



Department of Taxation and Finance

Important:

The New York City nonresident earnings tax was eliminated for New York State nonresidents on or after July 1, 1999 as the result of a New York State Court of Appeals decision. Accordingly, this TSB-M cannot be relied upon for issues related to the nonresident earnings tax on or after July 1, 1999.

For information concerning other nonresident income taxes, see [Filing information for New York State nonresidents \(ny.gov\)](#).

[See *City of New York, et al., v. State of New York, et al.*, NY Court of Appeals, 94 NY2d 577, 709 NYS2d 122; Chapter 5 of the Laws of 1999.]

The TSB-M begins on page 2 below.

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

TSB-M-99(6.1)I
Income Tax
December 23, 1999

**Revised Notice for Partners Making Estimated Tax Payments
of the New York City Nonresident Earnings Tax**

A recent Tax Appeals Tribunal decision (*Grieg*) has affected the manner in which certain partners will compute their 1999 distributive shares of partnership income subject to the New York City nonresident earnings tax. Accordingly, the information relating to partners addressed in TSB-M-99(6)I, *Important Notice for Estimated Tax Filers*, is no longer applicable.

This memorandum **replaces** the information contained in TSB-M-99(6)I relating to a partner's determination of the correct amount of New York City nonresident earnings tax estimated tax to pay for 1999 due to the partial elimination of the New York City nonresident earnings tax. If, based on the information in this memorandum, you need to amend your estimated tax for 1999, see Form IT-2105-I, *Instructions for Form IT-2105* (for individuals) or Form IT-2105-F, *Instructions for Form IT-2105* (for fiduciaries).

Partners

If you are a partner in a partnership that carries on a trade or business in New York City, you are subject to the nonresident earnings tax based upon your distributive share of the partnership's net earnings from self-employment, as defined under section 1402(a) of the Internal Revenue Code, which are derived from New York City sources (that is, allocated to New York City). The following explains how to determine the amount of net earnings from self-employment subject to the New York City nonresident earnings tax for 1999 for calendar-year filing partners who are full-year New York State nonresidents, full-year New York State residents, part-year New York State residents or part-year New York City residents.

Full-year New York State nonresidents

If you are a full-year New York State nonresident, your entire federal distributive share of net earnings from self-employment allocated to New York City for the partnership's taxable year ending in 1999 is subject to the nonresident earnings tax. This is the same rule as set forth in TSB-M-99(6)I.

**Full-year New York State residents
(who were not residents of New York City for any part of 1999)**

If you are a full-year New York State resident who was not a resident of New York City for any part of 1999, one-half of your entire federal distributive share of net earnings from self-employment allocated to New York City for the partnership's taxable year ending in 1999 is subject

to the nonresident earnings tax (since the New York City nonresident earnings tax applied to you only for the first six months of 1999). This is different than the rule set forth in TSB-M-99(6)I.

**Part-year New York State residents
(who were not residents of New York City for any part of 1999)**

If you are a part-year New York State resident who was not a resident of New York City for any part of 1999, your distributive share of the partnership's net earnings from self-employment subject to the New York City nonresident earnings tax is determined by multiplying your entire federal distributive share of the partnership's net earnings from self-employment allocated to New York City by a fraction. The numerator of the fraction is 181 (which represents the number of days in the period January 1 - June 30, when the New York City nonresident earnings tax applied to all nonresidents of the city) plus the number of days during the period July 1 - December 31, that you were a nonresident of New York State (since the New York City nonresident earnings tax only applied to nonresidents of the state during that period). The denominator of the fraction is 365. This is different than the rule set forth in TSB-M-99(6)I.

Part-year New York City residents

If you are a part-year New York City resident, your distributive share of the partnership's net earnings from self-employment subject to the New York City nonresident earnings tax is determined by multiplying your entire federal distributive share of the partnership's net earnings from self-employment allocated to New York City by a fraction. The numerator of the fraction is the number of days during the period January 1 - June 30, that you were not a New York City resident (which represents the number of days during that period when the New York City nonresident earnings tax applied to all nonresidents of the city) plus the number of days during the period July 1 - December 31, that you were a nonresident of New York State (since the New York City nonresident earnings tax only applied to nonresidents of the state during that period). The denominator of the fraction is 365. This is different than the rule set forth in TSB-M-99(6)I.

Example: You are a partner in Partnership A. Your entire distributive share of Partnership A's net earnings from self-employment allocated to New York City for 1999 is \$40,000. You moved from New York City to New Jersey on March 17, 1999. Your net earnings from self-employment from Partnership A subject to the New York City nonresident earnings tax is \$31,671.23 $[(105 + 184)/365 = 289/365 \times \$40,000 = \$31,671.23]$. (The number of days from March 17 to June 30, is 105 and the number of days from July 1 to December 31, is 184.)

Note: Your partnership income for the New York City resident period is determined by multiplying your entire federal distributive share of the partnership's income allocated to New York City by a fraction. The numerator of the fraction is the number of days during the taxable year you were a resident of New York City. The denominator of the fraction is 365.