2009

New York State Department of Taxation and Finance

Instructions for Form IT-2659
Estimated Tax Penalties for
Partnerships and New York S Corporations

IT-2659-I

General instructions

Important note

For tax year 2009 the individual tax rate increased. The *Schedule C — Regular method* should be used to compute the partnership's or S corporation's underpayment penalty unless the partnership or S corporation made no estimated tax payments for tax year 2009. Using *Schedule B — Short method for computing the penalty* may cause the partnership or S corporation to pay a larger penalty than using the *Schedule C — Regular method*.

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 2009; **or**

2) 100% of the estimated tax required to be paid on behalf of partners or shareholders for 2008 (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: To meet this condition, the tax shown on the partnership or New York S corporation 2008 return must be recomputed using 2009 tax rates.

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 (7.1% for 2009), 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 (8.97% for 2009). 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 to 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 five and one half percentage points but not less than 7.5%. The rates from April 15, 2009, through April 15, 2010, are as follows:

April 15 to June 30, 2009 - 7.5%
July 1 to September 30, 2009 - 7.5%
October 1 to December 31, 2009 - 7.5%
January 1 to April 15, 2010 - 7.5%

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 397
   ALBANY NY 12201-0397

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed 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?* on page 3 of these instructions 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 form, contact that private delivery service for instructions on how to obtain written proof of the date your form 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: NYS Tax Department, Deposit Resolution-IT-2659, W A Harriman Campus, Albany NY 12227.

Specific instructions

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 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 computing the penalty
See *Important note* on the front page.

If you paid four equal estimated tax installments on the due dates, or made no estimated tax payments for the 2009 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, 2010, compute the number of days the payment was made before April 15, 2010, and enter it in the computation for line 33.

Example: *If the line 31 underpayment of $2,050 was paid April 8, 2010, you would compute the amount for line 33 as follows: $2,050 (amount on line 31) × 7 (number of days before April 15, 2010) × .00020 = $2.87.*

Schedule C — Regular method

Part 1 — Computing the underpayment
Line 35 — If the amount on line 27 (or, if applicable, line 28) is less than the amount on line 14, 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 the amount on line 14 is less than the amount on line 27 (or, if applicable, line 28), complete the line 35 amounts as follows:

Column A Worksheet

1	Enter the amount from Schedule A, line 3	**1.** _____
2	Divide line 1 by four	**2.** _____
3	Multiply line 2 by 6.85% (.0685)	**3.** _____
4	Enter the amount from Schedule A, line 6	**4.** _____
5	Divide line 4 by four	**5.** _____
6	Subtract line 5 from line 3	**6.** _____
7	Enter the amount from Schedule A, line 12	**7.** _____
8	Divide line 7 by four..	**8.** _____
9	Add lines 6 and 8	**9.** _____
10	Multiply line 9 by 90% (.90); enter here and on line 35, column A	**10.** _____

Column B Worksheet

1	Enter the amount from Schedule A, line 14	**1.** _____
2	Divide line 1 by two	**2.** _____
3	Enter the amount from line 35, column A	**3.** _____
4	Subtract line 3 from line 2; enter here and on line 35, column B	**4.** _____

Columns C and D — Compute the amount to enter in each column by dividing the Schedule A, line 14 amount 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 2009 there was one rate in effect over four periods.

Lines 41 through 48 are used to compute the portion of the penalty attributable to different installment periods. For example, lines 41 and 42 are used to compute the penalty for the first installment period at 7.5%. The factor .01253 at line 41 is used to compute the penalty for the first installment 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. 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.

Need help?

Internet access: *www.nystax.gov*
Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.

Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week.   1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status: (518) 457-5149
In-state callers without free long distance: 1 800 443-3200
(Automated service for refund status is available 24 hours a day, 7 days a week.)

Personal Income Tax Information Center: (518) 457-5181
In-state callers without free long distance: 1 800 225-5829

To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

List your payments for 2009

Before beginning to compute your penalty in Schedule C, Part 2, it will be helpful to organize and list the payments you made for 2009 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, 2009, through June 15, 2009

(a) Date	(b) Payments

Table 2 — Payments after
June 15, 2009, through September 15, 2009

(a) Date	(b) Payments

Table 3 — Payments after
September 15, 2009, through January 15, 2010

(a) Date	(b) Payments

Table 4 — Payments after
January 15, 2010, through April 15, 2010

(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 — column A, lines 41 and 42

Line 41 — Enter on line 41, column A, the factor .01253 if no payment was made before June 15, 2009. If any payment was made before June 15, 2009, compute the number of days from April 15, 2009, 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 period (61 days), you would compute the penalty on the underpayment using the factor shown and enter .01253 on line 41. You would enter $62.65 ($5,000 × .01253) on line 42.*

Note: When dividing the number of days by 365, 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: $85 \div 365 = .2328 \times 7.5\% = .01746$

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 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, 2009, in the amount of $5,000. You would compute the penalty on the underpayment by computing the factor as follows: 21 ÷ 365 (21 is the number of days from 4/15 to 5/6) multiplied by 7.5% equals .00431. Enter .00431 on line 41. You would enter $21.55 ($5,000 × .00431) 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 25, 2009, 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: 10 ÷ 365 (10 is the number of days from 4/15 to 4/25) multiplied by 7.5% equals .00204. Enter .00204 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 .01253 (factor for period 4/15 to 6/15) on line 41. You would enter $6.12 ($3,000 × .00204) and $25.06 ($2,000 × .01253) 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 — column B, lines 43 and 44

Line 43 — Enter on line 43, column B, the factor .01890 if no payment was made before September 15, 2009. If any payment was made after June 15, 2009, but before September 15, 2009, compute the number of days from June 15, 2009, 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 — column C, lines 45 and 46

Line 45 — Enter on line 45, column C, the factor .02506 if no payment was made before January 15, 2010. If any payment was made after September 15, 2009, but before January 15, 2010, compute the number of days from September 15, 2009 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 45.

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

Fourth installment — column D, lines 47 and 48

Line 47 — Enter on line 47, column D, the factor .01848 if no payment was made before April 15, 2010. If any payment was made after January 15, 2010, but before April 15, 2010, compute the number of days from January 15, 2010, 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 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 to ***Commissioner of Taxation and Finance***.

Fee for payments returned by banks

A new 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.

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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.