



# Instructions for Form IT-2659

## Estimated Tax Penalties for Partnerships and New York S Corporations

### Important note

The 2023-2024 New York State budget was signed into law on May 3, 2023. As a result, the metropolitan commuter transportation mobility tax (MCTMT) rate for certain employers and individuals was increased. These changes may have increased the amount of estimated tax the partnership was required to pay for 2023.

If the partnership did business within the Metropolitan Commuter Transportation District (MCTD), the *Schedule C – Regular method* should be used to compute the partnership's underpayment penalty unless the partnership made no estimated tax payments for tax year 2023. This method will ensure that no underpayment penalty will be assessed as a result of the new tax rate for installments of estimated tax due on or before September 15, 2023, provided the additional tax resulting from the new rates was paid by September 15, 2023. Using *Schedule B – Short method* for computing the penalty may cause the partnership to pay a larger penalty than using the *Schedule C – Regular method*.

### General instructions

**Caution:** Do not use Form IT-2659 to calculate and pay any New York State pass-through entity tax (NYS PTET) or New York City pass-through entity tax (NYC PTET) estimated tax penalties. For information on NYS PTET and NYC PTET, visit [www.tax.ny.gov](http://www.tax.ny.gov) (search: *PTET*).

### Who must pay the underpayment penalty

In general, the partnership or S corporation may owe a penalty unless the total estimated tax paid on behalf of all nonresident individuals and corporate partners or shareholders is at least:

- 1) 90% of the estimated tax required to be paid for 2023; **or**
- 2) 100% of the estimated tax required to be paid on behalf of partners or shareholders for 2022 (110% of that amount if the entity is not primarily engaged in farming or fishing and the New York source income allocated to nonresident individuals and C corporations or the net earnings from self-employment allocated to the Metropolitan Commuter Transportation District (MCTD) for all New York nonresident individual partners is more than \$150,000).

The total estimated tax paid calculation is used only to determine if the partnership or New York S corporation owes a penalty for underpayment of tax. It does not take into account whether the entity properly allocated the total payment among the nonresident individuals and corporate partners and shareholders.

In addition to the penalties that may be imposed upon the partnership or New York S corporation, individual partners or shareholders may also be subject to penalties on their individual income or corporate franchise returns if they have not paid sufficient estimated tax for the year.

### Failure to pay estimated tax on behalf of a partner or shareholder

If a partnership or New York S corporation is required to pay estimated tax on behalf of a partner or shareholder and fails to do so, the entity will pay a penalty of \$50 per partner or shareholder for each failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

*Estimated tax for corporate partners* means a corporate partner's distributive share of the partnership income derived from New York sources for the year, multiplied by the highest rate of tax under Tax Law section 210.1(a) for the year (7.25% for 2023), and reduced by the corporate partner's distributive share of allowable credits from the partnership.

*Estimated tax for nonresident individual partners and shareholders* means a partner's or shareholder's distributive share or pro rata share of the entity's income derived from New York sources for the year, less the partner's or shareholder's share of certain partnership related deductions allocated to New York State, multiplied by the highest rate of tax under Tax Law section 601 for the year (10.9% for 2023). This amount is then reduced by the partner's or shareholder's distributive or pro rata share of any allowable credits from the partnership or New York S corporation.

*Estimated metropolitan commuter transportation mobility tax (MCTMT) for nonresident individual partners* means a partner's distributive share of the partnership's net earnings from self-employment allocated to the MCTD multiplied by a rate of:

- .47% (.0047) if such earnings are allocated to Zone 1.
- .34% (.0034) if such earnings are allocated to Zone 2.

For purposes of the MCTMT, the MCTD is divided into two zones:

- **Zone 1:** Includes the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, and Richmond (Staten Island)
- **Zone 2:** Includes the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester

### Exceptions

- Estimated tax payments are not required for any partner or shareholder whose estimated tax required to be paid for the tax year by the partnership or New York S corporation is \$300 or less. **Note:** Partners are still required to make estimated tax payments in their individual capacities if they owe any MCTMT.
- Estimated tax payments are not required for any partner or shareholder if the entity is authorized to file a group return, and the partner or shareholder has elected to be included on the group return.
- Estimated tax payments are not required for partners and shareholders who are resident individuals, partnerships, S corporations, estates, or trusts. **Note:** Estimated tax payments are only required for partners and shareholders who are C corporations or nonresident individuals.

