

# New York

★ The Empire State ★

## GENERAL

Forms request	518-457-5431
Tax assistance	518-457-5181
Website (state)	<a href="http://www.tax.ny.gov">www.tax.ny.gov</a>
Website (city)	<a href="http://www1.nyc.gov/site/finance/index.page">www1.nyc.gov/site/finance/index.page</a>
Refund information	518-457-5149

## NEW FOR 2020

- **Federal conformity.** For tax years beginning before January 1, 2022, NY has decoupled from the Internal Revenue Code for any legislation that occurred after March 1, 2020, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Form IT-558 should be filed for any required adjustments.
- **Unclaimed tax benefits.** NY is authorized to recompute and lower tax liability for unclaimed earned income credit or if standard deduction is higher than itemized deductions claimed on the return.
- **Tax credits.** Amendments have been made to the rehabilitation of historic properties credit, the hire a veteran credit, the long-term care insurance credit, the Empire State film production and film post-production credits, and the excelsior jobs program credit. In addition, new credits exist for employer-provided childcare and for hiring individuals who are recovering from substance use disorder.

## 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.



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

**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

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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.

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

**Form IT-2105** (Estimated 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-558** (New York State Adjustments due to Decoupling from the IRC).

**Form IT-2** (Summary of W-2 Statements).

**Form IT-1099-R** (Summary of Federal Form 1099-R Statements).

**Form IT-227** (New York State Voluntary Contributions).

**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.

**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.

Federal AGI is then recomputed on line 19a due to New York decoupling from the Internal Revenue Code for any legislation that occurred after March 1, 2020. Form IT-558 should be completed. Complete the following worksheet to determine the amount on Line 19a.

Line 19a Worksheet	
1) Federal AGI from Form IT-201, line 19.....	1) \$ _____
2) Total addition adjustments from Form IT-558, line 9.....	2) _____
3) Add lines 1 and 2.....	3) _____
4) Total subtraction adjustments from Form IT-558, line 18.....	4) _____
5) Recomputed federal AGI. Subtract line 4 from line 3. Enter result on Form IT-201, line 19a.....	5) _____

Schedule A of Form IT-558 includes the addition adjustments. Adjustments that apply directly to the individual are entered on lines 1a-1g, while adjustments that apply from a pass-through (partnership, S corporation, or trust) are entered on lines 5a-5g. Each item's three digit code should also be included.

- Full amount of coronavirus related distributions that are included over three years on federal return. **(001)**
- Entire amount of loans from a qualified plan received March 27-December 31 that exceed the lesser of:
  - \$50,000 reduced by the highest outstanding balance during the one-year period ending on the day before the loan was made over the outstanding balance on the date on which the loan was made or
  - the greater of one-half of the present value of the nonforfeitable accrued benefit of the employee or \$10,000. **(002)**
- Charitable deduction claimed on Form 1040, line 10b. **(003)**
- Exclusion for certain employer payments of student loans. **(004)**
- Net operating loss (NOL) reported on federal return. **(005)**
- Excess business loss that would have been restricted on federal return if not for the CARES Act. **(006)**
- Paycheck Protection Program (PPP) loan forgiveness. **(007)**
- Excess depreciation of qualified improvement property (QIP) depreciation using the 15-year life and/or bonus depreciation. **(008)**
- Excess business interest claimed on federal return greater than the amount that would have been claimed prior to the CARES Act. **(009)**

## 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 for certain married individuals who file a joint federal return:*

- 1) If one spouse is a NYS resident and the other is a part-year or nonresident, the taxpayers must either:
  - File separate New York returns (MFS) or
  - File jointly (MFJ), as if both spouses were residents.
- 2) If 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, file MFS.
- 3) If 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 *2020 State of New York School Districts and Code Numbers* on Page NY-35 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 (KIA).
- 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.
- C2 Request an installment payment agreement.
- M4 Veterans Benefits and Transition Act of 2018 election.

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- Distributive share passed through by a partnership (including amounts reported by an S corporation on Form CT-34-SH, line 3a) if the net amount is an addition. **(100)**
- Distributive share passed through by an estate or trust (including amounts reported by an S corporation on Form CT-34-SH, line 3a) if the net amount is an addition. **(101)**

Schedule B of Form IT-558 includes the subtraction adjustments. Adjustments that apply directly to the individual are entered on lines 10a-10g, while adjustments that apply from a pass-through (partnership, S corporation, or trust) are entered on lines 14a-14g. Each item's three digit code should also be included.

