check or money order.

Form IT-225, New York State Modifications.

Form IT-2, Summary of W-2 Statements.

Form IT-1099-R, Summary of Federal Form 1099-R Statements.

FILING STATUS

New York filing status is generally the same as federal filing status. If a federal return was not filed, use the filing status that would have been used by the taxpayer for federal income tax purposes.

Exceptions:

- 1) Taxpayers file MFJ for federal purposes and one spouse is a NYS resident and the other is a part-year or nonresident. Here, the taxpayers must either:
 - File separate New York returns (MFS) or
 - File jointly (MFJ), as if both spouses were residents.
- 2) Taxpayers file MFJ for federal purposes and the couple is unable to file a joint New York return because the address or whereabouts of one spouse is unknown, reasonable efforts have been made to locate the spouse and good cause exists for the failure to file a joint New York return. In this case, the taxpayer may file a separate New York return (MFS).
- 3) Taxpayers file MFJ for federal purposes and one spouse refuses to sign a joint New York return, a reasonable effort has been made to have the spouse sign the return and there is objective evidence of alienation. File MFS.

RESIDENT SUMMARY

Form IT-201

School district codes. Enter the name and code of the public school district located in the county where the taxpayer was a resident on the last day of the year. See *2015 State of New York School Districts and Code Numbers* beginning on Page NY-36 for codes.

Special condition codes. If the taxpayer qualifies for one or more of the following special conditions, enter the specified two-digit code(s).

- A6 Build America Bond (BAB) interest.
- C7 Combat zone.
- D9 Death of spouse.
- K2 Combat zone, killed in action.
- E3 Out of the country.
- E4 Nonresident alien.
- E5 Extension of time to file beyond six months.
- 56 Losses from Ponzi-type fraudulent investment arrangements.

Foreign financial account information. If the taxpayer marked “yes” on federal Schedule B with regard to having a financial account located in a foreign country, the “yes” box must be marked in response to the Item D1 question.

Property tax freeze credit. If the taxpayer received a check for the property tax freeze credit, mark an X in the “yes” box for Item D2.

Dependent information. Enter required information for each dependent claimed for NYS. See *Dependent Exemptions* on Page NY-10.

New York AGI

NYS starts with federal AGI to compute NY AGI. Lines 1 through 19 of Form IT-201 must be the same as the income, losses, total adjustments and AGI reported on the federal return. If a federal return was not filed, report the same income that would have been reported for federal income tax purposes. Show any losses with a negative sign. Do not use parentheses to show losses.

Additions

Municipal bond interest from a state or local government outside NYS is added to New York income if the amount was not included in federal AGI.

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Public employee 414(h) retirement contributions. Add back 414(h) retirement contributions shown on federal Form W-2 which were made by any of the following:

- A member of the NYS and Local Retirement Systems, which include the NYS Employees' Retirement System and the NYS Police and Fire Retirement System.
- A member of the NYS Teachers' Retirement System.
- An employee of the State or City University of New York who belongs to the Optional Retirement Program.
- A member of the NYC Employees', Teachers' or Board of Education Retirement Systems or the NYC Police or Fire Department pension funds.
- A member of the Manhattan and Bronx Surface Transit Operating Authority Pension Plan.

New York's 529 college savings program distributions. Complete the *New York 529 College Savings Program Distribution Worksheet* below to compute the add-back for nonqualified withdrawals from a New York 529 College Savings Program account.

New York 529 College Savings Program Distribution Worksheet

1) Total current and prior years' nonqualified withdrawals from all accounts	1) _____
2) Total current and prior years' contributions to all accounts....	2) _____
3) Total current year's subtraction modification (from line 1 of the <i>New York 529 College Savings Program Deduction/Earnings Distributions</i> worksheet on Page NY-6) and prior years' subtraction modifications ¹	3) _____
4) Subtract line 3 from line 2.....	4) _____
5) Total prior years' addition modifications ²	5) _____
6) Add lines 4 and 5.....	6) _____
7) Subtract line 6 from line 1. This is the current-year addition modification. Enter this amount on line 22 of Form IT-201. Part-year residents include this amount in the New York State allocated amount column with code number A-103. If line 7 is zero or less, there is no add-back	7) _____

¹ These amounts are included on line 28, Form IT-201 (S-26 subtraction modification), for tax years 1998 through 2000; on line 1 of the line 29 worksheet, Form IT-201-I, for tax years 2001 through 2004; on line 19, Form IT-150 (S-2 subtraction modification), for tax years 2005 through 2010 and on line 1 of the line 30 worksheet, Form IT-201-I, for tax years 2005 through 2014.