**Exemptions** – Even if partners or shareholders did not meet the exceptions above, they may still claim exemption from estimated tax by filing Form CT-2658-E, *Certificate of Exemption from Partnership Estimated Tax Paid on Behalf of Corporate Partners*, or Form IT-2658-E, *Certificate of Exemption from Partnership or New York S Corporation Estimated Tax Paid on Behalf of Nonresident Individual Partners and Shareholders*.

Corporate partners qualify to be exempt from partnership estimated tax and file Form CT-2658-E by certifying that they either:

- are exempt from any tax imposed by New York State Tax Law, Articles 9, 9-A, and 33, **or**

- will comply in their own corporate capacity with the estimated tax provisions and filing requirements.

A nonresident individual partner or shareholder qualifies to be exempt from partnership and New York S corporation estimated tax by filing Form IT-2658-E certifying that they will comply in their individual capacity with the estimated tax provisions and filing requirements.

**Overpayments of estimated tax** – If the partnership or S corporation overpays its estimated tax for the year, a refund will be issued to the entity only if the entity can establish that the overpayment was attributable to payments made on behalf of a partner or shareholder for whom it was not required to pay estimated tax (for example, the entity erroneously made a payment for a partner that is a trust). Otherwise, the partner or shareholder will have to claim credit for the estimated tax payment on their individual personal or corporation tax return.

**Penalty rates** – The penalty rates will be based upon the federal short-term interest rates, and will be adjusted quarterly. The federal short-term rate for the first month of the previous calendar quarter, rounded to the nearest whole percent, will be used to set the rates for the next succeeding calendar quarter.

The federal short-term rate that applies during the third month following the tax year will also apply during the first 15 days of the fourth month following the tax year.

The penalty rate will be the federal short-term rate plus five and one half percentage points but not less than 7.5%. The rates from April 15, 2023, through April 15, 2024, are as follows:

April 15 to June 30, 2023 - 9.5%  
July 1 to September 30, 2023 - 9.5%  
October 1 to December 31, 2023 - 10.5%  
January 1 to April 15, 2024 - 10.5%

**Period of underpayment** – The penalty is applied to the number of days that the installment was not paid. Determine the period of the underpayment by counting the number of days after the due date of the installment to and including the date of payment, the last date in the penalty rate period, or the next installment due date, whichever is earliest.

## Where to file

Mail your Form IT-2659 to:

**NYS TAX DEPARTMENT - IT-2659**  
**PO BOX 15179**  
**ALBANY NY 12212-5179**

**Private delivery services** – If you are not submitting your form by U.S. Mail, see Publication 55, *Designated Private Delivery Services*, for the address and other information.

## Specific instructions

### Entering whole dollar amounts

When entering amounts on this form, enter whole dollar amounts only (zeros have been preprinted). Do not write in dollar signs or commas when making entries. Use the following rounding rules when entering your amounts; drop amounts below 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3.

### Name, address, and employer identification number (EIN)

Enter in the spaces at the top of the form the name and address of the partnership or New York S corporation and the employer identification number.

## Type of entity

Mark an **X** in the applicable box to indicate if the entity is a partnership or S corporation.

## Schedule A – Computation of estimated tax underpayment

Use Schedule A to see if the partnership or New York S corporation paid enough of its required annual estimated tax. If enough estimated tax was not paid, use Schedule B or Schedule C to compute the penalty.

Do not include any partners or shareholders who meet the exceptions or filed exemption certificates (see *Exceptions and Exemptions* on page 1).

All filers must complete lines 1 through 27.

### Line 2 and line 16

The amounts to be entered on line 2 and line 16 include the total partners' or shareholders' shares of the federal partnership deductions for medical insurance, and contributions to IRA, Keogh, and plans allocated to New York. These deductions are allocated to New York in the same manner as the partnership or S corporation income is allocated to New York. Do not include any deductions that are required to be treated as itemized deductions on the partner's or shareholder's New York State income tax return. Also do not include the partner's federal deduction for one-half of the self-employment tax, since this deduction is not treated as a partnership deduction for federal income tax purposes.

**Line 27** – If the sum of lines 17 and 22 is more than \$150,000, and the entity is not primarily engaged in farming or fishing, complete line 28 and continue with Schedule B. If the sum of lines 17 and 22 is \$150,000 or less, skip line 28 and continue with Schedule B.

