Instructions for Form IT-204
Partnership Return

Change for 1995

Effective August 8, 1995, certain investment companies, which are established and regulated under Article 12 of the New York State Banking Law, will now be able to organize themselves as limited liability investment companies (LLICs). The LLIC option is available only to Article 12 investment companies that serve as holding companies for foreign banking operations. Any LLIC that is required to file a New York State partnership return must also complete and file Form IT-204-LL, *Limited Liability Company/Partnership Filing Fee Payment Form.* For more information regarding LLICs, see Form IT-204-LL.

General Information

Chapter 576 of the Laws of 1994 allows for the formation of limited liability companies and limited liability partnerships in New York State (domestic LLCs and LLPs). In addition, New York recognizes LLCs and LLPs formed under the laws of other states and foreign countries (foreign LLCs and LLPs). Any domestic or foreign LLC or LLP that is required to file a New York State partnership return must also complete and file Form IT-204-LL, *Limited Liability Company/Partnership Filing Fee Payment Form.* For more information regarding LLCs and LLPs, see Form IT-204-LL.

Purpose of Form

Form IT-204 is used to report income, deductions, gains, losses and credits from the operation of a partnership for the calendar year 1995 or other fiscal year beginning in 1995. All items reported on Form IT-204 or on attachments to it are subject to verification, audit and revision by the New York State Tax Department.

Penalties

Partnership — A penalty is imposed against the partnership if the partnership is required to file a partnership return and (1) fails to file the return on time, including extensions, (2) files a return that fails to show all the information required, or (3) fails to file an amended partnership return within 90 days of the date the final federal determination or disallowance is issued or when the federal amended partnership return is filed, unless the failure is due to reasonable cause and not due to willful neglect.

The amount of the penalty for each month or fraction of a month (for a maximum of five months) that the failure continues is $50 multiplied by the total number of persons who were partners in the partnership during any part of the partnership's tax year for which the return is due. In counting the number of partners for purposes of this penalty, include only individuals, estates and trusts subject to tax under Article 22. Do not include corporations or partnerships.

Failure of paid preparers to comply with requirements - A penalty of $50 per return or claim for refund will be assessed a paid preparer for failure to comply with 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 retaining 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.

City of New York Unincorporated Business Tax

These instructions apply to the New York State partnership return only. They do not apply to the New York City unincorporated business tax, which is administered by the New York City Department of Finance, 25 Elm Place, 4th Floor, Brooklyn, NY 11201.

City of Yonkers Nonresident Partner Allocation

Every partnership doing business in Yonkers and having a partner who is a nonresident of Yonkers must complete Form Y-204, *City of Yonkers Nonresident Partner Allocation*, and show the nonresident partner's distributive share of net earnings from self-employment.

Who Must File

Partnerships are not subject to personal income tax. But every partnership (1) having a partner who is a resident of New York State or (2) having any income from New York State sources must file a return on Form IT-204 regardless of the amount of its income. For filing purposes, a partner that is a corporation or a partnership is not deemed to be a resident of New York State even though the entity may have been formed under the Laws of New York State.

If you are filing a return specifically because you have a New York resident partner, but do not conduct business in New York, you do not have to submit Schedules K-1 for nonresident partners. In addition, you do not have to complete Schedule A. Complete Schedule B only for resident partners.

Income from New York State sources includes:

1. income attributable to the ownership of any interest in real property or tangible personal property located in New York State and intangible personal property to the extent it is used in a business, trade, profession or occupation carried on in New York State, and
2. income attributable to a business, trade, profession or occupation carried on in New York State.

A partnership carries on a business, trade, profession or occupation within New York State if (1) it maintains or operates an office, a shop, a store, a warehouse, a factory, an agency or other place where its affairs are systematically and regularly carried on, or (2) it performs a series of acts or transactions with regularity and continuity for livelihood or profit, as distinguished from isolated or incidental transactions.

If a nonresident is a member of a partnership that carries on business (as defined above) both in and out of New York State, complete Schedule B, Part IV, to show the allocation to New York State of the nonresident partner's share of income and deductions.

Certain publicly traded partnerships and associations, which previously filed Form IT-204, are treated as a corporation pursuant to Internal Revenue Code (IRC) section 7704.

