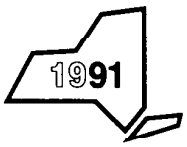

Instructions for Form NYC-203 NYC-203-I

City of New York Nonresident Earnings Tax Return

Who Must File

You must file Form NYC-203, *City of New York Nonresident Earnings Tax Return*, if you file or have to file a New York State return and you are a nonresident of New York City who earns wages there or carries on a trade or business there either as an individual or a partner.

If you and your spouse are both subject to the New York City nonresident earnings tax, you each must file a separate Form NYC-203 and **attach it to your New York State return.** If you filed a joint New York State return, combine your New York City nonresident earnings tax from each Form NYC-203 and enter the total on your New York State return.

You have to file a return to get a refund.

If you do not have to file a New York State income tax return, you do not have to file a New York City nonresident earnings tax return if you meet **all** of these conditions:

- you were a New York City nonresident for the entire year; and
- your income from New York City sources consisted only of wages; and
- you received wages from only one employer and the correct amount of New York City nonresident earnings tax was withheld or you received wages subject to the New York City nonresident earnings tax from more than one employer and the total wages for the year was not more than $3,000.

For the definition of a New York City nonresident, refer to the instructions for Form IT-201 or Form IT-203 under *Resident, nonresident and part-year resident defined* and substitute **New York City** for **New York State** in those instructions.

Definitions

Wages as defined under section 3401(a) of the Internal Revenue Code include all payments and the cash value of all payments made in any form other than cash for services performed by an employee for an employer.

Wages also include the amount of member or employee contributions to a retirement system or pension fund picked up by the employer pursuant to sections 517(f) or 613(d) of the Retirement and Social Security Law, or sections 13-225.1, 13-327.1 or 13-125.1 of the Administrative Code of the City of New York, and the amount deducted or deferred from an employee's salary under a flexible benefits program established pursuant to section 23 of the general municipal law or section 1210-a of the public authorities law.

Wages do not include fees paid to a public officer or payment for active service as a member of the armed forces of the United States, or income of a nonresident individual or partner doing an insurance business as a member of the New York Insurance Exchange.

Other employee compensation includes but is not limited to salaries, fees, bonuses, tips, commissions on sales or on insurance premiums, vacation allowances and severance pay.

Net earnings from self-employment consist of your gross income from any trade or business carried on by you, less trade or business deductions allowed under the Internal Revenue Code, plus your distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership of which you are a member. **Limited partners** are not considered to receive net earnings from self-employment since they perform no services for the partnership. The deduction for wages and salaries paid or incurred for the taxable year that was disallowed according to section 280C of the Internal Revenue Code regarding the federal targeted jobs credit is allowed in figuring your net earnings from self-employment.

Net earnings from self-employment **do not** include:

- rental income from real estate and from personal property leased with the real estate, together with the deductions attributed to it, unless received in the course of a trade or business as a real estate dealer;
- dividends and interest not received in the ordinary course of a trade or business as a dealer in stocks or securities;
- gain or loss from the sale or exchange of capital assets, or from the sale, exchange or involuntary conversion of property other than stock in trade;
- any deduction for net operating losses;
- retirement payments received by a partner according to a written plan; or
- income, gain, loss or deduction resulting from activities as a dealer or partner doing an insurance business as a member of the New York Insurance Exchange.

Limitations

As a New York City nonresident, you do not have to pay a higher tax than you would if you were a New York City resident. Use Form IT-201 and instructions to figure your tax liability as a New York City resident. If your New York City resident tax is less than your New York City nonresident earnings tax, attach a separate schedule to Form NYC-203 showing your computation. Enter the New York City resident tax on line 9 of Form NYC-203.

You are not subject to tax on payments you received for active service in the armed forces of the United States.

