New York State Department of Taxation and Finance

Instructions for Form IT-205

IT-205-I

Fiduciary Income Tax Return

New York State • City of New York • City of Yonkers

Changes for 1994

- The 1993 New York State income tax rates and brackets are retained for the 1994 tax year.
- Beginning in 1994, the estimated tax rules have been changed to conform with the federal rules. The total amount you must have paid for 1994 through withholding and estimated tax is the lesser of:
  1. 90% of the tax shown on the 1994 return, or
  2. 100% of the tax shown on the 1993 return (110% of that amount if the estate's or trust's New York adjusted gross income on that return is more that $150,000 and less than 2/3 of the total federal gross income for 1993 or 1994 is from farming or fishing).

  However, if the estate or trust did not file a 1993 tax return or that return did not cover all 12 months, item 2 above does not apply.
- Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries* must be filed on or before the 65th day after the close of the tax year to result in a valid election. Attach Form IT-205-T to Form IT-205 **only** if you are making the election with Form IT-205, *Fiduciary Income Tax Return;* otherwise, file Form IT-205-T separately.

General Instructions

Who Must File

The fiduciary of a **New York State resident** estate or trust must file a return on Form IT-205 if the estate or trust:

- is required to file a federal income tax return for the taxable year;
- had any New York taxable income for the taxable year;
- had tax preference items for minimum income tax purposes in excess of the specific deduction; or
- is subject to a separate tax on lump-sum distributions.

If the fiduciary of a **New York City resident** estate or trust is required to file a New York State fiduciary return, the New York City income tax liability is based on the same taxable income as for New York State tax purposes and must be reported on the state return as explained in the New York City instructions on page 7.

If the fiduciary of a **Yonkers resident** estate or trust is required to file a New York State return, the Yonkers tax liability is based upon the New York State tax liability and must be reported on the state return as explained in the Yonkers instructions on page 7.

The fiduciary of a **New York nonresident** estate or trust or part-year resident trust must file a return on Form IT-205 if the estate or trust:

- had income derived from New York State sources and had New York adjusted gross income;
- had tax preference items for minimum income tax purposes derived from or connected with New York State sources in excess of the specific deduction;
- is subject to a separate tax on lump sum distributions; or
- incurred a net operating loss for New York State income tax purposes for the taxable year without incurring a net operating loss for federal income tax purposes.

Income from New York State sources includes income or gains from:

- real or tangible personal property located in New York State;
- a business, trade, profession or occupation carried on in New York State; and
- services performed in New York State.

It does not include:

- annuities, interest, dividends or gains from the sale or exchange of intangible personal property, unless they are part of the income from a business, trade, profession or occupation carried on in New York State; or
- compensation received in respect of a nonresident decedent for active service in the military forces of the United States.

Form IT-205-A, *Fiduciary Allocation*, must be completed and attached to a Form IT-205 that is filed for (1) a nonresident estate or trust having income derived from New York State sources, (2) a part-year resident trust or (3) a resident estate or trust with a New York State nonresident beneficiary (except as noted below under *New York State Forms to be Filed)*. You can get Form IT-205-A at any office of the New York State Tax Department. You can also get forms by calling toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.

If a **New York City or Yonkers nonresident** estate or trust has income from wages earned or net earnings from self-employment in either or both cities, the fiduciary of the estate or trust must complete Form NYC-206, *City of New York Nonresident Fiduciary Earnings Tax Return*, and/or Form Y-206, *City of Yonkers Nonresident Fiduciary Earnings Tax Return*, and attach the form(s) to the New York State fiduciary return, Form IT-205.

New York State Resident and Nonresident Estate and Trust and Part-Year Resident Trust Defined

For purposes of the **New York State** income tax, an estate is either (a) a resident estate or (b) a nonresident estate. A trust is either a resident trust, nonresident trust or part-year resident trust. If a decedent was domiciled in New York State at the time of his or her death, his or her estate is a **resident estate** and any trust created by his or her will is a **resident trust.** If an irrevocable trust consists of property of a person domiciled in New York State when such property was transferred to the trust, it is a **resident** trust.

The term *resident trust* also includes (1) any revocable trust consisting of property of a person domiciled in New York State at the time such property was transferred to the trust if it has not later become irrevocable and (2) any revocable trust that has later become irrevocable if the trust consists of property of a person domiciled in New York State when it became irrevocable. For this purpose, a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes the trust. A trust becomes irrevocable when the possibility that such power may be exercised has ended.

A nonresident estate or trust means an estate or trust that is not a resident for any part of the year.

A part-year resident trust is a trust that meets the definition of resident or nonresident for only part of the year.

The residence of the fiduciary does not affect the status of an estate or trust as resident or nonresident.

Change of New York State Residence of Trust

If the person whose property constitutes a revocable trust has changed his or her domicile from or to New York State, between the time of transfer of the property to the trust and the time it becomes irrevocable, the residence of the trust will be deemed to have been changed at the date it ceases to be revocable. In that case the fiduciary must, for the taxable year in which the change of status of the trust occurs, file Form IT-205-A, *Fiduciary Allocation*.

The New York source income of a part-year resident trust is the sum of the following with adjustments for special accruals:

- the fiduciary's share of federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and
- the fiduciary's share of New York source income for the period of nonresidence determined as if the taxable year for federal income tax purposes were limited to the period of nonresidence.

New York State Forms to be Filed

Complete Forms IT-205 and IT-205-A for **New York State** resident and nonresident estates and trusts and part-year resident trusts, as follows:

1. **Resident estate or trust with resident beneficiaries only** — Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.
2. **Resident estate or trust with any nonresident beneficiaries**
   - Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.
   - Report in Schedule C of Form IT-205 the names and addresses of all beneficiaries, both resident and nonresident, to whom income is distributable, whether or not the income is taxable to the nonresident beneficiaries.
   - Complete Schedules 2, 3 and 4 of Form IT-205-A and any of Schedules 5, 6, 7, and 8 of Form IT-205-A that apply, unless **none** of the income distributable to the nonresident beneficiaries is derived from **New York State** sources. In this case, Form IT-205-A need not be completed even though **other** income is distributable to nonresident beneficiaries.
   - If Form IT-205-A is not required because of the above, include a statement with Form IT-205 to the effect that the distributable income of the nonresident beneficiaries consists only of income that is not taxable to nonresident individuals.
3. **Nonresident estate or trust and part-year resident trust with resident or nonresident beneficiaries**
   - Complete items A, B and C, line 1 and lines 9 through 37 on the front page, and Schedules B and C on the back page of Form IT-205.
   - Complete Schedules 1, 2, 3 and 4 of Form IT-205-A.
   - Complete any of Schedules 5, 6, 7 and 8 of Form IT-205-A that apply.
4. **Special rule if entire income is taxable to fiduciary** — If **all** of the income of the estate or trust is taxable to the fiduciary for the 1994 taxable year, no entries are required on Schedule C of Form IT-205.

Form IT-220, *Minimum Income Tax* — This is a tax on tax preference items. If the estate or trust has total tax preference items in excess of the allowable specific deduction, Form IT-220 is to be filed with Form IT-205. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule H, *Alternative Minimum Tax*. The specific deduction is that

percentage of $5,000 (not to exceed $5,000) which the total tax preference items (and related modifications) apportioned to the estate or trust is to the total tax preference items (and related modifications) of the estate or trust but without any apportionment between the estate or trust and the beneficiaries.

Form IT-230, *Separate Tax on Lump-Sum Distributions* — If the estate or trust is a recipient of a lump-sum distribution from a qualified retirement plan, compute this separate tax on the ordinary income portion using the New York forward averaging method on Form IT-230.

Form IT-244, *Acquisition Information Report* — must be filed if the estate or trust was involved in a corporate acquisition on or after April 19, 1989.

