New York State's Tax Reform and Reduction Act of 1987
Tax Reform Technical Corrections and
New York City Tax Reduction Act of 1987

Taxation of Nonresident and Part-Year Resident Individuals Background

The New York State Tax Reform and Reduction Act of 1987 (Chapter 28) and the Tax Reform Technical Corrections and New York City Tax Reduction Act of 1987 (Chapter 333) amended the Tax Law to change the method of computing the New York State personal income tax for nonresident and part-year resident individuals. A nonresident individual is now defined as an individual who is not a resident for any part of the year. A part-year resident individual is an individual who changes resident status during the year and therefore is not a resident or nonresident for the entire year. The new law, explained below, is applicable to taxable years beginning after 1987.

Computation of Tax

The New York State personal income tax for nonresident and part year resident individuals is now imposed by Section 601(e) of the Tax Law. This section requires these individuals to compute their tax in the following manner:

1) A tax is first computed as if the taxpayer were a New York State resident for the entire year.

2) This tax is reduced by any applicable household credit and/or child and dependent care credit. These credits are also computed as if the taxpayer were a resident for the entire year. This figure is known as the base tax.

3) The base tax is then multiplied by a percentage which is determined by dividing the taxpayer's New York source income for the entire year by the taxpayer's federal adjusted gross income for the entire year. This percentage will be more than 100% when New York source income exceeds federal adjusted gross income.

4) The amount determined in "3" is further reduced by any other New York State credits that the taxpayer may be entitled to and/or increased by any other New York State taxes that the taxpayer may be liable for. The resulting figure is the New York State personal income tax for the year.

Base Tax

For taxable years beginning in 1988 only, the base tax will also include the additional tax on unearned income, imposed by Section 601(d), determined as if the taxpayer were a resident for the entire year.

In determining the base tax, New York adjusted gross income is computed with the following exceptions:

- For nonresidents, the modifications provided for in Section 612(b)(1), (2) and (20) will not be included, except to the extent that they are connected with property employed in a business, trade, profession or occupation carried on in New York.

- Part-year residents will include the modifications provided for in Section 612(b)(1), (2) and (20) determined for the period of their residence. For the period of their nonresidence, these modifications are to be included only to the extent that they are connected with property employed in a business, trade, profession or occupation carried on in New York.

New York adjusted gross income for part-year residents will also include any special accruals required under Section 638(c), with any applicable modifications required under Section 612, as if the accrued items were includible or allowable for federal income tax purposes.

New York Source Income and Federal Adjusted Gross Income

Nonresidents

New York source income is defined under new Section 631 as the sum of the net amount of items of income, gain, loss and deduction entering into federal adjusted gross income that is derived from or connected with New York sources. This amount is determined using the same rules that applied under prior law for New York adjusted gross income, except New York source income will not include the following:

- The federal deduction for alimony paid.

- The addition or subtraction modifications under Section 612, which relate to income derived from New York sources.

- State or local tax refunds and taxable social security benefits.

Federal adjusted gross income is the taxpayer's federal adjusted gross income for the entire year.

Part-Year Residents

New York source income is defined under new Section 638(a) as the sum of the following:

1) Federal adjusted gross income for the period of residence, computed as if the taxable year for federal purposes were limited to the period of residence.

2) New York source income for the period of nonresidence, determined under Section 631 as if the taxable year for federal purposes were limited to the period of nonresidence.

3) The special accruals required under Section 638(c) as follows:

   When individuals change their resident status during the year, they must accrue to the portion of the taxable year prior to the change any items of income, gain, loss or deduction accruing prior to the change, if these items were not properly included in their federal adjusted gross income for that portion of the taxable year or for a prior taxable year. However, individuals who change their status from nonresident to resident are not required to accrue any item derived from or connected with New York sources. Any items that are accrued do not have to be taken into account in determining New York adjusted gross income or New York source income for any subsequent taxable period.

