Instructions for Form IT-205-A
Fiduciary Allocation

Note: Refer to the front page of Form IT-205-A to determine which schedules of Form IT-205-A you should complete.

See the instructions for Form IT-205 for the *Privacy notification* or if you need help contacting the Tax Department.

Schedule 1

Computation of New York tax of a nonresident estate or trust or part-year resident trust

Enter amounts in column a, lines 1 through 13, following the line instructions below.

Enter in column b the portion of each amount that is derived from the city of New York during the resident period.

Line 1 — Enter in column a the amount from line 30, column a.

Lines 2 through 4 of column a are similar to lines 18 through 21 on page 1 of federal Form 1041. Enter on each applicable line of column a the amount reported on federal Form 1041.

Line 7 New York modifications relating to amounts allocated to principal — The same modifications listed in the instructions for line 2 of Form IT-205 are to be added or subtracted here to the extent that they apply to amounts not includable in federal distributable net income of the estate or trust. Attach a statement giving full details of any modifications.

Line 10 — Transfer the amount from line 10, column b to Worksheet A, *Part-year New York City resident tax*, line a, on page 2 of these instructions.

Line 11 — See *Line 11 Worksheets - New York State tax* on page 2.

If the estate or trust used Form IT-230, Part 2 to figure the tax on the capital gain portion of the estate's or trust's lump-sum distribution, include the amount of tax from Form IT-230, line 2, in the total for line 11. Attach Form IT-230 to the fiduciary return.

Line 12 Income percentage — New York additions and subtractions that relate to intangible items of income, such as interest or dividend income, are only required to the extent the property that generates the income is employed in a business, trade, profession, or occupation carried on in New York State.

Attach a copy of your computation to Form IT-205.

If the trust was a part-year resident trust, include the portion of any additions and subtractions (from lines 7 and 9) that relates to the trust's New York State resident period in the computation of the New York State income percentage on lines d and e of the *New York State income percentage* worksheet on page 3.

Also, for the period the trust was a nonresident trust, include in the computation of the New York State income percentage on lines d and e the portion of any additions and subtractions to the extent that it is attributable to a business, trade, profession, or occupation carried on in New York State or is from real or tangible personal property located in New York State.

If the estate or trust is a shareholder of a corporation that was eligible to make the election to be a New York S corporation for the tax year but did not make the election, include in the computation of the New York State income percentage on lines d and e (substitute Yonkers income percentage for Worksheet B, on page 4) additions 612(b)(19), 612(b)(20), and 612(b)(21), and subtraction 612(c)(22) **only** if the S corporation stock was held as an asset of another business carried on by the shareholder in New York State. For example, if the S corporation's stock is held as an asset of a sole proprietorship operated by the shareholder in New York State, the shareholder is required to include the above additions and subtraction in the computation of the New York State income percentage on lines d and e.

Include in the computation of the New York State income percentage on lines d and e any additions and subtractions that relate to S corporation items of income, gain, loss, or deductions **only** if the S corporation stock is held as an asset of another business carried on by the shareholder in New York State. For example, if the S corporation's stock is held as an asset of a sole proprietorship operated by the shareholder in New York State, the shareholder is required to include any of the additions and subtractions above in the computation of the New York State income percentage on lines d and e.

If you completed Form IT-230, Part 2, you must use the *Nonresident and Part-Year Resident income percentage schedule* on Form IT-230-I, *Instructions for Form IT-230*, to figure the income percentage to enter on line 12.

Line 13 Allocated New York State tax — Multiply line 11 by line 12. Enter the result (even if the result is zero) on line 13 and on Form IT-205, line 9.

Computation of New York City and Yonkers tax of a part-year resident trust

Part-year New York City resident tax

Complete Worksheet A on page 2 to compute the trust's part-year New York City resident tax.

Part-year Yonkers resident income tax surcharge

Complete Worksheet B and Worksheet C on page 4 to compute the trust's Yonkers resident income tax surcharge. (See line 12, *Income percentage*, above.)