New York State tax returns for individuals — Every fiduciary in charge of an individual's entire income (for example, a guardian or committee for an incompetent person) must file a return (1) for a resident individual, on the appropriate individual resident form (Form IT-100 **cannot** be filed), if a federal income tax return is required to be filed for the taxable year or if the individual has federal adjusted gross income for the taxable year, increased by the modifications under section 612(b), in excess of $4,000 or (2) for a nonresident individual on Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, if the individual has income from New York sources and the sum of the nonresident individual's federal adjusted gross income and New York addition modifications is more than his or her New York standard deduction. In these cases, the fiduciary must pay the tax due. Returns are also required if, for minimum income tax purposes, a resident individual has tax preference items in excess of the specific deduction or if a nonresident individual has tax preference items derived from or connected with New York State sources in excess of the specific deduction, or is subject to a separate tax on the ordinary income portion of a lump-sum distribution.

Tax returns for decedents — A return must be filed by the executor, administrator or other representative of a taxpayer who died during the taxable year. Use the form that would have been appropriate had the taxpayer lived. However, Form IT-100 **cannot** be filed. (See *New York State tax returns for individuals*, above, for requirements for filing.)

Exempt Trusts

A trust that is taxable as a corporation for federal income tax purposes is exempt from New York State personal income tax under Article 22. A trust that, by reason of its purposes or activities, is exempt from federal income tax is exempt from tax under Article 22 (regardless of whether it is subject to federal and state income tax on unrelated business taxable income).

When to File

The filing deadline is April 17, 1995, for returns filed for the calendar year 1994 (If you are required to file your 1994 federal return at the IRS Service Center in Andover, Massachusetts, the filing deadline for your 1994 return is April 18, 1995.); for returns filed for a period other than the calendar year, the due date is the 15th day of the fourth month following the close of the taxable year.

Note: The 1994 Form IT-205 may also be used for a tax year beginning in 1995 if:

1. the estate or trust has a tax year of less than 12 months that begins and ends in 1995; **and**
2. the 1995 Form IT-205 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 1995 tax year on the 1994 Form IT-205 and incorporate any tax law changes that are effective for tax years beginning after December 31, 1994.

Extension of Time to File

If the estate or trust cannot meet the filing deadline, ask for an extension of time by filing Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries*. The time to file will be automatically extended for three months if the estate or trust files Form IT-370-PF on time and, if required, pays the tax the estate or trust owes with Form IT-370-PF.

If the trust expects to receive a refund or anticipates having no amount of New York State, New York City or Yonkers income tax remaining unpaid as of the due date of the return and is filing federal Form 8736 to extend the time to file its federal return, the trust can also use a copy of its Form 8736 to extend the time to file its New York State return instead of filing Form IT-370-PF. Write ***NY State Copy*** in the top margin and mail to: Extension Request - NR, Box 15105, Albany NY 12212-5105.

We will not accept a copy of federal Form 2758 for automatic extension of time to file because of the difference in time of extensions. Estates filing federal Form 2758 must request an extension of time to file the New York State return on Form IT-370-PF.

However, the estate or trust may file Form IT-372-PF, *Application for Additional Extension of Time to File for Partnerships and Fiduciaries*, on or before the expiration of the automatic 3-month extension of time to file to ask for an additional extension of time to file Form IT-205, or upon the timely filing of an approved federal Form 2758 granting an additional extension of time to file for federal purposes, an additional extension of time to file the New York fiduciary income tax return will be allowed to the date on the approved federal Form 2758.

Where to File

Mail all returns to: NYS Income Tax, Fiduciary Return Unit, W A Harriman Campus, Albany NY 12227-0125.

Estimated Income Tax Payments

Generally, a trust or estate must pay estimated income tax if it expects to owe, after subtracting any withholding and credits, at least $100 in income tax for 1995 and it expects the withholding to be less than:

1. 90% of the tax shown on the 1995 tax return, or
2. 100% of the tax shown on the 1994 tax return (110% of that amount if the estate's or trust's New York adjusted gross income on that return is more than $150,000 and less than 2/3 of the total federal gross income for 1994 or 1995 is from farming or fishing).

However, if the estate or trust did not file a 1994 tax return or that return did not cover all 12 months, item 2 above does not apply.

Estates (and any trusts that were treated as owned by the decedent and that received the residue of a decedent's estate under the will, or if no will is admitted to probate, were primarily responsible for paying debts, taxes, and other expenses of administration) are exempt from paying estimated income tax payments for the tax year of the decedent's death and the following tax year.

Exceptions — Generally, the estate or trust will not have to pay estimated tax if its 1995 income tax return will show (1) a tax refund, or (2) a tax balance due of less than $100.

Use Form IT-2105, *Estimated Income Tax Payment Voucher*, and instructions, Form IT-2105-I-F, to determine and pay any amount of estimated tax required.

Payments of estimated tax treated as paid by beneficiary (section 685(c)(6)(D) election) — Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. Fiduciaries making this election must file Form IT-205-T to show the allocation of any estimated tax payment among the beneficiaries. **Note:** The fiduciary of an estate may make a section 685(c)(6)(D) election only for the last tax year of the estate. Amounts applied to each beneficiary should be reported on Form IT-205-T. Be sure to copy the name, address, and employer identification number of the estate or trust exactly as reported on Form IT-205. Amounts applied to each beneficiary are treated as paid or credited to the beneficiary on the last day of the fiduciary's tax year and treated as a payment of estimated tax made by the beneficiary that would otherwise be due January 17, 1995. The fiduciary may make the election only if the Form IT-205-T is filed on or before the 65th day after the close of the fiduciary's tax year.

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 and does not charge you, that person should not sign it.

Paid preparers may be subject to a penalty for failure to conform to certain requirements.

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

Special Depreciation - Section 612(g) of the Tax Law

The estate or trust may elect to deduct depreciation not in excess of twice that allowed for federal purposes on certain property acquired before 1969. (See Form IT-211-I for instructions.)

Payments for Charitable Purposes - Effect on Fiduciary Adjustment

The fiduciary adjustment determined as required in Schedule B of Form IT-205 does not include the modifications under paragraphs (1) and (2) of section 612(b) and paragraphs (1), (2), (4), (5), (6) and (7) of section 612(c) of the Tax Law with respect to any amount paid or set aside for a charitable purpose during the taxable year. (See instructions for Schedule B on page 5.)

Accumulation Distribution Credit

A beneficiary whose New York source income includes an accumulation distribution from a trust is allowed a tax credit on his or her New York State individual income tax return for the income tax previously paid by the trust attributable to such accumulation distribution. The credit may not reduce the beneficiary's tax to an amount less than would have been due if the accumulation distribution were excluded from New York adjusted gross income. (See Tax Law sections 621 and 635.)

If an accumulation distribution has been made, attach to the return of the trust a copy of federal Schedule J (Form 1041) and a statement showing the computation of the credit claimed with respect to each beneficiary involved.

Use of Federal Figures

Income and deductions are to be entered as reportable for federal income tax purposes.

However, all items reported on Form IT-205 or on statements or schedules attached are subject to audit and revision by the Department of Taxation and Finance.

Whole Dollar Amounts

You may round all money items on your return to the nearest dollar. For example, round $10.49 to $10; round $10.50 to $11. If you round to the nearest dollar, round for all amounts.

Penalties

The law imposes penalties for failing to file a return or pay any tax when due, for making a false or fraudulent return or for making a false certification. A penalty may be charged for not paying enough estimated tax or for not making the payments on time.

