

Fixed Dollar Minimum Tax,
Annual Maintenance Fee, and Alternative Minimum Tax

Fixed Dollar Minimum Tax

Chapter 61 of the Laws of 1989 amended Section 210.1(d) of Article 9-A of the Tax Law to provide for a fixed dollar minimum tax at 4 different rates.

While the effective date for this provision (Section 341 of Chapter 61) is neither obvious nor indisputable, we believe that it was intended to apply to periods ending after June 30, 1989. In an effort to definitively clarify this matter, we have proposed technical corrections legislation. Corporations filing for fiscal periods ending in April, May, or June of 1989 would only be held liable for the higher fixed dollar minimum tax if this technical correction ultimately fails to be enacted.

The new fixed dollar minimum tax rates are \$1,500, \$425, \$325, or \$800.

Taxpayers with a gross payroll of \$6,250,000 or more are subject to a fixed dollar minimum tax of \$1,500.

Taxpayers with a gross payroll of less than \$6,250,000, but more than \$1,000,000, are subject to a fixed dollar minimum tax of \$425.

Taxpayers with a gross payroll of \$1,000,000, or less (except as noted below) are subject to a fixed dollar minimum tax of \$325.

Taxpayers with a gross payroll of \$1,000 or less, with total receipts within and without New York State of \$1,000 or less, and average gross assets valued at \$1,000 or less, are subject to a fixed dollar minimum tax of \$800.

Example: A corporation has no gross payroll, no receipts, but has average gross assets valued at \$1,500. The Corporation would be subject to the fixed dollar minimum tax of \$325.

An inactive corporation with no gross payroll, no receipts, and no assets is subject to the fixed dollar minimum tax of \$800. All three criteria must be met in order for the \$800 fixed dollar minimum tax to apply.

Gross payroll shall be the same as the total wages, salaries, and other personal service compensation of all the taxpayer's employees (including general executive officers), within and without New York State.

Total receipts shall be the same as receipts within and without New York State as defined in Section 210.3(a)(2) of the Tax Law.

The average value of the gross assets shall be the same as prescribed by section 210.2 of the Tax Law, without deduction for liabilities.

If the taxable period is less than twelve months, proration of the fixed dollar minimum tax will be allowed. The fixed dollar minimum tax (\$1,500; \$425; \$325 or \$800) may be reduced by 25% if the tax period is more than six months, but not more than nine months and by 50% if the tax period is not more than six months. If the taxable period is less than twelve months, the dollar amounts of gross payroll paid shall be divided by the number of months in the period, and multiplying the result by twelve. The fixed dollar minimum tax due is based on the annualized gross payroll prorated as described above.

Example: A taxpayer filed a tax report for a five month period, with a gross payroll of \$4,000,000. The fixed dollar minimum tax is computed as follows:

Gross Payroll	\$4,000,000
Divided by 5 months	800,000
Multiplied by 12 months (Annualized)	9,600,000
Fixed Dollar Minimum Tax	1,500
Prorated at 50% (less than 6 month period)	750

Annual Maintenance Fee

Chapter 61 also amended Section 181.2 of the Tax Law to increase the annual maintenance fee levied against foreign corporations authorized to do business in New York from \$200 to \$300. The fee may be claimed as a credit against tax due under Article 9-A. It may be prorated in the same manner as the fixed dollar minimum tax.

Alternative Minimum Tax

Chapter 61 also amended Section 210.1(c) of the Tax Law to change the rates of tax on the alternative minimum taxable income base. For tax years beginning in 1989 and 1990, the rate is 5%. For tax years beginning in 1991, the rate is 4.5%. For tax years beginning after 1991, the rate is 3.5%.