New York State Department of Taxation and Finance

Instructions for Form IT-205
Fiduciary Income Tax Return
New York State • New York City • Yonkers

IT-205-I

Form IT-205 highlights for tax year 2011

General changes for 2011

- **Same-sex married couples — tax return filing obligations**

  The *Marriage Equality Act*, which took effect on July 24, 2011, provides that all marriages, whether of same-sex couples or different-sex couples, will be treated equally under the laws of New York. For tax years 2011 and after, same-sex married couples who are married as of the last day of the tax year **must** file New York personal income tax returns as if they were married for federal income tax purposes, even though their marital status is not recognized for federal income tax purposes. For additional information, see TSB-M-11(8)I, *The Marriage Equality Act,* and page 6, *Use of federal figures*.

- **Yonkers resident income tax surcharge increased**

  For tax years beginning on and after 2011, the rate of the Yonkers resident income tax surcharge has been increased from 10% to 15% of the net state tax.

- **E-file mandate for tax return preparers revised**

  The threshold for determining if tax return preparers are required to e-file their clients' tax documents has been reduced to five original tax documents. In addition, if a tax return preparer is required to e-file a client's tax document and fails to do so, both the preparer and the client may be subject to a penalty, and the client will not be eligible to receive interest on any overpayment until the tax document is **filed electronically**. For additional information, see our Web site.

- **Online account summary**

  As part of our expansion into electronic communication, the Tax Department is offering new online services. Our *Online account summary* allows you to:

  - receive e-mail alerts and reminders about your tax account, including notification of your refund
  - view a comprehensive, customized summary of your account
  - respond to department notices
  - update account information

  For additional information, see our Web site.

- **Tax shelter reporting requirements extended**

  The expiration date of the reporting requirements and related administrative provisions concerning the disclosure of certain federal and New York State reportable transactions and related information regarding tax shelters has been extended to July 1, 2015. For additional information, see TSB-M-11(5)C, (5)I, *Extension of Tax Shelter Disclosure and Penalty Provisions.*

- **Lottery prizes may be applied against tax liabilities**

  A lottery prize winning of more than $600 may now be applied against the winner's outstanding New York tax liabilities.

New credit

- **Economic transformation and facility redevelopment program**

  This new program provides tax incentives to businesses to stimulate redevelopment in targeted communities where certain correctional or juvenile facilities are closed. For additional information, see TSB-M-11(6)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2011*, and Form IT-633, *Economic Transformation and Facility Redevelopment Program Tax Credit,* and its instructions.

Changes to existing credits

- **Credit for taxicab and livery service vehicles accessible to persons with disabilities**

  The credit for taxicab and livery service vehicles accessible to persons with disabilities expired for costs incurred after December 31, 2010. However, any unused credit from a prior year can be carried over until used. For additional information, see Form IT-239, *Claim for Credit for Taxicabs and Livery Service Vehicles Accessible to Persons with Disabilities*.

- **Alternative fuels credit**

  The credit for investing in new alternative-fuel vehicle refueling property expired for tax years beginning on and after January 1, 2011. However, any unused credit from a prior year can be carried over until used. For additional information, see Form IT-253, *Claim for Alternative Fuels Credit*.

- **Investment tax credits for the financial services industry**

  The investment tax credit (ITC) for the financial services industry has been extended to include property placed in service before October 1, 2015. The empire zone (EZ) ITC for the financial services industry has been extended to include property placed in service before April 1, 2014 (when the EZs are deemed to expire). However, a financial services business that places property in service between April 1, 2014, and October 1, 2015, may still claim the regular ITC for the financial services industry on that property. For additional information, see Forms IT-252, *Investment Tax Credit for the Financial Services Industry*, and IT-605, *Claim for EZ Investment Tax Credit and EZ Employment Incentive Credit for the Financial Services Industry*, and their instructions.

- **Excelsior Jobs Program Act**

  The benefit period of the Excelsior Jobs Program has been extended from five years to ten. Several other administrative changes were made to the program and to how the credit is computed. For additional information, see TSB-M-11(6)I, *Summary of Budget Bill Personal Income Tax Changes*

Enacted in 2011, and Form IT-607, *Claim for Excelsior Jobs Program Tax Credit*, and its instructions.

New modification

- **Subtraction modification for QEZE credit for real property taxes**

  A new subtraction modification is available for any amount of QEZE credit for real property taxes included in federal taxable income. For additional information, see TSB-M-10(9)(C), (15)I, *New York State Tax Treatment of Refunds of the Qualified Empire Zone Enterprise (QEZE) Credit for Real Property Taxes*.

General instructions

Who must file

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

— is required to file a federal income tax return for the tax year;

— had any New York taxable income for the tax year;

— had tax preference items for minimum income tax purposes in excess of the specific deduction; or

— is subject to a separate tax on lump-sum distributions.

If the fiduciary of a **New York City resident** estate or trust is required to file a New York State fiduciary return, the New York City income tax liability is based on the same taxable income as for New York State tax purposes and must be reported on the state return as explained in the New York City instructions beginning on page 21.

If the fiduciary of a **Yonkers resident** estate or trust is required to file a New York State return, the Yonkers tax liability is based upon the New York State tax liability and must be reported on the state return as explained in the Yonkers instructions beginning on page 21.

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

— had income derived from New York State sources and had New York adjusted gross income;

— had tax preference items for minimum income tax purposes derived from or connected with New York State sources in excess of the specific deduction;

— is subject to a separate tax on lump-sum distributions; or

— incurred a net operating loss for New York State income tax purposes for the tax year without incurring a net operating loss for federal income tax purposes.

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

— real or tangible personal property located in New York State (including certain gains or losses from the sale or exchange of an interest in an entity that owns real property in New York State);

— a business, trade, profession, or occupation carried on in New York State;

— services performed in New York State;

— lottery winnings over $5,000 won in the New York State lottery on or after October 1, 2000; and

— 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 the cooperative housing corporation is located in New York State.

It does not include:

— annuities, interest, dividends, or gains from the sale or exchange of intangible personal property, unless they are part of the income from a business, trade, profession, or occupation carried on in New York State; or

— compensation received in respect of a nonresident decedent for active service in the military forces of the United States.

Form IT-205-A, *Fiduciary Allocation,* must be completed and attached to a Form IT-205 that is filed for (1) a nonresident estate or trust having income derived from New York State sources, (2) a part-year resident trust, or (3) a resident estate or trust with a New York State nonresident beneficiary (except as noted under *New York State forms to be filed* on page 3). See *Need help?* on page 24 for information on how to get forms.

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

New York State resident and nonresident estate and trust and part-year resident trust defined

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

However, no New York State personal income tax may be imposed on a resident trust if all of the following conditions are met (New York State Tax Law, Article 22, section 605(b)(3)(D)).

1. All the trustees are domiciled in a state other than New York;
2. The entire corpus of the trust, including real and tangible personal property, is located outside of New York State (it is the Tax Department's position that intangibles located in the state but that are not employed in a business carried on in the state are not deemed to be located in the state for purposes of this rule); and
3. All income and gains of the trust are derived from, or connected with, sources outside of New York State, determined as if the trust were a nonresident trust. **Note:** If the estate or trust sold or exchanged its interest in an entity that owns real property in New York State, the estate or trust may have income from New York State sources. For additional information, see TSB-M-09(5)I, *Amendment to the Definition of New York Source Income of a Nonresident Individual*.

Form IT-205-C, *New York State Resident Trust Nontaxable Certification,* must be completed and attached every year to a Form IT-205 that is filed for a resident trust that meets the conditions in section 605(b)(3)(D). See *New York State forms to be filed* on page 3. See *Need help?* on page 24 for information on how to get forms.

For every year that the resident trust meets the conditions of Tax Law, Article 22, section 605(b)(3)(D), complete and file Form IT-205 as follows:

- Mark an ***X*** in the box, *Trust meets the conditions of section 605(b)(3)(D)*.
- Complete Schedules A, B, and C of Form IT-205.
- Complete and attach Form IT-205-C, *New York State Resident Trust Nontaxable Certification,* to Form IT-205.

The term *resident trust* also includes (1) any revocable trust consisting of property of a person domiciled in New York State at the time such property was transferred to the trust if it has not later become irrevocable and (2) any revocable trust that has later become irrevocable if the trust consists of property of a person

domiciled in New York State when it became irrevocable. For this purpose, a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes the trust. A trust becomes irrevocable when the possibility that such power may be exercised has ended.

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

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

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

Change of New York State residence of trust

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

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

— the fiduciary's share of federal adjusted gross income for the period of residence, computed as if the tax year for federal income tax purposes were limited to the period of residence, and

— the fiduciary's share of New York source income for the period of nonresidence determined as if the tax year for federal income tax purposes were limited to the period of nonresidence.

New York State forms to be filed

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

- **Resident estate or trust with resident beneficiaries only**

  Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.

- **Resident estate or trust with any nonresident beneficiaries**
  - — Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.
  - — Report in Schedule C of Form IT-205 the names and addresses of all beneficiaries, both resident and nonresident, to whom income is distributable, whether or not the income is taxable to the nonresident beneficiaries.
  - — Complete Schedules 2, 3, and 4 of Form IT-205-A and any of Schedules 5, 6, 7, and 8 of Form IT-205-A that apply, unless **none** of the income distributable to the nonresident beneficiaries is derived from **New York State** sources. In this case, Form IT-205-A does not need to be completed even though **other** income is distributable to nonresident beneficiaries.

    If Form IT-205-A is not required because of the above, include a statement indicating this with Form IT-205.

- **Nonresident estate or trust and part-year resident trust with resident or nonresident beneficiaries**
  - — Complete items A, B, and C, line 1 and lines 9 through 42 on the front page, and Schedules B and C on the back page of Form IT-205.
  - — Complete Schedules 1, 2, 3, and 4 of Form IT-205-A.
  - — Complete any of Schedules 5, 6, 7, and 8 of Form IT-205-A that apply.
  - — Complete and attach Form IT-182, *Passive Activity Loss Limitations*, if the estate or trust had passive activity losses.

Special rule if entire income is taxable to fiduciary — If **all** of the income of the estate or trust is taxable to the fiduciary for the 2011 tax year, no entries are required in Schedule C of Form IT-205.

Form IT-205-C, *New York State Resident Trust Nontaxable Certification* — Complete Form IT-205-C only for New York State resident trusts every year that the trust meets the conditions in section 605(b)(3)(D).

Form IT-220, *Minimum Income Tax* — This is a tax on tax preference items. If the estate or trust has total tax preference items in excess of the allowable specific deduction, Form IT-220 is to be filed with Form IT-205. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule I, *Alternative Minimum Tax.* The specific deduction is that percentage of $5,000 (not to exceed $5,000) which the total tax preference items (and related modifications) apportioned to the estate or trust is to the total tax preference items (and related modifications) of the estate or trust but without any apportionment between the estate or trust and the beneficiaries.

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

Form IT-2, *Summary of W-2 Statements* — You must complete Form(s) IT-2 if the estate or trust **received any** federal Form(s) W-2. You must complete Form(s) IT-2 even if the federal Form(s) W-2 do not show any New York State, New York City, or Yonkers wages or tax withheld. Attach Form(s) IT-2 to the New York return. Do not attach any federal Form(s) W-2 to the return; keep them for your records.

Form IT-1099-R, *Summary of Federal Form 1099-R Statements* — You must complete Form(s) IT-1099-R if the estate or trust **received any** federal Form(s) 1099-R that show any tax withheld from New York State, New York City, or Yonkers. Attach Form(s) IT-1099-R to the New York return. Do not attach any federal Form(s) 1099-R to the return; keep them for your records. (To avoid confusion, please note that the New York form has an ***IT*** prefix in the form number.)

Form IT-1099-UI, *Summary of Unemployment Compensation Payments* — You must complete Form(s) IT-1099-UI, if the estate or trust received any federal Form(s) 1099-G from the New York State Department of Labor that show New York State income tax withheld on New York State unemployment compensation. Attach Form(s) IT-1099-UI to the New York return. Do not attach any federal Form(s) 1099-G to the return; keep them for your records.

Form IT-500, *Income Tax Credit Deferral* — Complete Form IT-500 to compute your credit deferral if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than $2 million.

New York State tax returns for individuals — Every fiduciary in charge of an individual's entire income (for example, a guardian or committee for an incompetent person) must file a return (1) for a resident individual - on Form IT-201, *Resident Income Tax Return*, if a federal income tax return is required to be filed for the tax year or if the individual has federal adjusted gross income for the tax year, increased by the modifications under section 612(b), in excess of $4,000 or in excess of his or her New York standard deduction, if lower; or (2) for a nonresident individual - on Form IT-203, *Nonresident and Part-Year Resident Income Tax Return,* if the individual has income from New York sources and the nonresident individual's New York adjusted gross income (*Federal amount* column) is more than his or her New York standard deduction. In these cases, the fiduciary must pay the tax due. Returns are also required if, for minimum income tax purposes, a resident individual has tax preference items in excess of the specific deduction or if a nonresident individual has tax preference items derived from or connected with New York State sources in excess of the specific deduction, or is subject to a separate tax on the ordinary income portion of a lump-sum distribution.

Tax returns for decedents — A return must be filed by the executor, administrator, or other representative of a taxpayer who died during the tax year. Use the form that would have been

appropriate had the taxpayer lived. (See *New York State tax returns for individuals,* on page 3, for requirements for filing.)

Form ET-90, *New York State Estate Tax Return* — For estates of decedents whose date of death is after May 25, 1990, and before February 1, 2000.