Failure of Paid Preparers to Conform to Certain Requirements

A penalty of $50 per return or claim for refund will be assessed a paid preparer for failure to conform to any of the following requirements:

- failure to sign the tax return or claim for refund;
- failure to include the identifying number of the paid preparer (if an individual paid preparer is an employee of an employer or a partner in a partnership that is a paid preparer, the return

or claim for refund must also include the identifying number of the employer or partnership);

- failure to furnish a completed copy of the tax return to the taxpayer not later than the time the return is presented for the taxpayer's signature;
- failure to keep a completed copy of the return prepared for each taxpayer, or to keep the name and identification number of each taxpayer for whom a return was prepared on a list and to make the copy or list available for inspection upon request.

  The period for keeping a completed copy of the return or information on the list is three years after the due date of the return (without regard to extensions) or three years after the date the return was presented to the taxpayer for signature, whichever is later.

For each of the requirements listed above, a paid preparer may be subject to a maximum penalty of $25,000.

Accounting Periods and Methods

The accounting period for which Form IT-205 is filed and the method of accounting used are the same as for federal income tax purposes. If the taxable year or method of accounting is changed for federal income tax purposes, the change applies similarly to the New York State fiduciary return.

Short Taxable Year

If a return for a period of less than 12 months is filed for federal income tax purposes, you must also file a short period return for New York State income tax purposes.

Amended Returns or Federal Changes

Generally, an amended return claiming credit for, or a refund of, an overpayment must be filed within three years from the date that the original return was filed, or within two years of the date the tax was paid, whichever is later.

However, if the fiduciary files an amended federal return showing a change in its taxable income, tax preference items, total taxable amount or capital gain or ordinary income portion of a lump-sum distribution or the shares of income distributable to the beneficiaries, the fiduciary must also file Form IT-205 (amended) within 90 days of the date the fiduciary amends its federal return.

The fiduciary must also file an amended return to correct any error on its original state return and to report changes made by the Internal Revenue Service. Attach a signed statement indicating you concede the federal audit changes. If you do not concede the federal audit changes, attach a signed statement explaining why.

Note: If the federal changes affect the distributable net income of the estate or trust, each beneficiary's share of any New York fiduciary adjustment that applies to the federal changes must be reported on Form IT-201-X.

Gift tax — You must file a gift tax return if the total value of the gift or gifts you gave to any one donee during the calendar year exceeds $10,000.

Specific Instructions

All information on Form IT-205 should be for the calendar year January 1 through December 31, 1994, or for the fiscal year of the estate. If filing for a fiscal year, enter the month and day the tax year began, and the month, day and year that it ended at the top of the front page.

Name and Address Box

Use the preprinted mailing label. If you do not have a label, enter in the spaces at the top of the return the name of the estate or trust and the address of fiduciary (including the name and title of the fiduciary). This is the mailing address for subsequent mailings from the Tax Department (e.g., refund checks, forms, etc.). Also enter the employer identification number of the estate or trust in the space provided to the right of the address box. **Estates only** - enter the decedent's social security number.

Initial Return

Check this box if this is the initial return for the estate or trust.

Final Return

Check this box if this is a final return because the estate or trust has terminated.

Enter the date the estate or trust was created and the date the entity terminated (if applicable) in the space provided.

Do You Need A Tax Packet?

If you use photocopied or computer-produced returns, or if for any other reason you do not need a tax packet mailed to you next year, please check the box to the right of the label area. By checking this box, you will help us reduce printing and mailing costs.

Items A, B and C on Front Page

Complete lines 1 - 37, if applicable, before completing items A, B and C.

Item A Resident estates and trusts — Enter the total income from Form IT-205, back page, Schedule A, line 9. **Nonresident estates and trusts and part-year resident trusts** — Enter the total income from Form IT-205-A, page 2, Schedule 4, line 9, column (a).

Item B Resident estates and trusts — Enter your New York adjusted gross income from Form IT-205-I, page 4, NYAGI worksheet, line 5. **Nonresident estates and trusts and part-year resident trusts** — Enter your New York adjusted gross income from Form IT-205-A-I, page 1, NYAGI worksheet, line 5.

Item C Nonresident estates and trusts and part-year residents trusts only — Enter the amount from Form IT-205-A, *Schedule 1*, line 10, column (a).

Line Instructions

Line 1 Federal taxable income of fiduciary — Resident estates and trusts — Enter the amount of the taxable income of fiduciary as reported on Form IT-205, back page, Schedule A, line 22. **Nonresident estates and trusts and part-year resident trusts** — Enter the amount of the taxable income of fiduciary as reported on Form IT-205-A, Schedule 1, line 6, column (a).

Line 2 New York modifications relating to amounts allocated to principal — The following amounts are to be added or subtracted on this line to the extent they are attributable to amounts that are not includable in federal distributable net income of the estate or trust (attach a statement giving full details):

A Subtract the part of any gain from the sale or other disposition of (a) property that had a higher basis for New York State income tax purposes than for federal income tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960), and (b) property held in connection with mines, oil or gas wells and other natural deposits that has a higher adjusted basis for federal income tax purposes, which does not exceed this difference in basis.

B Subtract the amount of any gain that was properly included in gains reported on a prior New York State income tax return under Article 16 of the Tax Law by the decedent or the estate or trust or by another estate or trust from which the taxpayer received the gain.

C Subtract the amount of wages and salaries paid or incurred during the taxable year for which a salaries deduction is not allowed with regard to claiming the federal targeted jobs credit.

D Subtract the amount of gain from the sale of a new business investment included in federal income (section 612(c)(20) of the Tax Law).

E Add any deduction for percentage depletion in connection with mines, oil and gas wells and other natural deposits used in arriving at the federal taxable income of the fiduciary. Subtract cost depletion on the property pursuant to Internal Revenue Code (IRC) section 611.

F Add the amount of special additional mortgage recording tax that was excluded or deducted in figuring your federal adjusted gross income in those instances where a credit was allowed (section 612(b)(15) of the Tax Law).

G Add the amount of special additional mortgage recording tax you paid when the property for which the tax was paid is sold or disposed of at a gain or loss and the basis of the property was not adjusted for the special additional mortgage recording tax credit (section 612(b)(16) of the Tax Law).

H Add the gain or subtract the loss that would have been realized for New York State tax purposes from the sale or other disposition of property acquired from a decedent and valued by the executor under New York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (sections 612(b)(17) and 612(c)(19) of the Tax Law).

I If an election under section 612(h) of the Tax Law for tax years beginning before 1987 has been exercised, add any amounts deducted for federal income tax purposes for depreciation or amortization on the same property to the extent they are attributable to items not reflected in federal distributable net income.

J For possible modifications under section 612(g) of the Tax Law for optional depreciation deductions attributable to corpus items, see *Special Depreciation - Section 612(g) of the Tax Law* on page 2.

K For information regarding modifications resulting from the investment in, or sale of, a New York new business, see section 612(b)(22) of the Tax Law.

L If an election for safe harbor leasing was made for federal purposes, see additions under sections 612(b)(23) and 612(b)(24) and subtractions under sections 612(c)(24) and 612(c)(25).

M If accelerated cost recovery depreciation (ACRS) was claimed under section 168 of the IRC, you must add the amount allowable for federal purposes (section 612(b)(25)) and subtract the amount of depreciation allowable under section 167 of the IRC as such section would have applied to property placed in service on December 31, 1980. The addition and subtraction must be made for property placed in service during 1981, 1982, 1983 and 1984. Attach Form IT-399. It also must be made for property placed in service outside New York State after December 31, 1984, but before January 1, 1994 (including property on which ACRS depreciation was figured in accordance with the federal Tax Reform Act of 1986), except for recovery property subject to the provisions of section 280F of the IRC (such as luxury automobiles) (section 612(c)(26)).

N An addition or subtraction for depreciation is required at the time of disposition when there is a difference between the accumulated federal and state depreciation taken including

ACRS depreciation figured in accordance with the federal Tax Reform Act of 1986. See sections 612(b)(27) and 612(c)(28). Attach Form IT-399.