² These amounts are included on line 21 of the 1998, 1999 (A-23 addition modification) and 2000 (A-22 addition modification) Form IT-201; on line 21, Form IT-201, for tax years 2001 through 2004; on line 14 (A-1 addition modification), Form IT-150, for tax years 2005 through 2010 and on line 22, Form IT-201, for tax years 2005 through 2014.

Other additions. Form IT-225, *New York State Modifications*, is used to report the detailed information for other addition modifications. The total of these items is reported on Form IT-201.

Note: For additions flowing from partnerships, use the item number from Form IT-204-IP, *New York Partner's Schedule K-1*.

A-101 NYC flexible benefits program (Section 125). If an amount was deducted or deferred from wages under a flexible benefits program established by NYC or certain other NYC public employers, add back the benefit for state tax purposes. *Certain other NYC public employers* include the City University of New York, NYC Health and Hospitals Corporation, Transit Authority, Housing Authority, Off-Track Betting Corporation, Board of Education, School Construction Authority, Rehabilitation Mortgage Insurance Corporation, the Manhattan and Bronx Surface Transit Operating and Staten Island Rapid Transit authorities.

A-102 Investment income from certain obligations of U.S. government agencies or instrumentalities. Federal law exempts certain obligations of U.S. government agencies or affiliations from federal taxation but not from state taxation. Contact the NYS Tax Department to see if a particular federal obligation is subject to state income tax.

A-105 Special additional mortgage recording tax deduction. If deducted in figuring federal income, it was paid before January 1, 1988, and the taxpayer was previously allowed a NYS personal income tax credit for that tax, then enter the amount deducted. Do not make the addition for tax paid to record a mortgage on or after January 1, 2004 even if the taxpayer claimed a credit for that tax.

A-106 Special additional mortgage recording tax basis adjustment. If property is sold and the NYS credit was claimed in a prior year for the special additional mortgage recording tax paid on that property before 1988, and the federal basis was not adjusted to reflect the credit allowed, then add back the amount of basis that was not adjusted.

A-107 Sale or disposition of assets acquired from decedents. An adjustment is required to account for the difference between state and federal basis for any assets inherited from a decedent that were sold during the tax year. This adjustment does not apply to assets acquired from a decedent who died on or after February 1, 2000.

A-108 Disposition of solar and wind energy systems. Add back any reportable gain for property sold in the current year for which a credit was taken in tax years 1981 through 1986 and for which federal basis was not reduced by the state credit.

A-109 New business investment, deferral recognition. If, in any tax year beginning on or after January 1, 1982, and before 1988, the taxpayer chose to subtract all or a portion of a long-term capital gain from federal AGI because that amount had been reinvested in a new New York business, and if that reinvestment was sold in the current year then include the amount that had been previously subtracted.

A-110 Qualified emerging technology investments (QETI). If the taxpayer elected to defer gain from a QETI sale, add back the amount previously deferred when the reinvestment in the New York qualified emerging technology company is sold.

A-111 Interest expense, amortized bond premiums and other expenses deducted in figuring federal AGI relating to investment income exempt from NYS income tax must be added back for state tax purposes. **Note:** Do not include expenses deducted on federal Schedule A, since these expenses do not affect the calculation of federal AGI.

A-112 Health insurance and the welfare benefit fund surcharge. For a career pension plan member of the NYC Employees' or Board of Education retirement systems, add back any amount deducted from wages for health insurance and the welfare benefit fund surcharge.

A-114 Form 4970 accumulation distributions of trusts. Taxpayers that filed federal Form 4970, *Tax on Accumulation Distribution of Trusts*, must enter the amount of income reported on Form 4970, line 1, less any interest income on state and local bonds and obligations of NYS and its local governments.


A-115 Special accruals. Taxpayers who have or had a change in resident status may have to use special accrual rules to compute tax that must be taken into account.

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A-116 Resident beneficiary accumulation distribution. Beneficiaries of a trust that, if in any tax year, was not subject to tax because it met the conditions of Tax Law Section 605(b)(3)(D) (except for an incomplete gift non-grantor trust) must add the amount determined under the first sentence of IRC Sec. 677 for the tax year, to the extent not included in federal AGI.

A-117 Incomplete gift non-grantor trust. If the taxpayer transferred property to an incomplete gift non-grantor trust, include the income (less deductions) of the trust to the extent such income would be taken into account in computing federal taxable income if the trust were treated in its entirety as a grantor trust for federal purposes.

 **Note:** Additions A-201 through A-217 apply only if the taxpayer filed federal Schedules C, C-EZ, E and/or F.

A-201 Personal income and unincorporated business taxes deducted in determining federal AGI. Add back any state, local or foreign income taxes deducted when figuring federal income. For example, if NYC unincorporated business tax was deducted on federal Schedule C, it must be added back for NYS income tax purposes.