New York residents — The estate of every individual whose date of death was before February 1, 2000, and who was a resident of New York State at the time of death (including a person who is deemed to be a United States citizen when determining resident status for New York estate tax purposes) must file a New York State estate tax return with the Tax Department if the aggregate of the New York adjusted gross estate and New York adjusted taxable gifts is equal to or greater than the following amounts:

- For estates of individuals whose date of death was on or after May 26, 1990, and before June 10, 1994 — $108,333.
- For estates of individuals whose date of death was on or after June 10, 1994, and before October 1, 1998 — $115,000.
- For estates of individuals whose date of death was on or after October 1, 1998, and before February 1, 2000 — $300,000.

New York nonresidents — The estate of every individual whose date of death was before February 1, 2000, and who was not a resident of New York State at the time of death (including a nonresident who is not a citizen of the United States) must file a New York State estate tax return with the Tax Department if the aggregate of the New York adjusted gross estate, computed as if a resident (all property, wherever located), and the New York adjusted taxable gifts is equal to or greater than the amounts listed above for a resident, and the estate includes real property or tangible personal property having an actual situs in New York State.

Form ET-706, *New York State Estate Tax Return* — For estates of decedents whose date of death is on or after February 1, 2000.

New York residents — The estate of every individual whose date of death is on or after **February 1, 2000,** and before **January 1, 2004,** and who was a resident of New York State at the time of death must file a New York State estate tax return if the estate is required to file a federal estate tax return, Form 706.

For a date of death on or after January 1, 2004, the estate must file a New York State estate tax return if the total of the federal gross estate, plus the federal adjusted taxable gifts and specific exemption, exceeds $1,000,000.

New York nonresidents — The estate of an individual whose date of death is on or after **February 1, 2000,** and before **January 1, 2004,** and who was **not** a resident of New York State at the time of death must file a New York State estate tax return if the estate includes real or tangible personal property having an actual situs in New York State, and the estate is required to file a federal estate tax return, either federal Form 706 or Form 706-NA.

The estate must also submit a completed Form ET-141, *New York State Estate Tax Domicile Affidavit.*

An estate of an individual who died on or after January 1, 2004, and who was either a resident or citizen of the United States at the time of death, must file a New York State estate tax return if the estate includes real or tangible personal property having an actual situs in New York State and the gross estate, plus federal adjusted taxable gifts and specific exemption, exceeds $1,000,000.

An estate of an individual who died on or after January 1, 2004, and who was a nonresident of the United States and not a U.S. citizen at the time of death, must file a New York State estate tax return if the estate includes real or tangible personal property having an actual situs in New York State and is required to file a federal return.

Exempt trusts

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

When to file Form IT-205

For calendar-year filers, the filing deadline is April 17, 2012. For returns filed for a period other than the calendar year, the due date is the 15th day of the fourth month following the close of the tax year.

The New York State filing deadline for a nonresident alien's estate or trust is the same as for federal purposes.

Note: The 2011 Form IT-205 may also be used for a tax year beginning in 2012 if:

1. The estate or trust has a tax year of less than 12 months that begins and ends in 2012; **and**
2. The 2012 Form IT-205 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 2012 tax year on the 2011 Form IT-205, and incorporate any Tax Law changes that are effective for tax years beginning after December 31, 2011.

The current year tax forms are generally available by December 15th of that calendar year. Check the department's Web site (at *www.tax.ny.gov)* for the current year's tax forms.

Extension of time to file

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

Internet application — Extension requests may also be filed via the internet; access the Tax Department's Web site for information or to submit an extension request.

If the estate or trust expects to receive a refund or anticipates having no amount of New York State, New York City, or Yonkers income tax remaining unpaid as of the due date of the return and is filing federal Form 7004 to extend the time to file its federal return, the trust can also use a copy of its Form 7004 to extend the time to file its New York State return instead of filing Form IT-370-PF. Write ***NY State Copy*** in the top margin and mail to: Extension Request - NR, PO Box 4126, Binghamton NY 13902-4126.

If you use a delivery service other than the U.S. Postal Service to file an extension, use the private delivery address shown in the instructions for filing Form IT-370-PF.

Where to file

If enclosing a payment (check or money order), mail your return and any attachments to:

STATE PROCESSING CENTER
PO BOX 15555
ALBANY NY 12212-5555

If not enclosing a payment, mail your return and any attachments to:

STATE PROCESSING CENTER
PO BOX 61000
ALBANY NY 12261-0001

Private delivery service — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services.* See *Need help?* on page 24 of these instructions for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that

private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: State Processing Center, 101 Enterprise Drive, Kingston NY 12401.

Estimated income tax payments

Generally, a trust or estate must pay estimated income tax if it expects to owe, after subtracting any withholding, estimated income tax paid with Forms IT-2663 and IT-2664, and credits, at least $300 of New York State, New York City, or Yonkers income tax for 2012 and it expects the withholding, estimated income tax paid with Forms IT-2663 and IT-2664, and credits to be less than:

1. 90% of the tax shown on the 2012 tax return, **or**
2. 100% of the tax shown on the 2011 tax return (110% of that amount if the estate's or trust's New York adjusted gross income on that return is more than $150,000, and less than ⅔ of the total federal gross income for 2011 or 2012 is from farming or fishing).

However, if the estate or trust did not file a 2011 tax return or that return did not cover all 12 months, item 2 above does not apply.

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

Exceptions — Generally, the estate or trust will not have to pay estimated tax if its 2012 income tax return will show (1) a tax refund, or (2) a tax balance due of less than $300 for New York State, New York City, or Yonkers.

Use Form IT-2106, *Estimated Income Tax Payment Voucher for Fiduciaries,* and instructions, Form IT-2106-I, to determine and pay any amount of estimated tax required.

Payments of estimated tax treated as paid by the beneficiary (Tax Law section 685(c)(6)(D) or (F) election, as applicable) — Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. Fiduciaries making this election must file Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries,* to show the allocation of any estimated tax payment among the beneficiaries. **Note:** The fiduciary of an estate may make a section 685(c)(6)(F) election only for the last tax year of the estate. Amounts applied to each beneficiary should be reported on Form IT-205-T. Be sure to copy the name, address, and employer identification number of the estate or trust exactly as reported on Form IT-205. Amounts applied to each beneficiary are treated as paid or credited to the beneficiary on the last day of the fiduciary's tax year and treated as a payment of estimated tax made by the beneficiary that would otherwise be due January 15, 2012. The fiduciary may make the election only if the Form IT-205-T is filed on or before the 65th day after the close of the fiduciary's tax year. An extension of time to file Form IT-205 does not extend the filing deadline for Form IT-205-T.

Signature area

Sign and date Form IT-205 at the bottom. The return cannot be processed if it is not signed.

Enter the daytime telephone number including the area code. This entry will enable the Tax Department to correct minor errors or omissions by calling rather than writing or sending back the return.

Keep a copy of the return and any attachments for future reference. If someone prepares the return for the estate or trust, be sure to get a copy for the estate or trust records.

Third-party designee

Do you want to authorize another person (third-party designee) to discuss this return with the New York State Tax Department?

If ***No***, mark an ***X*** in the *No* box.

If ***Yes***, mark an ***X*** in the *Yes* box. Print the designee's name, phone number, and any five numbers the designee chooses as his or her personal identification number (PIN). If you want to authorize the paid preparer who signed this return to discuss it with the Tax Department, print the preparer's name and phone number in the spaces for the designee's name and phone number (you do not have to provide a PIN).

If you mark the *Yes* box, you are authorizing the Tax Department to discuss with the designee any questions that arise during the processing of this return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from this return;
- call the Tax Department for information about the processing of this return or the status of the refund or payment(s); **and**
- respond to certain Tax Department notices that you share with the designee about math errors, offsets, and return preparation. We will not send notices to the designee.

You are not authorizing the designee to receive a refund, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file a power of attorney. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to your designee if you file a power of attorney.

The authorization will end automatically one year after the later of the return due date (including any extension) or the date you filed the return.

Paid preparers

Anyone you pay to prepare your return must sign it and fill in the other information in the paid preparer's area of your return. If someone prepares your return and does not charge you, that person should not sign it.

Paid preparer's responsibilities — Under the law, all paid preparers must sign and complete the paid preparer section of the return. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number.

Special depreciation — Section 612(g) of the Tax Law

The estate or trust may elect to deduct depreciation not in excess of twice that allowed for federal purposes on certain property acquired before 1969 (see Form IT-211-I, *Instructions for Form IT-211, Special Depreciation Schedule*).

Accumulation distribution credit

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

If an accumulation distribution has been made, attach a copy of federal Schedule J (Form 1041) to the return of the trust and a

statement showing the computation of the credit claimed with respect to each beneficiary involved.

Use of federal figures

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

Exception: The Marriage Equality Act, which took effect on July 24, 2011, provides that all marriages, whether of same-sex couples or different-sex couples, will be treated equally under the laws of New York. For tax years 2011 and after, same-sex married couples who are married as of the last day of the tax year **must** consider the powers and interests that each spouse has over the trust when determining whether to file as a grantor trust for New York State tax purposes. (See Internal Revenue Code (IRC) sections 672 through 677 for more information on these powers and interests.) If the grantor's same-sex spouse has powers or interests that, if considered to belong to the grantor, would make the trust a grantor trust for federal income tax purposes, then for New York State purposes the trust will be considered a grantor trust and the grantor and his or her same-sex spouse should file using the grantor trust filing instructions. Disregard the fact that the trust may have filed a separate trust return for federal income tax purposes.

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

Whole dollar amounts

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

Penalties

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

Accounting periods and methods

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

Short tax year

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

Specific instructions

All information on Form IT-205 should be for the calendar year January 1 through December 31, 2011, or for the fiscal year of the estate. If filing for a fiscal year or short year (less than 12 months), enter the month, day, and year the tax year began, and the month, day, and year that it ended at the top of the front page.

Type of entity

In the upper left corner of Form IT-205, mark an ***X*** in the box for the type of entity as shown on your federal Form 1041.

Electing small business trust (ESBT)

Special federal rules apply when figuring the tax on the S portion of an electing small business trust. The S portion of an ESBT is the portion of the trust that consists of stock in one or more S corporations and is not treated as a grantor type trust. Compute the New York State tax on the S portion as determined for federal purposes (using the *New York State tax rate schedule* on page 10). Enter this amount on line 12. Compute the New York City tax on the S portion as determined for federal purposes using the New York City tax rate schedule on page 23. Enter this amount on line 20. Attach to Form IT-205 the federal tax computation for the S portion of the ESBT. When figuring the tax on the remaining (non-S) portion of the trust, disregard the S corporation items. If the ESBT consists entirely of stock in one or more S corporations, do not make any entries on lines 43-62 of Schedule A of Form IT-205.

Instead:

- enter the NYS tax (less any credits) on the S portion on line 12,
- enter the NYC tax (less any credits) on the S portion on line 20,
- attach to Form IT-205 the federal tax computation for the S portion of the ESBT, **and**
- complete the rest of Form IT-205.

Grantor type trusts

A grantor type trust is a legal trust under applicable state law that is not recognized as a separate taxable entity for income tax purposes because the grantor or other substantial owners have not relinquished complete dominion and control over the trust. This can also apply to only a portion of a trust.

In general, a grantor trust is ignored for income tax purposes, and all of the income, deductions, etc., are treated as belonging directly to the grantor. This also applies to any portion of a trust that is treated as a grantor trust.

Use the same filing method used for federal purposes.

Grantor type trusts not using an optional filing method for federal purposes

The following instructions apply only to grantor type trusts that are not using an optional federal filing method.

If the entire trust is a grantor trust, complete the entity information at the top of Form IT-205 and Item G on the back of Form IT-205.

If only part of the trust is treated as a grantor trust, report on Form IT-205 only the part of the income, deductions, etc., that is taxable to the trust. Attach to Form IT-205 a copy of the attachment to federal Form 1041 that shows the amounts that are taxable directly to the grantor.

The income taxable to the grantor or another person, and the deductions and credits that apply to that income, must be reported by that person on his or her own income tax return.

File Form IT-205 for the grantor trust and the grantor's own income tax return separately. Do not attach a copy of Form IT-205 to the grantor's income tax return.

Grantor type trusts using optional filing methods 1, 2, or 3 for federal purposes

If the trust did not have to file federal Form 1041 because it chose an optional filing method, do not file Form IT-205. Follow the optional filing method instructions for federal purposes.

Estimated tax payments on behalf of the grantor

Use Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, and its instructions, Form IT-2105-I, to determine and pay any amount of estimated tax on behalf of the grantor. Do not use Form IT-2106.

Qualified Subchapter S Trust (QSST)

For federal purposes, a QSST uses the same filing method as a grantor type trust not using an optional federal filing method. Use the same filing method for NYS tax purposes.

Name and address box

Enter in the spaces at the top of the return the name of the estate or trust exactly as it appears on federal Form SS-4, the name and title of the fiduciary, and the address of the fiduciary. This is the mailing address for subsequent mailings from the Tax Department (such

as refunds, notices, etc.). Also enter the employer identification number of the **estate or trust** exactly as it appears on federal Form SS-4, and the social security number of the decedent in the spaces provided to the right of the address box.

Initial return

Mark an ***X*** in this box if this is the initial return for the estate or trust.

Final return

Mark an ***X*** in this box if this is a final return because the estate or trust has terminated.

