



Instructions for Form IT-2659

Estimated Tax Penalties for Partnerships and New York S Corporations

IT-2659-I

General instructions

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 2003; **or**
- 2) 100% of the estimated tax that would have been required to be paid on behalf of partners or shareholders for 2002 had the law been in effect for 2002 (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 is more than \$150,000). For this purpose, the estimated tax must be computed using the tax rates that apply for 2003.

Note: 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 penalty 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 (7.5% for 2003), 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 (7.7% for 2003). 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.

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.
- 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 only required for partners and shareholders who are C corporations or nonresident individuals. Estimated tax payments are not required for partners and shareholders who are resident individuals, partnerships, S corporations, estates, or trusts.

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, 32 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 and file Form IT-2658-E by 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 two percentage points. The rates from April 15, 2003, through April 15, 2004, are as follows:

- April 15 to June 30, 2003 - 6%
- July 1 to September 30, 2003 - 6%
- October 1 to December 31, 2003 - 6%
- January 1 to April 15, 2004 - 6%

Period of underpayment — The penalty is applied to the number of days that the installment was not paid. Figure 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 earlier.

Specific instructions

Name and employer identification number (EIN)

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

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 figure the penalty.

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

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 SEP 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 federal 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.

Schedule B — Short method for figuring the penalty

If you paid 3/4 of the total estimated tax paid for 2003 on September 15, 2003 and 1/4 of the total estimated tax paid for 2003 on January 15, 2004, or made no estimated tax payments for the 2003 tax year, complete lines 29 through 34 to arrive at 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, 2004, figure the number of days the payment was made before April 15, 2004, and enter it in the computation for line 33.

Example: If the line 31 underpayment of \$2,050 was paid April 8, 2004, you would compute the figure for line 33 as follows: $\$2,050$ (amount on line 31) $\times 7$ (number of days before April 15, 2004) $\times .00016 = \$2.30$.

Schedule C — Regular method for figuring your underpayment

Line 37 — Enter the total estimated taxes paid.

Line 38 — Enter any overpayment (or underpayment) from the prior payment period.

Line 39 — In column A, enter the amount from line 37. In column B, if line 38 is an overpayment, add lines 37 and 38.

If line 38 is an underpayment, subtract line 38 from line 37.

Lines 42 through 46

Figure the penalty by applying the applicable rate against each underpayment shown on line 40 and 41. The penalty is figured 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 2003, there was only one rate in effect over four periods.

Lines 42 through 45 are used to compute the portion of the penalty attributable to different installment periods. For example, lines 42 and 43 are used to figure the penalty for the first installment period at 6%. The factor .02003 at line 42 is used to compute the penalty for the first installment if payment is made on January 15. If payment is made before January 15, figure the factor using the number of days the underpayment remained unpaid for the first installment. Line 43 is used to compute the actual penalty amount by multiplying the underpayment by the factor.

List your payments for 2003 — Before beginning to figure your penalty, it will be helpful to organize and list the payments you made for 2003 in the manner presented in the tables below.

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

The following instructions will lead you through the procedures for figuring the penalty.

Table 1 — Payments after April 15, 2003, through September 15, 2003

A — Date	B — Payments

Table 2 — Payments after September 15, 2003, through January 15, 2004

A — Date	B — Payments

Table 3 — Payments after January 15, 2004, through April 15, 2004

A — Date	B — Payments

Complete only those lines from line 42 through line 46 for periods in which there are underpayments.

First installment — column A, lines 42 and 43

Line 42 — Enter on line 42, column A, the factor .02003 if no payment was made before January 15, 2004. If a payment(s) was made after September 15, 2003, but before December 31, 2003, compute the number of days from September 15, 2003, to the date the payment was made and divide by 365. If a payment was made after December 31, 2003, but before January 15, 2004, compute the number of days from January 1, 2004 to the date the payment was made and divide by 366. Then multiply the result by the interest rate to arrive at the factor to enter on line 42.

Line 43 — Compute line 43 by multiplying the underpayment on line 40 by the factor on line 42.

Second installment — column B, lines 44 and 45

Line 44 — Enter on line 44, column B, the factor .01491 if no payment was made before April 15, 2004. If a payment(s) was made after January 15, 2004, but before April 15, 2004, compute the number of days from January 15, 2004, to the date the payment was made and divide by 366. Then multiply the result by the interest rate to arrive at the factor to enter on line 44.

Line 45 — Compute line 45 by multiplying the underpayment on line 41 by the factor on line 44.

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 49 — Total penalty

Add the amounts from lines 46, 47, and 48 as applicable. Transfer the amount from line 49 to the *Payment enclosed* box on the front of Form IT-2659. Pay this amount, and make your check or money order payable to **Commissioner of Taxation and Finance**.

Need help?

Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: 1 800 748-3676



Personal Income Tax Information Center: 1 800 225-5829
From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110