Which Form to File

Figure your New York City nonresident earnings tax on Form NYC-203. This tax is based on your wages and net earnings from self-employment derived from services performed in New York City. If you are a nonresident of New York City and you performed services both in and out of New York City, you must allocate your wages and net earnings from self-employment. You can use Schedule A on the back of this form to determine the portion to be allocated to New York City. If you are married, you cannot file a joint New York City nonresident earnings tax return. If you each have taxable earnings, you each must use a separate Form NYC-203 to figure your tax. Transfer your total New York City nonresident earnings tax to your New York State income tax return.

If you are a part-year New York City resident, see *Part-Year Residents* on page 4.

If you are required to file New York City unincorporated business tax, file Form NYC-202, *City of New York Unincorporated Business Tax Return for Individuals, Estates and Trusts*, directly with The New York City Department of Finance. Do **not** include it with your New York State return.

You can get forms by calling toll free (from New York State only) 1 800 462-8100; from areas outside New York, call (518) 438-1073. You can also get forms by writing to: **NYS Tax Department, Taxpayer Assistance Bureau, W.A. Harriman Campus, Albany, NY 12227.**

Complete your return using the line instructions that begin on page 2.

When to File

Form NYC-203 is due when your New York State income tax return is due. Attach it to your New York State return.

Payments of Estimated Tax

You must pay estimated New York City nonresident earnings tax if you expect your withholding to be less than 90% of the tax shown on your 1992 return and less than 100% of the tax shown on your 1991 return (assuming the return covered 12 months) and you expect to owe, after withholding and credits, at least $100 of earnings tax for 1992. **Do not include the city unincorporated business tax.** Use Form IT-2105, *Estimated Income Tax Payment Voucher*, to compute and pay New York City estimated tax.

Refund or Tax Due

Your New York State, New York City, and Yonkers taxes are combined into a single amount of tax due or overpayment on your New York State return. The Tax Department will issue one check for the amount of a refund due, or you can credit the overpayment (or part of it) to your 1992 estimated tax. If you decide to credit your overpayment to your 1992 estimated tax, you cannot change this decision after April 15, 1992.

If your combined New York State, New York City and Yonkers taxes result in a balance due, send one check or money order payable to *New York State Income Tax* and write your social security number and *1991 Income Tax* on it. Do not send cash.

Changes in Your Federal Income Tax

If the Internal Revenue Service changes your taxable income or net earnings from self-employment or if you file an amended federal return, you must report these changes to the New York State Tax Department within 90 days from the date the Internal Revenue Service makes its final determination or 90 days from the date you amended your federal return. Report any changes for New York City nonresident earnings tax purposes on your amended state return with Form NYC-203 attached. Include a check or money order for the full amount of any tax and interest due.

Privacy Notification

Our authority to require personal information, including social security numbers, is found in sections 651, 652, 658, 697, 1306, 1312, 1332 and 1342 of the Tax Law, Article 2-E of the General City Law, and related parts of our personal income tax regulations.

We will use this information primarily to process your tax return and collect your personal income tax for the state or city of New York, the income tax surcharge on residents for the city of Yonkers or the earnings tax on nonresidents for the city of New York or Yonkers, whichever may apply to you. We may

also use it to help enforce other taxes under the Tax Law, for tax refund offset programs and exchange of tax information programs authorized by sections 171-a, 171-b, 171-c, 171-d, 171-e and 697 of the Tax Law, and for any other purposes authorized by law.

Your failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law or the Penal Law.

Our authority to maintain this information is found in section 697(e) of the Tax Law and a related section of our personal income tax regulations. This information will be maintained by the Director, Data Management Services Bureau, NYS Tax Department, Building 8, Room 905, W. A. Harriman Campus, Albany, NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from outside New York State, call (518) 438-8581.

Line Instructions

Print or type your name and enter your social security number in the spaces provided.

Item A — If you were a New York City resident during any part of the year, enter the beginning and ending dates of your period of residence (month, day and year) and see *Part-Year Residents* on page 4 of these instructions.