## Schedule B – Short method for computing the penalty

If you paid four equal estimated tax installments on the due dates, or made no estimated tax payments for the 2023 tax year, complete lines 29 through 34 to compute the penalty due. Otherwise, you must use the regular method in Schedule C.

**Note:** If any payment was made earlier than the due date, you may use the short method, but using it may cause you to pay a larger penalty than the regular method. If the payment was only a few days early, the difference is likely to be small.

You **may not** use the short method if you made any estimated tax payments late.

**Line 30** – Enter the total of estimated taxes paid.

**Line 33** – If the underpayment on line 31 was paid before April 15, 2024, compute the number of days the payment was made before April 15, 2024, and enter it in the computation for line 33.

**Example:** If the line 31 underpayment of \$2,050 was paid April 8, 2024, you would compute the amount for line 33 as follows: \$2,050 (amount on line 31) × 7 (number of days before April 15, 2024) × .00028 = \$4.02. Enter \$4 on line 33.

## Schedule C – Regular method

### Part 1 – Computing the underpayment

**Line 35** – Enter on line 35, columns A through D, the amount of your required installment for the due date shown in each column heading.

If the amount on line 14 is less than the amount on line 27 (or if applicable, line 28) **and** there are no amounts on lines 12a, 12b, and 12c, divide the amount on line 14 by four and enter the result on line 35, columns A through D.

If the amount on line 27 (or if applicable, line 28) is less than the amount on line 14 **and** there are no amounts on lines 12a, 12b, and 12c, divide the amount on line 27 (or if applicable, line 28) by four and enter the result on line 35, columns A through D.

If there **are** amounts on lines 12a, 12b, and 12c, complete the line 35 amounts as follows:

**Worksheet for Columns A and B**

|                                                                                |           |
|--------------------------------------------------------------------------------|-----------|
| 1. Enter the amount from Schedule A, line 7 .....                              | 1. _____  |
| 2. Enter the amount from Schedule A, line 12 .....                             | 2. _____  |
| 3. Add the amounts from Schedule A, lines 12a and 12d .....                    | 3. _____  |
| 4. MCTMT rate (.34%) .....                                                     | 4. _____  |
| 5. Multiply line 3 by line 4 .....                                             | 5. _____  |
| 6. Add lines 1, 2, and 5 .....                                                 | 6. _____  |
| 7. Multiply line 6 by 90% (.90) .....                                          | 7. _____  |
| 8. Enter the amount from Schedule A, line 27 (or if applicable, line 28) ..... | 8. _____  |
| 9. Enter the <b>smaller</b> of line 7 or line 8 .....                          | 9. _____  |
| 10. Divide line 9 by four. Enter here and on line 35, columns A and B .....    | 10. _____ |

**Worksheet for Column C**

|                                                                                                          |          |
|----------------------------------------------------------------------------------------------------------|----------|
| 1. Enter the smaller of the amount from Schedule A, line 14 or line 27 (or if applicable, line 28) ..... | 1. _____ |
| 2. Divide line 1 by four .....                                                                           | 2. _____ |
| 3. Multiply line 2 by three .....                                                                        | 3. _____ |
| 4. Enter the amount from line 35, column A .....                                                         | 4. _____ |
| 5. Multiply line 4 by two .....                                                                          | 5. _____ |
| 6. Subtract line 5 from line 3. Enter here and on line 35, Column C .....                                | 6. _____ |

**Column D** – Compute the amount to enter in Column D by dividing the smaller of the amount from Schedule A, line 14 or line 27 (or if applicable, line 28) by four.

**Line 36** – Enter the total estimated taxes paid for each period.

**Line 37** – Enter any overpayment (or underpayment) from the prior payment period.

**Line 38** – In column A, enter the amount from line 36. In the other columns, if line 37 is an overpayment, add lines 36 and 37.

If line 37 is an underpayment, subtract line 37 from line 36.

**Line 39** – If line 35 is greater than line 38, subtract line 38 from line 35. The result is an underpayment that should also be entered on line 40 for the same payment due date and on line 37 for the next payment due date. If line 38 is greater than line 35, subtract line 35 from line 38. The result is an overpayment that should also be entered on line 37 for the next payment due date.

If line 38 is a negative amount, your total underpayment at line 39 is the installment due at line 35 plus the line 38 amount.

**Part 2 – Computing the penalty**

Compute the penalty by applying the applicable rate against each underpayment shown on line 40. The penalty is computed for the number of days that the underpayment remained unpaid or to the next payment due date, whichever is earlier.

