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

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

## Estimated Income Tax

New York State's Tax Reform and Reduction Act of 1987 (Chapter 28) and Tax Reform Technical Corrections and New York City Tax Reduction Act of 1987 (Chapter 333) have amended Section 685(c) of the Tax Law to increase the required annual estimated tax payment for individuals to 90% of the current year's tax or 100% of the prior year's tax, whichever is less. Under prior law, the required payment was 80% of the current year's tax or 100% of the prior year's tax, whichever was less. The new law also requires trusts and certain estates to make estimated tax payments at the same level as individuals. The amendments are effective for taxable years beginning after December 31, 1987.

Section 175 of the Tax Reform Technical Corrections and New York City Tax Reduction Act of 1987 provides for a waiver of the penalty for underestimation of tax for any payment period ending prior to April 16, 1988 where the underpayment is due to a change made under state and city tax reform.

An explanation of the estimated tax provisions as they apply to individuals (including farmers and fishermen), trusts and certain estates, for taxable years beginning after 1987, follows:

### Individuals

Section 685(c) imposes an addition to tax for not paying the required amount of estimated tax for each installment date April 15, June 15, September 15 and January 15 of the succeeding tax year. The penalty is based on the difference between the required installment and the installment paid on or before the due date for such installment. However, the penalty will not apply if the taxpayer meets any of the exceptions under Section 685(d) of the Tax Law (see page 4).

The required installment is the lesser of:

A) 25% of the lesser of

1) 90% of the tax shown on the return for the taxable year (or if no return is filed, 90% of the tax for such year) or

2) 100% of the tax shown on the return for the preceding taxable year, provided the individual filed a return for such year and such year was a taxable year of 12 months, <u>or</u>

B) Annualized income installment

To determine the annualized income installments:

1) Place the taxable income and minimum taxable income on an annualized basis for the months in the taxable year ending before the due date of the required installment.

2) Compute the tax on the annualized amount and then multiply the tax by the applicable percentage: 22 1/2% for the first installment; 45% for the second installment; 67 1/2% for the third installment; and 90% for the fourth installment.

3) Subtract any prior installment payments made for that taxable year from the "tax multiplied by the applicable percentage."

When the above computation yields the annualized income installment as the required amount for any one installment due date, the next installment payment must be increased by the difference between the installment amount using the current or prior year's tax and the payment made using the annualized income method.

For estimated tax purposes, the term "tax" means the tax imposed under Article 22 (The Personal Income Tax Law) less credits allowed under this Article <u>other than the credit relating to tax withholding</u>. The amount of tax withheld during the year is considered as paid in four equal amounts on each of the four required installment dates unless the taxpayer can establish when an amount was actually withheld. If a taxpayer can establish when an amount was actually withheld, they may elect to treat it as paid when it was withheld.

A husband and wife may make the required installment payment as if they were one taxpayer. However, no joint payment may be made if a husband and wife are separated under a decree of divorce or separate maintenance, or if they have different taxable years.
If a husband and wife choose to file separately, they may divide the estimated tax payments any way they agree.

If a taxpayer files a return and pays the tax in full on or before January 31 of the subsequent taxable year, the fourth installment of estimated tax need not be paid.

To apply the requirements for estimated tax payments to a taxable year beginning on any date other than January 1, substitute the 15th day of the fourth, sixth, and ninth months of the fiscal year and the 15th day of the first month of the following fiscal year.

Individuals who have taxable years of less than 12 months are subject to payments of estimated tax in accordance with regulations prescribed by the Tax Commissioner.

Farmers and Fishermen

In the case of farmers and fishermen (including oyster farmers), there is only one required installment of estimated tax, due on January 15 of the succeeding taxable year. However, if a farmer or fisherman files his return and pays the tax in full on or before March 1 of the succeeding taxable year, the required installment of estimated tax need not be paid.

The required annual installment for a farmer or fisherman is
66 2/3% of the current year's tax or 100% of the prior year's tax, whichever is less. An individual is deemed to be a farmer or fisherman if the individual's New York adjusted gross income from farming or fishing for the taxable year is at least 2/3 of the total New York adjusted gross income from all sources for the taxable year or if such individual's New York adjusted gross income from farming or fishing shown on the return of the individual for the preceding taxable year is at least 2/3 of the total New York adjusted gross income from all sources shown on the return.

Trusts and Certain Estates

New Section 685(c)(6) provides that trusts and certain estates must make estimated tax payments at the same level and subject to the same rules as individuals for taxable years beginning after 1987. In the case of estates, however, estimated tax payments will only be required for those taxable years of the estate which end two or more years after the date of death of the decedent.

If the estimated tax payments made by a trust exceed its tax for the year, the trustee may elect to treat all or part of the excess as a payment of estimated tax made by a beneficiary of the trust. The election must be made on the trust's income tax return for the tax year, and may only be made if the return is filed on or before the sixty-fifth day after the close of the trust's taxable year. Where the election has been made, the beneficiary will treat the amount as a payment of estimated tax made on January 15 of the following taxable year.

## Exceptions

Section 685(d) provides that the penalty for failure to pay estimated income tax will not apply if the taxpayer meets one of the following exceptions:

1) The tax shown on the return for the taxable year (or if no return is filed, the tax), reduced by the amount of tax withheld, is less than $100.

2) The preceding taxable year was a taxable year of twelve months, and no tax liability was incurred for such year, and throughout that year the individual was a resident of New York State or a nonresident or part year resident who had New York source income.

3) An installment is due on or after the individual's death.

4) Waivers in certain cases -

    a) The Tax Commissioner determines that due to a casualty, disaster or other unusual circumstances, imposition of the penalty would be against equity and good conscience.

    b) The Tax Commissioner determines that in the taxable year that estimated tax payments were required to be made, or in the taxable year preceding such taxable year, the taxpayer retired after becoming 62 years old or became disabled and the underpayment of estimated tax was due to reasonable cause and not to willful neglect.

## New York City

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.