A-202 Percentage depletion. Add back any percentage depletion on mines, oil and gas wells, and other natural deposits that was deducted in figuring federal income. A subtraction is allowed for cost depletion (see subtraction S-206 on Page NY-7).

A-203 Deductions attributable to safe harbor leases. Deductions must be added back for any safe harbor lease (except for mass transit vehicles) made under an election provided for by Section 168(f)(8) for agreements entered into prior to January 1, 1984. (See subtractions S-208 and S-209 on Page NY-8.)

A-204 Safe harbor leases. If a safe harbor lease was made under an election provided for by Section 168(f)(8) as in effect for agreements entered into before 1984, income that would have been included in federal income if an election had not been made must be added back for state tax purposes. (See subtractions S-208 and S-209 on Page NY-8.)

A-205 Accelerated cost recovery system (ACRS) deduction. NYS does not allow ACRS depreciation for property placed in service during tax years 1981 through 1984. Depreciation must be refigured using Section 167 as it was in effect on December 31, 1980—straight-line (SL) or declining-balance (DB) methods.

For property (other than Section 280F property) placed in service outside NYS in tax years 1985 through 1993, for which the taxpayer elected to use Section 167 depreciation, depreciation must be refigured using Section 167 as it was in effect on December 31, 1980.


If a depreciation adjustment is required, complete and attach Form IT-399, *New York State Depreciation Schedule*, and add back the amount deducted in figuring federal AGI.

A-206 Accelerated cost recovery property, year of disposition adjustment. If a taxpayer disposed of property that was depreciated for federal purposes using ACRS, and ACRS depreciation was not allowed for state purposes, then complete Part 2 of Form IT-399 to figure the amount that must be added back. See subtraction S-211 on Page NY-8).

A-207 Farmers' school tax credit. Add back the farmers' school tax credit claimed on the 2014 NYS tax return if a deduction was taken for these school taxes in figuring the 2014 federal

AGI. However, do not add back any amount if the taxpayer was required to report the amount of credit as income on the 2015 federal return.

A-208 Sport utility vehicle expense deduction. If the taxpayer claimed a Section 179 deduction on the federal return for a sport utility vehicle that weighs more than 6,000 pounds and the taxpayer is not an eligible farmer for the farmer's school tax credit (see the instructions for Form IT-217, *Claim for Farmers' School Tax Credit*), include the amount of that deduction as an addition to income. A *sport utility vehicle* is any four-wheeled passenger vehicle manufactured primarily for use on public streets, roads and highways. However, *sport utility vehicle* does not include (1) any ambulance or hearse used directly in a trade or business, (2) any vehicle used directly in the trade or business of transporting persons or property for compensation or hire or (3) any truck, van or motor home. A *truck* is any vehicle that has a primary load-carrying device or container attached, or is equipped with an open cargo area or covered box not readily accessible from the passenger compartment.

 **Note:** If a partner is an eligible farmer for purposes of the farmers' school tax credit, the partner is not required to make the A-208 modification.

A-209 IRC Section 168(k) property depreciation. NYS does not follow federal depreciation rules under Section 168(k) for property placed in service on or after June 1, 2003 [except for resurgence zone property and New York Liberty Zone property described in Section 1400L(b)(2)]. If a depreciation deduction was claimed on the federal return under Section 168(k) (with the exceptions previously listed), complete Part 1 of Form IT-398, *New York State Depreciation Schedule for IRC Section 168(k) Property*. Form IT-398 must be attached to the return.

A-210 Special depreciation. Applies to an election for tax years beginning before 1987 for special depreciation, research and development expenditures, waste treatment facility expenditures, air pollution control equipment expenditures or acid deposition control equipment. Submit Form IT-211, *Special Depreciation Schedule*, with the return. See subtraction S-207 on Page NY-8.

A-211 Royalty and interest payments made to a related member or members. An addition to income may be required for certain royalty payments made to a related member for use of intangible property, such as trademarks or patents, and interest payments made to a related member, to the extent the payments were deducted in computing federal AGI. See Section 612(r) of New York Tax Law for more information.

A-212 Environmental remediation insurance premiums. Add back the amount of environmental remediation insurance credit taken for premiums for which a deduction was also taken.

A-213 Domestic producer's deduction. Any Section 199 domestic production activities deduction taken in computing federal income must be added back.

A-214 Metropolitan commuter transportation mobility tax (MCTMT). Add back the amount of the federal deduction for the MCTMT imposed under Article 23 of the New York Tax Law.

A-215 NOL deduction limitation. If the taxpayer's federal taxable income computed without the NOL deduction is less than