Item B — If you or your spouse had living quarters available for your use in New York City during any part of 1991, check the *Yes* box and give the address of the living quarters. Also, give the number of days that you were in New York City, even if you were on personal business. Do not count days you traveled through New York City to use common carriers such as an airplane, train or bus.

Living quarters would include a house, apartment, co-op or any other living quarters maintained or paid for by you or your spouse or any New York City living quarters maintained for your primary use by another person, family member or employer.

Item C — Complete this section if you are reporting income from self-employment on line 5 of this form.

Line 1

Gross wages

Enter the amount of your wages (see *Definitions* on the front page) earned in New York City. Include any amount of 414(h) retirement contributions shown on copy 2 of your wage and tax statement(s).

Also, include any amount deducted or deferred from an employee's salary under a flexible benefits program (cafeteria plan) established by the city of New York or certain other New York City public employers. For more information, see the instructions for Form IT-201 or IT-203.

If your wages were earned partially in New York City, figure the amount earned in New York City by completing Schedule A on the back of the return.

Line 2

Allowable exclusion

Enter your allowable exclusion.

You are allowed an exclusion against the total amount of wages and net earnings from self-employment allocated to New York City (total of line 1 and line 5 amounts). Use the *Exclusion Table* on the front of Form NYC-203 to find your allowable exclusion.

If you earned only wages during the taxable year, enter your allowable exclusion on line 2.

If you earned only net earnings from self-employment, enter your allowable exclusion on line 6.

If you had **both** wages and net earnings from self-employment during the taxable year, **prorate the exclusion** against wages and net earnings, and enter the amount excluded from each source on lines 2 and 6.

For example, if you had wages of $15,000 and net earnings from self-employment of $5,000, your total income of $20,000 would entitle you to an exclusion of $2,000. Since your wages are 75% of your total income, you would enter 75% of the $2,000 exclusion ($1,500) on line 2. You would enter the remainder of the exclusion ($500) on line 6.

If you change your residence to or from New York City during your taxable year or have a taxable period of less than one year, **divide the exclusion by 12, then multiply by the number of months for the period of New York City nonresidence.** For this purpose, count any period of more than one-half month as a full month; do not count any period of one-half month or less.

Line 5

Net earnings from self-employment

Enter the amount of your net earnings from self-employment (see *Definitions* on the front page) in New York City for the entire taxable year.

This is the amount reported on federal Form 1040, Schedule SE, *Social Security Self-Employment Tax*, minus the deduction for wages or salaries paid or incurred for the taxable year that was disallowed according to section 280C of the Internal Revenue Code regarding the federal targeted jobs credit. If the amount in Schedule SE includes profit or loss from a trade or business carried on by you wholly outside of New York City, or your distributive share of the profit or loss of a partnership that does not engage in business in New York City, deduct these amounts from (or add them to, if they are losses) the amount shown in Schedule SE to figure the amount of your net earnings from self-employment that are subject to the New York City nonresident earnings tax. Attach a schedule showing the amount of each deduction (or addition).

If you do not have to file federal Schedule SE because you had more than $125,000 in wages, figure your net earnings from self-employment by following the instructions for federal Schedule SE and subtract the deduction for wages or salaries paid or incurred for the taxable year that was disallowed under section 280C of the Internal Revenue Code. Attach a schedule to your return showing how you figured your net earnings. If your net earnings from federal Schedule SE (modified as provided above) is a loss, write ***Loss*** on line 5. **You cannot offset a loss against any wages shown on line 1.**

The net earnings from self-employment of ordained, commissioned or licensed ministers of churches, members of religious orders and Christian Science practitioners are subject to the tax even if they have elected exemption from social security coverage.

If your net earnings from self-employment were from sources both in and out of New York City, figure the amount to be allocated to New York City first.

If you have no regular place of business outside New York City, allocate all net earnings from self-employment to New York City.

If you kept books and records that fairly and equitably show net earnings from self-employment in New York City, you can figure the part to be allocated to New York City from these books and records. If not, use the formula in Schedule C.