- Add the amount required under section 618(5) of the Tax Law in connection with any net includable gain, reduced by any deductions properly allocable to the gain, that is subject to the federal separate tax imposed by section 644 of the IRC.

S Corporation shareholders: If the estate or trust is a shareholder in an S corporation, use the S corporation information in the Schedule B instructions to determine the modification to be included on line 2 where S corporation income, loss or deduction has been allocated to principal.

Note: For more information on the New York additions and subtractions, see Publication 382, *How to Figure Your New York State Additions and Subtractions*.

Line 4 Fiduciary's share of New York fiduciary adjustment — Enter on this line the total of the fiduciary's share of New York fiduciary adjustment from the back page, Schedule C, column 5.

New York State Tax Rate Schedule

If the amount on line 5 is:

over	not over	Enter on line 6	
$ 0	$ 5,500	4%	of amount on line 5
5,500	8,000	$ 220 plus 5%	of amount over $5,500
8,000	11,000	345 plus 6%	" " " 8,000
11,000	13,000	525 plus 7%	" " " 11,000
13,000		665 plus 7.875%	" " " 13,000

Line 7 — Enter on line 7 the amount of New York State tax on the capital gain portion of the estate's or trust's lump-sum distribution from Form IT-230, Part II, line 2. Attach Form IT-230 to the fiduciary return (Form IT-205).

Line 9 Allocated New York State tax — Enter the amount from Form IT-205-A, Schedule 1, line 13 if a nonresident estate or trust or a part-year resident trust.

If the estate or trust used Form IT-230, Part II, to figure the tax on the capital gain portion of the estate's or trust's lump-sum distribution, check the box at line 9. Attach Form IT-230 to the fiduciary return.

Line 10 State credits — Enter on this line the total of state credits allowable under sections 606 (except for the household credit, earned income credit and real property tax credit), 620, 621 and 635 of the Tax Law, except for the investment credit refund. See the instructions for Form IT-212 and include the investment credit refund on line 29. The credit provided for under section 620-A is allowed only against the state separate tax on lump-sum distributions entered on line 12.

Line 11 Resident estate or trust — Subtract line 10 from line 8. Enter result on line 11.

Nonresident estate or trust or part-year resident trust: Subtract line 10 from line 9. Enter result on line 11.

Line 12 State separate tax on lump-sum distributions and other add-backs — Enter the amount of any separate tax on lump-sum distributions due from Form IT-230 (attach form). If the credit under section 620-A is claimed, enter the amount of separate tax on lump-sum distributions due after allowance of the credit and attach Form IT-112.1. Also enter on this line any amount of add-back of investment credit on early dispositions and add-back of resident credit for taxes paid to a province of Canada.

Line 13 State minimum income tax — Enter the amount of any minimum income tax due from Form IT-220 and attach form. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule H, *Alternative Minimum Tax*.

Lines 15 through 21 City of New York taxes and credits — These lines refer only to New York City taxes and credits. General and specific instructions for these lines are on pages 7 and 8.

Lines 22, 23 and 24 City of Yonkers taxes — These lines refer only to Yonkers tax. Specific instructions for these lines are on pages 7 and 8.

Line 26 — Enter estimated tax payments. Also enter the amount you paid with Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries*. If the amount does not agree with the account statement included in your estimated tax packet, complete Form IT-2105.1 and attach it to the front of Form IT-205.

Line 27 — If the fiduciary makes the election under section 685(c)(6)(D) to have any portion of an estimated tax payment treated as a payment of estimated tax made by a beneficiary or beneficiaries, enter the amount on line 27.

The amount of credit assigned to beneficiaries is treated as having been distributed on the last day of the preceding tax year. If the election is made, Form IT-205 must be filed on or before the 65th day after the close of the fiduciary's tax year.

Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries*, shows the amounts to be allocated to each beneficiary. Failure to file Form IT-205-T on or before March 6, 1995, will result in an invalid election. Attach Form IT-205-T to your return only if you are making the section 685(c)(6)(D) election with Form IT-205. If you have already filed Form IT-205-T, **do not** attach a copy to your return.

Line 29 New York State tax withheld — Enter any amount of New York State tax withheld as shown on a decedent's wage and tax statement(s), Form IT-2102 or federal Form W-2 received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If New York State tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return. Include any investment credit refund for new businesses, the EDZ wage tax credit refund from Form DTF-601, the ZEA wage tax credit refund from Form DTF-601.1, or the EDZ investment tax credit refund from Form DTF-603. On a separate schedule, identify the credit refund(s) claimed and show the amount(s).

Line 30 City of New York tax withheld — Enter any amount of New York City tax withheld on a decedent's wage and tax statement(s) Form IT-2102 or federal Form W-2 received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If New York City tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return.

Line 31 City of Yonkers tax withheld — Enter any amount of Yonkers tax withheld on a decedent's wage and tax statement(s) Form IT-2102 or federal Form W-2 received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If Yonkers tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return.

Line 5 New York State Tax

Complete New York adjusted gross income (NYAGI) worksheet as follows:

1. Enter federal adjusted gross income *(as computed using federal Form 1041, line 15b instructions)* . . . 1. _____
2. Enter amount from Form IT-205, page 1, line 2 . . . 2. _____
3. Enter the net amount of the fiduciary share of additions and subtractions from Form IT-205, *Schedule B*, lines 23 through 29, that relate to the income reported on Form IT-205, *Schedule A*, lines 1 through 8 . . . 3. _____
4. Add lines 2 and 3 . . . 4. _____
5. New York adjusted gross income *(line 1 and add or subtract line 4; enter here and on Form IT-205, page 1, Item B)* . . . 5. _____

Tax Computation

☐ If line 5 above is $100,000 or less, find your New York State tax on the amount on Form IT-205, page 1, line 5, using the *New York State Tax Rate Schedule* above. Enter the tax amount on Form IT-205, page 1, line 6.

☐ If line 5 above is more than $100,000 but not more than $150,000, you must compute your tax using *Tax Computation Worksheet I* below.

☐ If line 5 above is more than $150,000, you must compute your tax using *Tax Computation Worksheet II* below.

Tax Computation Worksheet I

1. Enter the amount from line 5 above . . . 1. _____
2. Enter your taxable income from Form IT-205, page 1, line 5 . . . 2. _____
3. Multiply line 2 by 7.875% (.07875) . . . 3. _____
4. Enter your New York State tax on the line 2 amount using the *New York State Tax Rate Schedule* above . . . 4. _____
5. Subtract line 4 from line 3 . . . 5. _____
6. Enter the excess of line 1 over $100,000 *(cannot exceed $50,000)* . . . 6. _____
7. Divide line 6 by $50,000 and carry the result to four decimal places *(cannot exceed 1.0000)* . . . 7. _____
8. Multiply line 5 by line 7 . . . 8. _____
9. **Add lines 4 and 8.** *(enter here and on Form IT-205, page 1, line 6)* . . . 9. _____

Tax Computation Worksheet II

1. Enter your taxable income from Form IT-205, page 1, line 5 . . . 1. _____
2. Multiply line 1 by 7.875% (.07875) *(enter here and on Form IT-205, page 1, line 6)* . . . 2. _____

Lines 33 through 36 — The New York State, New York City and Yonkers income tax liabilities are combined into a single amount of tax due or overpayment on Form IT-205. One check will be issued for the amount of a refund due, or the overpayment (or part of it) may be credited to the estate's or trust's 1995 estimated income taxes. If it is credited to 1995 estimated taxes, the credit may not be changed after April 17, 1995.

If the combined amount of state and city tax liability results in a balance due, attach one check or money order payable to ***NY State Income Tax*** to the fiduciary return when filed. A balance due of more than one dollar must be paid with your return. It is not necessary to pay a balance due of one dollar or less.