- Coronavirus-related distribution included on federal return (generally, one-third of total distribution being spread over three years). **(001)**
- Loan from a qualified employer plan that was included in New York income in a prior year, but in federal income in the current year. **(002)**
- Depreciation of QIP that exceeds federal depreciation (generally when fully depreciated for federal purposes but not state purposes). **(003)**
- NOL recomputed for New York state. NOL may not be carried back (except for a 2-year carryback period for farming losses) and may offset only 80% of federal taxable income. **(004)**
- Prior year excess business expense added back for New York purposes that is able to be utilized in current year. **(005)**
- Distributive share passed through by a partnership (including amounts reported by an S corporation on Form CT-34-SH, line 5a) if the net amount is a subtraction. **(100)**
- Distributive share passed through by an estate or trust (including amounts reported by an S corporation on Form CT-34-SH, line 5a) if the net amount is a subtraction. **(101)**

## Additions

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

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

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

**New York's 529 college savings program distributions.** Complete the following worksheet 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 Subtraction for Deductions/Earnings Distributions</i> on Page NY-6) and prior years' subtraction modifications.....	3) _____
4) Subtract line 3 from line 2.....	4) _____
5) Total prior years' addition modifications.....	5) _____
6) Add lines 4 and 5.....	6) _____
7) Subtract line 6 from line 1 (if less than zero, enter zero). This is the current-year addition modification. Enter on line 22 of Form IT-201. Part-year residents include this amount on Form IT-225, line 1 with code number A-103.....	7) _____

**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, S corporations, or trusts, use the information provided by the entity.

**A-101 NYC flexible benefits program (IRC Sec. 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 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 after 2003 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 modification does not apply to assets acquired from a decedent who died on or after February 1, 2000.

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**A-108 Disposition of solar and wind energy systems.** Add back any gain reported for federal tax for property sold in the current year for which a NYS credit was taken in 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 after 1981 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 (that was not included on Form 4970, line 5).


**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.

**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.

**A-118 Net gain from casualty or theft.** If a NYS itemized deduction for a casualty or theft loss is claimed and a net gain was computed on line 15 of the Casualty and theft worksheet for Form IT-196, the gain computed, to the extent not included in federal taxable income, is an addition modification.

**A-119 Alimony or separate maintenance payments received.** Payment received under an alimony or separation instrument that was executed after 2018 are an addition modification. This also applies to payments under a divorce or separation instrument executed before 2019 and modified after 2018, if the modification expressly provides that the addition and subtraction modifications to NYS tax law apply.

 **Note:** Additions A-201 through A-218 apply only if the taxpayer filed federal Schedules C, E and/or F.

**A-201 Personal income and unincorporated business taxes deducted in determining recomputed 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. (See subtraction S-206 on Page NY-8).

**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 IRC Sec. 168(f)(8) for agreements entered into before 1984. (See subtractions S-208 on Page NY-8 and S-209 on Page NY-8.)

**A-204 Safe harbor leases.** If a safe harbor lease was made under an election provided by IRC Sec. 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. (See subtractions S-208 on Page NY-8 and S-209 on Page NY-8.)

**A-205 Accelerated cost recovery system (ACRS) deduction.** Taxpayers who claimed ACRS depreciation on their federal return for property (other than Section 280F property) (1) placed in service during 1981 through 1984 or (2) placed in service outside NYS during 1985 through 1993 if they elected to continue using IRC Sec. 167 depreciation add back the amount deducted in computing federal income. They must submit Form IT-399 (New York State Depreciation Schedule) with their return. See subtraction S-210 on Page NY-8.

**A-206 ACRS 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 2019 NYS tax return if a deduction was taken for these school taxes in figuring the 2019 federal AGI. However, do not add back any amount if the taxpayer was required to report the amount of credit as income on the 2020 federal return.

**A-208 Sport utility vehicle expense deduction.** Taxpayers (other than farmers eligible for the farmer's school tax credit - see Form IT-217-I) who claimed a Section 179 deduction on the federal return for a sport utility vehicle that weighs more than 6,000 pounds add back the amount of that deduction. *A sport utility vehicle* is any four-wheeled passenger vehicle manufactured primarily for use on public streets, roads and highways, other than any (1) ambulance or hearse used directly in a trade or business, (2) vehicle used directly in the trade or business of transporting persons or property for compensation or hire or (3) 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.