Amended returns or federal changes

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

Exception: The fiduciary must file Form IT-205 (marking the ***Amended return*** box on the front) within 90 days of the date the federal return is amended if the fiduciary files an amended federal return showing a change in any of the following:

— taxable income,

— tax preference items,

— total taxable amount of capital gain or ordinary income portion of a lump-sum distribution,

— shares of income distributable to the beneficiaries,

— amount of any claim of right adjustment, **or**

— amount of the estate's or trust's foreign tax credit affecting the computation of the resident credit for taxes paid to a province of Canada.

To amend the fiduciary's original Form IT-205:

— mark the *Amended return* box;

— complete the entire return;

— correct the appropriate lines with the new information; **and**

— refigure the estate's or trust's tax liability.

If the total tax on line 29 is larger on the amended return than on the original return, you generally should pay the difference with the amended return. However, you should adjust this amount if there is any increase or decrease in the total payments on line 37.

Attach a sheet that explains the reasons for the amendments and identifies the lines and amounts being changed on the return.

The fiduciary must also file an amended return to correct any error on the original state return and to report changes made by the Internal Revenue Service (IRS). Attach 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.

Note: If the federal changes affect the distributable net income of the estate or trust, each beneficiary's share of any New York fiduciary adjustment that applies to the federal changes must be reported on Form IT-201-X, *Amended Resident Income Tax Return,* or Form IT-203-X, *Amended Nonresident and Part-Year Resident Income Tax Return,* as applicable.

Income distribution deduction

Enter the total distribution of the estate or trust, from line 58 of Form IT-205. This should also equal the amount entered on federal Form 1041, Schedule B, line 15, income distribution deduction. Please use whole dollars.

Number of beneficiaries

Enter the number of beneficiaries of the estate or trust.

Special conditions for filing your 2011 fiduciary tax return

If the estate or trust qualifies for one or more of the special conditions below, enter the specified 2-character code(s) on the return.

Code A6 Build America Bond (BAB) interest — Enter this code if the estate or trust included BAB interest in federal taxable income. For additional information, see TSB-M-10(4)I, *Treatment of Interest Income from Build America Bonds,* available on our Web site, and see S-35 on page 21.

Code E4 Nonresident aliens — Enter this code if the estate or trust is a U.S. nonresident alien for federal income tax purposes and the estate or trust qualifies to file a federal income tax return on or before June 15, 2012 (the filing deadline for your New York State return is also June 15, 2012).

Code P2 Protective claim — If you are filing an amended Form IT-205 to file a *protective claim*, mark the *Amended return* box and enter code ***P2*** in the *Qualifying special conditions* box.

A *protective claim* is a refund claim that is based on an unresolved issue(s) that involves the Tax Department or another taxing jurisdiction that may affect your New York tax(es). The purpose of filing a protective claim is to protect any potential overpayment for a tax year for which the statute of limitations is due to expire.

Code N3 Net operating loss — If you are filing an amended Form IT-205 to report an *NOL carryback*, write ***NOL*** and the year of the loss at the top of your amended Form IT-205. Mark the *Amended return* box and enter code ***N3*** in the *Qualifying special conditions* box.

Attach all of the following to amended Form IT-205:

- A copy of your federal Form 1041 for the **loss year**. In addition, provide any schedules or statements that are related to your loss. If your NOL will have an effect on more than one tax year, this federal information must only be attached to the amended return for the first carryback year.
- A copy of your federal NOL computation, including federal Form 1045 and all related schedules. You do not have to include the alternative minimum tax NOL computation.
- A copy of your original federal Form 1041 for the **carryback year**. No additional schedules/statements are required.
- A copy of any federal documentation (if available) showing the IRS has accepted your NOL carryback claim.

Note: You must file amended Form IT-205 to claim an NOL carryback within three years from the date the loss year return was due (including any extensions).

Important reminder to file a complete return

You must complete all required schedules and forms that make up your return, and include all pages of those forms and schedules when you file. Attach **only** those forms and schedules that apply to your return, and be sure that you have made all required entries. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Filling in your tax return

Form IT-205 has been designed to let us use scanning and image-processing equipment. Boxes have been printed on the form to guide you in making your handwritten entries. This will enable our scanning equipment to more accurately read your return and let us process it more efficiently. Please spend a moment reviewing the method below for making your entries:

— Print (use black ink only; no red or other color ink or pencils, please) or type all ***X*** marks and money amounts in the boxes provided.

— Do not use dollar signs, commas, or decimal points when making entries. All necessary punctuation has been printed on the form.

— Leave **blank** any boxes that do not apply to you, and treat these blanks as zeros. Do not enter ***0*** in an area unless instructed to do so.

— Carefully enter your money amounts so that the whole **dollar amount** ends immediately to the **left** of the cents decimal and the **cents amount** starts immediately to the **right** of the cents decimal.

— If you show a loss on any income line or total line, place a minus sign **immediately to the left** of the loss amount. Do not use brackets or parentheses. For example, a business loss of $1,234.89 on line 45 should look like this:

... | 45. | - 1 2 3 4 . | 8 9 |

Line instructions

Items A, B, and C on front page

Complete lines 1 through 42, if applicable, before completing items A, B, and C.

Item A Resident estates and trusts — Enter the total income from Form IT-205, Schedule A, line 51. **Nonresident estates and trusts and part-year resident trusts —** Enter the total income from Form IT-205-A, Schedule 4, line 22, column a.

Item B Resident estates and trusts — Enter your New York adjusted gross income from page 10, *NYAGI worksheet*, line 5. **Nonresident estates and trusts and part-year resident trusts —** Enter your New York adjusted gross income from Form IT-205-A-I, *Instructions for Form IT-205-A,* page 2, *NYAGI worksheet*, line 5.

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

Line 1 Federal taxable income of fiduciary resident estates and trusts — Enter the amount of the taxable income of fiduciary as reported on Form IT-205, Schedule A, line 62. **Nonresident estates and trusts and part-year resident trusts —** Enter the amount of the taxable income of fiduciary as reported on Form IT-205-A, Schedule 1, line 6, column a.

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

A Sales or dispositions of assets acquired before 1960 with greater state than federal bases — When federally taxable gains are realized from the sale of certain assets that have higher adjusted bases for state tax purposes, subtraction adjustments must be made to reduce the gain for state tax purposes. State income tax laws prior to 1960 and currently existing state income tax laws about depletion can cause these differences in adjusted bases.

If federal taxable income included gain that was from **either:**

- property that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960); **or**
- property that was held in connection with mines, oil or gas wells, and other natural deposits and that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes when sold;

then include as a subtraction on line 2, the **lesser of:**

- the gain itself **or**
- the difference in the adjusted bases.

B Income earned before 1960 and previously reported to New York State — Due to a different set of state income tax laws for any tax year ending before 1960 (and any fiscal tax year ending during 1960), income that is reportable for federal purposes for 2011 that was reported for New York State tax purposes then, is not subject to New York State tax again.

If any income (including annuity income) or gain was included in the 2011 federal taxable income that was properly reported as income to New York State prior to 1960 (or during a fiscal year ending in 1960) by **either:**

- the estate or trust; **or**
- the decedent or estate or trust from whom the fiduciary acquired that income or gain;

then include that income or gain as a subtraction on line 2.

C Wage and salary expenses allowed as federal credits but not as federal expenses — The federal government allows certain wage and salary payments to others to be taken as credits against taxes instead of as expenses against income. New York State does not have comparable credits, but does allow the expenses.

If the estate or trust took a credit for which a deduction for wages and salary expenses is not allowed under Internal Revenue Code (IRC) section 280C, **then** include the wage payments not deductible for federal purposes as a subtraction on line 2.

D Gain to be subtracted from the sale of a new business investment reported on your federal income tax return — If the estate or trust reported a capital gain on its federal income tax return from the sale of a new business investment that was issued before 1988 and was held at least six years, include 100% of that federal gain as a subtraction on line 2.

E Percentage depletion — If the estate or trust claimed a deduction on its federal return for percentage depletion on mines, oil and gas wells, and other natural deposits, **then** include as an addition on line 2 the amount deducted in figuring the federal taxable income of the estate or trust.

Cost depletion — New York State does not allow percentage depletion of natural resource holdings but does allow cost depletion.

If the estate or trust is making a New York addition for any percentage depletion deducted for property in determining its federal taxable income, **then:**

- compute the cost depletion that would be allowed on that property by IRC section 611 without any reference to either section 613 or 613-a of that code; **and**
- include that amount as a subtraction on line 2.

F Special additional mortgage recording tax deduction — If the estate or trust deducted special additional mortgage recording tax in computing its federal taxable income, and the special additional tax was paid before January 1, 1988, and in a prior year the estate or trust was allowed a New York State personal income tax credit for that tax, **then** include the amount deducted as an addition on line 2. Do not make the addition for the tax paid to record a mortgage on or after January 1, 2004, even if the estate or trust claimed a credit for that tax.

G Special additional mortgage recording tax basis adjustment — If property on which the estate or trust paid a special additional mortgage recording tax was sold or disposed of, and a special additional tax was paid before January 1, 1988, and in a prior year the estate or trust claimed a New York State personal income tax credit for that tax, **then** include as an addition on line 2 the amount, if any, of the federal basis of the property that was not adjusted to reflect the amount of credit allowed.

H Sales or dispositions of assets acquired from decedents — In certain cases involving assets of decedents, the assets can acquire different basis for state and federal tax purposes. In those cases, adjustments in the gains or losses on the sales or disposition of those assets must eventually be made.

If, during the tax year, there was a sale or other disposition of any stocks, bonds, property, or other assets that had been either inherited or sold or disposed of directly by the estate of a decedent, **and** if the estate of the decedent who left behind those assets was not large enough to require the filing of a federal estate tax return, **and if** the executor or administrator of that estate had valued those assets for New York State purposes at less than their value for federal purposes, **then** include as an addition on line 2 the **difference between** (a) the gain or loss on that sale or disposition that you figured into the federal taxable income of the estate or trust for the tax year, and (b) the gain or loss that would have resulted if the executor or administrator had valued the assets for federal purposes at the same value that he or she valued them for New York State purposes.

This adjustment is not required for property acquired for decedents whose date of death was on or after February 1, 2000.

Loss from the sale or disposition of property that would have been realized if a federal estate tax return had been required
If the estate or trust acquired property from a decedent and the property was valued by the executor of the estate in such manner where the estate was insufficient to require the filing of a federal estate tax return, **and** a loss on the sale would have been realized if a federal estate tax return had been required, **then** include as a subtraction on line 2 the amount of the loss that would have been realized.

This adjustment is not required for property acquired from decedents whose date of death was on or after February 1, 2000.

I Special depreciation — If the estate or trust made an election for tax years beginning before 1987 for special depreciation for:

- research and development expenditures,
- waste treatment facility expenditures,
- air pollution control equipment expenditures, **or**
- acid deposition control equipment,

then include as an addition on line 2 any amount that was added to federal taxable income.

Special depreciation expenditures — The excess expenditures incurred in tax years beginning before 1987 in connection with depreciable, tangible business property located in New York State may be carried over to the following tax year or years and subtracted from federal taxable income for that year(s) if those expenses exceeded the New York taxable income of the estate or trust before the allowance of those expenditures.

If the estate or trust incurred such expenditures, **then** complete Form IT-211, *Special Depreciation Schedule,* to figure the amount to include as a subtraction on line 2.

J New business investment; deferral recognition — If in any tax year beginning on or after January 1, 1982, and before 1988, the estate or trust chose to subtract all or a portion of a long term capital gain from federal taxable income because that amount had been reinvested in a new New York business, **and if** that reinvestment was sold in 2011, **then** include as an addition on line 2 the amount that had previously been subtracted.

K Deductions attributable to safe harbor leases (such a lease is a financial arrangement between either a corporation, partnership, or certain grantor trusts and a person, firm, estate, or trust to acquire and use an asset; the arrangement is allowed for federal tax purposes, but is not allowed for state tax purposes unless it involves mass transit vehicles) **— If,** in figuring the federal taxable income of the estate or trust, they took deductions attributable to a safe harbor lease (except for mass transit vehicles) made under an election provided for by IRC section 168(f)(8) as it was in effect for agreements entered into prior to January 1, 1984, **then** include those deductions as an addition on line 2 **and** see L below.

Amount that was included in federal income because the IRC 168(f)(8) election was made — If an amount was included in federal taxable income (except for mass transit vehicles) solely because the safe harbor election was made on the federal return of the estate or trust for agreements entered into before January 1, 1984, **then** include that amount as a subtraction on line 2.

L Safe harbor leases; election for qualified leased property (see K above for a definition of safe harbor leases) **— If** the estate's or trust's financial matters in 2011 involved a safe harbor lease (except for mass transit vehicles) made under an election provided for by IRC section 168(f)(8) as it was in effect for agreements entered into prior to January 1, 1984, **then** the estate or trust must include as an addition on line 2 the income that they would have included in their federal taxable income if such an election had not been made.

Amount that could have been excluded from federal taxable income had the IRC 168(f)(8) election not been made — If an amount could have been excluded from federal taxable income (except for mass transit vehicles) had the safe harbor election not been made on the federal return of the estate or trust for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount as a subtraction on line 2.

M Accelerated cost recovery system (ACRS) deduction
New York State does not allow ACRS depreciation for property placed in service inside or outside New York State during tax years 1981, 1982, 1983, and 1984. The estate or trust must figure its New York depreciation by using one of the methods provided for in IRC section 167 as it was in effect on December 31, 1980 (such as straight line, declining balance, etc.).

For property (except for property classified as IRC section 280F property) placed in service outside New York State for tax years beginning after 1984 but before 1994, New York did not allow ACRS or MACRS depreciation under IRC section 168. Instead, New York allowed the depreciation deduction that would have been allowed under IRC section 167 as it was in effect on December 31, 1980.