Line 6

Allowable exclusion

See the instructions for line 2 and use the *Exclusion Table* shown on the front of Form NYC-203 to figure your exclusion.

Line 9

Total nonresident earnings tax

Add lines 4 and 8 and enter the result. Follow the instructions on Form NYC-203, line 9, and transfer your total New York City nonresident earnings tax to your New York State return. **Attach Form NYC-203 to your New York State return.**

If you and your spouse filed a joint New York State return and you each filed Form NYC-203 because each had taxable earnings, combine your New York City nonresident earnings tax from each Form NYC-203 and enter the total on your New York State return.

Payments and Credits

Enter on your New York State return the total New York City nonresident earnings tax withheld by all your employers. **Be sure that the amounts of withholding are for New York City withholding tax only.**

Enter on your New York State return the total payments of your 1991 estimated New York City nonresident earnings tax. **Do not include city unincorporated business tax payments.**

Sign Your Return

Sign and date your return at the bottom of Form NYC-203. **Form NYC-203 cannot be processed if you do not sign it.**

Paid Preparers

Anyone you pay to prepare your return must sign it and fill in the other blanks in the paid preparer's area of your return. The preparer required to sign your return must sign it by hand; signature stamps or labels are not acceptable. If someone prepares your return but does not charge you, that person should not sign it.

Paid tax return preparers should get Publication 50, *Information for Paid Preparers of New York Income Tax Returns*, for more details.

Paid preparers may be subject to a penalty for failure to conform to certain requirements. For more information, see the instructions for Form IT-201 or Form IT-203.

Schedule A
Allocation of wage and salary income

Use Schedule A if your wage or salary income is earned partly in New York City and does not depend directly on the volume of business transacted. Figure the amount allocable to New York City by determining the ratio of days (excluding nonwork days such as Saturdays, Sundays, holidays, sick leave, vacation, etc.) you worked in New York City to the total number of days you worked both in and out of New York City during the year. Multiply your total wage or salary income subject to allocation by the ratio.

Work days are days on which you were required to perform the usual duties of your job. This does not ordinarily include duties performed at your home.

If your income subject to allocation depends entirely on the volume of business transacted, as in the case of a salesperson working on commission, do not use Schedule A. Divide your volume of business transacted in New York City by your total volume of business transacted both in and out of New York City. Multiply the total income subject to allocation by this ratio. This is the amount of your income allocated to New York City. The location where the services or sales activities were actually performed determines where business is transacted. Attach a schedule to your return showing how you figured this allocation.

If you allocate your personal service income differently than explained above, attach a separate schedule showing complete details.

Lines 10 through 21

Complete lines 10 through 20 and use the allocation formula on line 21 to find the amount of wage or salary income you earned in New York City. Enter this amount on line 1.

If you have to allocate wage or salary income received from more than one employer, you must allocate the wage or salary income separately for each job and attach to your return a separate statement (similar to Schedule A) showing the work days and income earned in New York City that apply to each job.

If your period of employment is less than a full year, base the figures you enter in Schedule A on the actual period of employment. For example, if you were employed in and out of New York City for separate periods of 170 days by one employer and 195 days by another employer, enter 170 days and 195 days on line 11 of your separate allocation schedules.

Schedule B
List all places, both in and out of the city of New York, where you carry on business

If you have net earnings from self-employment, list in columns (1) and (2) the exact locations, both in and out of New York City, where you carry on business. Describe in column (3) the places listed in columns (1) and (2) (e.g., branch office, agency, factory, warehouse, etc.) and state whether you rent or own these places.

Schedule C
Allocation of net earnings from self-employment to the city of New York

The amount to be allocated to New York City is that part of your total net earnings from self-employment (line 30) that results from multiplying total net earnings by the average of the property percentage, payroll percentage and gross income percentage (line 29).

If you receive net earnings from self-employment from more than one business activity carried on both in and out of New York City, complete a separate Schedule C for each business activity and attach it to your return.