If you have purchased or renewed a taxable insurance contract from an insurer not authorized to transact business in New York State, you must complete Form CT-33-D, *Tax on Premiums Paid or Payable to an Unauthorized Insurer on Risks Located Within New York State.* This return must be filed within 60 days after the end of the calendar quarter in which the contract was purchased or renewed.

If you purchase or renew a taxable insurance contract from an insurer not authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Insurance, you will be liable for a tax of 3.6% of the premium. (See Form CT-33-D and TSB-M-90(9)C for more information.)

When to File

Returns for calendar year 1995 are due April 15, 1996. Fiscal-year returns are due the 15th day of the fourth month after the end of the tax year. If you are required to file your 1995 federal partnership return at the IRS Service Center in Andover, Massachusetts, the filing deadline for your 1995 New York partnership return is April 16, 1996.

If a partnership is terminated and completely liquidated during its normal taxable year, resulting in an accounting period of less than 12 months for federal income tax purposes, the return is due the 15th day of the fourth month after the end of the accounting period.

Use the same accounting period and method for Form IT-204 as you use for federal Form 1065. If you change your partnership's tax year or accounting method for your federal return, do the same on your *New York State Partnership Return.*

Extension of Time to File

If you need more time to file a partnership return, file Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries*, by the due date of the partnership return. Federal Form 8736 is acceptable in lieu of Form IT-370-PF. Federal Forms 2758 and 4868 are not acceptable substitutes.

If you have filed Form IT-370-PF and still need more time, use Form IT-372-PF, *Application for Additional Extension of Time to File for Partnerships and Fiduciaries* to request up to an additional three months to file. Except in cases of undue hardship, we will not accept Form IT-372-PF if you do not first file Form IT-370-PF.

Where to File

Mail your return to:

STATE PROCESSING CENTER
ONE WATERVLIET AVENUE EXTENSION
ALBANY NY 12261-0001

Need Help?

For forms or publications, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.

For information, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday.

Persons with Disabilities - In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information and assistance numbers listed above.

Hotline for the Hearing and Speech Impaired - If you have a hearing or speech impairment and have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling 1 800 634-2110 toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. Hours of operation are from 8:30 a.m. to 4:15 p.m., Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.

Amended Return or Federal Change

An amended New York State partnership return must be filed if an amended federal partnership return is filed, or if federal audit of the partnership return changes any item of income, deduction or tax preference item previously reported to the Internal Revenue Service. The amended New York State return must be filed within 90 days of the date the federal amended partnership return is filed or, in the case of a federal audit, within 90 days after the final determination of the change. Attach a copy of the federal report of examination changes and 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.

If the partnership fails to file the required amended return or fails to submit the required partner information (showing the identification number of each partner and the portion of the federal change allocable to each) the partnership will be subject to a penalty of $50 per partner per month or fraction of a month, up to a maximum of five months.

An amended New York State partnership return must also be filed to correct any error on the original New York State partnership return,whether or not an amended federal partnership return was filed for that year.

To amend your original Form IT-204, get a blank Form IT-204 for the tax year that is to be amended and write ***Amended*** at the top. Complete the form, entering the corrected information, and attach an explanation of the changes.

Specific Instructions

Attach federal Form 1065, Schedules K-1 and all supporting attachments to Form IT-204.

However, if the partnership conducts business entirely outside of New York State, and you are filing a return specifically because you have a New York resident partner, you do not have to submit Schedules K-1 for nonresident partners. In addition, you do not have to complete Schedule A. Complete Schedule B only for resident partners. Attach a statement to your return indicating that:

— There is no income derived from New York sources by the partnership;

— All other partners of the partnership are nonresidents of New York State;

— There are a total of _____ nonresident partners;

— If at any time in the course of an audit it is deemed necessary to have copies of Schedules K-1 for nonresident partners, such information will be available for submission.

All information on Form IT-204 should be for the calendar year January 1 through December 31, 1995, or for the fiscal year of the partnership which began in 1995. 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

Enter in the spaces at the top of the return the exact legal name, trade name, if any, and address of the partnership. The legal name is the name in which the business owns property or acquires debt. Enter the trade name or d/b/a (doing-business-as) name if different from the legal name. Also enter the business's employer identification number, principal business activity and date the business was started. Answer questions A through H.

