New York State Department of Taxation and Finance

Instructions for Form IT-220

Minimum Income Tax

IT-220-I

2009

General information

Who must file

If you are an individual or fiduciary of an estate or trust with total New York tax preference items greater than the allowable specific deduction of $5,000 ($2,500 if you are married and filing separately), you must complete Form IT-220, *Minimum Income Tax,* and attach it to your New York State income tax return. For New York purposes the federal tax preference items subject to New York minimum income tax are: (1) depreciation (pre-1987) (Accelerated Cost Recovery System (ACRS) depreciation on recovery property placed in service in New York in 1985 and 1986, ACRS depreciation on all Internal Revenue Code (IRC) section 280F recovery property placed in service prior to 1/1/87); (2) intangible drilling costs; and (3) qualified small business stock (excluded under section 1202). Also include the amount of New York addition for restoration of net operating loss deduction. Because of different state and federal requirements, you may have to file Form IT-220 even if you are not required to file federal Form 6251, *Alternative Minimum Tax - Individuals,* or federal Form 1041, *U.S. Income Tax Return for Estates and Trusts.* You may have to file Form IT-220 even if you derived no tax benefit from the items of tax preference.

The tax preference items to be reported on Form IT-220 are explained in *Line instructions* that begin below.

If you marked an ***X*** in filing status ③ *(Married filing separate return)* on Form IT-201, *Resident Income Tax Return,* or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return,* you and your spouse must each figure your minimum income tax on a separate Form IT-220.

New York City taxpayers

If you are a New York City resident (or part-year resident) and you are subject to the New York State minimum income tax, you must figure the New York City minimum income tax due on Form IT-220. A New York City nonresident is not subject to the New York City minimum income tax.

If you changed your New York City and New York State resident status at the same time, report both your state and city minimum income tax for the resident period on one Form IT-220. If the periods of city and state residence are different, attach a schedule showing how you figured the city minimum income tax. The New York City minimum taxable income to be reported for the resident period is determined as if your tax year for state income tax purposes were limited to the period of your New York City residence. For information on accruals, see Form IT-360.1-I, *Instructions for Form IT-360.1, Change of City Resident Status.*

How to report a change in federal tax preference items

If the Internal Revenue Service (IRS) changes the tax preference items you reported on your federal form for the alternative minimum tax, you must report this change to the New York State Tax Department within 90 days from the date the IRS makes its final determination.

If you file an amended federal return changing the tax preference items reported to the IRS, you must also file an amended state return with the New York State Tax Department within 90 days from the date you amend your federal return.

These requirements for reporting federal changes in tax preference items apply to residents, nonresidents, and part-year residents of New York State if the change affects the computation of New York State taxable income and must be reported as follows:

Residents must report these changes on Form IT-201-X, *Amended Resident Income Tax Return,* and on an amended Form IT-220. Write ***Amended*** at the top of Form IT-220 and attach it to Form IT-201-X, with a check or money order for the full amount of any additional tax due plus interest.

Nonresidents and **part-year residents** must report these changes on Form IT-203-X, *Amended Nonresident and Part-Year Resident Income Tax Return*, and on an amended Form IT-220. Write ***Amended*** at the top of Form IT-220 and attach it to Form IT-203-X, with a check or money order for the full amount of any additional tax due plus interest.

Estates or trusts must report these changes on an amended Form IT-205, *Fiduciary Income Tax Return,* and on an amended Form IT-220. Mark the *Amended return* box on Form IT-205. Write ***Amended*** at the top of Form IT-220 and attach it to the amended Form IT-205, with a check or money order for the full amount of any additional tax due plus interest.

Attach a copy of the federal report of examination changes and a signed statement indicating that you concede the federal audit changes. If you do not concede the federal audit changes, attach a signed statement explaining why you do not agree. Do not attach the amended return to any other return.

New York City residents must report a federal change in tax preference items on the amended New York State form filed for minimum income tax purposes. Follow the above instructions for federal changes or the filing of an amended federal return.

Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Print or type the required information at the top of Form IT-220. If an estate or trust has an employer identification number, enter it in the space provided. Mark an ***X*** in the box indicating the New York State income tax return you are filing.

Tax preference items

Lines 1 through 5 — Enter your federal tax preference items from federal Form 6251 or federal Form 1041, Schedule I, Part I, on lines 1 through 5. If you filed either of these federal forms, attach a copy. If you are not required to file either federal form, report the tax preference items on lines 1 through 5 that you would have reported if you had filed the federal form. Tax preference items also include those attributable to you as the beneficiary of an estate or trust, as a partner of a partnership, or as a shareholder in an electing New York S corporation.

