



Instructions for Form IT-2658

Report of Estimated Tax for Nonresident Individual Partners and Shareholders

IT-2658-I

General Information

Tax Law section 658(c)(4) requires the following entities that have income derived from New York sources to make estimated tax payments on behalf of partners or shareholders who are nonresident individuals or C corporations (any corporation other than a federal S corporation):

- New York S corporations;
- Partnerships (other than publicly traded partnerships as defined in Internal Revenue Code section 7704);
- Limited liability companies (LLCs) or limited liability partnerships (LLPs) that are treated as partnerships for federal income tax purposes.

Who must file Form IT-2658

Partnerships and New York S corporations must file Form IT-2658 to make estimated tax payments on behalf of partners or shareholders who are nonresident individuals.

Note: To make estimated tax payments on behalf of partners that are C corporations, use Form CT-2658, Report of Estimated Tax for Corporate Partners, and Form(s) CT-2658-ATT, Attachment to Report of Estimated Tax for Corporate Partners.

Additional sheets — If the partnership or S corporation is making a payment of estimated tax on behalf of more than nine nonresident individual partners/shareholders, list the additional partners/shareholders on Form(s) IT-2658-ATT, *Attachment to Report of Estimated Tax for Nonresident Individual Partners and Shareholders*. Follow the instructions for Form IT-2658 to complete Form IT-2658-ATT. Be sure to attach Form(s) IT-2658-ATT to Form(s) IT-2658.

Partnerships and S corporations may use computer-generated forms to report estimated tax payments for partners and shareholders as required on Form IT-2658. For more detailed information, see Form TR-2658, *Revised Standards for Computer-Generated Form IT-2658-ATT and Form CT-2658-ATT*.

New York source income is income, gain, loss, or deduction, and any related Tax Law section 612 modifications derived from or connected with New York State sources.

See Form IT-204-I, *Instructions for Form IT-204, Partnership Return*, to determine if the partnership has income from New York sources. In addition, use those instructions to determine the portion of a nonresident partner's distributive share of partnership income (including New York modifications) that is derived from New York sources.

See Form CT-3-S-I, *Instructions for Forms CT-3-S, and CT-3-S-ATT, New York S Corporation Franchise Tax Return and Attachment*; and Form CT-32-S-I, *Instructions for Form CT-32-S, New York Bank S Corporation Franchise Tax Return*, and Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*, to determine if the S corporation has income from New York sources. In addition, use those instructions to determine the portion of the nonresident's pro rata share of federal income and loss and New York Tax Law section 612 modifications that are from New York sources.

Estimated tax for nonresident 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, and multiplied by the highest rate of tax under Tax Law section 601 for the year (6.85% for 2008). This amount is then reduced by the partner's or shareholder's distributive share or pro rata share of any allowable credits from the partnership or New York S corporation.

For a fiscal-year partnership or New York S corporation, base the payments for 2008 on the partner's or shareholder's distributive share of partnership or S corporation income for the fiscal year that ends in calendar year 2008.

The payment of estimated tax by the partnership on behalf of a partner or New York S corporation on behalf of a shareholder is treated as a payment of estimated tax made by the partner or shareholder at the time the payment is made by the partnership or S corporation. The partners and shareholders can take into account any payments made on their behalf by the partnership or S corporation in determining how much individual estimated tax they must pay.

Exceptions:

- Estimated tax payments are not required for any partner or shareholder whose estimated New York State 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. For more information on group returns, see Form IT-203-GR-I, *Instructions for Form IT-203-GR, Group Return for Nonresident Partners*, and Form IT-203-S-I, *Instructions for Form IT-203-S, Group Return for Nonresident Shareholders of New York S Corporations*.

Exemption certificates

Estimated tax payments are not required for any partner or shareholder that files 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*, with the partnership or New York S corporation certifying that the partner or shareholder will comply in his or her individual capacity with the New York State personal income tax estimated tax and income tax return filing requirements. For more information see Form IT-2658-E.

Partnerships and New York S corporations: Do not submit copies of Form(s) IT-2658-E to the Tax Department. The partnerships and New York S corporations may rely on these forms to exempt the partners and shareholders from the estimated tax provisions. The partnerships and New York S corporations must maintain copies of Form(s) IT-2658-E for their records.

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.

If the partnership or S corporation overpays 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).

When to make estimated tax payments

The partnership or S corporation estimated tax payments are due on April 15, 2008; June 16, 2008; September 15, 2008; and January 15, 2009. The payments must be made by these dates whether the partnership, S corporation, or nonresident individual files its returns on a calendar-year basis or a fiscal-year basis. The partnership or S corporation can pay the entire amount due for the year with the first payment, or pay in four equal installments.

