

New York

★ The Empire State ★

GENERAL

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| Forms request | 518-457-5431 |
| Tax assistance | 518-457-5181 |
| Website (state) | www.tax.ny.gov |
| Website (city) | www1.nyc.gov/site/finance/index.page |
| Refund information | 518-457-5149 |

NEW FOR 2021

Tax brackets. Two new brackets were added for high income taxpayers. The marginal rate for taxpayers with taxable income between \$5 million and \$25 million is 10.3%. For those making in excess of \$25 million the top bracket is 10.9%.

Tax credits. Four new credits are available in 2021. The Pass-through entity tax (PTET), the real property tax relief, the New York City musical and theatrical production tax, and the restaurant return to work tax credits.

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* on Page NY-1). A person can have only one domicile. 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, individuals domiciled in another state 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.

Nonresidents. A nonresident is a person who was not a resident of NYS for any part of the year.

Exception: Individuals whose domicile is NYS are 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 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.

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

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.

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. A military spouse domiciled in another state but located in NYS may not be considered to be a resident under this definition.



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 |

Part-year and nonresidents are required to file if they meet any of the conditions outlined below.

- Have New York source income and New York AGI is more than the NYS standard deduction.
- Are part-time residents 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-196 (New York Resident, Nonresident, and Part-year Resident Itemized Deductions)

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.