If you marked an ***X*** in filing status ③ on Form IT-201 or IT-203, you and your spouse must each report your share of tax preference items on a separate Form IT-220.

Residents — If you are filing Form IT-201, enter in Column B the amount of each federal tax preference item; **do not use Column A**.

Nonresidents — If you are filing Form IT-203, enter in Column A the amount of each federal tax preference item. Enter in Column B the amounts derived from or connected with New York State sources.

Part-year residents — If you are filing Form IT-203 and **moved out of New York State,** enter in Column A the amount of each federal tax preference item. Enter in Column B those federal tax preference items, including any tax preference items attributable to a future year which accrued up to the time you changed your residence, that were attributable to the New York resident period plus those tax preference items derived from or connected with New York sources for the nonresident period.

If you are filing Form IT-203 and **moved into New York State,** enter in Column A the amount of each federal tax preference item. Enter in Column B those federal tax preference items derived from or connected with New York sources for the nonresident period plus the tax preference items attributable to the New York resident period.

Resident estates or trusts — If you are filing Form IT-205, enter in Column A the amount of each federal tax preference item of the estate or trust before any apportionment between the estate or trust and its beneficiaries. Enter in Column B the share of each federal tax preference item allocable to the estate or trust.

Nonresident estates or trusts and part-year resident trusts Enter in Column A the amount of each federal tax preference item of the estate or trust before any apportionment between the estate or trust and its beneficiaries. Enter in Column B the share of each federal tax preference item apportioned to the nonresident estate or trust that is derived from or connected with New York State sources. The part-year resident trust enters in Column B those federal tax preference items, including any tax preference items attributable to a future year which accrued up to the time the trust changed its residence, that were attributable to the New York resident period plus those tax preference items derived from or connected with New York sources for the nonresident period. The rules for allocation to New York State are explained in the instructions for Form IT-205.

New York City taxpayers — The city tax preference items of New York City resident and part-year resident individuals, estates or trusts, and part-year resident trusts are the same as the state tax preference items of New York State resident and part-year resident individuals, estates or trusts, and part-year resident trusts.

Line 7 New York addition for restoration of net operating loss deduction — The amount of the net operating loss carryover that reduces federal taxable income and was used to reduce tax preference items in a prior year (see the instructions for line 20) must be added on line 7. The amount of net operating loss used in a prior year to reduce the total tax preference items must be treated as a tax preference item and added to the total federal tax preference items in the next succeeding year or years, in order of time, in which that net operating loss carryover reduces federal taxable income (Tax Law section 622(a)(3)).

New York subtractions from federal amounts

The New York tax preference items must be adjusted where the tax treatment giving rise to the items will not result in the reduction of the taxpayer's personal income tax for any tax year.

Residents — Enter in Column B any amounts related to the tax preference items reported above; **do not use Column A**.

Nonresidents and part-year residents — Enter in Columns A and B any amounts related to the tax preference items reported on lines 1 through 7.

Resident and nonresident estates or trusts and part-year resident trusts — Enter in Columns A and B any amounts related to the tax preference items reported on lines 1 through 7.

Line 9 — Enter that part of the federal tax preference items reported on line 3 that relates to property placed in service in tax years beginning after December 31, 1981, but before January 1, 1985. In addition, enter that portion of line 3 that represents property placed in service **outside** New York State in tax years beginning after December 31, 1984, but prior to January 1, 1994, for which you chose to continue using the pre-1981 (IRC) section 167 depreciation. For more information, see Form IT-399, *New York State Depreciation Schedule*. Do not include property subject to the provisions of IRC section 280F (such as luxury automobiles).

Line 10 — Enter that part of the federal tax preference items that was your distributive or pro rata share of tax preference items from an S corporation for which the election to be a New York S corporation was **not** in effect for the tax year.

Line 11 — If any of the tax preference items are affected by the itemized deduction adjustment that appears on your Form IT-201 or IT-203, attach a schedule showing the computation of the adjustment and enter the adjustment amount on this line.

Figuring the minimum income tax

Line 16 — Specific deduction

Residents — Enter the specific deduction of $5,000 ($2,500 for each spouse if married and filing separate returns, filing status ③).

Nonresidents and part-year residents — Enter the amount that bears the same ratio to $5,000 ($2,500 for married individuals filing a separate return) as the total New York tax preference items (line 15, Column B) bears to total tax preference items (line 15, Column A), computed as if a resident for the tax year. The specific deduction cannot exceed $5,000 ($2,500 for married individuals filing a separate return).

