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## **New York Source Income of Nonresident Individuals, Estates, and Trusts, and Part-Year Resident Individuals and Trusts**

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### **Introduction**

If you are a nonresident individual, estate, or trust, or a part-year resident individual or trust, you are subject to tax on your New York source income.

This bulletin provides a list of the items of income, gain, loss, and deduction that are included in New York source income and a list of those items that are not included.

### **Nonresident individuals, estates, and trusts**

If you are a nonresident, your New York source income is the sum of your income, gains, losses, and deductions 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, see [TSB-M-09\(5\)I](#));
- services performed in New York State;
- a business, trade, profession, or occupation carried on in New York State;
- your distributive share of New York State partnership income or gain;
- your share of New York State estate or trust income or gain;
- New York State Lottery winnings if the total proceeds of the prize are more than \$5,000 (see [Publication 140-W](#), *FAQs: New York State Lottery Winners – What Are My Tax Responsibilities for New York State?*);
- any gain from the sale, transfer, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold, when the real property comprising the units of the cooperative housing corporation is located in New York State;
- any income you received related to a business, trade, profession, or occupation previously carried on in New York State, including but not limited to covenants not to compete and termination agreements (see [TSB-M-10\(9\)I](#)); and
- a New York S corporation in which you are a shareholder, including:
  - any gain recognized on the receipt of payments from an installment obligation for federal income tax purposes where the S corporation has distributed an installment obligation under IRC section 453(h)(1)(A) to the shareholders;
  - any gain recognized on the deemed asset sale for federal income tax purposes where the S corporation has made an election under IRC section 338(h)(10); and
  - any income or gain recognized on the receipt of payments from an installment sale contract entered into when the S corporation was subject to tax in New York in a case where the S corporation terminates its taxable status in New York (see [TSB-M-10\(10\)I](#)).

Your New York source income does **not** include:

- your income from pension plans described in section 114 of Title 4 of the U.S Code (see [Publication 36](#), *General Information for Senior Citizens and Retired Persons*);

- your income from annuities and pensions that meet the New York State definition of an annuity, unless the annuity is employed or used as an asset of a business, trade, profession, or occupation carried on in New York State;
- your interest, dividends, or gains from the sale or exchange of intangible personal property, unless they are part of the income you received from carrying on a business, trade, profession, or occupation in New York State;
- your gambling winnings, other than lottery winnings described on page 1, unless you are engaged in the business of gambling and you carry on that business in New York State;
- compensation you received for active service in the United States military;
- income you earned in New York State as a military spouse (see [TSB-M-10\(1\)I](#));
- your income as a shareholder of a corporation that is a New York C corporation ;
- compensation you received from an interstate rail carrier, interstate motor carrier, or an interstate motor private carrier for regularly assigned duties performed in more than one state;
- compensation you received from an interstate air carrier if 50% or less of that compensation is earned in New York State; and
- compensation paid to you if:
  - you are engaged on a vessel to perform assigned duties in more than one state as a pilot licensed under section 7101 of Title 46 of the U.S. Code; or
  - you perform regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one state.

### Part-year resident individuals and trusts

If you are a part-year resident, your New York source income is the sum of:

- all income reported on your federal return for your New York State resident period; plus
- your New York source income for your nonresident period

### Special accruals – Change in resident status

If you have moved in or out of New York State, your New York source income may be subject to adjustments for special accruals (see [Form IT-260-I](#), *Instructions for Forms IT-260 and IT-260.1 Change of Resident Status — Special Accruals*; and [Form IT-203-I](#), *Instructions for Form IT-203 Nonresident and Part-Year Resident Income Tax Return*).

### Which form to file

If you have New York source income, you may be required to file a New York State income tax return.

- Nonresident or part-year resident individuals, see [Form IT-203](#), *Nonresident and Part-Year Resident Income Tax Return*, [and its instructions](#).
- Estates and trusts, see [Form IT-205](#), *Fiduciary Income Tax Return*, [and its instructions](#).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

## References and other useful information

**Tax Law:** Sections 612, 618, 631, 632, 633, 638 and 639

**Regulations:** Sections 132.2 through 132.11, 138.6, and 154.10 through 154.12

### Publications:

[Publication 36](#), *General Information for Senior Citizens and Retired Persons*

[Publication 140-W](#), *FAQs: New York State Lottery Winners – What Are My Tax Responsibilities for New York State?*

### Memoranda:

[TSB-M-09\(5\)](#), *Amendment to the Definition of New York Source Income of a Nonresident Individual*

[TSB-M-10\(1\)](#), *Military Spouses Residency Relief Act*

[TSB-M-10\(9\)](#), *Income Received by a Nonresident Related to a Business, Trade, Profession, or Occupation Previously Carried on Within New York State*

[TSB-M-10\(10\)](#), *Amendments to the Treatment of Certain S Corporation Income by Nonresident Taxpayers*

### Bulletins:

[New York Source Income - Sole Proprietorships and Partnerships \(TB-IT-620\)](#)