The rates are established at various times through the year. During 2023 there were two rates in effect over four periods.

Lines 41 through 48 are used to compute the portion of the penalty attributable to different installment penalty periods. For example, lines 41 and 42 are used to compute the penalty for the first installment penalty period at 9.5%. The factor .01587 at line 41 is used to compute the penalty for the first installment penalty period if payment is made on June 15. If payment is made before June 15, compute the factor using the number of days the underpayment remained unpaid for the first installment penalty period. Line 42 is used to compute the actual penalty amount by multiplying the underpayment by the factor.

Read the instructions and examples for lines 41 through 48 below and on page 4 before completing Schedule C, Part 2.

**List your payments for 2023**

Before beginning to compute your penalty in Schedule C, Part 2, it will be helpful to organize and list the payments you made for 2023 in the manner presented in the tables below.

In each table list only the payments made during the dates shown in that table heading.

**Table 1 – Payments after April 15, 2023, through June 15, 2023**

| (a) Date | (b) Payments |
|----------|--------------|
|          |              |
|          |              |
|          |              |

**Table 2 – Payments after June 15, 2023, through September 15, 2023**

| (a) Date | (b) Payments |
|----------|--------------|
|          |              |
|          |              |
|          |              |

**Table 3 – Payments after September 15, 2023, through January 15, 2024**

| (a) Date | (b) Payments |
|----------|--------------|
|          |              |
|          |              |
|          |              |

**Table 4 – Payments after January 15, 2024, through April 15, 2024**

| (a) Date | (b) Payments |
|----------|--------------|
|          |              |
|          |              |
|          |              |

The following instructions will lead you through the procedures for computing the penalty in Schedule C, Part 2.

Complete only those lines from line 41 through line 48 for periods in which there are underpayments.

**First installment penalty period – column A, lines 41 and 42**

**Line 41** – Enter on line 41, column A, the factor .01587 if no payment was made before June 15, 2023. If any payment was made before June 15, 2023, compute the number of days from April 15, 2023, to the date the payment was made and divide



by 365. Then multiply the result by the interest rate shown to compute the factor to enter on line 41.

**Line 42** – Compute line 42 by multiplying the underpayment on line 40 by the factor on line 41.

**Example 1:** Assume you had an underpayment on line 40, column A, of \$5,000 and that you had no payments listed in Table 1 above. Because the underpayment remained unpaid for the entire first installment penalty period (61 days), you would compute the penalty on the underpayment using the factor shown and enter .01587 on line 41. Multiplying your underpayment amount, \$5,000 by the factor .01587 equals \$79.35. You would enter \$79 on line 42.

**Note:** When dividing the number of days by 365 (or 366), carry the result to four decimal places but when computing the factor, carry the result to five decimal places and do not round off in either calculation.

**Example:**  $85 \div 365 = .2328 \times 9.5\% = .02211$

**If there is a payment listed in Table 1**, on a separate sheet of paper apply the payment to the underpayment shown on line 40. The underpayment for the computation on line 42 will be the amount of the payment that you applied to the line 40 underpayment. If the payment is more than the underpayment, apply only an amount equal to the underpayment and use that amount for the line 42 computation.

**If there are no payments listed in Table 1**, the underpayment is the entire underpayment balance shown on line 40, column A, because the entire underpayment would have been unpaid for the whole installment penalty period.

**Example 2:** Assume you had an underpayment on line 40, column A, of \$5,000 and that your first payment in Table 1 was made on May 6, 2023, in the amount of \$5,000. You would compute the penalty on the underpayment by computing the factor as follows:  $21 \div 365$  (21 is the number of days from 4/15 to 5/6) multiplied by 9.5% equals .00546. Enter .00546 on line 41. Multiplying your underpayment amount, \$5,000 by the factor .00546 equals \$27.30. You would enter \$27 on line 42.

If there are additional payments listed in Table 1 and the first payment was not enough to reduce the underpayment to zero, you must make a separate computation for each payment listed until the underpayment is reduced to zero. If there is still an underpayment balance after applying all of the payments, you must compute the penalty on the balance of the underpayment in the same manner as explained in Example 3 below.