However, **if** the estate or trust claimed ACRS depreciation on its federal return for property not classified as IRC section 280F property and that property was placed in service **outside** New York State in tax 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), **then** the estate or trust may:

— continue using the pre-1981 IRC section 167 depreciation on that property, making the applicable depreciation addition and subtraction, **or**

— choose to switch to the IRC section 168 depreciation deduction.

An estate or trust choosing to switch to the IRC section 168 depreciation deduction is no longer responsible to make the New York depreciation addition and subtraction adjustments, since the estate or trust will now be allowed to claim the same depreciation as was claimed on the federal tax return for property placed in service outside New York State in tax years 1985 through 1993. If the estate or trust switches to IRC section 168 depreciation, the estate or trust must use IRC section 168 depreciation from this tax year forward, and must use it for all subject property owned by the estate or trust. For more information concerning this property, see TSB-M-99(1)I. This TSB-M is available on the Tax Department Web site.

If the estate or trust claimed ACRS depreciation on its federal return for:

— property placed in service during tax years 1981-1984 (other than IRC section 280F property), **or**

— property placed in service outside New York State during tax years 1985-1993 (other than IRC section 280F property), and it elects to continue using IRC section 167 depreciation,

then include on line 2 as an addition the amount that was deducted in figuring the federal taxable income.

N Accelerated cost recovery property; year of disposition adjustment — If the estate or trust disposed of property during 2011 that it depreciated for federal purposes using ACRS, **then** the estate or trust **must** complete Part 2 of Form IT-399, *New York*

State Depreciation Schedule, to figure the amount to include as an addition, or subtraction on line 2, depending on the total federal ACRS deduction claimed being less than or more than the total NY depreciation claimed.

O Gain on property transferred to trust at less than fair market value — If a trust sells or exchanges property at a gain not more than two years after the date of the initial transfer of the property in trust by the transferor, and the fair market value of the property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after the transfer, **then** include as an addition on line 2 the amount of any includable gain, reduced by any allowable deductions to that gain, where tax was imposed by IRC section 644, relating to sales or exchanges occurring on or before August 5, 1997.

P Refund of the QEZE credit for real property taxes included in federal taxable income — If the estate or trust included in its federal taxable income the amount of any refund of the QEZE credit for real property taxes, **then** include that amount as a subtraction on line 2.

S Corporation shareholders — If the estate or trust is a shareholder in an S corporation, use the S corporation information in the Schedule B instructions (page 14) to determine the modification to be included on line 2 where S corporation income, loss, or deduction has been allocated to principal.

Line 4 Fiduciary's share of New York fiduciary adjustment
Enter on this line the total of the fiduciary's share of New York fiduciary adjustment from Form IT-205, Schedule C, column 5.

New York State tax rate schedule (for line 6)

If the amount on line 5 is:

over	but not over	Enter on line 6:			
$ 0	$ 8,000		4%	of amount on line 5	
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

Line 6 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, line 2 ..... 2. _____
3. Enter the net amount of the fiduciary share of additions and subtractions from Form IT-205, Schedule B, lines 63 through 69, that relate to the income reported on Form IT-205, lines 43 through 50..... 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, page 1, line 5, using the *New York State tax rate schedule* above. Enter the tax amount on Form IT-205, line 6.
- 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, line 5, 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, line 5, is **more than $200,000,** you must compute your tax using *Tax computation worksheet 3* on page 11.
- If *NYAGI worksheet*, line 5, is **more than $500,000, but not more than $550,000,** and Form IT-205, line 5, is **$200,000 or less**, you must compute your tax using *Tax computation worksheet 4* on page 11.
- If *NYAGI worksheet*, line 5, is **more than $500,000, but not more than $550,000,** and Form IT-205, line 5, is **more than $200,000,** you must compute your tax using *Tax computation worksheet 5* on page 11.
- If *NYAGI worksheet*, line 5, is **more than $550,000,** you must compute your tax using *Tax computation worksheet 6* on page 11.

Tax computation worksheet 1

1. Enter the amount from *NYAGI worksheet*, line 5 ..... 1. _____
2. Enter your taxable income from Form IT-205, line 5 ..... 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* above..... 4. _____
5. Subtract line 4 from line 3..... 5. _____
6. Enter the excess of line 1 over $100,000 *(cannot exceed $50,000)* ..... 6. _____
7. Divide line 6 by $50,000 and 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, line 6)* ..... 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, line 5 ..... 1. _____
2. Multiply line 1 by 6.85% (.0685) *(enter here and on Form IT-205, line 6)* ..... 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, line 5 ..... 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 10 ..... 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, line 6)* ..... 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, line 5 ..... 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* on page 10 ..... 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, line 6)* ..... 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, line 5 ..... 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* on page 10 ..... 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, line 6)* ..... 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, line 5 ..... 1. _____
2. Multiply line 1 by 8.97% (.0897) *(enter here and on Form IT-205, line 6)* ..... 2. _____

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

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

If the estate or trust used Form IT-230, Part 2, to figure the tax on the capital gain portion of the estate's or trust's lump-sum distribution, mark an ***X*** in the box at line 9. Attach Form IT-230 to the fiduciary return.

Line 10 State credits

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than $2 million, the excess over $2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form IT-500, *Income Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form IT-500 to determine the amounts to enter on your tax return.

Enter on this line the total of all nonrefundable state credits. Attach all applicable credit forms.

New York State nonrefundable, non-carryover credits:

— resident credit (Forms IT-112-R and IT-112-C)
— accumulation distribution credit (attach computation)
— defibrillator credit (Form IT-250)
— QEZE tax reduction credit (Form IT-604)

New York State nonrefundable, carryover credits:

— investment credit (Form IT-212)
— FSI investment tax credit (Form IT-252)
— EZ investment tax credit and EZ employment incentive credit (Form IT-603)
— FSI EZ investment tax credit and FSI EZ employment incentive credit (Form IT-605)
— EZ wage tax credit (Form IT-601)
— ZEA wage tax credit carryover (Form IT-601.1)
— EZ capital tax credit (Form IT-602)
— QETC capital tax credit (Form DTF-622)
— employment of persons with disabilities credit (Form IT-251)
— alternative fuels credit (Form IT-253)
— residential fuel oil storage tank credit carryover (attach computation)
— green building credit (Form DTF-630)
— low-income housing credit (Form DTF-624)
— long-term care insurance credit (Form IT-249)
— special additional mortgage recording tax credit (Form IT-256)
— credit for taxicabs and livery service vehicles accessible to persons with disabilities (Form IT-239)
— rehabilitation of historic properties credit (Form IT-238)
— Empire State commercial production credit (Form IT-246)
— fuel cell electric generating equipment credit (Form IT-259)
— Empire State film post-production credit (Form IT-261)

Line 11 Resident estate or trust: Subtract line 10 from line 8. Enter the result on line 11. **Nonresident estate or trust or part-year resident trust:** Subtract line 10 from line 9. Enter the result on line 11. If the result is less than zero, enter ***0***; do not enter a negative number.

Line 12 State separate tax on lump-sum distributions and other addbacks — Enter the amount of any separate tax on lump-sum distributions due from Form IT-230 (attach form). If the credit under section 620-A is claimed, enter the amount of separate tax on lump-sum distributions due after allowance of the credit and attach Form IT-112.1, *New York State Resident Credit Against Separate Tax on Lump-Sum Distributions*. Enter any New York State tax on the S portion of an electing small business trust (ESBT). Also enter on this line any amount of addback of the following credits. Attach all applicable credit forms.

— investment credit on early dispositions (Form IT-212)
— empire zone (EZ) investment credit on early dispositions (Form IT-603)
— resident credit for taxes paid to a province of Canada (Form IT-112-C)
— alternative fuels credit on early dispositions (for trusts only) (Form IT-253)
— farmers' school tax credit on early dispositions (Form IT-217)
— investment credit - financial services industry - on early dispositions (Form IT-252)
— EZ investment - financial services industry - on early dispositions (Form IT-605)
— EZ capital tax credit recapture (Form IT-602)
— qualified emerging technology company (QETC) capital tax credit on early dispositions (Form DTF-622)
— qualified empire zone enterprise (QEZE) credit for real property taxes (Form IT-606)
— low-income housing credit (Form DTF-626)
— brownfield redevelopment tax credit (Form IT-611/Form IT-611.1)
— remediated brownfield real property tax credit (Form IT-612)
— environmental remediation insurance credit (Form IT-613)
— rehabilitation of historic properties credit (Form IT-238)
— excelsior jobs program credit (Form IT-607)
— economic transformation and facility redevelopment program tax credit (Form IT-633)

Addbacks worksheet

Note: Complete this worksheet **only if** you have any of the addbacks listed above in order to determine the amount to enter on line 12.

1. Total addback credits ..... 1. _____
2. Amount entered on line 10 ..... 2. _____
3. Amount entered on line 8 or 9 ..... 3. _____
4. Subtract line 3 from line 2 *(if zero or less, enter **0**)* ..... 4. _____
5. Subtract line 4 from line 1 *(if zero or less, enter **0**)* ..... 5. _____
6. Enter separate tax on lump-sum distributions *(see line 12 instructions)* ..... 6. _____
7. Add lines 5 and 6 and enter the total on Form IT-205, line 12 ..... 7. _____

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

Line 14 — Add lines 11, 12, and 13; if the result is less than zero, enter ***0;*** do not enter a negative number.

Lines 15a through 24 New York City taxes and credits — These lines refer only to New York City taxes and credits. General and specific instructions for these lines are on pages 21 through 23.

Lines 25, 26, and 27 Yonkers taxes — These lines refer only to Yonkers tax. General and specific instructions for these lines are on pages 21 through 23.

Line 28 Sales or use tax — Enter sales or use tax due. See *Sales or use tax* on page 23.

Line 29 — Add lines 14 and 23 through 28; if the result is less than zero, enter ***0;*** do not enter a negative number.

Line 30 — Enter estimated tax payments. Also enter the amount you paid with Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries.* Also include any amounts of estimated income tax paid with Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, and Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form.* You can check your balance and reconcile your estimated income tax account by going to our Web site, or by writing to us at:

NYS TAX DEPARTMENT
ESTIMATED TAX UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227

Line 31 — If the fiduciary makes the election under Tax Law section 685(c)(6)(D) or (F) to have any portion of an estimated tax payment treated as a payment of estimated tax made by a beneficiary or beneficiaries, enter the amount on line 31.

The estimated tax payment allocated to beneficiaries is treated as having been distributed on the last day of the preceding tax year. If the election is made, Form IT-205-T must be filed on or before the 65th day after the close of the fiduciary's tax year.

Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries,* shows the amounts to be allocated to each beneficiary. Failure to file Form IT-205-T on or before March 5, 2012, will result in an invalid election. For more information, see the instructions for Form IT-205-T. Attach Form IT-205-T to your return only if you are making the section 685(c)(6)(D) or (F) election, as applicable, with Form IT-205. If you have already filed Form IT-205-T, **do not** attach a copy to your return.

Line 33 Refundable credits

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than $2 million, the excess over $2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form IT-500, *Income Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form IT-500 to determine the amounts to enter on your tax return.

If the estate or trust is claiming a refund of one or more of the refundable credits listed below, identify each credit being claimed and its amount in the box labeled *Identify* on line 33, and include the amount(s) of the refundable credit(s) in the total for line 33. If you need more room, make a list showing each credit and its amount and attach the list to your fiduciary return. Attach all applicable credit forms.

— investment credit refund (ICR) (Form IT-212)
— farmers' school tax credit (Form IT-217)
— investment credit - financial services industry refund (Form IT-252)
— empire zone wage tax credit (Form IT-601)
— empire zone investment and employment incentive tax credit (Form IT-603)
— empire zone investment tax credit - financial services industry (Form IT-605)
— qualified emerging technology company employment credit (Form DTF-621)
— qualified empire zone enterprise (QEZE) credit for real property taxes (Form IT-606)
— total New York State, New York City, and Yonkers claim of right credits (Form IT-257)
— Empire State film production credit (Form IT-248)
— brownfield redevelopment tax credit (Form IT-611/ Form IT-611.1)
— remediated brownfield real property tax credit (Form IT-612)
— environmental remediation insurance credit (Form IT-613)
— QETC facilities, operations, and training credit (Form DTF-619)
— special additional mortgage recording tax credit (Form IT-256)
— security officer training tax credit (Form IT-631)
— conservation easement credit (Form IT-242)
— biofuel production credit (Form IT-243)
— clean heating fuel credit (Form IT-241)
— Empire State commercial production credit (Form IT-246)
— Empire State film post-production credit (Form IT-261)
— excelsior jobs program credit (Form IT-607)
— economic transformation and facility redevelopment program tax credit (Form IT-633)

Lines 34, 35, and 36 Total New York State, New York City and Yonkers tax withheld — If you received any federal Forms W-2, *Wage and Tax Statement*, you must complete Form(s) IT-2, *Summary of W-2 Statements.* If New York State, New York City, or Yonkers tax was withheld from annuities, pensions, retirement pay or IRA payments, you must complete Form(s) IT-1099-R, *Summary of Federal Form 1099-R Statements.* If New York State tax was withheld from New York State unemployment compensation, you must complete Form IT-1099-UI, *Summary of Unemployment Compensation Payments.*

Enter on the appropriate line, the total New York State, New York City, and Yonkers tax withheld from:

- Form(s) IT-2,
- Form(s) IT-1099-R,
- Form(s) IT-1099-UI, and
- New York State lottery distributions (attach federal Form W-2G).

