

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-89
(2.1) Corporation Tax
(2.1) Estate and Gift Tax
(2.1) Income Tax
(2.1) Miscellaneous Tax
(1.1) Real Property Transfer
Gains Tax, Real Estate
Transfer Tax, Mortgage
Recording Tax
(2.1) Sales Tax
July 24, 1989

Interest Rates on Late Payments,
Assessments and Refunds of Tax

Chapter 61 of the Laws of 1989 amended various provisions of the Tax Law to change the method for determining interest rates on Late Payments, Assessments and Refunds of Taxes with respect to New York State Personal Income Tax, Estate Tax, Gift Tax, Sales and Use Tax, Corporation Tax, New York City and Yonkers resident income taxes, New York City and Yonkers nonresident earnings taxes and certain other taxes. The new method takes effect on September 1, 1989.

The rates of interest will now be based upon the federal short-term rate and will be adjusted quarterly. The federal short-term rate for the first month of the previous calendar quarter, rounded to the nearest whole percent, will be used to set the rates for the next succeeding calendar quarter. For example, the federal short-term rate for July 1989 will be used to set the rates for the period October 1 - December 31, 1989. However, for purposes of setting the rates for the month of September, 1989 only, the federal short-term rate for the month of April, 1989 will be used.

The rates of interest for each quarter will apply to taxes or any other amounts which remain or become underpaid or overpaid during that quarter. Interest due will continue to be compounded daily.

Under the prior law, interest rates were based either on the average One Year constant Maturity Yield Index for United States Treasury Securities or the average Prime Rate charged by banks, and were, generally, adjusted on an annual basis.
(See TSB-M-81-(10))

A description of how the rates will be determined for the specific taxes follows:

Income Tax, Estate Tax and Gift Tax -

The rate of interest for each calendar quarter will be the federal short-term rate plus one percentage point.

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Corporation Tax, Sales and Use Tax, Miscellaneous Taxes, Real Property Transfer Gains Tax,
Real Estate Transfer Tax, Mortgage Recording Tax and Withholding Tax -

The rate of interest for each calendar quarter on refunds will be the federal short-term rate plus two percentage points, and the rate of interest for each calendar quarter on late payments and assessments will be the federal short-term rate plus three percentage points. However, the rate of interest on late payments and assessments of sales tax will be either the federal short-term rate plus 3%, or 12% per annum, whichever is greater.

The commissioner of Taxation and Finance has determined that the federal short-term rate for the month of April, 1989 is 9%.

Interest rates to be charged or paid on late payments, assessments or refunds of tax which remain or become underpaid or overpaid during the period 9/1/89 - 9/30/89 are shown in the table on page 3.

Interest rates to be charged or paid on late payments, assessments or refunds of tax which remain or become underpaid or overpaid during the period of March 1 through August 31, 1989 will be computed at the rates set forth in TSB-M-89-(2) (TSB-M-89-(1) for Real Property Transfer Gains Tax).

The next periodic change in interest rates will occur on October 1, 1989. A new memorandum will be issued covering the period October 1, 1989 - December 31, 1989.

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| <u>Tax</u> | <u>Interest Rate Per ₁ Annum</u> <u>Compounded Daily</u> | |
|--|--|--|
| | <u>Refunds</u> | <u>Late Payments and Assessments</u> |
| Alcoholic Beverage | 11% ² | 12% |
| Boxing & Wrestling | 11% | 12% |
| Cigarette | NA ³ | 12% |
| Corporation | 11% | 12% |
| Diesel Motor Fuel | 11% ⁴ | 12% |
| Estate | 10% | 10% |
| Gift | 10% | 10% |
| Hazardous Waste | 11% | 15% ⁵ |
| Highway Use | 11% ⁶ | 12% |
| Income | 10% | 10% |
| Mortgage Recording | 11% ⁷ | 12% ⁸ |
| Motor Fuel | 11% ⁹ | 12% |
| Real Estate Transfer | 11% | 12% |
| Real Property Transfer Gains | 11% | 12% |
| Sales and Use | 11% | 12% ¹⁰ |
| Tobacco Products | NA ³ | 12% |
| Withholding | 11% | 12% |

1

Daily compounding applies to interest required to be paid by the Tax Commissioner on overpayments or by the taxpayer on deficiencies (as explained in TSB-M-83-(21) Corporation Tax, (3) Gift Tax, (13) Income Tax, (5) Miscellaneous Tax, (15) Sales Tax on and after September 1, 1983. Daily compounding of interest on estate tax became effective January 15, 1983 (see TSB-M-83-(1) Estate and Gift Tax).

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2

Subdivision 1 of section 434 of the Tax Law allows interest on refunds of the Alcoholic Beverage Tax (Article 18), but only where payments were made in error. No interest is allowed for reimbursements.

3

subdivision twenty-sixth of section 171 of the Tax Law prohibits the payment of interest on overpayments of the Article 20 taxes.

4

No interest is allowed for reimbursements.

5

Interest on deficiencies is fixed by statute at 15% per annum (Section 27-0923 of the Environmental Conservation Law).

6

Section 513 of the Tax Law allows interest on refunds of the Highway Use Tax (Article 21), but only where payments were made in error. Interest is not applicable to refunds or credits made under the provisions of section 503-a(3).

7

Section 263.1(b) allows interest on refunds of the mortgage tax paid in the City of New York.

8

Section 258.2 of the Tax Law imposes interest on mortgage tax paid late where such tax is paid in the City of New York and is paid in order to obtain a release or discharge of record upon a mortgage where the mortgagor is not liable for the special additional mortgage recording tax imposed under subdivision 1-A of section 253 of the Tax Law.

9

No interest is allowed for reimbursements, except interest is allowed for reimbursements to a hospital described in section 1116(a)(4) of the Tax Law.

10

Where the interest rate based on the federal short-term rate plus the additional 3% drops below 12%, interest (compounded daily) is computed at 12% annually (1% per month) on sales tax assessments or late payments, except where failure to pay is due to reasonable cause and not willful neglect. When it is shown that the failure or delay in payment is due to reasonable cause and not willful neglect, the Tax Commissioner may waive the interest in excess of the minimum statutory rate. However, the minimum statutory rate as of September 1, 1989 is 12%.