New York State Department of Taxation and Finance

Instructions for Forms IT-260 and IT-260.1

Change of Resident Status — Special Accruals

IT-260-I
(9/12)

If the status of an individual changes from a New York State resident to a nonresident, the individual must accrue on his or her New York State part-year or full-year resident return any items of income, gain, loss, or deduction that under an accrual method of accounting would be reportable at the time of the change of residence. The individual must also accrue to New York State the items of tax preference subject to minimum income tax (Form IT-220, *Minimum Income Tax*) and the total taxable amount of lump-sum distributions subject to the separate tax on lump-sum distributions (Form IT-230, *Separate Tax on Lump-Sum Distributions*).

If an individual changes from a New York City resident to a nonresident, these accruals must be made on Form IT-360.1, *Change of City Resident Status*. These rules also apply when the status of a trust changes from resident to nonresident (a trust will make these accruals on Form IT-205-A, *Fiduciary Allocation*). These special accruals are required under Tax Law sections 639(a), 639(h), 1307(c), and 1307(f). For more information on the accrual requirements for New York City, see the instructions for Form IT-360.1. For more information on the accrual requirements for trusts, see the instructions for Form IT-205-A.

If you had a right to receive the income without restriction or contingencies at or before the date of the change of residence, this income would be accruable at the time you changed your residence, even if the income is actually received after you move out of New York State. Examples of accruable items of income are: 1) the unrealized income from an installment sale made while you were a resident, and 2) payments that you will receive from a lottery that you won while you were a resident.

Other items that may be accruable include bonuses (if the amount to be received is fixed and determinable at or before the date of the change of residence) and severance pay (if the amount to be received is fixed and determinable at or before the date of the change of residence).

You are not required to make the special accruals on your New York State return in the year that you change your resident status if: 1) you file a bond or other acceptable security in an amount equal to or greater than the amount of additional New York State income tax that would be due if the accrued items were included on your New York return, and 2) you include the accruable amounts as received on your New York nonresident return for subsequent tax years as if no change of resident status occurred (sections 639(d), 639(h), 1307(c), and 1307(f) of the Tax Law).

If you were a New York City resident prior to your change of residence, you must continue to pay New York City resident tax on the accruable amounts reported on your future New York State nonresident returns.

Form IT-260, *New York State and New York City Surety Bond Form Change of Resident Status — Special Accruals,* must be properly executed in triplicate and filed with Form IT-201, *Resident Income Tax Return*, Form IT-203, *Nonresident and Part-Year Resident Income Tax Return,* or Form IT-205, *Fiduciary Income Tax Return*, for the year that the change of residence occurred.

Form IT-260 must be:

— executed by a surety company that is registered with, and under the supervision of, the New York State Insurance Department;

— approved by the Department of Taxation and Finance;

— in the amount of the deferred tax; and

— accompanied by a statement that shows the nature and amount of each item of accrued income, gain, loss, or deduction and each New York item of tax preference together with a computation of the deferred tax.

Deferred tax is the additional personal income tax that would have been due if the items of income, gain, loss, or deduction had been accrued (including any New York State minimum income tax that would have been due if the New York items of tax preference had been accrued, and any separate tax on lump-sum distributions that would have been due if the lump-sum distribution had been accrued) on the part-year or full year resident return for the year that the change of residence occurred.

In place of Form IT-260, you may file collateral security acceptable to the department. If you decide to file collateral security, it must be accompanied by a properly executed collateral agreement on Form IT-260.1, *Change of Resident Status — Special Accruals,* in triplicate. Both the collateral security and Form IT-260.1 (in triplicate) should be filed with your return for the year that the change of residence occurred. The following kinds of security will be accepted as collateral security:

— Certificated United States Treasury bonds

— Certificated bonds of New York State

— Certificated bonds of any political subdivision of New York State having general governmental powers in connection with which the credit of the political subdivision is pledged for the payment of the interest and principal on the bonds

— Bank passbooks and certificates of deposit

— Irrevocable standby letters of credit made payable to the New York State Department of Taxation and Finance

— Federal Form W-2G, *Certain Gambling Winnings*

Bonds offered as collateral must be certificated and may be in either bearer or registered form. They must have maturity dates at least five years after the date of filing with the department.

