

Partnership Filing Fee

Chapter 57 of the Laws of 2009 amended section 658(c)(3) of the Tax Law relating to the filing fee applicable to partnerships. Under the new law, in addition to the filing fees applicable to limited liability partnerships (LLPs), limited liability companies (LLCs) treated as partnerships, and LLCs that are disregarded entities, a filing fee will now also apply to partnerships that are not LLCs or LLPs (regular partnerships). However, the filing fee for regular partnerships will apply only if the partnership's New York source gross income is \$1,000,000 or more. The filing fee applies to tax years beginning on or after January 1, 2009, and is due within 30 days of the last day of the partnership's tax year.

The amendment to section 658(c)(3) of the Tax Law does not change the filing fee requirements or the fee calculation for LLPs and LLCs treated as partnerships, or the fee that applies to LLCs that are disregarded entities. For information on those filing fees, see TSB-M-08(3)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2008*.

Fee calculation

The amount of the filing fee is based on the New York source gross income of the regular partnership. The New York source gross income, as defined below, is calculated for the tax year immediately preceding the tax year for which the fee is due. No income tax credits may be applied against the filing fee.

The amount of the filing fee for a regular partnership, whose New York source gross income is \$1,000,000 or more, is determined in accordance with the following table:

If the New York source gross income is:	The fee is:
exactly \$1,000,000	\$500
more than \$1,000,000 but not over \$5,000,000	\$1,500
more than \$5,000,000 but not over \$25,000,000	\$3,000
more than \$25,000,000	\$4,500

New York source gross income is the sum of the partners' or members' shares of federal gross income from the partnership that is derived from or connected with New York State sources. For this purpose, federal gross income means gross income as determined under section 61 of the Internal Revenue Code without any allowance or deduction for cost of goods sold. The amount of federal gross income that is derived from or connected with New York sources is determined in accordance with the provisions of section 631 of the New York State Tax Law (relating to New York source income for nonresident individuals) as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources.

Chapter 57 of the Laws of 2009 also granted New York City the authority to impose a filing fee on regular partnerships. The filing fee would be similar to the state fee, except the amount of the fee would be based on New York City gross income. To date, the city has not acted to impose this fee.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.