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**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

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Income Tax  
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Taxability of Unemployment Compensation

Under the Revenue Act of 1978 the Internal Revenue Code was changed so that a taxpayer may have to include in gross income all or part of the Unemployment Compensation that is received after December 31, 1978.

The amount to be reported for federal purposes is the lesser of:

- 1) Total unemployment compensation; or
- 2) Half the amount by which the sum of adjusted gross income (not including unemployment compensation), any disability income exclusion, plus unemployment compensation exceeds the base amount.

The base amount is as follows:

- A. \$20,000, if single, or married but live apart from your spouse for the entire tax year and do not file a joint return.
- B. \$25,000, if married filing a joint return (this is a combined amount for both spouses).
- C. Zero, if married, do not file a joint return and do not live apart from your spouse for the entire tax year.

Generally, the amount of unemployment compensation to be included in New York gross income is the same amount that is included in Federal income. The exceptions are:

1. Taxpayers file joint federal returns and file separate New York State Returns.
2. Change of residence.

Example 1:

Husband earns \$12,000 in wages, he also received \$2,000 in unemployment compensation, the wife earns \$10,000 in wages. Assume that this is the only income they receive during the tax year 1979 and they have no adjustments to income. They file a joint Federal return and separate New York returns.

	<u>Federal</u> Joint Return	<u>New York</u> Separate Returns	
		<u>Husband</u>	<u>Wife</u>
Total Income shown on return, other than unemployment compensation	\$22,000	\$12,000	\$10,000
Plus: Total unemployment compensation received	<u>2,000</u>	<u>2,000</u>	
Total	\$24,000	\$14,000	
Minus: Base Amount	<u>25,000</u>	<u>- 0 -</u>	
Excess	- 0 -	\$14,000	
Half of Excess	- 0 -	7,000	
Amount to be included in gross income	- 0 -	\$ 2,000	

Explanation:

Under Sec. 612(f), of the New York Tax Law, taxpayers who file a joint federal return and elect to file separate New York returns must compute their New York adjusted gross incomes as if their federal adjusted gross income had been computed separately.

Example 2:

Husband and wife were residents of New York State until June 30, 1979. On July 1, 1979, they became nonresidents. The husband earned wages in the amount of \$41,000 for the full year. The wife received \$3,600 in unemployment compensation for the full year. This unemployment compensation was received as a result of employment in New York State. During their resident period the husband received \$26,000 in wages and the wife received \$1,800 in unemployment compensation. In their nonresident period the husband earned \$15,000 in wages from New York sources and the wife received \$1,800 in unemployment compensation. Assume that this is the only income they received and they have no adjustments to income.

	<u>New York State Joint Returns</u>		
	<u>Federal</u>	<u>Resident Period</u>	<u>Nonresident Period</u>
Total income shown on return (Husband's wages), other than unemployment compensation	\$41,000	\$26,000	\$15,000
Plus: Total unemployment compensation received (wife)	<u>3,600</u>	<u>1,800</u>	<u>1,800</u>
Total	\$44,600	\$27,800	\$16,800
Minus: Base Amount	<u>25,000</u>	<u>25,000</u>	<u>25,000</u>
Excess	\$19,600	\$ 2,800	\$ - 0 -
Half of Excess	\$ 9,800	\$ 1,400	\$ - 0 -
Amount to be included in gross income	\$ 3,600	\$ 1,400	\$ - 0 -

Explanation:

Under Sec. 654(b) of The New York Tax Law and NYCRR 148.5, annual limitations with respect to specific items of income, gain, loss and deduction are to be applied separately to the applicable Federal items attributable to the separate periods covered by the resident and nonresident returns. Therefore, taxpayers are entitled to deduct the federal base amount of \$25,000 for each period since joint New York State returns were filed. If separate returns had been filed in each period, the wife would have reported \$900.00 as Total New York Income in each period because the base amount would be zero.