   The accruals are not required if the individuals file a bond or other acceptable security with the Department. If they do file a bond, they must also elect to include the amounts accruable in New York adjusted gross income or New York source income for subsequent years as if no change of residence had occurred. For more information on accruals and filing a bond, see TSB-M-86-(3)-I.

Federal adjusted gross income is the taxpayer's federal adjusted gross income for the entire year increased or decreased by any of the special accruals required under Section 638(c).

Minimum Income Tax and Separate Tax on Lump-Sum Distributions

The new method of computing personal income tax for nonresident and part-year resident individuals does not apply to the minimum income tax (Section 636) or the separate tax on lump-sum distributions (Section 637). The computation of minimum income tax for nonresidents and the separate tax on lump-sum distributions for both nonresidents and part-year residents remains the same as under prior law. However, the following two changes affect the computation of the minimum income tax for part-year residents. First, the term "items of tax preference" shall now mean only those items derived from or connected with New York sources for the entire year, together with any special accruals. Second, the specific deduction shall be $5,000 for the entire year ($2,500 if married filing separately).

Examples

The following examples show the new method of computing the New York State personal income tax for nonresident and part-year resident individuals in various situations. The tax on New York taxable income reflects the amount found in the New York State Tax Tables.

Example 1. A single individual became a New York resident on July 1, 1988. He earned wages of $20,000 prior to July 1, of which $10,000 was derived from New York sources. During the resident period, the taxpayer earned wages of $25,000. The taxpayer received interest income of $2,500 for the year ($1,250 in each period) and dividends of $500 ($250 in each period). He also paid alimony of $100 per month for the entire year and has New York itemized deductions of $7,000.

	Federal	New York
Wages	$45,000	$35,000
Interest	2,500	1,250
Dividends	500	250
Total	$48,000	$36,500
Adjustments to income:		
Alimony	1,200	600
Total income	$46,800	$35,900

$\frac{\$35,900}{\$46,800}$ = .7671 (76.71%)

Total income (Federal column)	$46,800	
New York itemized deductions	7,000	
New York taxable income	$39,800	
Base tax	$2,900.00	
State tax ($2,900.00 x .7671)		$2,224.59

Example 2. The taxpayers are nonresidents filing a joint return for 1988 and have two dependents. They have wages of $130,000 earned entirely in New York State, interest income of $20,000, dividends of $10,000 and capital gains of $15,000 from non New York State sources and New York itemized deductions of $15,000. As their New York adjusted gross income, determined as if they were residents, is in excess of $100,000, they must compute and include in their base tax the additional tax on unearned income.

	Federal	New York
Wages	$130,000	$130,000
Interest	20,000	-0-
Dividends	10,000	-0-
Capital gains	15,000	-0-
Total income	$175,000	$130,000

$$\frac{\$130{,}000}{\$175{,}000} = .7429\ (74.29\%)$$

Total income (Federal column)	$175,000	
New York itemized deductions	15,000	
Balance	$160,000	
Dependent exemptions	2,000	
New York taxable income	$158,000	
Tax on above	$12,361.00	
Additional tax on unearned income *	450.00	
Base tax	$12,811.00	
State tax ($12,811.00 x .7429)		$9,517.29

*The additional tax on unearned income was computed as follows:

$$\frac{\$175{,}000 - \$100{,}000}{\$100{,}000} = .75\ (75\%)$$

Unearned income:

Interest	$20,000
Dividends	10,000
Total	$30,000
Rate (.75 x .02) =	x .015
Additional tax on unearned income	$450.00

Example 3. The taxpayers are nonresidents for 1988, file a joint return and have one dependent child. Both husband and wife work, earning $15,000 and $8,000 respectively, all from New York sources. The couple has interest income of $1,500 (of which $1,000 is from United States government bonds), dividends of $500 and take the New York standard deduction of $8,500. They are also entitled to a federal child care credit of $200.