Notification to partners and shareholders — Every partnership or New York S corporation required to pay estimated tax on behalf of its partners or shareholders must issue a statement to the partners or shareholders showing the amount of estimated taxes paid on their behalf. The statement must be furnished within 30 days after the estimated tax is paid. There is no specific form for this notification process. The partnership or S corporation may choose the method of notifying its partners or shareholders of the payment. However, the partnership or New York S corporation cannot use federal form W-2 or any other form or document that would indicate that the payment is income tax withheld. The statement must show that the payment is to be treated as a payment of estimated tax when the partners or shareholders file their New York returns.

Penalties

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.

Underpayment of estimated tax — In the case of an underpayment of estimated tax by the partnership or New York S corporation, a penalty as determined under section 685(c) of the Tax Law will be added to the estimated tax required to be paid.

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In general, the partnership or S corporation may owe the penalty if the total estimated tax paid on behalf of all nonresident individuals and corporate partners or shareholders is not equal to or greater than the smaller of:

- 1) 90% of the estimated tax required to be paid for 2008; or
- 2) 100% of the estimated tax required to be paid on behalf of partners or shareholders for 2007 (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).

Note: This 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 partners and shareholders.

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

Specific instructions

Mark an **X** in the appropriate box to indicate the date for which the estimated tax payments are being made.

Enter the partnership's or New York S corporation's legal name, business name if different, address, and employer identification number (EIN). Please provide a contact name and phone number.

Enter the total number of nonresident individual partners or shareholders for whom estimated tax payments are being made with Form IT-2658 and attached Form(s) IT-2658-ATT. Enter the total New York source income of the partnership or New York S corporation and the total estimated tax paid on behalf of nonresident individual partners or shareholders.

Allocation of estimated tax to nonresident individual partners and shareholders — Enter the name and address for each nonresident partner or shareholder.

Foreign addresses — Enter the information in the following order: city, province or state, and then country (all in the *City, village, or post office* box). Follow the country's practice for entering the postal code. **Do not abbreviate the country name.**

Percentage of ownership

— **Partnership:** Enter each nonresident individual partner's ownership percentage in the partnership. Round the percentage out to four decimal places only. If the actual percentage of ownership is less than .0001, round the percentage to 00.0001. If the current-year percentage is not available, enter the prior-year percentage.

— **New York S corporation:** Enter each nonresident individual shareholder's ownership percentage in the corporation. Round the percentage out to four decimal places only. If the actual percentage of ownership is less than .0001, round the percentage to 00.0001. If the current-year percentage is not available, enter the prior-year percentage.

Social security number (SSN) — Enter each nonresident individual partner's or shareholder's social security number.

Amount of estimated tax paid on behalf of nonresident partner or shareholder — You can use the estimated share of 2008 income, deductions, and credits from the partnership or S corporation to determine each partner's or shareholder's estimated tax to be paid on the individual's behalf, or you can use the actual amounts from 2007. However, if the partner or shareholder was not a partner of the partnership or shareholder of the S corporation for 2007, you must use the 2008 estimated amounts to compute the estimated tax to be paid on the individual's behalf. Use the following worksheet to determine the amount of estimated tax to be paid for each individual partner or shareholder.

Credit cards cannot be used to pay the amount of estimated tax due with this return.

Note: If the partnership is also required to file Form CT-2658, a separate payment must be sent with Form CT-2658 to the address provided in the instructions for that form. Do not combine the amounts due from Form IT-2658 and Form CT-2658 in a single payment, and do not send both forms to the same address.

Estimated tax worksheet

(round to the nearest whole dollar)

- 1. Enter the partner's or shareholder's actual (2007) or estimated (2008) distributive share or pro rata share of income earned from New York 1. _____
- 2. Enter the partner's or shareholder's actual (2007) or estimated (2008) share of partnership deductions allocated to New York* 2. _____
- 3. Subtract line 2 from line 1 3. _____
- 4. Multiply line 3 by 6.85% (.0685)..... 4. _____
- 5. Enter the partnership or S corporation actual (2007) or estimated (2008) credits the partner or shareholder will be entitled to claim from this partnership or S corporation 5. _____
- 6. Subtract line 5 from line 4 6. _____
- 7. Amount of estimated tax to be paid (divide line 6 by four) 7. _____

* The amounts to be entered on line 2 include the partner's or shareholder's share 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.

Where to mail your return

Mail Form IT-2658, any Form(s) IT-2658-ATT, and payment to:
NYS Estimated Income Tax, Processing Center, PO Box 4123, Binghamton NY 13902-4123.

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* below for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: JPMorgan Chase, NYS Tax Processing, 33 Lewis Road, Binghamton NY 13905-1040.

Need help?



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



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



Corporation Tax Information Center: 1 888 698-2908

Personal Income Tax Information Center: 1 800 225-5829

From areas outside the U.S. and outside Canada: (518) 485-6800

Privacy notification — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.