If the trust was a New York State resident trust the entire year but changed its Yonkers resident status, complete Worksheet C, line 1.

If the trust was a New York State resident trust for only part of the year and also changed its Yonkers resident status, complete Worksheet C, lines 2 through 7 and line 9.

Worksheet C, line 11 Net state tax — If the trust was a New York State resident trust the entire year, compute its net state tax on Worksheet C, line 11.

Worksheet C, line 12 Net state tax — If the trust was a New York State resident trust for only part of the year, compute its net state tax on Worksheet C, line 12.

Worksheet C, line 14 Part-year Yonkers resident income tax surcharge — If the trust was a New York State resident trust the entire year, on Worksheet C, multiply line 11 by line 13, and enter this amount on Form IT-205, line 26. If the trust was a New York State resident trust for only a part of the year, multiply line 12 by line 13, and enter this amount on Form IT-205, line 26.

Yonkers nonresident earnings taxes

If the estate or trust received wages or net earnings from self-employment from Yonkers sources during the estate's or trust's city nonresident period, see Form Y-206, *Yonkers Nonresident Fiduciary Earnings Tax Return*, with instructions.

(instructions continue on page 5)

Worksheet A

Part-year New York City resident tax

a. New York City taxable income *(from line 10, column b)* ..... a. _____

b. Figure the part-year New York City tax on the amount on line a using the *New York City tax rate schedule* on page 4. Also enter this tax on Form IT-205, line 15b ..... b. _____

Line 11 Worksheets – New York State tax

NYAGI worksheet

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 for allowable miscellaneous deductions)* ..... 1. _____
2. Enter amount from Form IT-205-A, column a, line 7 ..... 2. _____
3. Enter the net amount of the fiduciary share of additions and subtractions from Form IT-205, lines 63 through 70, that relate to the income reported on Form IT-205-A, lines 14 through 21..... 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, front page, Item B)* ..... 5. _____

Tax computation

- If *NYAGI worksheet,* line 5, is **$100,000 or less,** find your New York State tax on the amount on Form IT-205-A, line 10, using the *New York State tax rate schedule* on page 3. Enter the tax amount on Form IT-205-A, line 11.
- If *NYAGI worksheet,* line 5, is **more than $100,000,** but **not more than $150,000,** you must compute your tax using *Tax computation worksheet 1* below.
- If *NYAGI worksheet*, line 5, is **more than $150,000, but not more than $500,000,** and Form IT-205-A, line 10, is **$200,000 or less,** you must compute your tax using *Tax computation worksheet 2* below.
- If *NYAGI worksheet*, line 5, is **more than $150,000, but not more than $500,000,** and Form IT-205-A, line 10, is **more than $200,000,** you must compute your tax using *Tax computation worksheet 3* below.
- If *NYAGI worksheet*, line 5, is **more than $500,000, but not more than $550,000,** and Form IT-205-A, line 10, is **$200,000 or less**, you must compute your tax using *Tax computation worksheet 4* on page 3.
- If *NYAGI worksheet*, line 5, is **more than $500,000, but not more than $550,000,** and Form IT-205-A, line 10, is **more than $200,000,** you must compute your tax using *Tax computation worksheet 5* on page 3.
- If *NYAGI worksheet*, line 5, is **more than $550,000,** you must compute your tax using *Tax computation worksheet 6* on page 3.

Tax computation worksheet 1

1. Enter the amount from *NYAGI worksheet*, line 5 ..... 1. _____
2. Enter your taxable income from Form IT-205-A, line 10 ..... 2. _____
3. Multiply line 2 by 6.85% (.0685) ..... 3. _____
4. Enter your New York State tax on the line 2 amount using the *New York State tax rate schedule* on page 3 ..... 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 round the result to the fourth decimal place *(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-A, line 11)* ..... 9. _____

Note: For some estates and trusts, the line 3 amount may be the same as the line 9 amount.