Resident estates or trusts — Enter the amount that bears the same ratio to $5,000 (not to exceed $5,000) as the total New York tax preference items apportioned to the estate or trust (line 15, Column B) bears to the total New York tax preference items of the estate or trust without any apportionment between the estate or trust and the beneficiaries (line 15, Column A).

Nonresident estates or trusts and part-year resident trusts Enter the amount that bears the same ratio to $5,000 (not to exceed $5,000) as the total New York tax preference items from New York sources that are apportioned to the estate or trust (line 15, Column B) bears to the total New York tax preference items of the estate or trust without any apportionment between the estate or trust and the beneficiaries (line 15, Column A).

Line 18 — New York State personal income tax after credits

Residents — Enter the amount reported on Form IT-201, line 44, plus the New York State (NYS) amount from Form IT-230, Part 2, line 2, reduced (but not to less than zero) by the amount of the following credits:

— Empire State child credit (from Form IT-201, line 63);

— NYS child and dependent care credit (from Form IT-216, line 14);

— NYS earned income credit (EIC) (from Form IT-201, line 65);

— NYS noncustodial parent EIC (from Form IT-201, line 66);

— Real property tax credit (from Form IT-201, line 67);

— College tuition credit (from Form IT-201, line 68);

— NYS refundable credits (from Form IT-201-ATT, line 13);

— NYS claim of right credit (from Form IT-201-ATT, line 15).

Nonresidents and part-year residents — Enter the amount of tax reported on Form IT-203, line 48, plus the amount from Form IT-230-I, *Instructions for Form IT-230*, Worksheet C, line 7, reduced (but not below zero) by the amount of the following credits:

— NYS refundable credits (from Form IT-203-ATT, line 12);

— NYS claim of right credit (from Form IT-203-ATT, line 14).

Resident and nonresident estates or trusts and part-year resident trusts — Resident estates and trusts enter the amount of tax reported on Form IT-205, line 8, reduced by the amount of credits reported on lines 10 and 33 of Form IT-205. Nonresident estates and trusts and part-year resident trusts enter the amount of tax reported on Form IT-205, line 9, reduced by the amount of credits reported on lines 10 and 33 of Form IT-205.

Line 20 Available net operating loss carryover — Subtract the amount of net operating loss remaining as a net operating loss carryover to a succeeding tax year from the excess of the total New York tax preference items over the total of the allowable specific deduction and the New York personal income tax after credits for the year.

The net operating loss of a **resident** individual, estate or trust is the loss as determined for federal income tax purposes.

The net operating loss of a **nonresident** individual, estate or trust is based solely on items from New York State sources in accordance with section 631(b) of the Tax Law but otherwise determined in the same way as the corresponding federal net operating loss.

The net operating loss of a **part-year resident individual** or **part-year trust** for the resident period is based solely on items attributable to the New York resident period determined in the same way as a corresponding federal net operating loss. The net operating loss of a part-year resident individual or part-year trust for the nonresident period is based solely on items from New York State sources in accordance with Tax Law section 631(b) determined in the same way as a corresponding federal net operating loss.

Enter on line 20 any amount of net operating loss which remains as a carryover to a succeeding tax year. If there is no unused net operating loss available as a carryover for a following year, no deduction is permitted on line 20.

See the instructions for line 7 for the restoration in the next succeeding year or years of the net operating loss deduction.

Line 21 Minimum taxable income — Subtract line 20 from line 19 and enter the result. If line 21 is zero or less, leave lines 21 through 23 blank, and attach this form to your return.

New York City taxpayers — The city minimum taxable income of New York City resident individuals, estates or trusts is the same as the state minimum taxable income of New York State resident individuals, estates or trusts.

Line 22 New York State minimum income tax due — Enter 6% of the minimum taxable income reported on line 21.

Residents — Enter the line 22 amount on Form IT-201-ATT, line 29.

Nonresidents and part-year residents — Enter the line 22 amount on Form IT-203-ATT, line 28.

Resident and nonresident estates or trusts and part-year resident trusts — Enter the line 22 amount on Form IT-205, line 13.

Line 23 New York City resident minimum income tax Enter 2.85% of the minimum taxable income reported on line 21 and enter this amount on Form IT-201-ATT, line 31, or Form IT-205, line 24.

Part-year New York City residents — If you had a New York City change of resident status (but no change in New York State resident status) enter the line 23 amount on Form IT-201-ATT, line 31.

If you had both a New York State and New York City change of resident status during the same tax year, enter the amount from line 23 on Form IT-203, line 52.