



## Department of Taxation and Finance

### **Important:**

The New York State and New York City minimum income taxes were repealed, effective for tax years beginning on or after January 1, 2014.

As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the minimum income tax.

[See, Part J of Chapter 59 of the Laws of 2014]

The TSB-M begins on page 2 below.

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

Minimum Income Tax

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) have amended and added new provisions to Section 622 of the Tax Law relating to the definition of New York State items of tax preference for purposes of the minimum income tax. These changes, described below, apply to taxable years beginning after 1986.

Section 622(b) of the Tax Law has been amended to provide that the starting point in determining New York State items of tax preference are the federal items of tax preference under Internal Revenue Code Section 57(a). The federal items of tax preference are:

- Accelerated depreciation of real property placed in service before 1987;
- Accelerated depreciation of leased personal property placed in service before 1987;
- Amortization of certified pollution control facilities placed in service before 1987;
- Appreciated property charitable deduction;
- Incentive stock options;
- Tax-exempt interest from private activity bonds issued after August 7, 1986;
- Intangible drilling costs;
- Depletion; and
- Reserves for losses on bad debts of financial institutions.

The federal adjustments applicable for purposes of computing the federal alternative minimum taxable income under Internal Revenue Code Section 56 are not included in New York State items of tax preference.

Section 622(b)(4) adds a new provision to exclude the federal item of tax preference with respect to tax-exempt interest from the New York State minimum income tax calculation. In addition, the following exclusions provided under prior law apply:

1. The portion of the federal item of tax preference for accelerated depreciation of real and leased personal property relating to property placed in service in taxable years beginning after December 31, 1981, but before January 1, 1985, and property placed in service outside New York State in taxable years beginning after December 31, 1984;
2. An S corporation shareholders' share of federal items of tax preference from an S corporation for which the election to be a New York S corporation was not in effect for the taxable year; and
3. Depletion.

Section 622(d) is amended to clarify that only the real property circuit breaker credit can be used to offset the minimum income tax.

A new Section 622(e) adds a statutory provision for the allowance of a tax benefit rule. Previously, New York State's allowance of the tax benefit rule was based on the Hunt v. the State Tax Commission court decision.

The tax benefit rule is an adjustment made in the computation of the New York State minimum income tax to eliminate inequities that result when taxpayers are required to pay a minimum income tax on items of tax preference for which they do not receive a benefit. For a detailed discussion concerning the computation of the adjustment, see TSB-M-87-(4)I, Minimum Income Tax, New York State Tax Benefit Rule.

#### City of New York

The Administrative Code of the City of New York (Chapter 17 of Title 11) has been amended to conform with the changes made to Article 22 of the Tax Law.