Tax computation worksheet 2

1. Enter your taxable income from Form IT-205-A, line 10..... 1. _____
2. Multiply line 1 by 6.85% (.0685) *(enter here and on Form IT-205-A, line 11)* ..... 2. _____

Tax computation worksheet 3

1. Enter the amount from *NYAGI worksheet*, line 5 (If the amount on line 1 is $300,000 or less, enter ***0*** on lines 8, 9, and 10 of this worksheet; continue with line 2.) ..... 1. _____
2. Enter your taxable income from IT-205-A, line 10 ..... 2. _____
3. Multiply line 2 by 7.85% (.0785) ..... 3. _____
4. Enter your New York State tax on the line 2 amount from the *New York State tax rate schedule* on page 3 ..... 4. _____
5. Subtract line 4 from line 3..... 5. _____
6. Enter $397 on line 6 ..... 6. **397**
7. Subtract line 6 from line 5..... 7. _____
8. Enter the excess of line 1 over $300,000 *(cannot exceed $50,000)* ..... 8. _____
9. Divide line 8 by $50,000 and round the result to the fourth decimal place *(cannot exceed 1.0000)* ..... 9. _____
10. Multiply line 7 by line 9 ..... 10. _____
11. Enter amount from line 6 ..... 11. **397**
12. Add lines 4, 10, and 11 *(enter here and on Form IT-205-A, line 11)* ..... 12. _____

Note: For some estates and trusts, the line 3 amount may be the same as the line 12 amount.

Tax computation worksheet 4

1. Enter the amount from *NYAGI worksheet*, line 5 ..... 1. _____
2. Enter your taxable income from Form IT-205-A, line 10 ..... 2. _____
3. Multiply line 2 by 8.97% (.0897) ..... 3. _____
4. Enter your New York State tax on the line 2 amount from the *New York State tax rate schedule* below ..... 4. _____
5. Subtract line 4 from line 3 ..... 5. _____
6. Enter $397 on line 6 ..... 6. **397**
7. Subtract line 6 from line 5 *(if less than zero, enter **0**)* 7. _____
8. Enter the excess of line 1 over $500,000 *(cannot exceed $50,000)* ..... 8. _____
9. Divide line 8 by $50,000 and round the result to the fourth decimal place *(cannot exceed 1.0000)* ..... 9. _____
10. Multiply line 7 by line 9 ..... 10. _____
11. Enter amount from line 6 ..... 11. **397**
12. Add lines 4, 10, and 11 *(cannot exceed the amount on line 3; enter here and on Form IT-205-A, line 11)* ... 12. _____

Note: For some estates and trusts, the line 3 amount may be the same as the line 12 amount.

Tax computation worksheet 5

1. Enter the amount from *NYAGI worksheet*, line 5 ..... 1. _____
2. Enter your taxable income from Form IT-205-A, line 10 ..... 2. _____
3. Multiply line 2 by 8.97% (.0897) ..... 3. _____
4. Enter your New York State tax on the line 2 amount from the *New York State tax rate schedule* below ..... 4. _____
5. Subtract line 4 from line 3 ..... 5. _____
6. Enter $2,397 on line 6 ..... 6. **2,397**
7. Subtract line 6 from line 5 ..... 7. _____
8. Enter the excess of line 1 over $500,000 *(cannot exceed $50,000)* ..... 8. _____
9. Divide line 8 by $50,000 and round the result to the fourth decimal place *(cannot exceed 1.0000)* ..... 9. _____
10. Multiply line 7 by line 9 ..... 10. _____
11. Enter amount from line 6 ..... 11. **2,397**
12. Add lines 4, 10, and 11 *(enter here and on Form IT-205-A, line 11)* ..... 12. _____

Note: For some estates and trusts, the line 3 amount may be the same as the line 12 amount.