Attach these forms to your return. Do not attach federal Form(s) W-2, 1099-R, or Form 1099-G to your return.

However, you should keep copies of all your federal and New York State forms with your records.

Lines 38 through 41 — The New York State, New York City, and Yonkers income tax liabilities are combined into a single amount of tax due or overpayment on Form IT-205. One check will be issued for the amount of a refund due, or the overpayment (or part of it) may be credited to the estate's or trust's 2012 estimated income taxes.

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

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

Line 42 Estimated tax penalty — If line 41 is at least $300 **and** represents more than 10% of the tax shown on the fiduciary return, or the fiduciary underpaid its estimated tax liability for any payment period, the fiduciary may owe a penalty. However, the fiduciary may not be subject to a penalty if its 2011 prepayments equal at least 100% of the income tax shown on the 2010 Form IT-205 (110% of that amount if the estate's or trust's New York adjusted gross income on that return is more than $150,000 and less than two-thirds of the total federal gross income for 2010 or 2011 is from farming or fishing). A full 12-month year Form IT-205 must have been filed for 2010. **Note:** To meet the 100% (110%) condition, the tax shown on the 2010 return must be computed using 2011 tax rates. Obtain Form IT-2105.9, *Underpayment of Estimated Income Tax by Individuals and Fiduciaries,* to see if the estate or trust owes a penalty and to figure the amount. The estimated tax penalty will apply to most trusts. It will also apply to estates (and certain grantor trusts that receive the residue of the decedent's estate under the decedent's will) with respect to any tax year ending two or more years after the date of death of the decedent. If the estate or trust owes a penalty, enter the amount on line 42 and attach Form IT-2105.9 to Form IT-205. This penalty will either reduce the overpayment or increase the amount you owe. For more information, see the instructions for Form IT-2105.9.

Do not include any other penalty or interest amounts on line 42.

Note: You may compute the interest and penalty by accessing our Web site, or you may call and we will compute the penalty and interest for you (see *Need help?* on page 24).

Schedule A

Federal taxable income of fiduciary

Lines 43 through 62 of Schedule A are similar to the lines of the schedule on page 1 of federal Form 1041. Enter on each applicable line of Schedule A the amount reported on that federal schedule. If

a capital gain or loss is reported on line 46, attach a copy of federal Schedule D and any related schedules. Instead of completing Schedule A, you may attach a copy of federal Form 1041.

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

Schedule B

New York fiduciary adjustment

This schedule is used for computing the New York fiduciary adjustment, which is then allocated among the estate or trust and its beneficiaries in Schedule C. The additions and subtractions enumerated in Schedule B of Form IT-205 and in the instructions for lines 64, 65, and 68 that relate to items of income, gain, loss, or deduction of the estate or trust, constitute the fiduciary adjustment under section 619 of the Tax Law.

Payments for charitable purposes

The additions and subtractions for lines 63 and 67 of Schedule B and those described for line 65, item A-1 and for line 68, items S-2, S-4, S-5, S-12 (property that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes on December 31, 1959, or on the last day of a fiscal year ending during 1960), and S-13 need not be made with respect to any amount paid or set aside for charitable purposes.

S corporation shareholders

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

If the estate or trust is a shareholder of an S 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 only those additions required by sections 612(b)(19) and 612(b)(20) and the subtraction required by section 612(c)(22) of the Tax Law.

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

If the estate or trust had a gain or loss recognized on its federal income tax return because of the disposition of stock or indebtedness of an S corporation, **and if** that S corporation did **not** have an election to treat the corporation as a New York S corporation in effect for any tax year beginning:

— after December 31, 1980, if taxable as a corporation under Article 9-A (General Business Corporation Franchise Tax) of the Tax Law; **or**

— after December 31, 1996, if taxable as a corporation under Article 32 (Banking Corporation Franchise Tax) of the Tax Law;

then include on line 65 the increase in basis of stock or indebtedness that is due to the application of IRC sections 1376(a) (as in effect for tax years beginning before January 1, 1983) and 1367(a)(1)(A) and (B) for each tax year that the New York election was **not** in effect **and** include on line 68 the reduction in basis of stock or indebtedness that is due to the application of IRC sections 1376(b) (as in effect for tax years beginning before January 1, 1983) and 1367(a)(2)(B) and (C) for each tax year that the New York election was **not** in effect.

Member of partnership

If the estate or trust has income as a member of a partnership, any of the additions or subtractions that apply to the income should be included in Schedule B of Form IT-205. The estate's or trust's share of the partnership items should be provided by the partnership.

Beneficiary of another estate or trust

If the estate or trust is a beneficiary of another estate or trust, the share of the fiduciary adjustment of the other estate or trust to be included in Schedule B of Form IT-205 may generally be obtained from its fiduciary. Attach a schedule showing how the fiduciary adjustment was figured.

The estate or trust must make the additions and subtractions for the tax year of the S corporation, partnership, or estate or trust that ends within the estate's or trust's tax year. See *New York fiduciary adjustment* above.

Line 63 Interest income on state and local bonds other than New York — Enter any interest income on obligations of other states or political subdivisions of those states that the fiduciary received or that was credited to the fiduciary during 2011 that was not included in the fiduciary's federal adjusted gross income. This includes interest income on state and local bonds (but not those of New York State and local governments within the state), interest and dividend income on tax-exempt bond mutual funds, and tax-exempt money market funds that invest in obligations of states other than New York (section 612(b)(1) of the Tax Law).

Line 64 Income taxes deducted on federal fiduciary return All state, local, and foreign income taxes including unincorporated business taxes deducted on the federal fiduciary return are to be added back on line 64 with the exception of state income taxes imposed upon or paid by the S corporation to another state, political subdivision of another state, or the District of Columbia.

Line 65 Other additions — Some additions that are not as common as those identified individually on Form IT-205 are reported on line 65 as *Other* additions. The requirements for these additions to federal taxable income are provided for in New York Tax Law sections 612(b) and 612(r).

Identify any of the following additions (on pages 14 through 17) that apply to the estate or trust by writing an item number (A-1 through A-22) and the amount of each addition in the *Identify* box on line 65. Enter the total amount of these other additions on line 65.

A-1 Investment income from certain obligations of U.S. government agencies or affiliations — Federal laws specifically exempt investment income from certain obligations of U.S. government agencies or affiliations from federal taxation but not from state taxation. **If,** during 2011, the estate or trust received or was credited with any interest or dividend income from any United States authority, commission, or instrumentality that federal laws exempt from federal income tax but do not exempt from state income tax, **then** include that income on line 65. If the estate or trust is uncertain whether a particular federal bond or obligation is subject to state income tax, contact the New York State Tax Department (see *Need help?* on page 24 of these instructions).

A-2 Interest expense on loans used to buy obligations exempt from New York State tax, amortized bond premium on bonds that are exempt from New York State tax, and other expenses relating to the production of income exempt from New York State tax

If the estate's or trust's federal taxable income includes a deduction for interest expense used to buy bonds, obligations, or securities whose interest income is taxable for federal purposes but is exempt from New York State tax, **then** include that interest expense on line 65.

If the estate's or trust's federal taxable income included a deduction for the amortization of bond premiums on bonds whose interest income is taxable for federal purposes but exempt from New York State tax, **then** include that amortized premium on line 65.

If the estate's or trust's federal taxable income included a deduction for expenses relating to the production of income that is taxable for

federal purposes but exempt from New York State tax, **then** include that interest expense on line 65.

A-3 Percentage depletion — If the estate or trust claimed a deduction on its federal return for percentage depletion on mines, oil and gas wells, and other natural deposits, **then** include on line 65 the amount deducted in computing its federal taxable income. Also see subtraction S-11.

A-4 Special depreciation — If the estate or trust made an election for tax years beginning before 1987 for:

- special depreciation,
- research and development expenditures,
- waste treatment facility expenditures,
- air pollution control equipment expenditures, **or**
- acid deposition control equipment,

then include on line 65 the amount of depreciation or expenditures relating to these items that was deducted in computing its federal taxable income. Also see subtraction S-16.

A-5 Sales or dispositions of assets acquired from decedents In certain cases involving assets of decedents, the assets can acquire different bases for state and federal tax purposes. In those cases, adjustments in the gains or losses on the sales or disposition of those assets must eventually be made.

If, during the tax year, there was a sale or other disposition of any stocks, bonds, property, or other assets that had been either inherited or sold or disposed of directly by the estate of a decedent, **and if** the estate of the decedent who left behind those assets was not large enough to require the filing of a federal estate tax return, **and if** the executor or administrator of that estate had valued those assets for New York State purposes at less than their value for federal purposes, **then** include on line 65 the **difference between** (a) the gain or loss on that sale or disposition that was included in the estate or trust federal taxable income for the tax year and (b) the gain or loss that would have resulted if the executor or administrator had valued the assets for federal purposes at the same value that he or she valued them for New York State purposes.

This adjustment is not required for property acquired from decedents whose date of death was on or after February 1, 2000.

A-6 New business investment; deferral recognition — If in any tax year beginning on or after January 1, 1982, and before 1988, the estate or trust chose to subtract all or a portion of a long-term capital gain from its federal income because that amount had been reinvested in a new New York business, **and if** that reinvestment was sold in 2011, **then** include on line 65 the amount that had previously been subtracted.

A-7 Deductions attributable to safe harbor leases (such a lease is a financial arrangement between either a corporation, partnership, or certain grantor trusts and a person, firm, estate, or trust to acquire and use an asset; the arrangement is allowed for federal tax purposes, but is not allowed for state tax purposes unless it involves mass transit vehicles).

If, in computing its federal taxable income, the estate or trust took deductions attributable to a safe harbor lease (except for mass transit vehicles) made under an election provided for by IRC section 168(f)(8) as it was in effect for agreements entered into prior to January 1, 1984, **then** include those deductions on line 65, **and** see A-8, S-17, and S-18.

A-8 Safe harbor leases; election for qualified leased property (see A-7 for a definition of safe harbor leases) **— If** the estate's or trust's financial matters in 2011 involved a safe harbor lease (except for mass transit vehicles) made under an election provided for by IRC section 168(f)(8) as it was in effect for agreements entered into prior to January 1, 1984, **then** the estate or trust must include on line 65 the income that it would have included in federal taxable income if such an election had not been made. **Also see A-7, S-17, and S-18.**

A-9 Accelerated cost recovery system (ACRS) deduction New York State does not allow ACRS depreciation for property placed in service inside or outside New York State during tax years 1981, 1982, 1983, and 1984. The estate or trust must figure its New York depreciation by using one of the methods provided for in IRC section 167 as it was in effect on December 31, 1980 (for example, straight line, declining balance, etc.).

For property (except for property classified as IRC section 280F property) placed in service outside New York State for tax years beginning in 1984 but before 1994, New York did not allow ACRS or MACRS depreciation under IRC section 168. Instead, New York allowed the depreciation deduction that would have been allowed under IRC section 167 as it was in effect on December 31, 1980.

However, if the estate or trust claimed ACRS depreciation on its federal return for property not classified as IRC section 280F property and that property was placed in service **outside** New York State in tax 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), the estate or trust may:

- continue using the pre-1984 IRC section 167 depreciation on that property, making the applicable depreciation addition or subtraction; **or**
- choose to switch to the IRC section 168 depreciation deduction.

An estate or trust choosing to switch to the IRC section 168 depreciation deduction is no longer responsible to make the New York depreciation addition and subtraction adjustments, since the estate or trust will now be allowed to claim the same depreciation as was claimed on the federal tax return for property placed in service outside New York State in tax years 1985 through 1993. If the estate or trust switches to IRC section 168 depreciation, the estate or trust must use IRC section 168 depreciation from this tax year forward, and must use it for all subject property owned by the taxpayer. For more information concerning this property, see TSB-M-99(1)I. This TSB-M is available on the Tax Department Web site.

If the estate or trust claimed ACRS depreciation on its federal return for:

- property placed in service during tax years 1981-1984 (other than IRC section 280F property); **or**
- property placed in service outside New York State during tax years 1985-1993 (other than IRC section 280F property), and it elects to continue using IRC section 167 depreciation;

then include on line 65 as an addition the amount that was deducted in computing the federal taxable income. The estate or trust must complete and attach Form IT-399, *New York State Depreciation Schedule.*

A-10 Accelerated cost recovery property (year of disposition adjustment) — If the estate or trust disposed of property that was depreciated for federal purposes using ACRS, and if ACRS depreciation was not allowed for state purposes, **then** the estate or trust must complete Part 2 of Form IT-399 to determine the amount to include on line 65.

A-11 414(h) Retirement contributions — If the estate or trust has an amount shown on a decedent's wage and tax statement(s), federal Form W-2, that was deducted from their salary as a retirement contribution, **then** include this amount on line 65.

Note: These are retirement contributions made by:

- a member of the New York State and Local Retirement Systems, which include the New York State Employees' Retirement System and the New York State Police and Fire Retirement System; **or**
- a member of the New York State Teachers' Retirement System; **or**
- a deceased employee of the State or City University of New York who belongs to the Optional Retirement Program; **or**
- a member of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York

City Board of Education Retirement System, the New York City Police Pension Fund or the New York City Fire Department Pension Fund; **or**

- a member of the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Plan.

Do not enter on line 65 contributions to an IRC section 401(k) deferred arrangement, IRC section 403(b) annuity, or IRC section 457 deferred compensation plan.