**Example 3:** Assume you had an underpayment on line 40, column A, of \$5,000 and that your first payment in Table 1 was made on April 26, 2023, in the amount of \$3,000. Because the payment did not reduce the underpayment to zero, you would compute the penalty on the underpayment by computing the factors as follows:  $11 \div 365$  (11 is the number of days from 4/15 to 4/26) multiplied by 9.5% equals .00285. Enter .00285 on line 41; as there are no other payments listed in Table 1 you would have a second computation to compute the factor on the remaining underpayment of \$2,000 as follows: enter .01587 (factor for period 4/15 to 6/15) on line 41. Multiplying your first underpayment amount, \$3,000 by the factor .00285 equals \$8.55. Multiplying your second underpayment amount, \$2,000 by the factor .01587 equals \$31.74. You would enter \$40 (\$8.55 + \$31.74) on line 42.

### Columns B through D

In columns B through D, compute the penalty on any underpayment shown on line 40. Compute the penalty for each period in the same manner as in column A.

### Second installment penalty period – column B, lines 43 and 44

**Line 43** – Enter on line 43, column B, the factor .02394 if no payment was made before September 15, 2023. If any payment was made after June 15, 2023, but before September 15, 2023, compute the number of days from June 15, 2023, to the date the payment was made and divide by 365. Then multiply the result by the interest rate to compute the factor to enter on line 43.

**Line 44** – Compute line 44 by multiplying the underpayment on line 40 by the factor on line 43.

### Third installment penalty period – column C, lines 45 and 46

**Line 45** – Enter on line 45, column C, the factor .03464 if no payment was made before January 15, 2024. If any payment was made after September 15, 2023, but before December 31, 2023, compute the number of days from September 15, 2023, to the date the payment was made and divide by 365. If any payment was made after December 31, 2023, but before January 15, 2024, compute the number of days from January 1, 2024, to the date the payment was made and divide by 366. Then multiply the result by the interest rate to compute the factor to enter on line 45.

**Line 46** – Compute line 46 by multiplying the underpayment on line 40 by the factor on line 45.

### Fourth installment penalty period – column D, lines 47 and 48

**Line 47** – Enter on line 47, column D, the factor .02610 if no payment was made before April 15, 2024. If any payment was made after January 15, 2024, but before April 15, 2024, compute the number of days from January 15, 2024, to the date the payment was made and divide by 366. Then multiply the result by the interest rate to compute the factor to enter on line 47.

**Line 48** – Compute line 48 by multiplying the underpayment on line 40 by the factor on line 47.

### Schedule D – Failure to pay estimated tax on behalf of partners or shareholders who are corporations or nonresident individuals

Complete Schedule D for any partner or shareholder for whom you were required to pay estimated tax, but failed to do so. Attach additional sheets if necessary.

### Line 52 – Total penalty

Add the amounts from lines 49, 50, and 51 as applicable. Transfer the amount from line 52 to the *Payment enclosed* box on the front of Form IT-2659. Pay this amount, and make your check or money order payable in U.S. funds to **Commissioner of Taxation and Finance**.

### Fee for payments returned by banks

The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee.

If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

### Paid preparer's signature

If you pay someone to prepare your form, the paid preparer must also sign it and fill in the other blanks in the paid preparer's area of your form. A person who prepares your form and does not charge you should not fill in the paid preparer's area.

**Paid preparer's responsibilities** – Under the law, all paid preparers must sign and complete the paid preparer section of the form. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *NYTPRIN excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN **or** an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your Social Security number.

| Code | Exemption type         | Code | Exemption type                                       |
|------|------------------------|------|------------------------------------------------------|
| 01   | Attorney               | 02   | Employee of attorney                                 |
| 03   | CPA                    | 04   | Employee of CPA                                      |
| 05   | PA (Public Accountant) | 06   | Employee of PA                                       |
| 07   | Enrolled agent         | 08   | Employee of enrolled agent                           |
| 09   | Volunteer tax preparer | 10   | Employee of business preparing that business' return |

See our website for more information about the tax preparer registration requirements.

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

### Need help?



Visit our website at **[www.tax.ny.gov](http://www.tax.ny.gov)**

- get information and manage your taxes online
- check for new online services and features

#### Telephone assistance

|                                                |                                              |
|------------------------------------------------|----------------------------------------------|
| Automated income tax refund status:            | 518-457-5149                                 |
| Personal Income Tax Information Center:        | 518-457-5181                                 |
| To order forms and publications:               | 518-457-5431                                 |
| Text Telephone (TTY) or TDD<br>equipment users | Dial 7-1-1 for the<br>New York Relay Service |