If you file Form NYC-202, *City of New York Unincorporated Business Tax Return for Individuals, Estates and Trusts* or Form NYC-204, *City of New York Unincorporated Business Tax Partnership Return*, you may, instead of completing lines 22 through 28 of Schedule C, enter on line 29 the business allocation percentage figured on either of those returns. Attach a copy of the completed return. If Schedule C is used and the net earnings are from a partnership, the factors used must be the partnership's property, payroll and gross income.

Property percentage

Lines 22, 23 and 24

Figure the average value of real and tangible personal property connected with your net earnings from self-employment by completing lines 22, 23 and 24.

Line 22

Real property owned

Enter in column (1) the average value of all real property you own that is connected with net earnings from self-employment. Enter in column (2) the average value of this real property located in New York City.

The average value of property is figured by adding its fair market value at the beginning and at the end of the taxable year and dividing by two.

Line 23

Real property rented from others

Enter in column (1) the value of all real property you rented that is connected with net earnings from self-employment. Enter in column (2) the value of this rented real property that is located in New York City.

The fair market value of rented real property included on line 23 is generally eight times the gross rent payable during the taxable year for which the return is filed. Gross rent includes:

— any amount payable for the use or possession of real property, or any part of it, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise;

— any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other agreement; and

— a portion of the cost of any improvement to real property made by you or on your behalf that reverts to the owner or lessor upon termination of a lease or other arrangement. However, if a building is erected on leased land by you or on your behalf, the value of the building is figured the same way as if you owned it.

Line 24

Tangible personal property owned

Enter in column (1) the average value of all tangible personal property you own that is connected with net earnings from self-employment. Enter in column (2) the average value of this tangible personal property located in New York City.

Line 25

Property percentage

Add lines 22, 23 and 24 in columns (1) and (2) and enter the total on line 25.

Divide the column (2) total by the column (1) total and carry the result to four decimal places. For example, if the total in column (1) is $15,000 and the total in column (2) is $10,000, divide the $10,000 by the $15,000 and enter the result (.6667) as a percentage (66.67%) in column (3).

Line 26

Payroll percentage

Enter the total of the wages, salaries and other personal service compensation paid to your **employees** in connection with your net earnings from self-employment derived from a trade, business or profession carried on in New York City. Do not include payments to independent contractors or independent sales agents.

Enter in column (1) the total of the compensation paid to your employees during the taxable year in connection with your net earnings from self-employment carried on both in and out of New York City. Enter in column (2) the amount paid in connection with operations carried on in New York City.

The compensation paid to an employee is in connection with operations carried on in New York City if the employee works in or travels out of an office or other place of business located in New York City.

Divide the column (2) total by the column (1) total. Carry the result to four decimal places and enter it as a percentage in column (3).

Line 27

Gross income percentage

Enter in column (1) the total gross sales made or charges for services performed by you or your employees, agents, agencies or independent contractors of the business in and out of New York City. Enter in column (2) the part of the total gross sales or charges that represents sales made, or services performed, by or through an agency in New York City. This includes sales made or services performed by employees, agents, agencies or independent contractors situated at, connected with or sent out from offices of the business (or its agencies) located in New York City. For example, if a salesperson working out of the New York City office of the business covers New York State, New Jersey and Pennsylvania, **all sales** made by that salesperson are allocated to New York City and must be included in column (2) on line 27.

Special rule for real estate: Income and deductions from the rental of real property and gain or loss from the sale, exchange or other disposition of real property are not subject to allocation but are considered to be entirely derived from or connected with the place in which the property is located.

Divide the column (2) total by the column (1) total. Carry the result to four decimal places and enter it as a percentage in column (3).

Line 29

Business allocation percentage

Divide the amount on line 28 by three (or by the actual number of percentages if less than three). Carry the result to four decimal places and enter it as a percentage.

Line 30

Net earnings from self-employment to be allocated

Enter your net earnings from self-employment, as defined on the front page of these instructions, on line 30.