An overpayment of more than one dollar will be refunded automatically. An overpayment of one dollar or less will be refunded only if requested in a separate signed statement attached to the return.

Line 37 Estimated tax penalty — If line 36 is at least $100 **and** represents more than 10% of the tax shown on the fiduciary return, or the fiduciary underpaid its estimated tax liability for any payment period, the fiduciary may owe a penalty. However, the fiduciary may not be subject to a penalty if its 1994 prepayments equal at least 100% of its 1993 tax, 110% of that amount if the estate's or trust's New York adjusted gross income on that return is more than $150,000, and less than 2/3 of the total federal gross income for 1993 or 1994 is from farming or fishing (based upon a return covering 12 months). Get Form IT-2105.9, *Underpayment of Estimated Tax by Individuals and Fiduciaries*, to see if the estate or trust owes a penalty and to figure the amount. If the estate or trust owes a penalty, enter the amount on line 37 and attach Form IT-2105.9 to the fiduciary return. This penalty will either reduce the overpayment or increase the amount you owe. For more information, see the instructions for Form IT-2105.9.

Do not include any other penalty or interest amounts on line 37. If the estate or trust includes penalties or interest with the payment, identify and enter these amounts in the right margin of the front page, Form IT-205.

Schedule A
Details of Federal Taxable Income of Fiduciary

Lines 1 through 22 of Schedule A are similar to the lines of the schedule on page 1 of federal Form 1041. Enter on each applicable line of Schedule A the amount reported on the federal schedule. If a capital gain or loss is reported on line 4, attach a copy of federal Schedule D and any related schedules. Instead of completing Schedule A, a copy of federal Form 1041 may be attached to Form IT-205.

Attach a copy of federal Schedule K-1 (Form 1041) for each beneficiary.

Schedule B
New York Fiduciary Adjustment

This schedule is used for computing the New York fiduciary adjustment, which is then allocated among the estate or trust and its beneficiaries in Schedule C. The additions and subtractions enumerated in Schedule B of Form IT-205 and in the instructions for lines 24, 25 and 28, that relate to items of income, gain, loss or deduction of the estate or trust, constitute the fiduciary adjustment under section 619 of the Tax Law. However, the additions and subtractions for lines 23 and 27 of Schedule B and those described for line 25, item A-1 and for line 28, items S-2, S-4, S-5, S-13 (part a) and S-15 need not be made with respect to any amount paid or set aside for charitable purposes. (See *Payments for Charitable Purposes - Effect on Fiduciary Adjustment* on page 2.)

S Corporation Shareholders

If the estate or trust is a shareholder of a federal S corporation for which the election to be a New York S corporation was in effect for the taxable year, include any of the following additions and subtractions that apply to the estate's or trust's share of S corporation items of income, loss or deduction, plus the addition required by section 612(b)(18) of the Tax Law. If the election to treat the corporation as a New York S corporation terminated during the taxable year, the estate or trust must allocate the additions and subtractions (see Publication 382 for more information). Obtain the estate's or trust's share of S corporation items of income, loss and deduction from the S corporation return, Form CT-3-S or Form CT-4-S.

If the estate or trust is a shareholder of a federal S corporation for which the election to be a New York S corporation was not in effect for the taxable year, include only those additions required by sections 612(b)(19) and 612(b)(20) and the subtraction required by section 612(c)(22) of the Tax Law.

If the estate or trust was not eligible to make the election to treat its corporation as a New York S corporation because the corporation was not subject to Article 9-A franchise tax, include any of the following additions and subtractions that apply to estate's or trust's pro rata share of S corporation items of income, loss or deduction.

If gain or loss is recognized on the estate's or trust's federal income tax return due to the disposition of stock or indebtedness of an S corporation that did **not** have an election to be a New York S corporation in effect for any taxable year after December 31, 1980, make the addition required by section 612(b)(21) and the subtraction required by section 612(c)(21) of the Tax Law.

Member of Partnership

If the estate or trust has income as a member of a partnership, any of the additions or subtractions that apply to the income should be included in Schedule B of Form IT-205. The estate's or trust's share of the partnership items may be obtained from the New York partnership return on Form IT-204.

Beneficiary of Another Estate or Trust

If the estate or trust is a beneficiary of another estate or trust, the share of the fiduciary adjustment of the other estate or trust to be included in Schedule B of Form IT-205 may generally be obtained from its fiduciary. Do not include addition modifications relating to sections 612(b)(1), 612(b)(2) and 612(b)(20) of a resident fiduciary in a nonresident beneficiary's share of the fiduciary adjustment unless the addition is attributable to a business, trade, profession or occupation carried on in New York State. Attach a schedule showing how the fiduciary adjustment was figured.

The estate or trust must make the additions and subtractions for the taxable year of the S corporation, partnership or estate or trust that ends within the estate's or trust's taxable year.

Note: For more information on the New York additions and subtractions, see Publication 382, *How to Figure Your New York State Additions and Subtractions*.

Line 23 Interest income on state and local bonds but not those of New York State and local governments within the state — Do not make this addition for any period the fiduciary was a nonresident estate or trust unless the addition is attributable to a business, trade, profession or occupation carried on in New York State. If the trust is a part-year resident trust, enter any interest income on state and local bonds (but not those of New York State and local governments within the state) that the trust received or that was credited to the trust for the period the fiduciary was a resident trust of New York State during 1994, if not included in the trust's federal adjusted gross income (section 612(b)(1) of the Tax Law).

Line 24 State, local and foreign income taxes including unincorporated business taxes deducted on federal fiduciary return — All state, local and foreign income taxes including unincorporated business taxes deducted on the federal fiduciary return are to be added back on line 24 with the exception of state income taxes imposed upon or paid by the S corporation to another state, political subdivision of another state or the District of Columbia and the New York City nonresident earnings tax to the extent that the tax exceeds the tax computed as if the rates were 0.25% of wages subject to tax and 0.375% of net earnings from self-employment subject to tax.

Line 25 Other additions — Identify any of the following additions that apply by writing the item number and amount of any of the following items:

A-1 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality that federal laws exempt from federal income tax but not from state income taxes. Do not make this addition for any period the fiduciary was a nonresident estate or trust unless the addition is attributable to a business, trade, profession or occupation carried on in New York State. If the trust is a part-year resident trust, make this addition for the period the trust was a resident trust of New York State (section 612(b)(2) of the Tax Law).

A-2 Amounts **deducted** for **interest** on loans used to buy bonds and securities whose interest is exempt from New York State tax, **expenses** relating to income exempt from New York State tax and **amortization** of bond premium whose bond interest is exempt from New York State tax (sections 612(b)(4) and (5) and 615 of the Tax Law).

A-3 Any deduction for percentage depletion on mines, oil and gas wells, and other natural deposits made in figuring your federal distributable net income (section 612(b)(10) of the Tax Law). See subtraction S-12.

A-4 Any amount required to be added to federal income if an election was made under the Tax Law for tax years beginning before 1987 for waste treatment facility expenditures, air pollution control equipment or acid deposition control equipment expenditures (section 612(b)(0)).

A-5 Add the amounts required under section 617-a of the Tax Law in connection with the distributive pro rata share of allocated entire net income from an insurance business doing business as a member of the New York Insurance Exchange.

A-6 Add the amount of gain that would have been realized for New York State tax purposes from the sale or other disposition of property acquired from a decedent and valued by the executor under New York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (section 612(b)(17) of the Tax Law).

A-7 Compute any addition required because of an election under section 612(g) of the Tax Law for tax years beginning before 1987 on Form IT-211. See page 2, *Special Depreciation - Section 612(g) of the Tax Law*.

A-8 If the estate or trust sold a New York new business, see section 612(b)(22).