If you checked the *Yes* boxes for both questions B and C, see *Real Property Transfer Gains Tax* in the next column. For question G, enter the number of partners in the partnership during any part of the partnership's taxable year who were also subject to the New York State personal income tax under Article 22 of the Tax Law during any part of that tax year.

If you have any other New York tax accounts, check the appropriate boxes on lines 1 and 2 of question H and enter the identification number(s).

Real Property Transfer Gains Tax

Section 1449-a of Article 31-B of the Tax Law requires every partnership with an interest in real property located in New York State to keep a record of and report annually every transfer or acquisition of a *controlling interest* in the partnership.

A *controlling interest* is 50% or more of the capital, profits or beneficial interest in the partnership.

If you checked the *Yes* boxes for both questions B and C, attach a statement giving complete details including:

— name, address and identifying number of partner(s) (transferee) who acquired the controlling interest;

— name, address and identifying number of partner(s) (transferor) who transferred an interest;

— date of acquisition by the transferee; and

— amount of consideration paid by the transferee to acquire the controlling interest.

Schedule A

Complete Part I if the partnership carries on business both in and out of New York State. Enter the exact location of each place where the partnership carries on business; describe each place (e.g., branch office, agency, factory, etc.), and state whether it is rented or owned by the partnership.

Complete Part II if the partnership carries on business both in and out of New York State but does not maintain books and records from which the New York business income can be determined.

Part II must still be completed even though it may not fairly and equitably reflect the income from New York, and an authorized alternate allocation method is used. A detailed explanation of the authorized alternate method used to determine the New York income must be attached, together with full details of any *changes* increasing or decreasing the amount of New York income computed by the authorized alternate method.

Property percentage

Figure the average value of real and tangible personal property connected with the partnership by completing lines 1, 2 and 3.

Line 1 Real Property owned

Enter in column A the average value of all real and tangible personal property connected with the partnership by completing lines 1, 2 and 3.

The average value of the property is determined by (1) adding its fair market value at the beginning of the taxable year to its fair market value at the end of the taxable year and (2) dividing by two.

Line 2 Real property rented from others

The value of real property rented to the business and to be included in line 2 generally is 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 thereof, 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 the cost of any improvement to real property made by or on behalf of the business 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 or on behalf of the business, the value of the building is determined in the same manner as if it were owned by the business.

Line 3 Tangible personal property owned

Enter in column A the average value (determined in accordance with the instruction for line 1) of all tangible personal property owned by the business. Enter in column B the average value of tangible personal property located in New York State.

Line 4 Property percentage — Add lines 1, 2 and 3 in columns A and B and enter each total on line 4. Divide the column B total by the column A total and carry the result to four decimal places. For example, if the total in column A is $15,000 and the total in column B is $10,000, divide $10,000 by the $15,000 and enter the result (.6667) as a percentage (66.67%) in column C.

Line 5 Payroll percentage — The amounts to be entered on line 5 include wages, etc., paid only to **employees** of the partnership. Do not include payments to independent contractors, independent sales agents, etc. Enter on line 5 in column A the total of such pay to employees during the taxable year for partnership operations carried on both in and out of New York State. Enter on line 5 in column B the amount of that pay for operations carried on in New York State. Operations are considered to be carried on in New York State if the employee works in or travels out of an office or other place of business located in New York State. If in Schedule B, line 13, you subtracted an amount based on wages not allowed because of the federal targeted jobs credit, this change should be reflected here in wages and salaries paid during the year. Divide the column B total by the column A total. Carry the result to four decimal places and enter it as a percentage in column C.

Line 6 Gross income percentage — The amount to be entered on line 6 in column A is total gross sales made, or charges for services performed, by the partners or by employees, agents, agencies or independent contractors of the partnership in and out of New York State. The amount to be entered on line 6 in column B is the part of total gross sales or charges that represents sales made or services performed by or through an agency in New York State. 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 partnership (or its agencies) located in New York State. For example, if a salesman working out of the New York office of the business covers the states of New York, New Jersey and Pennsylvania, **all** sales made by him are to be allocated to New York State and included on line 6 in column B. Divide the column B total by the column A total. Carry the result to four decimal places and enter it as a percentage in column C.