Part-Year Residents

If you changed your residence to or from New York City during the year, you may have to pay a part-year New York City resident tax for the part of the year you were a resident. If you earned wages in New York City or carried on a trade or business there (either as an individual or a member of a partnership) during the part of the year that you were not a New York City resident, you may have to pay the New York City nonresident earnings tax.

Returns to be Filed

If you are required to file a New York State return and you were a resident of New York City for part of the year, you must file Form IT-360.1, *Change of City Resident Status,* for the part of the year you were a New York City resident. You may also be required to file Form NYC-203 for the part of the year you were a nonresident and transfer the tax to the appropriate New York State return Form IT-200, IT-201 or IT-203.

You are not required to file Form NYC-203 for the period that you were a nonresident of New York City if you had no wages or net earnings from self-employment from New York City sources during this period. Instead, attach a statement to your return for the resident period explaining that you had no taxable income during the nonresident period.

Form IT-360.1-I, *Instructions for Form IT-360.1,* explains the computation of your New York City resident tax and certain required special accruals. The instructions will help you compute your New York City taxable income for the resident period. Form IT-360.1 must be attached to your completed New York State income tax return.

Returns for Married Taxpayers

If you and your spouse changed your New York City resident status at the same time and file a joint New York State return, you must compute your New York City resident tax jointly on Form IT-360.1. For the period of nonresidence, if you each have taxable earnings, you must use separate Forms NYC-203.

If you file separate New York State returns, or you changed your New York City resident status at different times, you must compute your New York City resident tax separately on separate Forms IT-360.1 for the period of residence. For the period of nonresidence, you must use separate Forms NYC-203.

If you are married, filing a joint New York State return and only one spouse changed city residence during the taxable year, you must compute your New York City taxes separately. The spouse who changed city residence must complete Form IT-360.1 and Form NYC-203, if applicable, and attach them to Form IT-201. The other spouse, if a resident, must compute a separate New York City resident tax for the entire taxable year on Form IT-201 as if separate federal returns were filed, or, if a nonresident subject to the nonresident earnings tax, file Form NYC-203.

How to File

If you changed your New York City residence but were a New York State resident all year, get the instructions for Form IT-360.1 and complete Form IT-360.1 for the period of New York City residence. Transfer the tax computed on Form IT-360.1 to Form IT-201-ATT, line 17. For the nonresident period, compute your New York City nonresident earnings tax on Form NYC-203 and transfer the tax to Form IT-201, line 62. Attach Form NYC-203, if applicable, and Forms IT-360.1 and IT-201-ATT to your New York State resident return, Form IT-201.

If you changed both your New York City and New York State residence during the year, get the instructions for Form IT-360.1 and complete Form IT-360.1 for the period of New York City residence. Transfer the tax computed on Form IT-360.1 to Form IT-203-ATT, line 17. For the nonresident period, compute your New York City nonresident earnings tax on Form NYC-203 and enter the tax on line 62 of Form IT-203, *New York State Nonresident and Part-Year Resident Income Tax Return*. Attach Form NYC-203, if applicable, and Forms IT-360.1 and IT-203-ATT to Form IT-203.

Special Accruals

The return for the period before the change of residence must include all items of income, gain, loss or deduction accrued to the taxpayer up to the time of change of residence. This includes any amounts not otherwise includable in the return because of an election to report income on an installment basis.

For complete details on special accruals, see *Income and Deductions* in IT-360.1-I, *Instructions for Form IT-360.1*. You can get Forms IT-360.1 and IT-360.1-I by calling toll free (from New York State only) 1 800 462-8100; from areas outside New York State, call (518) 438-1073. You can also write to: **NYS Tax Department, Taxpayer Assistance Bureau, W.A. Harriman Campus, Albany, NY 12227.**

Attach Form NYC-203 to your New York State income tax return and mail them to:

NYS Income Tax
W. A. Harriman Campus
Albany, NY 12227-0125