A-9 Additions under sections 612(b)(23) and 612(b)(24) are required if an election for safe harbor leasing was made for federal purposes. See subtraction S-18.

A-10 If accelerated cost recovery depreciation (ACRS) was claimed, the amount of the ACRS deduction from Form IT-399, line 1, column G (section 612(b)(25) of the Tax Law). In the case of an estate or trust that is on a fiscal-year basis, the amount of the modification for the beneficiaries will be their distributive share of the cost recovery deduction determined as of the end of the estate's or trust's taxable year ending within the beneficiary's taxable year. The beneficiaries

will make the modification on their personal income tax returns for property placed in service during 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State after December 31, 1984, but before January 1, 1994 (including property on which ACRS depreciation was figured in accordance with the federal Tax Reform Act of 1986), except for property subject to the provisions of section 280F of the IRC (such as luxury automobiles). Attach Form IT-399. See subtraction S-19.

A-11 See section 612(b)(27) for the addition required at the time of disposition when the New York depreciation taken is greater than the federal ACRS depreciation taken including ACRS depreciation figured in accordance with the federal Tax Reform Act of 1986. Attach Form IT-399.

A-12 Five percent of the deduction for interest related to corporate acquisitions to the extent the interest was deducted in figuring your federal distributable net income (section 612(b)(30) of the Tax Law). If this addition applies, complete Form IT-244, *Acquisition Information Report*. Attach a separate schedule to the return showing computation.

A-13 Enter the amount of 414(h) retirement contributions shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), made by:

- a Tier III or Tier IV member of the New York State and Local Retirement Systems, which include the New York State Employees' Retirement System and the New York State Policemen's and Firemen's Retirement System, **or**
- a Tier III or Tier IV member of the New York State Teachers' Retirement System, **or**
- an employee of the State or City University of New York who belongs to the Optional Retirement Program, **or**
- any tier member of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund or the New York City Fire Department Pension Fund.

Do not enter on line 25 contributions to a section 401(k) deferred arrangement, section 403(b) annuity or section 457 deferred compensation plan.

A-14 New York City flexible benefits program (IRC 125) - The IRC 125 amount shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), that was deducted or deferred from a decedent's salary under a flexible benefits program established by the city of New York and certain other New York City public employers (City University of New York, New York City Health and Hospitals Corporation, New York City Transit Authority, New York City Housing Authority, New York City Off-Track Betting Corporation, New York City Rehabilitation Mortgage Insurance Corporation, New York City Board of Education, New York City School Construction Authority, Manhattan and Bronx Surface Transit Operating Authority or the Staten Island Rapid Transit Authority), on a decedent's behalf (section 612(b)(31) of the Tax Law).

A-15 New York City Health Insurance and Welfare Benefit Fund - The amount shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) that was deducted from a decedent's salary (section 612 (b)(32) of the Tax Law for health insurance and the welfare benefit fund surcharge if the decedent was a career pension plan member of:

- the New York City Employees' Retirement System, **or**
- the New York City Board of Education Retirement System.

Line 27 Interest income on United States government bonds — Enter the amount of interest income from US government bonds or other government obligations that the estate or trust included in the amount the estate or trust reported on Schedule A, line 1. This may be all or part of the line 1 amount or it may be zero. Check the estate's or trust's interest income records to determine the correct amount to enter on line 27. Interest income on bonds or other obligations of the US government is not taxed in New York State. Dividends received from a regulated investment company (mutual fund) that invests in obligations of the US government and meets the 50% asset requirement each quarter qualify for the subtraction at line 27. Once this requirement is met, the portion of the dividends received that may be subtracted is based upon the portion of taxable income received by the mutual fund that is derived from federal obligations.

Further information relating to meeting the 50% asset requirement and figuring the allowable subtraction (if any) can be obtained from the mutual fund.

If you include an amount on line 27 from more than one line above, attach a schedule showing the breakdown from each line.

Do not list the same interest more than once; see the instructions for line 28, subtractions S-2 and S-4 on this page.

Line 28 Other subtractions — Identify any of the following subtractions that apply by writing the item number and amount of any of the following items:

S-1 Pension and annuity income included in federal adjusted gross income of a decedent who, at the time of his or her death, was 59½ years of age or older, but not more than $20,000 (section 612(c)(3-a)). Do not enter any pension received from New York State or its political subdivisions.

Qualifying pension and annuity income includes:

- periodic payment for services performed as an employee before retirement;
- periodic and lump-sum payments from an IRA or from an HR-10 (Keogh) plan, but **not** payments derived from contributions made after retirement;
- lump-sum payment from an HR-10 (Keogh) plan, but only if the federal Form 4972 is not used. Do **not** include the part of the payment that was derived from contributions made after retirement;
- distributions of benefits from a cafeteria plan (IRC section 125) or a qualified cash or deferred profit sharing or stock bonus plan (IRC section 401(k)) but not distributions derived from contributions made after you retired.

S-2 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included in federal income but exempt from state income taxes under federal laws.

S-3 Pensions received as an officer, employee or beneficiary of an officer or employee of:

- New York State and local governments within the state that were included in federal income; **or**
- The United States, its territories or possessions, political subdivisions of these territories or possessions, the District of Columbia or any agency or instrumentality of any of the above (including the military) that was included in federal income.

Note: In the case of the Optional Retirement Program, only that portion of the pension payments or return of contributions that is attributable to a decedent's employment with the State or City University of New York or New York State Education Department would qualify for the above subtraction.

The portion of pension payments or return of contributions that was attributable to the decedent's employment by an employer other than a New York public employer, such as a private university, and any portion attributable to contributions the decedent made to a supplemental annuity plan which was funded through a salary reduction program do not qualify for the subtraction. However, if these payments are periodic and the decedent who, at the time of his or her death, was 59½ or older, those payments, up to a maximum amount of $20,000, would qualify for the pension and annuity income exclusion under section 612(c)(3-a) of the Tax Law. For more information, see subtraction S-1.

S-4 Interest or dividend income on bonds or securities to the extent exempt from income tax under New York laws authorizing the issuance of the bonds or securities but included in federal income.

S-5 Any refund or credit for overpayment of income tax of any kind to the extent included in federal income.

S-6 Interest expense on money borrowed to purchase or carry bonds or securities subject to New York State income tax but exempt from federal income tax provided this interest was not deducted on the federal fiduciary return (sections 612(c)(9) and 615 of the Tax Law).

S-7 Ordinary and necessary expenses paid or incurred during 1994 in connection with income, or property held for the production of income, which is subject to New York State income tax but exempt from federal income tax, provided these expenses were not deducted on the federal fiduciary return (sections 612(c)(10) and 615 of the Tax Law).

S-8 Amortization of bond premium attributable to 1994 on any bond whose interest is subject to New York State income tax but exempt from federal income tax, provided this amortization was not deducted on the federal fiduciary return (sections 612(c)(10) and 615 of the Tax Law).

S-9 The amount of supplemental annuity received under the Railroad Retirement Act of 1974 included in total federal income but exempt from state income taxes under United States laws.

S-10 The amount necessary to prevent taxation of amounts properly included in New York adjusted gross income in prior years (in accordance with section 612(b)(7) of the Tax Law) by a shareholder of a professional service corporation.

S-11 Any amount included in federal income that is the distributive or pro rata share of income or gain from an insurance business doing business as a member of the New York Insurance Exchange (in accordance with section 617-a of the Tax Law).

Note: The following subtractions (S-12 through S-16) may be made only to the extent that they relate to items included in federal distributable net income of the estate or trust:

S-12 Cost depletion figured according to federal tax law on property where a percentage depletion was added on line 25, item A-3.

S-13 The part of any gain from the sale or other disposition of (a) property that had a higher basis for New York State income tax purposes than for federal income tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960), and (b) property held in connection with mines, oil or gas wells and other natural deposits that has a higher adjusted basis for New York State income tax purposes than for federal income tax purposes which does not exceed this difference in basis.