Signatures

A general partner must sign Form IT-204.

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

Schedule B

Complete Part I, Part II, and Part III for all partners who were members of the partnership during any part of the taxable year.

You must complete Part IV for each nonresident partner if the partnership conducts business in and out of New York State and the partnership's allocation percentage to New York State is less than 100%. The nonresident partners' New York amounts are computed using the appropriate allocation method as explained in the following section.

Part-year resident partners - If you were a partner and changed your New York resident status during the taxable year, you must determine your distributive share of partnership items of income, gain, loss or deduction according to your resident status when the taxable year of the partnership ends.

Nonresident partners' allocation

A nonresident member of a partnership must include in the partner's individual New York State income tax return the partner's distributive share, for federal tax purposes, of items of partnership income, gain, loss, deduction and tax preference items derived from or connected with New York State sources that is (a) from real or tangible personal property having an actual situs in New York State, or (b) from a business, trade, profession or occupation carried on in New York State.

Enter in Part IV the items of partnership income, gain, loss and deduction to be reflected in the partner's individual New York return. A partnership carrying on business in and out of New York State that maintains books and records from which the New York income of the business can be determined will enter in Part IV the nonresident partner's distributive share of partnership items derived from New York State sources as determined from the books of account. However, amounts attributable to real property located in New York are 100% reportable by a nonresident partner and amounts attributable to real property located outside New York are not reportable by a nonresident partner (attach computation). (See *Special statutory limitations* below.)

A partnership carrying on business in and out of New York State that does not maintain books and records from which the New York income can be determined will use the *business allocation percentage* computed at line 8, Part II of Schedule A, or an authorized alternate method, to determine the portion of the nonresident partner's share of any item that is derived from or connected with New York sources (with the exception of the real property items).

The amount shown under the nonresident partner's name (Part IV) for any item of income or deduction entering into the computation of total federal income must be included in the amount shown in the New York State amount column of Form IT-203 and is part of the partner's total income from New York sources.

Partnership deduction items not entering into the computation of federal adjusted income are to be reflected on Form IT-203-ATT, *Itemized Deductions and Other Credits and Taxes*, Part I, lines 1 through 14 as if the partner were a resident and would be 100% reportable (providing the New York standard deduction is not claimed).

Special statutory limitations on partnership agreements:

Regardless of any provision in the partnership agreement, a nonresident partner is not permitted to treat as non-New York income a greater proportion of the partnership income than the percentage of income of the partnership from non-New York sources. In addition, the partner is not permitted to claim a greater proportion of losses or deductions connected with New York sources than the partner's share of losses or deductions generally.

The characterization in a partnership agreement of payments to nonresident partners as salary, or as interest for the use of capital, does not affect the determination of whether such payments are derived from New York sources.

Nonresident partners must enter on their individual return the amount for adjusted gross income items only determined from the partnership's books and records or enter the amount multiplied by the *business allocation percentage* from Schedule B or the amount computed using an authorized alternate method.

Show the nonresident partners' share of specifically allocated items on a separate schedule. Follow the same format used for Part IV.

Part II - Partners' shares of New York modifications to federal items

Any of the listed modifications are to be added to or subtracted from each partner's federal adjusted gross income or federal itemized deductions on the partner's New York State income tax return in arriving at the partner's total New York income and New York itemized deduction, respectively.

Use lines 9 through 13 to list **only** those changes that apply to total federal income on the individual returns of partners.

You must enter the total of the partners' shares of New York modifications to federal items in the *Total All Partners* column.

Additions

Line 9 Income and unincorporated business taxes

Enter all income and unincorporated business taxes (including New York City income and unincorporated business taxes) that were deducted in determining each partner's share of federal ordinary income (section 612(b)(3) of the Tax Law).

Note: The limited liability company/limited liability partnership filing fee is not an income tax and is not added back at line 9.

Line 10 Accelerated cost recovery system (ACRS) deduction

Enter the accelerated cost recovery system (ACRS) deduction from Form IT-399, line 1, column G (section 612(b)(25) of the Tax Law). You must attach Form IT-399 to Form IT-204. This adjustment must be made for property placed in service during taxable years beginning in 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State in taxable years beginning 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). In the case of a partnership that is on a fiscal-year basis and is using ACRS to determine the deduction, the amount of the modification for the partners will be their distributive share of the deduction determined as of the end of the partnership year ending within the partner's taxable year. Also see the instructions for line 12.