Tax computation worksheet 6

1. Enter your taxable income from Form IT-205-A, line 10 ..... 1. _____
2. Multiply line 1 by 8.97% (.0897) *(enter here and on Form IT-205-A, line 11)* ..... 2. _____

New York State tax rate schedule

If taxable income is:

over	but not over	Base tax is:			
$ 0	$ 8,000	4%	of taxable income		
8,000	11,000	$ 320 plus 4.5%	of amount over	$ 8,000	
11,000	13,000	455 plus 5.25%	" " "	11,000	
13,000	20,000	560 plus 5.9%	" " "	13,000	
20,000	200,000	973 plus 6.85%	" " "	20,000	
200,000	500,000	13,303 plus 7.85%	" " "	200,000	
500,000		36,853 plus 8.97%	" " "	500,000	

New York State income percentage

a. Enter the amount from Form IT-205-A, line 22, column b ..... a. _____

b. Enter the portion of any administration costs, income distribution deduction, exemption, and other deductions used in determining federal adjusted gross income that relate to items of income, gain, loss, and deduction derived from or connected with New York sources ..... b. _____

c. Subtract line b from line a ..... c. _____

d. Enter amount from Form IT-205-A, line 7, column a, that relates to New York source income *(see line 12 instructions on front page)* ..... d. _____

e. Enter amount from *Fiduciary* line of Schedule 2, column 4 *(see line 12 instructions on front page)* ..... e. _____

f. Line d and add or subtract line e ..... f. _____

g. Balance *(line c and add or subtract line f)* ..... g. _____

h. Divide line g above by line 5 from the *NYAGI worksheet* on page 2. Round the result to the fourth decimal place and enter on line 12 ..... h. _____

(continued on page 4)

New York City tax rate schedule

If the city taxable income is:

over	but not over	Enter on page 2, *Worksheet A*, line b:		
$ 0	$ 12,000	2.907%	of the amount on *Worksheet A*, line a	
12,000	25,000	$ 349 plus 3.534%	of excess over	$ 12,000
25,000	50,000	808 plus 3.591%	" " "	25,000
50,000		1,706 plus 3.648%	" " "	50,000

Part-year Yonkers resident income tax surcharge worksheets

Worksheet B
Yonkers income percentage

a. Enter the amount from Form IT-205-A, line 22, column d ..... a. _____

b. Enter the portion of any administration costs, income distribution deduction, exemption, and other deductions used in determining federal adjusted gross income that relate to items of income, gain, loss, and deduction derived from or connected with Yonkers sources ..... b. _____

c. Subtract line b from line a ..... c. _____

d. Enter amount from line 7, column a, that relates to Yonkers resident period *(see line 12 on the front page of these instructions)* ..... d. _____

e. Enter amount from line 9, column a, that relates to Yonkers resident period *(see line 12 on front page)* ..... e. _____

f. Line d and add or subtract line e ..... f. _____

g. Balance *(line c and add or subtract line f)* ..... g. _____

h. Divide line g by the amount from the *NYAGI worksheet,* line 5 on page 2 ..... h. _____

Worksheet C
Part-year Yonkers resident income tax surcharge

		Full-year NYS resident	Part-year NYS resident
1. Total New York State tax *(from Form IT-205, line 14)*	**1.**		
2. Base tax *(amount from Form IT-205-A, line 11)*	**2.**		
3. New York State credits *(from Form IT-205, line 10)*	**3.**		
4. Subtract line 3 from line 2 *(if line 3 is larger than line 2, enter **0**)*	**4.**		
5. Other New York State taxes *(from Form IT-205, total of lines 12 and 13)*	**5.**		
6. Add lines 4 and 5	**6.**		
7. Refundable credits from Form IT-205, line 33	**7.**		
8. Full-year New York State resident *(subtract line 7 from line 1)*	**8.**		
9. Part-year New York State resident *(subtract line 7 from line 6)*	**9.**		
10. Income percentage *(from* Worksheet B*, line h above)*	**10.**	%	%
11. Net state tax - full-year state resident *(multiply line 8 by line 10)*	**11.**		
12. Net state tax - part-year state resident *(multiply line 9 by line 10)*	**12.**		
13. Yonkers resident tax rate	**13.**	.10	
14. **Part-year Yonkers resident income tax surcharge** *(multiply line 11 by line 13 and also enter this amount on Form IT-205, line 26; **or** multiply line 12 by line 13 and also enter this amount on Form IT-205, line 26)*	**14.**		

