

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171 and subsection (a) of section 697 of the Tax Law, the Commissioner of Taxation and Finance, at an open meeting held on even date with the signing of this proposal, hereby proposes to make and adopt the following amendments to the New York State Personal Income Tax Regulations under Article 22 of the Tax Law, as published in Subchapter A of Chapter II of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such amendments to read as follows:

Section 1. The note below the title of Part 132 of such regulations is amended to read as follows:

Note: [This] Except for section 132.19, this Part does not reflect amendments to the Tax Law made by the Tax Reform and Reduction Act of 1987 (Chapter 28 of the Laws of 1987) and certain other amendments.

Section 2. The index of Part 132 of such regulations is amended to read as follows:

Sec.

NEW YORK ADJUSTED GROSS INCOME DEFINED

132.1 New York adjusted gross income of a nonresident individual

INCOME AND DEDUCTIONS FROM NEW YORK STATE SOURCES

132.2 Income and deductions from New York State sources – general

132.3 Items attributable to real or tangible personal property in New York State

132.4 Business, trade, profession or occupation carried on in New York State

132.5 Income from intangible personal property

132.6 Income from closed – circuit and cable television transmissions

- 132.7 Deductions with respect to capital losses, net long – term capital gains and net operating losses
- 132.8 Undistributed taxable income, net operating loss and gain or loss on sale or exchange of stock with respect to an electing small business corporation
- 132.9 Income, gain, loss or deduction with respect to New York Insurance Exchange
- 132.10 Purchase and sale for own account
- 132.11 Compensation not constituting income derived from New York State sources

INCOME AND DEDUCTIONS PARTLY FROM NEW YORK STATE SOURCES

- 132.12 Income and deductions partly from New York State sources – general
- 132.13 Business carried on wholly within New York State
- 132.14 Business carried on partly within and partly without New York State

METHODS OF ALLOCATING INCOME AND DEDUCTIONS FROM SOURCES WITHIN AND WITHOUT NEW YORK STATE

- 132.15 Apportionment and allocation of income from a business carried on partly within and partly without New York State
- 132.16 Rentals and gains from the sale or exchange of real property
- 132.17 Earnings of salesmen
- 132.18 Earnings of nonresident employees and officers
- 132.19 [Wages of nonresident seamen] Compensation of nonresident individuals performing duties on vessels
- 132.20 Pensions and other retirement benefits
- 132.21 Special rules for security and commodity brokers

- 132.22 Compensation received by nonresident professional athletes
- 132.23 Income from vessels
- 132.24 Other methods of allocation

HUSBAND AND WIFE

- 132.25 New York adjusted gross income of husband and wife

Section 3. Section 132.19 of such regulations is REPEALED and a new section 132.19 is added to read as follows:

Section 132.19 Compensation of nonresident individuals performing duties on vessels.

(a) The income derived from New York State sources of a nonresident individual includes the full amount of compensation received by the individual for employment on a vessel operating exclusively within New York State.

(b) The income derived from New York State sources of a nonresident individual does not include any compensation received by the individual for employment on a vessel which is operating exclusively between ports of New York State and foreign ports, even though at times the vessel touches at a port within New York State and remains there a reasonable time for the transaction of its business.

(c) Compensation paid to individuals:

(1) engaged on a vessel to perform assigned duties in more than one state as a pilot licensed under section 7101 of Title 46 of the United States Code or licensed or authorized under the laws of a state; or

(2) who perform regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one state, constitutes income derived from sources within such individual's state of residence. The income derived from New York State sources of a nonresident individual does not include compensation received by the individual for the performance of duties described in (1) or (2)

in the navigable waters of more than one state, even though the individual performed duties in New York State.

(See Public Law 106-489 and section 11108 of title 46 of the United States Code.)

Dated: Albany, New York

January 28, 2003

Arthur J. Roth
Commissioner of Taxation and Finance