Line 11 Other additions

Identify by item number on a separate schedule any of the following additions that apply to each partner's distributive share of partnership income and enter the total of these additions that apply to each partner in the proper column on line 11.

These additions also apply to any amounts reported on the separate schedule of specifically allocated items to the extent they are not reflected on lines 14 and 15.

A-1 Interest income on state and local bonds (but not those of New York State and local governments within the state) to the extent not included in the partner's federal adjusted gross income (section 612(b)(1) of the Tax Law).

A-2 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 (section 612(b)(2) of the Tax Law).

A-3 Amounts **deducted** for **interest** on loans used to buy bonds and securities whose interest income 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) of the Tax Law).

A-4 The amount of special additional mortgage recording tax that was excluded or deducted in figuring the partner's federal adjusted gross income to the extent the credit was taken (section 612(b)(15) of the Tax Law).

A-5 The amount of special additional mortgage recording tax paid when the property for which the tax was paid is sold or disposed of at a gain or loss and the basis of such property was not adjusted for the special additional mortgage recording tax credit (section 612(b)(16) of the Tax Law).

A-6 Any amount that has to be added to the partner's distributive share if the partnership made an election for tax years beginning before 1987 for special depreciation or research and development expenditures, waste treatment facility expenditures, air pollution control equipment expenditures or acid disposal control equipment (section 612(b)(6) of the Tax Law). See subtraction S-12.

A-7 Any amount deducted for percentage depletion on mines, oil and gas wells and other natural deposits (section 612(b)(10) of the Tax Law).

A-8 Amounts required under the Tax Law relating to the distributive or pro rata share of allocated entire net income, or the distributive or pro rata share of loss included on Form IT-204, from an insurance business operating as a member of the New York Insurance Exchange (section 617-a of the Tax Law). Also, see subtraction S-13.

A-9 New business investment deferral recognition — The amount of capital gain deferred on the sale of a capital asset if the new business investment property is sold (section 612(b)(22) of the Tax Law).

A-10 Safe harbor leases — Any amount that was deducted in figuring the partner's distributive share (except for mass transit vehicles) solely because of an election made under section 168(f)(8) of the IRC, as it was in effect for agreements entered into prior to January 1, 1984 (section 612(b)(23) of the Tax Law).

A-11 Safe harbor leases — Any amount that would have been included in partner's distributive share (except for mass transit vehicles) had the election under section 168(f)(8) of the IRC, as it was in effect for agreements entered into before January 1, 1984, **not** been made (section 612(b)(24) of the Tax Law).

A-12 Accelerated cost recovery property - year of disposition adjustment — In the year that the partnership disposes of property, the amount by which the total depreciation allowed for New York State purposes is greater than the total federal deductions on that property (including ACRS depreciation figured in accordance with the Federal Tax Reform Act of 1986) (section 612(b)(27) of the Tax Law). Use Form IT-399, *New York State Depreciation Schedule*, to figure the adjustment. See subtraction S-17.

A-13 Five percent of your deduction for interest, subject to the limitation amount, related to corporate acquisitions to the extent the interest was deducted in figuring your New York adjusted gross 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 your return showing your computation.

Subtractions

Line 12 New York depreciation

Enter the total New York State depreciation from Form IT-399, line 1, column F. This adjustment must be made for property placed in service during taxable years beginning in 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State in taxable years beginning 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). In the case of a partnership that is on a fiscal-year basis and is using ACRS to determine the deduction, the amount of the modification for the partners will be their distributive share of the New York depreciation deduction determined as of the end of the partnership year ending within the partner's taxable year. Also see the instructions for line 10 (section 612(c)(26) of the Tax Law). Form IT-399 must be attached to Form IT-204.

Line 13 Other subtractions

Identify by item number on a separate schedule any of the following subtractions that apply to each partner's distributive share of partnership income and enter the total of these subtractions that apply to each partner in the proper column on line 13.

These subtractions also apply to any amounts reported on the separate schedule of specially allocated items to the extent they are not reflected on lines 14 and 15.