Schedule 2

Fiduciary's and beneficiary's share of income from New York State sources

Allocate the federal distributable net income from New York State sources (line 38, column b) in Schedule 2 to the estate or trust (fiduciary) and its beneficiaries in proportion to their respective shares in the federal distributable net income of the estate or trust. Attach additional sheets if necessary.

Column 1 — Enter the respective shares of federal distributable net income of each beneficiary and of the fiduciary on the appropriate lines of column 1. Use the same letter (a or b) as used in Schedule C of Form IT-205 to identify each beneficiary. Note that solely for purposes of determining the allocation of income from New York State sources that applies among the nonresident taxpayers, entries must be made for both resident and nonresident beneficiaries. If you are required to complete Form IT-205, Schedule C, columns 3, 4, and 5, the entries in columns 3 and 4 will be identical to the entries in Form IT-205-A, Schedule 2, columns 1 and 2.

Column 2 — Determine the percentage interest of each beneficiary and the fiduciary in the federal distributable net income of the estate or trust based upon amounts in column 1. Enter these percentages in column 2.

Column 3 — Enter on the *Totals* line of column 3 the total income from New York sources included in federal distributable net income of the estate or trust (from line 38, column b). The share of each nonresident beneficiary or of the fiduciary of a nonresident estate or trust or part-year resident trust in the total amount is determined by multiplying the total income from New York sources (column 3 total) by the column 2 percentage. No entry is required in this column for a resident beneficiary or the fiduciary of a resident estate or trust.

Column 4 — Enter the fiduciary adjustment (from Form IT-205, line 70) on the *Totals* line of column 4. The share of each nonresident beneficiary or the fiduciary of a nonresident estate or trust in the total amount is determined by multiplying the total fiduciary adjustment by the column 2 percentage. The nonresident beneficiary's share of fiduciary adjustment is to be reported on his or her New York State nonresident return (Form IT-203), line 22 or line 29, as a net addition or net subtraction. 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 tax year, under local law or the governing instrument, which is required to be distributed currently and any other amounts of the income distributed in the tax year. Any balance of the fiduciary adjustment not allocable to beneficiaries must be allocated to the estate or trust. If the shares in the fiduciary adjustment are apportioned in accordance with this paragraph, **do not complete Schedule 2**. Instead, show the apportionment in a schedule attached to the return.

When 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 sections 119.3 and 139.4 of the Personal Income Tax Regulations regarding alternate methods of attributing modifications, a fiduciary may, in its discretion, use the applicable method set forth in such regulations. If an alternate method is used, the fiduciary, instead of completing Schedule 2, should attach to the return a schedule containing the information required under the applicable regulation.

Schedule 3

Nonresident beneficiary's share of income, deduction, and tax preference items from New York State sources

Use the same letter (a or b) as used in Form IT-205, Schedule C, to identify each beneficiary. Attach additional sheets if necessary.

Columns 1 through 4 — Enter in the appropriate column each nonresident beneficiary's share of income, gain, or loss included in his or her share of distributable net income from New York State sources as reported on Form IT-205-A, Schedule 2, column 3. (See column 5 instructions below for separate attachment for reporting deductions.) Amounts are to be reported by the nonresident beneficiaries on the appropriate lines 1 through 18 of their nonresident income tax returns (Forms IT-203) as income from New York State sources.

Column 5 — Attach a separate schedule showing each nonresident beneficiary's share of other deductions from New York State sources included in the beneficiary's total share of distributable net income.

