

Group Returns for Nonresident Partners
Additional Information

As a result of regulations adopted January 9, 1997, and comments received on the original TSB-M, the following changes and a clarification are being made to the group return rules as explained in TSB-M-96(4)I. Page numbers refer to the original TSB-M.

Changes

Group Agent and Powers of Attorney (page 2) - A partnership that is **required** to submit powers of attorney (as explained in this section) may, in lieu of submitting individual powers of attorney, submit other evidence that establishes the group agent's authority to act on behalf of the qualified electing nonresident partners with respect to the group return. This other evidence must be acceptable to the Department. If the partnership wishes to submit other evidence, it should not submit powers of attorney with Form PR-99. Instead, the partnership must attach a statement to Form PR-99 describing the evidence it wishes to submit. We will notify the partnership if the evidence is acceptable.

Listing of Partners - In those cases where a list of the partners participating in the group return must be submitted to the Department (for example, when requesting an extension of time, page 6), the list may be submitted in **either** alphabetical order or social security number order (ascending or descending).

Qualified Nonresident Partner (page 4) - The first listed condition in this section should be modified to read as follows:

“the partner must be a nonresident of **New York State** for the entire tax year”

The requirement that a nonresident partner must be an individual has been eliminated because the Department recognizes that it may be appropriate in some instances for a nonresident trust or estate to be included on a group return. However, another partnership or a limited liability company or a corporation may not be included on a group return.

Estimated Tax Payments (page 7) - The second paragraph of this section requires the partnership to attach a schedule to the first group estimated tax installment, showing the names of the participating members and certain other information. The group return regulations also require this schedule. However, the Department has determined that this schedule is no longer necessary. Accordingly, when making the first estimated tax payment, the partnership only needs to complete Form IT-2105 and submit it along with a payment of the estimated tax due.

Clarification

Approval to File a Group Return - A partnership that received approval under the prior rules to file a group return does not have to re-request permission to file on Form PR-99. However, if the partnership fails to file a group return for a tax year after 1995, it must request reinstatement of its permission if it wishes to resume filing a group return.