S-14 The amount of any income or gain that was properly included in income or gain reported on a prior New York State income tax return under Article 16 of the Tax Law by the estate or trust or by the decedent or by another estate or trust from which the taxpayer received the income or gain.

S-15 Amount of loss which would have been realized for New York State tax purposes from the sale or other disposition of property acquired from a decedent and valued by the executor under New

York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (section 612(c)(19) of the Tax Law).

S-16 The amount of gain from the sale of a new business investment included in federal income (section 612(c)(20) of the Tax Law).

S-17 Compute any subtraction required because of an election under section 612(g) of the Tax Law for tax years beginning before 1987 on Form IT-211. See *Special Depreciation - Section 612(g) of the Tax Law* on page 2.

S-18 Subtractions under sections 612(c)(24) and 612(c)(25) are required if an election for safe harbor leasing was made for federal purposes. See addition A-9.

S-19 If accelerated cost recovery depreciation (ACRS) was claimed, the amount of the total New York State depreciation on Form IT-399, line 1, column F (section 612(c)(26) of the Tax Law). In the case of an estate or trust that is on a fiscal-year basis, the amount of the modification for the beneficiaries will be their distributive share of the total New York depreciation determined as of the end of the estate's or trust's taxable year ending within the beneficiary's taxable year. The beneficiaries will make the modification on their personal income tax returns for property placed in service during 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State after December 31, 1984, but before January 1, 1994 (including property on which ACRS depreciation was figured in accordance with the federal Tax Reform Act of 1986), except for property subject to the provisions of section 280F of the Internal Revenue Code (such as luxury automobiles). Attach Form IT-399. See addition A-10.

S-20 See section 612(c)(28) for the subtraction required at the time of disposition when the federal ACRS depreciation taken is greater than the New York State depreciation taken including ACRS depreciation figured in accordance with the Federal Tax Reform Act of 1986. Attach Form IT-399.

S-21 Accelerated death benefits - The amount received by any decedent as an accelerated payment or payments of part or all of the death benefit or special surrender value under a life insurance policy or a payment received as a viatical settlement, as a result of terminal illness defined as a life expectancy of 12 months or less, or of a medical condition requiring extraordinary medical care or treatment regardless of life expectancy to the extent the amount is includable in federal gross income for the taxable year (section 612(c)(30) of the Tax Law).

S-22 Amounts contributed for the purpose of:

- the preservation, improvement and promotion of the Executive Mansion as a historical and cultural resource of the State of New York; or
- the preservation and improvement of the natural and historical resources constituting the natural heritage of the people of the State of New York in furtherance of their welfare and prosperity;

to the extent such amounts are not deducted in determining federal adjusted gross income or New York itemized deductions (section 54.15 and 55.15 of the Arts and Cultural Affairs Law).

Schedule C

Shares of New York Fiduciary Adjustment

The purpose of this schedule is to show the distribution of the New York fiduciary adjustment among the beneficiaries and the fiduciary of the estate or trust. The shares of the beneficiaries and of the fiduciary in the New York fiduciary adjustment (line 30 of Schedule B) are in proportion to their respective shares of federal distributable net income of the estate or trust.

Enter in columns 1 and 2 the name, address and identifying number of each beneficiary of the estate or trust. If the mailing address differs from the home address, give both. If a beneficiary is a New York State, New York City or Yonkers nonresident, check the appropriate box to the right of his or her name. If space is needed to list additional beneficiaries, attach a separate sheet of paper to the return.

Column 3 — Enter the respective share of federal distributable net income of each beneficiary and of the fiduciary on the appropriate lines of column 3. Entries must be made in Schedule C for all beneficiaries, both resident and nonresident.

Column 4 — Determine the percentage interest of each beneficiary and of the fiduciary in federal distributable net income of the estate or trust, based upon amounts in column 3, and enter that percentage on the appropriate line of column 4.

Column 5 — Enter the amount of the New York fiduciary adjustment (from line 30 of Schedule B) on the total line of column 5. The share of each beneficiary and of the fiduciary in the total amount is determined by multiplying the total fiduciary adjustment by the column 4 percentage.

If the estate or trust has no federal distributable net income, the share of each beneficiary in the fiduciary adjustment must be in proportion to his or her share of the estate or trust income for the taxable year, under local law or the governing instrument, which is required to be distributed currently and any other amounts of the income distributed in such year. Any balance of the fiduciary adjustment not allocable to beneficiaries must be allocated to the estate or trust. If the shares in the New York fiduciary adjustment are apportioned in accordance with this paragraph, do not complete Schedule C. Instead, show the apportionment in a schedule attached to the return.

If an item of income, gain, loss or deduction is attributable to corpus or principal, or the beneficiaries do not share pro rata, and the applicable method set out above for apportioning the fiduciary adjustment results in an inequity, as defined in the Personal Income Tax Regulations regarding alternate methods of attributing modifications, a fiduciary may, at his or her discretion, use the applicable method set forth in the regulations. If an alternate method is used, the fiduciary, in lieu of completing Schedule C, should attach to the return a schedule containing the information required under the applicable regulations.

If the New York fiduciary adjustment is a **plus** amount, **add** the fiduciary's share for a full-year resident estate or trust at line 4, on the front of Form IT-205, and **add** a resident beneficiary's share to the total federal income on his or her New York return. If the fiduciary adjustment is a minus amount, **subtract** their respective shares. For a nonresident estate or trust or a part-year resident trust, enter this amount on Form IT-205-A, Schedule 1, line 9, column a.

Real Property Transfer Gains Tax

Section 1449-a. of Article 31-B of the Tax Law requires every estate or trust with an interest in real property located in New York State to keep a record of and report annually every transfer of a *controlling interest* in the estate or trust and any other information that the Department of Taxation and Finance may require.

A *controlling interest* of an estate or trust means 50% or more of the capital, profits or beneficial interest in the estate or trust.

All fiduciaries must answer questions F and G on the back page of Form IT-205. If the answer to both questions is *Yes*, attach a statement giving complete details including:

- name, address, and social security or employer identification number of person or entity (transferee) who acquired the controlling interest;
- name, address, and social security or employer identification number of person(s) or entity(s) who transferred an interest in the estate or trust;
- date of transfer or acquisition of the controlling interest by the transferee; and
- amount of consideration paid by the transferee to acquire the controlling interest.

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, 171-f, 171-g 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.

City of New York and City of Yonkers Fiduciary Taxes

General Instructions

City Resident Fiduciary Tax

The fiduciary of a New York City or Yonkers resident estate or trust or part-year resident trust who is required to file a New York State fiduciary return must file a New York City or Yonkers fiduciary return for the estate or trust on the same New York State form on which the New York State tax liability is reported. If forms are required to be filed reporting a state minimum income tax or a state separate tax on lump-sum distributions, the respective New York City separate tax is also required to be computed on the same state forms.

City Nonresident Fiduciary Earnings Tax

The fiduciary of a nonresident estate or trust must file a New York City and/or Yonkers nonresident fiduciary earnings tax return on Form NYC-206 or Form Y-206 if the estate or trust has income from wages earned or net earnings from self-employment in New York City and/or Yonkers.

The fiduciary of a part-year resident trust must also file Form NYC-206 or Form Y-206 if the part-year resident trust has income from wages earned or net earnings from self-employment in New York City and/or Yonkers from the part-year nonresident period.