Column 6 — Attach a separate schedule showing each nonresident beneficiary's share of federal tax preference items derived from New York State sources and the amount of any modifications that apply. See Form IT-220, *Minimum Income Tax*, with instructions.

Schedule 4

Details of federal distributable net income and amounts from New York State sources

Enter in column a the amount reported on federal Form 1041 for the applicable items listed in Schedule 4. **If the fiduciary was a part-year resident trust, also include in the *Federal amount* column all items the trust would be required to include if the trust were filing a federal return on the accrual basis.** Enter in column b the portion of each amount that is derived from New York sources.

Enter in column c the portion of each amount that was received during the period of New York City residency. Enter in column d the portion of each amount that was received during the period of Yonkers residency.

New York City and Yonkers resident trust

If any amount from the trust is subject to the New York City or Yonkers resident income tax, substitute *New York City* or *Yonkers* for *New York State* in the following instructions and include that portion in the applicable column c or d.

Lines 14 and 15 Interest income and dividends — Report on lines 14 and 15, column b, income from interest and dividends included in column a that is income from a trade or business carried on in New York State.

Line 16 Business income (or loss) — Enter in column b the net profit from a trade or business carried on in New York State by the estate or trust. If business is carried on both in and out of New York State and the New York income can be determined from the books and records of the business, enter in column b on line 16 the net profit from business carried on in New York State, and in column b on the proper lines the other items relating to the New York operations. If the New York income of the business cannot be determined from the books of the business, income must be allocated to New York State in accordance with the formula in Schedule 5 or an approved alternate method. Apply the business allocation percentage (on line 46) to line 16 of column a and to each allocable item of business income, gain, loss or deduction reported in column a on other lines of Schedule 4 to determine the New York amounts.

Line 17 Capital gain (or loss) — Enter in column b the gain shown on line 75, column 3. If line 75, column 3, is a net loss, compute the amount of the loss deductible on line 17 following the instructions for Part II of federal Schedule D. (See Schedule 7 instructions on page 7.)

Line 18 Rents, royalties, partnerships, other estates and trusts, etc. — Include in column b the portion derived from New York State sources of the estate's or trust's share of income, gain, loss, or deduction from net rents and royalties from: (1) real property situated in New York State, whether or not used in or

connected with a business; (2) tangible personal property not used in a business if the property has an actual situs in New York State; and (3) tangible and intangible personal property used in or connected with a trade or business carried on in New York State by the estate or trust. Note that the Schedule 5 business allocation percentage does not apply to income from tangible personal property not used in a business or real property, since this income is 100% includable if the property is located in New York State and 100% excludable if the property is located outside New York State.

Also include in column b the portion derived from New York State sources of the estate's or trust's share of income, gain, loss, or deduction from: (1) a partnership (which may ordinarily be obtained from Form IT-204); (2) an S corporation (see Form CT-3-S); (3) other estates or trusts (see Form IT-205 or IT-205-A); and (4) REMICs.

Any portion of the estate's or trust's share of such income, gain, loss, or deduction not reported here must be included elsewhere in Schedule 4, column b, on the appropriate line describing the nature of the income (for example, a partnership's New York capital gain would be included on line 17, column b).

Passive activity loss limitations — Any deduction for passive activity losses for an estate or trust must be recomputed to determine the amounts that would be allowed if the federal adjusted gross income took into account only items of income, gain, loss, or deduction derived from or connected with New York sources.

If the trust was a **part-year resident trust**, you must recalculate your passive activity loss limitations as if separate federal returns were filed for the trust's resident and nonresident periods.

Line 19 Farm income (or loss) — Enter in column b the net profit from farming carried on in New York State by the estate or trust.

Line 21 Other income — Enter in column b any New York source income that is not reportable elsewhere in Schedule 4.

Prizes won by a nonresident in the New York State Lottery are New York source income if:

- the prize was won on or after October 1, 2000; and
- the total proceeds of the prize are more than $5,000.