A-12 New York City flexible benefits program (IRC 125) — If the estate or trust has an amount shown on a decedent's wage and tax statement(s), federal Form W-2, that was deducted or deferred from their salary under a flexible benefits program established by New York City or certain other New York City public employers on a decedent's behalf, **then include this amount on line 65.**

Note: For purposes of this addition, certain other New York City public employers include the following:

- City University of New York
- New York City Health and Hospitals Corporation
- New York City Transit Authority
- New York City Housing Authority
- New York City Off-Track Betting Corporation
- New York City Board of Education
- New York City School Construction Authority
- New York City Rehabilitation Mortgage Insurance Corporation
- Manhattan and Bronx Surface Transit Operating Authority (MABSTOA)
- Staten Island Rapid Transit Authority

A-13 Health insurance and the welfare benefit fund surcharge — If the decedent was a career pension plan member of the New York City Employees' Retirement System or the New York City Board of Education Retirement System, **and if** the decedent has an amount shown on his or her wage and tax statement(s), federal Form W-2 that was deducted from the decedent's salary for health insurance and the welfare benefit fund surcharge, **then** include this amount on line 65.

A-14 Farmers' school tax credit — If the estate or trust claimed the farmers' school tax credit on its 2010 New York State tax return, and **if** the estate or trust deducted the school tax in computing federal adjusted gross income, **then** the estate or trust must include the amount of the credit claimed for 2010 on line 65 of this year's return.

However, do not make this modification if the estate or trust was required to report the amount of the credit as income on its 2011 federal return.

A-15 New York's 529 college savings program distributions — If the fiduciary of an estate made a nonqualified withdrawal from an account established under **New York's** 529 college savings program account, **then** include on line 65 the amount from line g of the worksheet below.

A withdrawal is nonqualified if: 1) the withdrawal is actually disbursed in cash or in-kind from the college savings program and the funds are not used for the higher education of the designated beneficiary (even if the amount withdrawn is reinvested in **New York's** 529 college savings program within the IRC 60-day rollover period) or 2) on or after January 1, 2003, the funds are transferred from **New York's** 529 college savings program to another state's program (whether for the same beneficiary or for the benefit of another family member).

However, nonqualified withdrawals do not include any withdrawals made in tax year 2011 as a result of the death or disability of the designated beneficiary, regardless of how the funds are used.

Please note: Transfers between accounts of family members not disbursed in cash or in-kind within **New York's** 529 college savings program are not considered distributions and are therefore **not** required to be added back as a nonqualified withdrawal.

Include on lines a through g of the worksheet below the applicable amounts from all existing accounts of which you are the account owner. Do not include amounts applicable to accounts that were closed in a prior tax year.

Note: You must figure your line 68, subtraction S-23 for 2011, before completing this worksheet.

Worksheet

a. Total current and prior years' nonqualified withdrawals from your account(s) ..... a. _____

b. Total current and prior years' contributions to your account(s) ..... b. _____

c. Total current and prior years' S-23 subtraction modifications* ..... c. _____

d. Subtract line c from line b ..... d. _____

e. Total prior years' addition modifications** ..... e. _____

f. Add lines d and e ..... f. _____

g. Subtract line f from line a. This is your current year A-15 addition modification. Enter on Form IT-205, line 65. If line g is 0 (zero) or less, there is no addback ..... g. _____

* These amounts are included on your Form IT-205 for 1998 and 1999, line 68; for 2000, 2001, and 2002, line 67; and for 2003 through 2011, line 68.

** These amounts are included on your Form IT-205 for 1998 and 1999, line 65 (A-16); for 2000, 2001, and 2002, line 64 (A-15); and for 2003 through 2010, line 65 (A-15).

Keep this worksheet with your tax return copy.

A-16 Qualified emerging technology investments (QETI) — If the estate or trust elected to defer the gain from the sale of QETI, **then** it must include on line 65 the amount previously deferred when the reinvestment in the New York qualified emerging technology company which qualified the estate or trust for that deferral is sold. Also see subtraction S-27.

A-17 Sport utility vehicle depreciation expense — If, in computing the estate's or trust's federal taxable income, you claimed an IRC section 179 deduction with respect to a sport utility vehicle that weighs in excess of 6,000 pounds, and the estate or trust is not an eligible farmer as defined for purposes of the farmers' school tax credit, **then** include the amount of that deduction on line 65.

A *sport utility vehicle* means any four-wheeled passenger vehicle manufactured primarily for use on public streets, roads, and highways. However, *sport utility vehicle* does not include (1) any ambulance, hearse, or combination ambulance-hearse used directly in a trade or business; (2) any vehicle used directly in the trade or business of transporting persons or property for compensation or hire; or (3) any truck, van, or motor home. A *truck* is defined as any vehicle that has a primary load-carrying device or container attached, or is equipped with an open cargo area or covered box not readily accessible from the passenger compartment.

A-18 IRC section 168(k) property depreciation — New York State does not follow the federal depreciation for IRC section 168(k) property (except for resurgence zone property, and New York liberty zone property described in IRC section 1400L(b)(2)) placed in service inside or outside New York State on or after June 1, 2003. If the estate or trust claimed a depreciation deduction for property under IRC section 168(k) (except for resurgence zone property, and New York liberty zone property described in IRC section 1400L(b)(2)) on its federal return, then complete Part 1 of Form IT-398, *New York State Depreciation Schedule for IRC Section 168(k) Property*, to determine the amount to include on line 65. You must attach Form IT-398 to your return.

A-19 Royalty and interest payments made to a related member or members — For tax years beginning on or after January 1, 2003, an estate or trust may be required to add back certain royalty payments made during the tax year to a related member or members for the use of intangible property, such as trademarks or patents, and interest payments made to a related member or members, to the extent the payments were deducted in computing federal taxable income. For additional information, see section 612(r) of the Tax Law.

If the estate or trust included a deduction for certain royalty payments or certain interest payments made during the tax year in computing federal taxable income, **then** include that amount on line 65.

A-20 Environmental remediation insurance premiums — If the estate or trust paid premiums for environmental remediation insurance where such premiums are deducted in calculating the estate or trust's federal taxable income, **then** include on line 65 the extent of the amount of the environmental remediation insurance credit allowed.

A-21 Domestic production activities deduction — If the estate or trust claimed a deduction on its federal return for domestic production activities provided for under IRC section 199, **then** include on line 65 the amount deducted in computing its federal taxable income.

A-22 Metropolitan commuter transportation mobility tax (MCTMT) — If the estate or trust claimed a federal deduction for the MCTMT imposed under Article 23 of the Tax Law, **then** include the amount deducted.

Line 67 Interest income on United States government bonds Enter the amount of interest income from U.S. government bonds or other government obligations that the estate or trust included in the amount reported on line 43. This may be all or part of the line 43 amount or it may be zero. Check the estate's or trust's interest income records to determine the correct amount to enter on line 67. Interest income on bonds or other obligations of the U.S. government is not taxed in New York State. Dividends received from a regulated investment company (mutual fund) that invests in obligations of the U.S. government and meets the 50% asset requirement each quarter qualify for the subtraction at line 67. Once this requirement is met, the portion of the dividends received that may be subtracted is based upon the portion of taxable income received by the mutual fund that is derived from federal obligations.

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

If you include an amount on line 67 from more than one line above, attach a schedule showing the breakdown from each line.

Do not list the same interest more than once; see the instructions for subtraction S-2.

Line 68 Other subtractions — Some subtractions that are not as common as those identified individually on Form IT-205 are reported on line 68 as *Other* subtractions. The requirement for these subtractions from federal taxable income is provided for in New York State Tax Law sections 612(c) and 612(r).

Identify any of the following subtractions (on pages 17 through 21) that apply to the estate or trust by writing the item number (S-1 through S-35) and the amount of each subtraction in the *Identify* box on line 68. Enter the total amount of these other subtractions on line 68.

S-1 Pension and annuity income exclusion — New York State Tax Law allows for a pension and annuity income exclusion, but not more than $20,000, for pension and annuity income included in federal taxable income of the estate or trust.

If the estate or trust received pension and annuity income of a decedent, the estate or trust may make this subtraction if the decedent would have been entitled to it, had the decedent continued to live, regardless of the age of the beneficiary. If the decedent would have become 59½ during 2011, enter only the amount received after the decedent would have become 59½, but not more than $20,000 on line 68.

Qualifying pension and annuity income **does not include** distributions received as a **nonemployee spouse** in accordance with a court-issued qualified domestic relations order (QDRO) that meets the criteria of IRC section 414(p)(1)(A), or in accordance with a domestic relations order (DRO) issued by a New York court.

Note: Do not enter any pension received from New York State or its political subdivisions. Qualifying pension and annuity income includes the following:

- periodic payment for services performed as an employee before retirement;
- periodic and lump-sum payments from an IRA or from an HR-10 (Keogh) plan, but **not** payments derived from contributions made after retirement;
- lump-sum payment from an HR-10 (Keogh) plan, but only if the federal Form 4972 is not used. Do **not** include the part of the payment that was derived from contributions made after retirement;
- distributions of benefits from a cafeteria plan (IRC section 125) or a qualified cash or deferred profit sharing or stock bonus plan (IRC section 401(k)) but not distributions derived from contributions made after you retired;
- periodic distributions from government IRC section 457 deferred compensation plans after December 31, 2001; and
- periodic distributions from an annuity contract (IRC section 403(b)) purchased by an employer for an employee and the employer is a corporation, community chest, fund, foundation, or public school.

For more information, see Publication 36, *General Information for Senior Citizens and Retired Persons.*

S-2 Certain investment income from U.S. government agencies **If** the estate or trust included in its federal taxable income any interest or dividend income on bonds or securities of any United States authority, commission, or instrumentality that is exempt from state income taxes under federal laws, **then** include that income on line 68. If the estate or trust is uncertain whether a particular federal bond or security is exempt from state income tax, contact the New York State Tax Department. See *Need help?* on page 24 of these instructions.

S-3 Pensions of New York State and local governments and federal government — If a decedent received any pension or distributions from a pension plan that represents a return of contributions in a year prior to retirement, as an officer, employee, or beneficiary of an officer or employee of:

- New York State, which includes:
  - State and City University of New York and New York State Education Department employees who belong to the Optional Retirement Program. Optional Retirement Program members may only subtract that portion attributable to employment with the State or City University of New York or the New York State Education Department.
- Certain public authorities, including:
  - Metropolitan Transit Authority (MTA) Police 20-year Retirement Program;
  - Manhattan and Bronx Surface Transit Operating Authority (MABSTOA); **and**
  - Long Island Railroad Company;
- local governments within the state; **or**
- the United States, its territories or possessions, political subdivisions of these territories or possessions, the District of Columbia, or any agency or instrumentality of any of the above (including the military)

that was included in federal taxable income; **then** include this amount on line 68.

For more information, see Publication 36, *General Information for Senior Citizens and Retired Persons*.

Also include distributions received from a New York State or local pension plan or from a federal government pension plan as a **nonemployee spouse** in accordance with a court-issued qualified domestic relations order (QDRO) that meets the criteria of IRC section 414(p)(1)(A), or in accordance with a domestic relations order (DRO) issued by a New York court. For additional information, see Publication 36.

You may not subtract (1) pension payments or returns of contributions that were attributable to the decedent's employment by an employer other than a New York public employer, such as a private university, and any portion attributable to contributions the decedent made to a supplemental annuity plan which was funded through a salary reduction program, or (2) periodic distributions from government (IRC section 457) deferred compensation plans. However, these payments may qualify for the pension and annuity income exclusion; see ***S-1 Pension and annuity income exclusion***.

S-4 Certain investment income exempted by other New York State laws — If the estate or trust included in its federal taxable income any interest or dividend income from any obligations or securities authorized to be issued by the laws of New York State, **and if** that income is exempt from state taxation by those laws (such as income received from bonds, mortgages, and income debenture certificates of limited dividend housing corporations organized under the Private Housing Finance Law), **then** include that income on line 68. If you are uncertain whether a particular obligation or security is exempt from state income tax, contact the New York State Tax Department. See *Need help?* on page 24 of these instructions.

S-5 Taxable refunds, credits, or offsets of state and local income taxes — If during 2011 the estate or trust received any refunds, credits, or offsets of state and local income taxes that were included in computing its federal taxable income, **then** include that income on line 68.

S-6 Interest expense on loans used to buy federally tax exempt obligations that are taxable to New York State — If investment income from an obligation is taxable, **then** interest expense incurred to buy that obligation is deductible when determining New York taxable income.

If the estate or trust included, on either line 63 or line 65, interest income from bonds or other obligations that are federally tax exempt but taxable to New York State, **and if** the estate or trust reduced their federal taxable income by deducting interest expense on money borrowed to purchase or carry those obligations, **then** include that interest expense on line 68.

S-7 Expenses (other than interest expense) connected with federally tax exempt income that is taxable to New York State
If income from an obligation is taxable, **then** expenses incurred to acquire or maintain that income are deductible when determining New York taxable income.

If the estate or trust is including, on either line 63 or line 65, income that is federally tax exempt but taxable to New York State, **and if** in figuring its federal taxable income, the estate or trust deducted expenses, other than those in item S-6 above or S-8 below, used to either produce or collect that income or manage, conserve, or protect the assets that produce that income, **then** include that expense on line 68.

S-8 Amortizable bond premiums on bonds the interest on which is federally tax exempt income but taxable to New York State
If investment income from an obligation is taxable, **then** expenses incurred to buy that obligation are deductible when determining New York taxable income.

If the estate or trust is including, on either line 63 or line 65, interest income that is federally tax exempt but taxable to New York State, **and if** those bonds were bought for more than their face value (that is, at a premium), **and if** the estate or trust did not reduce its federal taxable income by deducting the amortization of that premium attributable to 2011, **then** include that amortization on line 68.