S-1 Any refund or credit for overpayment of any income tax (including refund of New York City unincorporated business tax) to the extent included in income reported on Form IT-204 (section 612(c)(7) of the Tax Law).

S-2 Interest income from U.S. government bonds or other government obligations included as income on Form IT-204. Include on line 13 qualifying dividends received from regulated investment companies (mutual funds) that invest in obligations of the United States government and meet the 50% asset requirement (section 612(c)(1) of the Tax Law).

S-3 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included as income on Form IT-204, but exempt from state income taxes under federal laws (section 612(c)(2) of the Tax Law).

S-4 Interest or dividend income included on Form IT-204 on bonds or securities to the extent exempt from New York State income taxes (section 612(c)(6) of the Tax Law),

S-5 Interest expense on money borrowed to purchase or carry bonds or securities whose interest income is subject to New York State income tax but exempt from federal income tax, provided this interest was a business expense for the taxable year and was not deducted in figuring partnership income (section 612(c)(9) of the Tax Law).

S-6 Ordinary and necessary business expenses paid or incurred during the taxable year in connection with income, or property held to produce income, that is subject to New York State income tax but exempt from federal income tax, provided these expenses were not deducted in figuring partnership income (section 612(c)(10) of the Tax Law).

S-7 Amortization of bond premium attributable to the taxable year on any bond whose interest income is subject to New York State income tax but exempt from federal income tax, provided this amortization was a business expense for the taxable year and was not deducted in figuring partnership income (section 612(c)(10) of the Tax Law.

S-8 The amount of wages and salaries paid or incurred during the taxable year for which a deduction is not allowed with regard to claiming the federal Indian employment credit, targeted jobs credit and empowerment zone employment credit (section 612(c)(15) of the Tax Law).

S-9 The portion of gain included on Form IT-204 from the sale or other disposition of 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), that does not exceed such difference in basis. For purposes of Form IT-204, line 13, all amounts are to be considered at 100%.

S-10 The amount of income or gain (including annuity income) included on Form IT-204 that was properly included in income or gain on a prior New York State return of this partnership under Article 16 of the Tax Law (pertaining to personal income taxes) (section 612(c)(5) of the Tax Law).

S-11 Cost depletion figured according to federal tax law on property when percentage depletion (addition A-7) was added on line 11 (section 612(c)(13) of the Tax Law). Further, in the case of sale or exchange of such property, the excess of the New York basis over the federal basis.

S-12 Special depreciation expenditures, or carryover of research and development expenditures incurred in taxable years beginning before 1987, in connection with depreciable, tangible business property located in New York State (section 612(c)(11) of the Tax Law). For more information, see Form IT-211, *Special Depreciation*, and instructions. Also, see addition A-6.

S-13 Any amount included on Form IT-204 that is the distributive or pro rata share of income or gain from an insurance business operating as a member of the New York Insurance Exchange (section 617-a of the Tax Law). Also, see addition A-8.

S-14 New business investment exclusion — The amount of gain to be subtracted from the sale of a New York new business investment that was included on Form IT-204 (section 612(c)(20) of the Tax Law).

S-15 Safe harbor leases — Any amount that was included in the partner's distributive share (except for mass transit vehicles) solely because of an election made under section 168(f)(8) of the IRC, as it was in effect for agreements entered into before January 1, 1984 (section 612(c)(24) of the Tax Law).

S-16 Safe harbor leases — Any amount that could have been excluded from the partner's distributive share (except for mass transit vehicles) had the election under section 168(f)(8) of the IRC, as it was in effect for agreements entered into before January 1, 1984, **not** been made (section 612(c)(25) of the Tax Law).

S-17 Accelerated cost recovery property - year of disposition adjustment — In the year the partnership disposes of property, the amount by which the total federal accelerated cost recovery deductions (including ACRS depreciation figured in accordance with the Federal Tax Reform Act of 1986) were greater than the total depreciation the partnership took for New York State purposes on that property (section 612(c)(28) of the Tax Law). Use Form IT-399, *New York State Depreciation Schedule*, to figure the adjustment. See addition A-12.