If they are of the coupon type, the interest coupons must be attached. (However, since any interest accruing on the bonds belongs to the taxpayer, the coupons will be detached and returned as they become due.) The dollar amount of the bonds must be at least 1½ times the amount of the deferred tax, based on the fair market value on the date of filing with the department. Fair market value greater than the face value on the bond will not be recognized for this purpose. If registered United States Treasury bonds are offered as collateral, the taxpayer must submit to the department a properly completed United States Treasury Department Form PDF 1832, *Special Form of Assignment for U.S. Registered Definitive Securities*. If a registered New York State security or security of any subdivision of New York State is offered as collateral, the taxpayer must submit to the department a properly completed New York State Form AU-217, *Assignment Separate from Bond.*

Bank passbooks and certificates of deposit offered as collateral must be in an amount not less than the amount of the deferred tax and must represent money on deposit with a

financial institution approved by the department. Certificates of deposit must have a maturity date at least one year after the date of filing with the department. Additionally, bank passbooks and certificates of deposit offered must be:

— registered or maintained in the name of the taxpayer;

— accompanied by a signed, undated withdrawal slip; and

— accompanied by a letter prepared on the letterhead of the financial institution and signed by an officer, identifying the passbooks or certificates of deposit by account number, and confirming that withdrawal of principal from the passbook or certificate of deposit offered as collateral will not be permitted without written consent from the Tax Department, and stating that any right of setoff that the financial institution may possess against the taxpayer shall be subordinate to the interest of the Tax Department in the passbook or certificate of deposit offered as collateral.

Any interest accruing on bonds, passbooks, or certificates of deposit belongs to the taxpayer and can be withdrawn.

Standby letters of credit offered as collateral must:

— be irrevocable for a period of time determined by the Tax Department;

— be made payable to the ***New York State Department of Taxation and Finance;***

— be written for the amount of deferred tax rounded up to the next higher thousand dollars;

— be issued or confirmed by a bank approved by the Tax Department; and

— contain other payment terms acceptable to the Tax Department.

Lottery winners — A copy of federal Form W-2G, which shows that New York State taxes were withheld on the lottery winnings, will be considered acceptable security.

A copy of Form W-2G must be attached to Form IT-260.1.

Example: *On November 3, James Allen sold stock on the installment basis and realized a long-term capital gain of $150,000, payable in three equal installments of $50,000. He will report the first installment ($50,000) on his federal income tax return for the year in which the sale took place, and he will report the remaining two installments on his income tax returns over the next two years.*

Mr. Allen, who is single and claims the standard deduction, changed his residence from New York State to Florida on December 31 in the year of the sale. Mr. Allen will be required to file a New York State resident income tax return for that year. If he accrues the entire gain on this resident income tax return, the total tax due is $9,761.

By electing to post a surety bond or other acceptable security, Mr. Allen would be required to pay only $2,516 on the income tax return for the year of the sale, computed in the normal manner, utilizing the installment method of reporting as shown on the federal return. For the following two years, Mr. Allen will be required to file Form IT-203, Nonresident and Part-Year Resident Income Tax Return, *and report the long-term capital gain from the installment sale as shown on his federal return.*

The surety bond required in this example is $7,245 ($9,761 - $2,516), representing the deferred tax by reason of the election. $7,245 is also the amount required if Mr. Allen posts a bank passbook or certificate of deposit. If bonds or notes are posted, they must have a fair market value of at least $10,868, representing 1½ times the amount of the deferred tax. A standby letter of credit would have to be written for the amount of deferred tax rounded up to the next higher thousand dollars, or $8,000.

Where to send your forms

The surety bond Form IT-260 or the collateral security with Form IT-260.1, whether or not filed with Form IT-201, Form IT-203, or Form IT-205, must be sent **by registered mail** to:

INCOME TAX AUDIT ADMINISTRATOR I
INCOME/FRANCHISE DESK AUDIT BUREAU
W A HARRIMAN CAMPUS
ALBANY NY 12227

For subsequent years, Form IT-201, Form IT-203, or Form IT-205 must be sent to this address instead of the one on the return.

Private delivery services

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?* below 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 have questions regarding the filing of a bond, please call our bond unit at (518) 453-4976, or write to the Income Tax Audit Administrator at the address above.

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

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
Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY):	(518) 485-5082

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.