S-9 Certain railroad retirement income and railroad unemployment insurance benefits — If the estate or trust included in its 2011 federal taxable income **either:**

- supplemental annuity or Tier 2 benefits received under the Railroad Retirement Act of 1974; **or**
- benefits received under the Railroad Unemployment Insurance Act;

and if those benefits are exempt from state income taxes under Title 45 of the United States Code, **then** include that income on line 68.

S-10 Professional service corporation shareholders — Between 1969 and 1988, New York State did not allow certain expenses of professional service corporations that were deductible on federal returns. When income attributable to those expenses is eventually received, it is not taxable to New York State.

If the estate or trust received or was credited with pension or annuity income or other income or gain from a plan acquired through a professional service corporation (PSC) **that was both:**

- based on membership in that PSC, **and**
- included in its federal taxable income for 2011,

and if, in a tax year ending after 1969 and beginning before 1988, the estate or trust included deductions made by that PSC for contributions to plans that produced that pension, annuity or other income, **then** include on line 68 the portion of those previously added deductions that can be allocated to the income the estate or trust included in its 2011 federal taxable income.

Note: The following subtractions (S-11 through S-15) may be made only to the extent that they relate to items included in the federal distributable net income of the estate or trust.

S-11 Cost depletion — New York State does not allow percentage depletion of natural resource holdings (see A-3) but does allow cost depletion.

If the estate or trust is making addition number A-3 for any percentage depletion deducted for property in determining its federal taxable income, **then:**

- compute the cost depletion that would be allowed on that property by IRC section 611 without any reference to either section 613 or 613-a of that code, **and**
- include that amount on line 68.

S-12 Sales or dispositions of assets acquired before 1960 with greater state than federal bases — When federally taxable gains are realized from the sale of certain assets that have higher adjusted bases for state tax purposes, subtraction adjustments must be made to reduce the gain for state tax purposes. State tax laws prior to 1960 and currently existing state tax laws about depletion can cause these differences in adjusted basis.

If the estate's or trust's federal taxable income included gain that was from **either:**

- property that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960); **or**
- property that was held in connection with mines, oil or gas wells, and other natural deposits and that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes when sold;

then include on line 68 the **lesser of:**

- the gain itself, **or**
- the difference in the adjusted basis.

S-13 Income earned before 1960 and previously reported to New York State — Due to a different set of state income tax laws for any tax year ending before 1960 (and any fiscal tax year ending during 1960), income that is reportable for federal purposes for 2011 that was reported for New York State tax purposes then, is not subject to New York State tax again.

If the estate or trust included any income (including annuity income) or gain in its 2011 federal taxable income that was properly reported as income to New York State prior to 1960 (or during a fiscal year ending in 1960) by **either:**

- the estate or trust, **or**
- a decedent or estate or trust from whom the fiduciary acquired that income or gain, **then** include that income or gain on line 68.

S-14 Loss from the sale or disposition of property that would have been realized if a federal estate tax return had been required — If the estate or trust acquired property from a decedent, and the property was valued by the executor of the estate in such a manner where the estate was insufficient to require the filing of a federal estate tax return, **and** a loss on the sale would have been realized if a federal estate tax return had been required, **then** include on line 68 the amount of the loss that would have been realized.

This adjustment is not required for property acquired from decedents whose date of death was on or after February 1, 2000.

S-15 Gain to be subtracted from the sale of a new business investment reported on your federal income tax return — If the estate or trust reported a capital gain on its federal income tax return from the sale of a new business investment that was issued before 1988 and was held at least four years but less than five years, **then** the estate or trust must include 25% of that federal gain on line 68. If the investment was held at least five years but less than six years, include 50% of that federal gain. If the investment was held at least six years include 100% of that federal gain.

S-16 Special depreciation expenditures — The excess expenditures incurred in tax years beginning before 1987 in connection with depreciable, tangible business property located in New York State may be carried over to the following tax year or years and subtracted from federal taxable income for that year(s) if those expenses exceeded the New York taxable income before the allowance of those expenditures.

If the estate or trust incurred such expenditures, **then** complete Form IT-211 to figure the amount to include on line 68.

S-17 Amount that was included in federal taxable income because the IRC section 168(f)(8) election was made (see A-7 for a definition of safe harbor leases) **— If** an amount was included in federal taxable income (except for mass transit vehicles) solely because the estate or trust made the safe harbor election on its federal return for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount on line 68.

S-18 Amount that could have been excluded from federal taxable income had the IRC section 168(f)(8) election not been made (see A-7 for a definition of safe harbor leases) **— If** an amount could have been excluded from federal taxable income (except for mass transit vehicles) had the safe harbor election not been made on the estate's or trust's federal return for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount on line 68.

S-19 New York depreciation allowed — New York State does not allow ACRS depreciation for property placed in service inside or outside New York State during tax years 1981, 1982, 1983, and 1984. The estate or trust must figure its New York depreciation by using one of the methods provided for in IRC section 167 as it was in effect on December 31, 1980 (such as straight line, declining balance, etc.).

For property (except for property classified as IRC section 280F property) placed in service outside New York State for tax years beginning after 1984 but before 1994, New York did not allow ACRS or MACRS depreciation under IRC section 168. Instead, New York allowed the depreciation deduction that would have been allowed under IRC section 167 as it was in effect on December 31, 1980.

However, as a result of a court decision, **if** the estate or trust claimed ACRS depreciation on its federal return for property not classified as IRC section 280F property and that property was placed in service **outside** New York State in tax 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), **then** the estate or trust may:

- continue using the pre-1981 IRC section 167 depreciation on that property, making the applicable depreciation addition and subtraction; **or**
- choose to switch to the IRC section 168 depreciation deduction.

An estate or trust choosing to switch to the IRC section 168 depreciation deduction is no longer responsible to make the New York depreciation addition and subtraction adjustments, since the estate or trust will now be allowed to claim the same depreciation as was claimed on the federal tax return for property placed in service outside New York State in tax years 1985 through 1993. If the estate or trust switches to IRC section 168 depreciation, the estate or trust must use IRC section 168 depreciation from this tax year forward and must use it for all subject property owned by the estate or trust. For more information concerning this property, see TSB-M-99(1)I. This TSB-M is available on the Tax Department Web site.

If the estate or trust claimed ACRS depreciation on its federal return for:

- property placed in service during tax years 1981-1984 (other than IRC section 280F property); **or**
- property placed in service outside New York State during tax years 1985-1993 (other than IRC section 280F property), and it elects to continue using IRC section 167 depreciation;

then include on line 65 as an addition the amount that was deducted in figuring the federal taxable income.

S-20 Amount of ACRS deduction that is greater than depreciation claimed for New York State (year of disposition adjustment) — If the estate or trust disposed of property that was placed in service inside or outside New York State after December 31, 1980, but before January 1, 1985, or property that was placed in service outside New York State after December 31, 1984, but before January 1, 1994 (except for IRC section 280F property), **and** the estate's or trust's total federal ACRS deduction is more than its New York depreciation deduction for that property, **then** complete Part 2 of Form IT-399 to figure the amount of the adjustment to enter on line 68. See A-10.

S-21 Accelerated death benefits received that were includable in federal gross income — If the estate or trust included in its federal taxable income an amount received by any person as an accelerated payment or payments of part or all of the death benefit or special surrender value under a life insurance policy or a payment received as a viatical settlement as a result of terminal illness defined as life expectancy of 12 months or less, or of a medical condition requiring extraordinary medical care or treatment regardless of life expectancy, **then** include that amount on line 68.

S-22 Contributions for Executive Mansion, natural & historical resources, not deducted elsewhere — If the estate or trust made contributions for the purpose of the preservation, improvement, and promotion of the Executive Mansion as a historical and cultural resource of the state of New York; **or if** the estate or trust made contributions to the Natural Heritage Trust for the purpose of the preservation and improvements of the natural and historical resources constituting the natural heritage of the people of the state of New York in furtherance of their welfare and prosperity, **and** the estate or trust did not deduct the amounts in determining federal taxable income, **then** include that amount on line 68 (sections 54.15 and 55.15 of the Arts and Cultural Affairs Law).

S-23 New York's 529 college savings program deduction — If the fiduciary of an estate made contributions as the account owner to one or more 529 college savings program account(s) established under **New York's** 529 college savings program and the contributions were not deductible or eligible for a credit for federal income tax purposes, **then** include that amount on line 68.

S-24 New York's 529 college savings program distribution If the estate or trust made a withdrawal from an account established under **New York's** 529 college savings program, and part of the withdrawal was included in its federal taxable income, **then** include on line 68 the amount included in federal taxable income.

S-25 Distributions made to a victim of Nazi persecution — If the estate or trust included in its federal adjusted gross income distributions received from an eligible settlement fund or grantor trust as defined by section 13 of the Tax Law (because of the status of the trust's creator or the decedent was persecuted or targeted for persecution by the Nazi regime because of race, religion, ethnicity, sexual orientation, national origin, or physical or mental disability or handicap), or distributions received because of the status of a victim of Nazi persecution, or a spouse or heir of the victim (successors or assignees, if payment is from an eligible settlement fund of grantor trust) **then** include that amount on line 68.

S-26 Items of income related to assets stolen from, hidden from, or otherwise lost to a victim of Nazi persecution — If the estate or trust received items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of Nazi persecution immediately prior to, during and immediately after World War II, (including but not limited to interest on the proceeds receivable as insurance under policies issued to a victim of Nazi persecution by European insurance companies immediately prior to and during World War II), or a spouse or heir of such victim, and that income was included in its federal adjusted gross income, **then** include on line 68 the amount of that income included in federal adjusted gross income. However, do not include on line 68 income attributable to assets acquired with assets as described above or with the proceeds from the sales of any asset described above. Also, do not enter on line 68 any income if the estate or trust was not the first recipient of the asset or if it is not considered to be a victim of Nazi persecution or a descendant of a victim.

S-27 Qualified emerging technology investments (QETIs) — An estate or trust may defer the gain on the sale of QETIs that are:

— held for more than 36 months, **and**

— rolled over into the purchase of a new QETI within 365 days.

Replacement QETI must be purchased within the 365 day period beginning on the date of sale. Gain is not deferred and must be recognized to the extent that the amount realized on the sale of the original QETI exceeds the cost of replacement QETI. The gain deferral applies to any QETI sold on or after March 12, 1998, that meets the holding-period criteria. The gain deferred must be added back in the year the replacement QETI is sold.

If the estate or trust elects to defer the gain from the sale of QETI, **then** include on line 68 the amount of the gain deferral to the extent the gain was included in federal taxable income. **If** purchase of the replacement QETI within the 365 day period occurs in the same tax year as the sale of the original QETI, or in the following tax year and before the date the fiduciary income tax return is filed, **then** take the deduction on that return. **If** purchase of the replacement QETI within the 365 day period occurs in the following tax year and on or after the date the estate or trust's tax return is filed, **then** the fiduciary must file an amended return to claim the deduction.

A *QETI* is an investment in the stock of a corporation or an ownership interest in a partnership or limited liability company (LLC). A QETI is also an investment in a partnership of an LLC to the extent that such partnership or LLC invests in qualified emerging technology companies. The investment must be acquired by the taxpayer as provided in IRC section 1202(c)(1)(B) or from a person who acquired it pursuant to such IRC section. IRC section 1202(c)(1)(B) requires the acquisition to be original issue from the company, either directly or through an underwriter, and in exchange for cash, services, or property (but not stock).

A *qualified emerging technology company* (QETC) is a company that is located in New York State, that has total annual product sales of $10 million or less, and meets either of the following criteria:

— its primary products or services are classified as emerging technologies; **or**

— it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation in the most recently published results from its Survey of Industry Research and Development, or any comparable successor survey, as determined by the Tax Department).

S-28 Sport utility vehicle depreciation recapture — If, in computing the estate's or trust's federal taxable income, you were required to recapture certain amounts the estate or trust claimed as an IRC section 179 deduction with respect to a sport utility vehicle that weighs in excess of 6,000 pounds, and the estate or trust is not an eligible farmer as defined for purposes of the farmers' school tax credit, **then** include the amount you were required to recapture on line 68.

A *sport utility vehicle* means any four-wheeled passenger vehicle manufactured primarily for use on public streets, roads, and highways. However, *sport utility vehicle* does not include (1) any ambulance, hearse, or combination ambulance-hearse used directly in a trade or business; (2) any vehicle used directly in the trade or business of transporting persons or property for compensation or hire; or (3) any truck, van, or motor home. A *truck* is defined as any vehicle that has a primary load-carrying device or container attached, or is equipped with an open cargo area or covered box not readily accessible from the passenger compartment.

S-29 IRC section 168(k) property depreciation — New York State does not follow the federal depreciation for IRC section 168(k) property (except for resurgence zone property, and New York liberty zone property described in IRC section 1400L(b)(2)) placed in service inside or outside New York State on or after June 1, 2003. If the estate or trust claimed a depreciation deduction for property under IRC section 168(k) (except for resurgence zone property, and New York liberty zone property described in IRC section 1400L(b)(2)) on its federal return, then complete Part 1 of Form IT-398 to determine the amount to include on line 68. You must attach Form IT-398 to your return.

S-30 Amount of IRC section 168(k) property deduction that is greater than the depreciation claimed for New York State (year of disposition adjustment) — If the estate or trust disposes of IRC section 168(k) property (except for resurgence zone property, and New York liberty zone property described in IRC section 1400L(b)(2)) placed in service inside or outside New York State on or after June 1, 2003, **and** the total federal depreciation deduction is more than the New York depreciation deduction for that property, **then** complete Part 2 of Form IT-398 to compute the amount of the disposition adjustment to enter on line 68. You must attach Form IT-398 to your return.