Wages as defined under section 3401(a) of the IRC include all payments and the cash value of all payments made in any form other than cash for services performed by a decedent 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, 13-125.1, 13-125.2 or 13-521.1 of the Administrative Code of the City of New York or section 2575.19 of the Education Law, and the amount deducted or

deferred from an employee's salary under a New York City flexible benefits program (IRC section 125 plan) established by the city of New York and certain other New York City public employers pursuant to section 23 of the general municipal law or section 1210-a of the public authorities law, and the salary reduction for the health insurance and welfare benefits fund surcharge of former fractional plan members of the New York City Employees or Board of Education Employees Retirement System pursuant to section 12-126.1 of the New York City Adminstrative Code.

Wages do not include unemployment compensation, 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 severances pay that are subject to withholding under section 3401(a) of the IRC.

Net earnings from self-employment consist of gross income from any trade or business less trade or business deductions allowed under the IRC that are connected with the trade or business, plus the taxpayer's distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership of which the taxpayer is a member. **Limited partners** are only considered to receive net earnings from self-employment if the income received represents guaranteed payments for services rendered. The deduction for wages and salaries paid or incurred for the taxable year that was disallowed according to section 280C of the IRC regarding the federal targeted jobs credit is allowed in computing your net earnings from self-employment.

Net earnings from self-employment **do not** include any of the following:

- 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, unless 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.

A nonresident estate or trust is deemed to have net earnings from self-employment determined in the same manner as if it were an individual subject to the federal tax on self-employment income, reduced by deductions allowed under the IRC for (a) amounts paid or permanently set aside for charitable purposes, and (b) income distributed or required to be distributed currently and corpus credited or required to be distributed to the extent that they represent distributions or payments to a resident of the city. (See instructions on Form NYC-206 for lines 6 and 8 or Form Y-206 for lines 2 and 4.)

For the definition of a **city** resident and nonresident estate or trust and part-year resident trust, refer to the definitions of a New York State resident and nonresident estate or trust on page 1 of these instructions and substitute the word *City* in place of the word *State*.

City Forms to Be Filed

Forms IT-205, IT-220, IT-230, NYC-206 and Y-206 should be completed for estates and trusts as follows:

1. **New York City resident estate or trust.** Complete the required New York City areas on the same state Form IT-205 filed for New York State purposes.

   Form IT-220, *Minimum Income Tax* — The New York City minimum taxable income is the same as the New York State minimum taxable income. (See *Form IT-220, Minimum Income Tax*, on page 1 of these instructions.)

   Form IT-230, *City of New York Separate Tax on Lump-Sum Distributions* — The New York City taxable income on lump-sum distributions of an estate or trust is the same as the New York State taxable income on lump-sum distributions on Form IT-230. (See *Form IT-230, Separate Tax on Lump-Sum Distributions*, on page 2 of these instructions.)

2. **New York City nonresident estate or trust and part-year resident trust.** Complete Form NYC-206 and transfer the total on line 13 to state Form IT-205, front page, line 19.

3. **Yonkers resident estate or trust.** Complete the Yonkers line on the same state Form IT-205 filed for New York State purposes.

4. **New York City or Yonkers part-year resident trust.** Complete the part-year city of New York or city of Yonkers worksheet on page 2 of the instructions for Form IT-205-A and transfer the total to state Form IT-205, front page, line 18 or 23.

5. **Yonkers nonresident estate or trust and part-year resident trust.** Complete Form Y-206 and transfer the amount on line 10 to state Form IT-205, front page, line 24.

City tax returns for individuals — Every fiduciary who acts for a nonresident individual whose entire income is in the fiduciary's charge (for example, a guardian or committee for an incompetent person) must make a return for the nonresident individual on the appropriate individual nonresident form (if that individual is subject to the tax) and pay the tax due.

Change of City Residence or Trust

If the person whose property constitutes a revocable trust has changed his or her domicile from or to New York City or Yonkers between the time of transfer of the property to the trust and the time it becomes irrevocable, the residence of the trust will be deemed to have been changed at the date it ceases to be revocable. In this case the fiduciary must, for the taxable year in which the change of status of trust occurs, include on Form IT-205-A, Schedule 4, column (c) or column (d), any item of income, gain, loss or deduction the trust received or accrued up to the time the trust changed its residence and complete a return as a nonresident trust (on Form NYC-206 or Form Y-206) for the portion of the year during which the trust is a nonresident trust. Income, gain, loss or deduction for the year of change is subject to the applicable special accruals permitted or required by law to the extent they affect the taxable income of the fiduciary. In addition, the exemption of the trust must be poraated according to the period of residence.

The *General Instructions* on pages 2 and 3 regarding tax returns for individuals and decedents, exempt trust — special depreciation, payments for charitable purposes, use of federal figures, whole dollar amounts, penalties, accounting periods and federal changes also apply for purposes of the New York City and Yonkers resident and nonresident estates and trusts and part-year resident trust, if applicable.

When and Where to File

The New York City and Yonkers fiduciary returns are due at the same time as the New York State fiduciary return.

Specific Instructions

City of New York Resident Tax

The New York City taxable income is the same as the New York State taxable income shown on Form IT-205, front page, line 5.

Line 15 City of New York resident tax — Compute the New York City income tax on the amount on line 5 using the following *City of New York Resident Tax Rate Schedule*. Enter the amount of New York City income tax on line 15.

New York City Tax Rate Schedule

If the amount on page 1, line 5 is:

over	but not over		Enter on line 15
$ 0	8,000	2.51%	of amount on line 5
8,000	9,000	$201 plus 3.08%	of amount over $ 8,000
9,000	15,000	232 plus 3.66%	" " " 9,000
15,000	25,000	451 plus 4.28%	" " " 15,000
25,000	60,000	879 plus 4.40%	" " " 25,000
60,000		2,419 plus 4.46%	" " " 60,000

Line 16 — Enter on line 16 the amount of City of New York tax on the capital gain portion of the capital gain portion of the estate's or trust's lump-sum distribution from Form IT-230, Part II, line 2. Attach Form IT-230 to the fiduciary return (Form IT-205).

Line 18 City of New York part-year resident tax — Enter on line 18 the amount of New York City part-year resident tax from the instructions for Form IT-205-A, Worksheet A, line b.

Line 20 City of New York minimum income tax — Enter the amount of any New York City minimum income tax due from Form IT-220. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule H, *Alternative Minimum Tax*. Attach Form IT-220 to Form IT-205.

Line 21 City of New York separate tax on lump-sum distributions — Enter the amount of any New York City separate tax on lump-sum distributions from Form IT-230. Attach Form IT-230 to Form IT-205.

Line 23 City of Yonkers part-year resident tax — Enter on line 23 the amount of Yonkers part-year resident tax from the instructions for Form IT-205-A, page 4, Worksheet C, line 11.

Accumulation Distribution Credit

A resident beneficiary whose New York City adjusted gross income includes an accumulation distribution from a trust is allowed a tax credit for the city income tax previously paid by the trust attributable to such accumulation distribution. The credit may not reduce the beneficiary's tax to an amount less than would have been due if the accumulation distribution were excluded from his or her New York City taxable income.

If an accumulation distribution has been made, attach to the return of the trust a copy of federal Schedule J (Form 1041) and a statement showing the computation of the credit claimed with respect to each beneficiary involved. The credit should be combined with other New York City prepayments and the total should be entered on Form IT-205, front page, line 30.

City of New York Nonresident Fiduciary Earnings Tax

Compute the New York City nonresident fiduciary earnings tax on Form NYC-206 and enter the tax on Form IT-205, line 19. Attach Form NYC-206 to Form IT-205.

City of Yonkers Resident Fiduciary Income Tax Surcharge

To figure your Yonkers resident fiduciary income tax surcharge, multiply the amount on line 14, Form IT-205 by 15% (.15). Enter the result on Form IT-205, line 22.

City of Yonkers Nonresident Fiduciary Earnings Tax

Compute the Yonkers nonresident fiduciary earnings tax on Form Y-206 and enter the tax on Form IT-205, line 24. Attach Form Y-206 to Form IT-205.