Lines 14 and 15 should be used **only** for changes that apply to federal itemized deductions on the individual returns of partners and should exclude any amounts properly reportable on lines 9 through 13. Attach a statement identifying by item number any of the following changes that relate to partnership items of the partner's federal itemized deductions.

Line 14 Additions to federal itemized deductions

A Interest expense on money borrowed to purchase or carry bonds or securities whose interest is subject to New York State income tax but exempt from federal income tax, if this interest expense was not deducted on the federal return or subtracted on line 13.

B Ordinary and necessary expenses paid or incurred during the taxable year in connection with income, or property held to produce income, that is subject to New York State income tax but exempt from federal income tax, if these expenses were not deducted on the federal return or subtracted on line 13.

C Amortization of bond premium attributable to the taxable year on any bond whose interest income is subject to New York State income tax but exempt from federal income tax, if this amortization was not deducted on the federal return or subtracted on line 13.

Line 15 Subtractions from federal itemized deductions

D State, local and foreign income taxes (including unincorporated business taxes)

E Interest expense on money borrowed to purchase or carry bonds or securities whose interest is exempt from New York State income tax.

F Ordinary and necessary expenses paid or incurred in connection with income, or property held to produce income, that is exempt from New York State income tax, but only to the extent deducted in figuring your federal taxable income.

G Amortization of bond premium attributable to the taxable year on any bond whose interest income is exempt from New York State income tax, but only to the extent deducted in figuring your federal taxable income.

H Five percent of your deduction for interest, subject to the limitation amount, related to corporate acquisitions to the extent the interest was deducted in figuring the New York itemized deduction (section 615(c)(7) of the Tax Law). If this subtraction applies, complete Form IT-244, *Acquisition Information Report*. Attach a separate schedule to your return showing your computation.

Lines 16 and 17 Additional Information

Line 16 Enter the total amount of interest on indebtedness incurred to purchase or carry obligations or securities when the income from those securities is exempt from New York income tax and interest is included in investment interest expense required to be passed through to partners.

Line 17 Enter the total amount of New York adjustments to federal tax preference items for resident partners and nonresident partners who are not required to allocate. Submit a schedule listing each partner's share.

Part III - Partners' shares of credits and taxes on early dispositions

Enter each partner's distributive share of the credits computed at the partnership level. Also, enter each partner's distributive share of taxes on early dispositions on which the partners were allowed distributive shares of the credit. The taxes on early dispositions are to be computed at the partnership level. You must enter the total of the partners' shares of credits and taxes on early dispositions in the *Total All Partners* column. The following forms must be attached to Form IT-204 if they apply:

— Form IT-212, *Investment Credit*

— Form DTF-601, 601.1, 602 or 603, *Economic Development Zone Credits*

1987 was the last year that the special additional mortgage recording tax credit could be claimed. However, any unused credit from a prior year can be carried over. Include on line 21 the special additional mortgage recording tax credit carryover for 1995. Attach a schedule showing how the credit carryover was figured. See additions A-4 and A-5 on page 3 of these instructions.

Part IV - Nonresident partners' allocation

Note: This section does not have to be completed for corporate partners.

Lines 27 through 35 and line 40

The nonresident partners' New York amounts of federal items of income, gain, loss and deduction as shown on federal Form 1065, Schedules K-1 are computed using the business allocation percentage from line 8, or the separate book method. Do not include in the allocation any items of real property.

You must enter the total of the nonresident partners' allocation of each item of income and deduction in the *Total All Partners* column.

Line 36 is used to report a nonresident partner's distributive share of charitable contributions and itemized deductions as reported on his or her individual federal Form 1040. If itemized deductions are reported on line 36, they must be reported at 100%. Attach a detailed schedule of these deductions.

Line 37 and 38

A partner with tax preference items shown on line 37 and New York adjustments to federal tax preference items on line 38 may be required to file Form IT-220, *Minimum Income Tax*. See Form IT-220 and instructions.

For each nonresident partner only, submit a schedule listing the tax preference items and New York adjustments derived from or connected with New York State sources that are included in the amounts reported on lines 37 and 38.

Line 39

See Federal Form 1065, Schedules K-1 for the amount of investment interest expense to be included on federal Form 4952.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 22, 23, 26, 26-A, 26-B, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the 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 areas outside New York State call (518) 438-8581.