If the trust or estate is a shareholder of a federal S corporation for which the election to be a New York S corporation was in effect for the tax year, the estate's or trust's ordinary income to be entered in column b may be obtained from the S corporation.

Report capital gains, dividends, etc. in column b on the appropriate lines.

New York source income also includes any gain from the sale, transfer, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold, when the real property comprising the units of such cooperative housing corporation is located in New York State.

Lines 23 through 28 — Enter in column b only that portion of each deduction item reported in column a that relates to income derived from New York sources (as reported on lines 14 through 21, column b).

Lines 31 through 35 — Enter in column b on lines 31 through 35 the portion of the column a amounts that relates to items of income, gain, loss, or deduction of the estate or trust derived from or connected with New York State sources.

Schedule 5

Formula basis allocation of business income

Complete Schedule 5 if the estate or trust carries on business both in and out of New York State but does not maintain books and records from which the New York income of the business can be determined. Attach a schedule showing the exact location (street address, city, and state) of each place, whether in or out of New York State, where the estate or trust conducts business. Describe each place (for example, branch office, agency, factory, etc.) and state whether it is rented or owned by the estate or trust.

When Schedule 5 does not fairly and equitably reflect the income from New York State, an alternate allocation may be used. However, Schedule 5 must be completed, based on the statutory method, and a detailed explanation of the alternative method used to determine New York income must be attached.

Property percentage — Figure the average value of real and tangible personal property connected with the estate or trust by completing lines 39, 40, and 41.

Line 39 Real property owned — Enter in column 1 the average value of all real property owned by the business. Enter in column 2 the average value of real property owned that is located in New York State.

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

Line 40 Real property rented from others — The value of real property rented to the business and to be included in line 40 generally is eight times the gross rent payable during the tax year for which the return is filed.

Line 41 Tangible personal property owned — Enter in column 1 the average value (determined in accordance with the instruction for line 39) of all tangible personal property owned by the business. Enter in column 2 the average value of tangible personal property owned that is located in New York State.

Line 42 Property percentage — Add lines 39, 40, and 41 in columns 1 and 2, and enter the total on line 42.

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

Line 43 Payroll percentage — Enter wages, salaries, and other personal service compensation paid only to employees of the business. Do not include payments to independent contractors, independent sales agents, etc. Enter the total of the compensation paid to employees during the tax year in connection with business operations carried on both in and out of New York State on line 43, column 1. Enter the part that represents the amount paid in connection with New York operations in column 2. Compensation is paid for services in connection with New York operations if the employee works in or travels out of an office or other place of business located in New York State.

Divide the column 2 total by the column 1 total. Round the result to the fourth decimal place and enter it as a percentage in column 3.

Line 44 Gross income percentage —Enter on line 44, column 1, total gross sales made, or charges for services performed, by employees, agents, agencies, or independent contractors of the business in and out of New York State. Enter in column 2 the part that represents gross sales made, or charges for services performed, by employees, agents, agencies, or independent contractors situated at, attached to, or sent out from offices of the business (or its agencies) located in New York State. For example, if a salesperson working out of the New York office covers the states of New York and New Jersey, all sales made by that salesperson are to be allocated to New York and included in column 2.

Divide the column 2 total by the column 1 total. Round the result to the fourth decimal place and enter it as a percentage in column 3.

Line 46 Business allocation percentage — Apply the business allocation percentage to each item of business income, gain, loss, or deduction reported in Schedule 4, column a, to determine the amount required to be entered in Schedule 4, column b. Make the

appropriate entries in the space below line 46; attach an additional schedule if needed.

Apply the business allocation percentage to the modification of amounts from New York State sources (IT-205, Schedule B) with respect to modifications affecting items of business income, gain, loss, or deduction (except those attributable to real property) if business is carried on both in and out of New York State.