	Federal	New York
Wages	$23,000	$23,000
Interest	1,500	-0-
Dividends	500	-0-
Total income	$25,000	$23,000

$\frac{\$23,000}{\$25,000} = .92\ (92\%)$

Total income (Federal column)	$25,000	
Less: Interest on U.S. bonds	1,000	
New York adjusted gross income	$24,000	
New York standard deduction	8,500	
Balance	$15,500	
Dependent exemption	1,000	
New York taxable income	$14,500	
Tax on above	$564.00	
Household credit	70.00	
Balance	$494.00	
Child and dependent care credit ($200 x 20%)	40.00	
Base tax	$454.00	
State tax ($454.00 x .92)		$417.68

Example 4. The taxpayers are nonresidents for 1988, file a joint return and have one dependent child. The husband has wages of $100,000 earned entirely in New York. The wife has a partnership nonpassive loss of ($70,000) from non New York sources. The couple has interest income of $10,000 and New York itemized deductions of $10,000. In addition, the husband exercised an incentive stock option received from his New York employer that generated New York source items of tax preference and New York minimum income tax of $1,200.

	Federal	New York	
Wages	$100,000	$100,000	
Interest	10,000		-0-
Partnership loss	(70,000)	-0-	
Total income	$ 40,000	$100,000	

$\frac{\$100,000}{\$40,000} = 2.50$ (250%)

Total income (Federal column)	$ 40,000	
New York itemized deductions	10,000	
Balance	$ 30,000	
Dependent exemption	1,000	
New York taxable income	$ 29,000	
Base tax	$1,578.00	
State tax ($1,578.00 x 2.5)	$3,945.00	
Minimum income tax	1,200.00	
Total State tax		$5,145.00

Example 5. A single individual moves to Connecticut on April 30, 1988. She earns wages of $75,000 for the year, with $20,000 earned during her resident period and $30,000 earned from New York sources during her nonresident period. She received interest income of $3,000 for the year ($1,000 in the resident period), dividends of $2,000 ($500 in the resident period) and has New York itemized deductions of $6,500. In addition, the taxpayer received interest on Connecticut bonds of $1,500 for the year, with $500 attributable to the resident period.

	Federal	New York
Wages	$75,000	$50,000
Interest	3,000	1,000
Dividends	2,000	500
Total income	$80,000	$51,500

$\frac{\$51,500}{\$80,000} = .6438$ (64.38%)

Total income (Federal column)	$80,000	
Plus: Interest on Connecticut bonds	500	
New York adjusted gross income	$80,500	
New York itemized deductions	6,500	
New York taxable income	$74,000	
Base tax	$5,762.00	
State tax ($5,762.00 x .6438)		$3,709.58

Example 6. An individual moves out of New York on October 1, 1988, files her return as head of household and has one dependent child. The taxpayer, a sales person, earned commissions of $48,750 while a resident of New York. Her total commissions for the year were $65,000. She qualified for a sales bonus, payable on January 31, 1989, of 10% of her earnings for the year. Since the bonus amount for the resident period is fixed and determinable, as of the date of her change of residence, it is an accruable item of income. She also received interest income of $2,000 ($1,500 in the resident period) and dividends of $1,500 ($1,125 in the resident period) for the entire year, has New York itemized deductions of $7,000 and was entitled to a federal child care credit of $275. She had no income from New York sources after her move.

	Federal	New York
Wages	$65,000	$48,750
Bonuses (Accrual)	4,875	4,875
Interest	2,000	1,500
Dividends	1,500	1,125
Total income	$73,375	$56,250

$\frac{\$56,250}{\$73,375} = .7666\ (76.66\%)$

Total income (Federal column)	$73,375	
New York itemized deductions	7,000	
Balance	$66,375	
Dependent exemption	1,000	
New York taxable income	$65,375	
Tax on above	$4,984.66	
Child and dependent care credit ($275 x 20%)	55.00	
Base tax	$4,929.66	
State tax ($4,929.66 x .7666)		$3,779.08