

1983 Legislation  
Withholding on Interest, Dividends and Patronage Dividends

Chapter 15 of the Laws of 1983 amended Article 22 of the New York State Tax Law by adding a new subpart B to Part V. This subpart provides for withholding of tax on payments of interest, dividends and patronage dividends.

NOTE: The income tax withholding provisions of subpart B are effective for payments of interest, dividends, and patronage dividends on or after July 1, 1983 or the date the Internal Revenue Code section 3451 takes effect, whichever is later. These provisions remain in effect as long as the Internal Revenue Code section 3451 remains effective. Currently the U.S. Congress is considering action which would either repeal or delay the interest and dividend withholding provisions of Subchapter B of Chapter 24 of the Internal Revenue Code. Should such subchapter be amended or repealed, the N.Y. Tax Law would be affected in a similar manner.

Every payor (including third parties treated as payors) maintaining an office or transacting business in New York State and making payments of interest or dividends to a resident individual, a resident estate or trust, or a partnership which has an office or place of business in New York, must withhold a tax equal to 3% of the interest or dividend payment.

All payments that are exempt from federal income tax withholding will also be exempt from New York State withholding. In addition payments of the following items will be exempt from New York withholding.

- a) Interest income on obligations of the United States and its possessions. (i.e.U.S. Treasury Bills)
- b) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States (i.e. Federal Farm Credit Bank securities)
- c) Interest or dividend income on obligations or securities exempt from income tax under the laws of New York State authorizing their issuance but, taxable for federal purposes. (i.e. certificates of limited dividend housing corporations organized pursuant to the Private Housing Finance Law)

A payee who is an exempt individual or an exempt recipient for federal income tax withholding purposes is also an exempt individual or an exempt recipient for New York State income tax withholding purposes. Additional New York State exemptions will also be granted for individuals who met the low income provisions of section 601(a)(2) of the New York Tax Law for the previous tax year and expect to meet these provisions for the current tax year. A special exemption will also be granted for the income earned on a qualified PASS fund established by the payee. For further information and to claim the additional exemptions individuals should file Form IT-2104.4, New York State Certificate of Exemption from Withholding on Interest and Dividends, with the payor.

In cases where a payor has been granted an extension of time to begin withholding for federal purposes, a similar extension will automatically be granted for New York State income tax withholding purposes by sending to the Secretary of the Tax Commission a copy of the approved federal waiver. A payor who has not been granted an extension of time for federal purposes may seek an extension of time to begin withholding for New York State where the payor has attempted in good faith to comply with the requirements of subpart B of part V of Article 22 of the tax law and cannot do so without undue hardship. An application for a waiver must be made in writing to the Secretary of the Tax Commission and must fully set forth -

- (1) The specific portion of the payor's operations for which a waiver is sought,
- (2) The reasons such payor is unable to comply with the withholding requirements without undue hardship, and
- (3) The steps taken which demonstrate such payor's good faith attempt to comply with the requirements.

An application for a waiver should be made no later than June 15, 1983 (except in the case of an unforeseen event occurring after such date). Any such waiver shall be granted for only so long as is necessary to allow the payor to avoid undue hardship, but in no event shall a waiver extend beyond December 31, 1983.

The meaning of terms used in subpart B shall have the same meaning as that used in the Internal Revenue Code and Regulations with respect to items subject to, exemptions from, methods for and timing of withholding of tax on the payment of interest, dividends, and patronage dividends. Regulations will be promulgated in the near future.