Do not apply the business allocation percentage to income from tangible property not used in a business or to income from the rental of (or gains or losses from the sale of) real property. The entire income or gain from the sale of the property located in New York State is taxable, and the entire loss in connection with that property is deductible to the extent it would be deductible for federal purposes. Conversely, no portion of the income or gain from the sale of property of this type located out of New York State is taxable, nor is any portion of any loss sustained in connection with out-of-state property deductible.

Schedule 6

Computation of New York charitable deduction

Determine the charitable deduction by completing Schedule 6 in the same manner as Schedule A of federal Form 1041, but for New York items only.

Enter on line 47 that portion of the amount reported on the corresponding line of Schedule A, federal Form 1041, that constitutes contributions to New York State, or any of its political subdivisions (cities, towns, counties, etc.), or to any corporation, trust, community chest, fund, foundation, or other entity organized or operated under the laws of New York State.

Enter on line 48 that portion of the amount reported on the corresponding line of Schedule A, federal Form 1041, that reflects the New York charitable contributions included on line 47 attributable to income exempt from New York income tax or to income derived from sources out of New York State.

Schedule 7

Capital gains and losses from sales or exchanges of New York capital assets

If the estate or trust had any capital gains or losses from sales or exchanges of New York property, complete Schedule 7 in the same manner as federal Form 1041, Schedule D, but **with respect to gains and losses from New York property only**. The short-term capital loss carryovers from preceding tax years on line 63 and the long-term capital loss carryovers on line 71 are computed only for gains and losses from New York property.

Capital transactions from New York State sources include capital gains or losses derived from real or tangible personal property having an actual situs in New York State, whether or not connected with a trade or business (including all or a portion of the gain or loss from the sale or exchange of an interest in an entity if the entity owns real property in New York State and the real property has a fair market value that equals or exceeds 50% of the fair market value of the assets the entity has owned for at least two years as of the date of the sale or exchange; for additional information, see TSB-M-09(5)I, *Amendment to the Definition of New York Source Income of a Nonresident Individual)*; and capital gains or losses from stocks, bonds, and other intangible personal property used in or connected with a business, trade, profession, or occupation carried on in New York State. Also included is the estate's or trust's share of any capital gain or loss derived from New York sources of a partnership or another estate or trust.

If business is being carried on both in and out of New York State, gain or loss on the sale or disposition of property (other than real property) used in the trade or business or carried as business assets is subject to the business allocation percentage (line 46).

Gains and losses from the sale or disposition of real property are not subject to allocation.

Determine the amounts to be reported as capital gains and losses from New York State sources in Schedule 7 in accordance with applicable federal provisions for determining capital gains and losses.

If a total net capital loss is reported on line 75, column 3, from sales or exchanges of New York property, compute the amount of loss allowed as a deduction on line 17, column b, according to federal provisions for capital loss limitations. Use a copy of federal Form 1041, Schedule D, dealing with computation of fiduciary's capital loss limitation, as a worksheet in determining the New York net capital loss allowable as a deduction, using the New York amounts shown in Schedule 7.

Schedule 8

Supplemental schedule of gains and losses from New York property

If the estate or trust had any gains or losses from the sale, exchange, or involuntary conversion of New York property reported on federal Form 4797, complete Schedule 8 in the same manner as federal Form 4797, but only with respect to gains and losses from New York property. If any transactions involve property (other than real property) of a business carried on both in and out of New York State, apply the business allocation percentage (line 46).

Compute the gains and losses from New York property to be included in Schedule 8 by applying the appropriate federal provisions for determining gains and losses reportable on federal Form 4797.

If the estate or trust had any gains or losses from involuntary conversion of New York property from casualty or theft, attach a copy of federal Form 4684 and a schedule showing the gain or loss from New York property.

If gain has been realized from the disposition of New York property under the provisions of federal Internal Revenue Code sections 1245, 1250, 1252, 1254, or 1255, use a copy of federal Form 4797, page 2, as a worksheet in determining the gain from New York property reportable in Schedule 8, Part 1 or Part 2.