S-31 Royalty and interest payments made to a related member or members — For tax years beginning on or after January 1, 2003, an estate or trust may be required to subtract certain royalty payments for the use of intangible property, such as trademarks or patents, and interest payments that it received either directly or indirectly during the tax year from a related member or members, to the extent the payments were included in federal taxable income, and the payments were required to be added back by the related member or members in accordance with A-19. For additional information, see section 612(r) of the Tax Law.

S-32 New York organized militia — If the estate or trust included in its federal taxable income any income received on behalf of a member of the New York organized militia for performing active service within New York State due to either (1) state active duty orders issued in accordance with Military Law section 6.1 or (2) federal active duty orders for service other than training issued in accordance with United States Code Title 10, **then** include that income on line 68. Do not include on line 68 any income received for regular duties in the organized militia (for example, pay received for the annual two-week training program). Members of the New York State organized militia include the New York Army National Guard, the New York Air National Guard, the New York Naval Militia, and the New York Guard.

S-33 Wage and salary expenses allowed as federal credits but not as federal expenses — The federal government allows certain wage and salary payments to others to be taken as credits against taxes instead of as expenses against income. New York State does not have comparable credits but does allow the expenses.

If the estate or trust took a credit for which a deduction for wages and salary expenses is not allowed under IRC section 280C, **then** include the wage payments not deductible for federal purposes on line 68.

S-34 Military pay — If the estate or trust included in its federal taxable income any income received on behalf of a member of the armed services of the United States for service in an area designated as a combat zone, **then** include that income on line 68.

S-35 Build America Bond (BAB) interest — Include any interest income attributable to a BAB issued by New York State or its local governments that was included in federal taxable income.

Schedule C

Shares of New York fiduciary adjustment

The purpose of this schedule is to show the distribution of the New York fiduciary adjustment among the beneficiaries and the fiduciary of the estate or trust. The shares of the beneficiaries and of the fiduciary in the New York fiduciary adjustment (line 70 of Schedule B) are in proportion to their respective shares of the federal distributable net income of the estate or trust.

Enter in columns 1 and 2 the name, address, and identifying number of each beneficiary of the estate or trust. If the mailing address differs from the home address, give both. If a beneficiary is a New York State or Yonkers nonresident, check the appropriate box to the right of his or her name. If space is needed to list additional beneficiaries, attach a separate sheet of paper to the return with the same information required in Schedule C. **Special rule if entire income is taxable to fiduciary —** If **all** of the income of the estate or trust is taxable to the fiduciary for the 2011 tax year, no entries are required in Schedule C of Form IT-205.

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

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

Column 5 — Enter the amount of the New York fiduciary adjustment (from line 70 of Schedule B) on the total line of column 5. The share of each beneficiary and of the fiduciary in the total amount is determined by multiplying the total fiduciary adjustment by the column 4 percentage.

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

If an item of income, gain, loss, or deduction is attributable to corpus or principal, or the beneficiaries do not share pro rata, and the applicable method set out above for apportioning the fiduciary adjustment results in an inequity as defined in the Personal Income Tax Regulations section 119.3, regarding alternate methods of attributing modifications, a fiduciary may, at his or her discretion, use the applicable method set forth in the regulations. If an alternate method is used, the fiduciary, in lieu of completing Schedule C, should attach to the return a schedule containing the information required under the applicable regulations.

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

New York City and Yonkers fiduciary taxes

General instructions

City resident fiduciary tax

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

Yonkers nonresident fiduciary earnings tax

The fiduciary of a nonresident estate or trust must file a Yonkers nonresident fiduciary earnings tax return on Form Y-206, *Yonkers Nonresident Fiduciary Earnings Tax Return*, if the estate or trust has income from wages earned or net earnings from self-employment in Yonkers.

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

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

Wages also include:

— the amount of IRC section 414(h) contributions shown on a decedent's wage and tax statement(s), federal Form W-2, made by the following:
  - a member of the New York State and Local Retirement Systems, which include the New York State Employees' Retirement System and the New York State Police and Fire Retirement System; **or**
  - a member of the New York State Teachers' Retirement System; **or**
  - a deceased employee of the State or City University of New York who belongs to the Optional Retirement Program; **or**
  - a member of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the

New York City Board of Education Retirement System, the New York City Police Pension Fund or the New York City Fire Department Pension Fund; **or**

- members of the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Plan.

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

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

Other employee compensation includes but is not limited to salaries, fees, bonuses, tips, commissions on sales or on insurance premiums, vacation allowances, and severance pay subject to withholding under IRC section 3401(a).

Net earnings from self-employment, as defined under IRC section 1402(a), consist of gross income from any trade or business less trade or business deductions allowed under the IRC, plus the taxpayer's distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership of which the taxpayer is a member. **Limited partners** are only considered to receive net earnings from self-employment if the income received represents guaranteed payments for services rendered. The deduction for wages and salaries paid or incurred for the tax year, that was disallowed according to IRC section 280C, is allowed in computing your net earnings from self-employment.

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

— rental income from real estate and from personal property leased with the real estate, together with the deductions attributed to it, unless received in the course of a trade or business as a real estate dealer;

— dividends and interest not received in the ordinary course of a trade or business as a dealer in stocks or securities;

— gain or loss from the sale or exchange of capital assets, or from the sale, exchange, or involuntary conversion of property other than stock in trade;

— any deduction for net operating losses; **or**

— retirement payments received by a partner according to a written plan and excluded under IRC section 1402(a)(10).

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

For the definition of a **city** resident and nonresident estate or trust and part-year resident trust, refer to the definitions of a New York State resident and nonresident estate or trust on page 2 of these instructions and substitute the word *City* in place of the word *State.*

City forms to be filed

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

New York City resident estate or trust

Complete the required New York City areas on the same Form IT-205 filed for New York State purposes.

— **Form IT-220, *Minimum Income Tax* —** The New York City minimum taxable income is the same as the New York State minimum taxable income. (See *Form IT-220* on page 3 of these instructions.)

— **Form IT-230, *Separate Tax on Lump-Sum Distributions* —** The New York City taxable income on lump-sum distributions of an estate or trust is the same as the New York State taxable income on lump-sum distributions on Form IT-230. (See *Form IT-230* on page 3 of these instructions.)

Yonkers resident estate or trust

Complete the Yonkers line on the same Form IT-205 filed for New York State purposes.

Yonkers nonresident estate or trust and part-year resident trust

Complete Form Y-206 and transfer the amount from line 10 to Form IT-205, line 27.

New York City or Yonkers part-year resident trust

Complete New York City Worksheet A on page 2 of the instructions for Form IT-205-A or Yonkers Worksheets B and C on page 4 of the instructions for Form IT-205-A. Transfer the total to Form IT-205, line 15b or line 26 as applicable.

Form Y-206 is due at the same time as the New York State fiduciary return and must be attached to it.

Yonkers tax returns for individuals

Every fiduciary who acts for a nonresident individual whose entire income is in the fiduciary's charge (for example, a guardian or committee for an incompetent person) must make a return for the nonresident individual on Form Y-203 (if that individual is subject to the tax), and pay the tax due.

Change of city residence of trust

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

The *General instructions,* on pages 2 through 8 of this form, regarding tax returns for individuals and decedents, exempt trusts — special depreciation, payments for charitable purposes, use of federal figures, whole dollar amounts, penalties, accounting periods, and federal changes also apply for purposes of the New York City and Yonkers resident estates and trusts, Yonkers nonresident estates and trusts, and New York City and Yonkers part-year resident trusts, if applicable.

Specific instructions

New York City resident tax

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

Line 15a New York City resident tax — Compute the New York City income tax on the amount on line 5 using the *New York City tax rate schedule*. Enter the amount of New York City income tax on line 15a.

New York City tax rate schedule (for line 15a)

If the amount on Form IT-205, line 5 is: over	but not over	The tax is:		
$ 0	$12,000		2.907%	of the city taxable income
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	500,000	1,706	plus 3.648%	" " " 50,000
500,000		18,122	plus 3.876%	" " " 500,000

Line 15b New York City part-year resident tax — Enter on line 15b the amount of New York City part-year resident tax from Form IT-205-A-I, page 2, Worksheet A, line b.

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

Line 18 — If an accumulation distribution has been made, attach a statement showing the computation of the credit claimed and enter on line 18. See *Accumulation distribution credit* on page 5.

Line 20 New York City separate tax on lump-sum distributions Enter the amount of any New York City separate tax on lump-sum distributions from Form IT-230, line 24, *New York City* column. Attach Form IT-230 to Form IT-205. Enter any New York City tax on the S portion of an electing small business trust (ESBT).

Line 22 Credit for New York City unincorporated business tax (UBT) — Enter the amount of New York City unincorporated business tax credit from Form IT-219, *Credit for New York City Unincorporated Business Tax*. The estate or trust can claim this credit if:

— the estate or trust was the owner of a business located in New York City that filed New York City's Form NYC-202, *Unincorporated Business Tax Return for Individuals, Estates, and Trusts*, and paid unincorporated business tax; **or**

— the estate or trust was a partner in a partnership that operated a business located in New York City that filed New York City's Form NYC-204, *Unincorporated Business Tax Return for Partnerships*, and paid unincorporated business tax.

To claim this credit, fill in Form IT-219 and transfer the amount to Form IT-205, line 22. Attach Form IT-219 to your return. For more information, see the instructions for Form IT-219.

Line 24 New York City minimum income tax — Enter the amount of any New York City minimum income tax due from Form IT-220. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule I, *Alternative Minimum Tax.* Attach Form IT-220 to Form IT-205.

Line 25 Yonkers resident income tax surcharge — Enter on this line the estate's or trust's Yonkers resident income tax surcharge from the *Yonkers worksheet,* line e, below. However, if the estate or trust did not make an entry on line 14, leave line 25 blank also.

Yonkers worksheet

a. Amount from line 14	a.	
b. Refundable credits from line 33 (less any claim of right credit from Form IT-257)	b.	
c. Subtract line b from line a	c.	
d. Yonkers resident tax rate (15%)	d.	.15
e. Multiply line c by line d. Enter this amount here and on Form IT-205, line 25	e.	

Line 26 Yonkers part-year resident tax — Enter on line 26 the amount of Yonkers part-year resident tax from the instructions for Form IT-205-A, page 4, Worksheet C, line 14.

Line 27 Yonkers nonresident fiduciary earnings tax Compute the Yonkers nonresident fiduciary earnings tax on Form Y-206 and enter the tax on Form IT-205, line 27. Attach Form Y-206 to Form IT-205.

Sales or use tax (line 28)

Report the sales or use tax liability for the estate or trust on this line.

An estate or trust owes sales or compensating use tax if it:

- purchased an item or service subject to tax that is delivered in New York State without payment of New York State and local tax to the seller; or
- purchased an item or service outside New York State that is subject to tax in New York State (and the estate or trust was a resident of New York State at the time of purchase) with subsequent use in New York State. **Note**: The estate or trust may be entitled to a credit for sales tax paid to another state. See the exact calculation method in the instructions for Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*.

An estate or trust that is carrying on a business, trade, profession, or employment in New York State is a *resident* for sales and use tax purposes, of the state and of any county or city in which the estate or trust is carrying on these activities, with respect to purchases of taxable property or services used in these activities.

An estate or trust may not use this line to report:

- any sales and use tax on business purchases if the business is registered for sales and use tax purposes. The estate or trust must report this tax on the business's sales tax return.
- any unpaid sales and use tax on motor vehicles, trailers, all-terrain vehicles, vessels, or snowmobiles. This tax is paid directly to the Department of Motor Vehicles.

An unpaid sales or use tax liability commonly arises if the estate or trust made purchases through the Internet, by catalog, from television shopping channels, or on an Indian reservation, or if it purchased items or services subject to tax in another state and brought them back to New York for use here.

Example: *The estate or trust purchased a computer over the Internet that was delivered to a business of the estate or trust in Monroe County, New York, from an out-of-state company and did not pay sales tax to that company.*

The estate or trust may also owe an additional **local** tax if it made a purchase in a locality in New York State and brought the item into or subsequently used the service in another New York State locality where it was a resident and that locality had a higher tax rate than where the purchase was made.

Failure to pay sales or use tax may result in the imposition of penalty and interest. The Tax Department conducts routine audits based on information received from third parties, including the U.S. Customs Service and other states.

If the estate or trust owes sales or use tax, it may report the amount owed on its fiduciary income tax return rather than filing Form ST-140. However, the estate or trust must use Form ST-140 to calculate the sales and use tax liability to be reported on this return.

Include the amount from Form ST-140, line 4, on Form IT-205, line 28. **Do not attach Form ST-140 to the return.**

If the estate or trust owes sales or use tax on an item or service costing $25,000 or more, it must complete Form IT-135, *Sales and Use Tax Report for Purchases of Items and Services Costing $25,000 or More*, and attach it to the return.

If the estate or trust does not owe any sales or use tax, it must enter *0* on line 28. Do not leave line 28 blank.

For additional information on when an estate or trust may owe sales or use tax to New York, see Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department*. For more information on taxable and exempt goods and services, see TB-ST-740, *Quick Reference Guide for Taxable and Exempt Property and Services.*

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.

Telephone assistance

Automated income tax refund status:	(518) 457-5149
Personal Income Tax Information Center:	(518) 457-5181
To order forms and publications:	(518) 457-5431

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, call the information center.