



# Instructions for Form IT-59

## Tax Forgiveness for Victims of the September 11, 2001 Terrorist Attacks

# IT-59-1

(12/22)

**Note:** For tax years beginning before January 1, 2022, Part WWW of Chapter 58 of the Laws of 2020 decoupled personal income tax from any amendments made to the Internal Revenue Code (IRC) after March 1, 2020. Therefore, the federal income and adjustment amounts for tax years beginning before January 1, 2022, reported on Form IT-59 should be computed as if the changes to the IRC after March 1, 2020, did not occur. This may result in different amounts being reported on Form IT-59 than the corresponding amounts reported on Form IT-201 or IT-203.

### General information

As a result of legislation signed into law under Chapter 85 of the Laws of 2002, New York State will forgive the income tax liabilities of decedents who died as a result of the September 11, 2001, terrorist attacks against the United States. Completing and filing this form will allow the Tax Department to compute the correct amount of tax to be forgiven for the decedent for all eligible years.

See Publication 59, *New York State Tax Relief for Victims of Terrorist Attacks*, for more information on the relief provided under Chapter 85 of the Laws of 2002.

### When to file

- **If a final return for the decedent has not yet been filed:**  
File Form IT-59 with the decedent's final income tax return, Form IT-201, *Resident Income Tax Return*, or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, on or before the due date for that return. You must also use that Form IT-59 to claim tax forgiveness for any previously-filed returns for tax years that are still in statute. See **Note** below.
- **If a final return for the decedent has been filed:**  
File Form IT-59 as soon as possible. Form IT-59 must be filed within three years from the time the return was filed, or two years from the time the tax was paid, whichever is later.

**Example:** *Pat, a U.S. citizen, died in August 2014 as a result of wounds sustained in the September 11 attacks. Prior to death, Pat filed tax returns and paid the tax due on or before April 15 each year since the September 11 attacks. Pat had income tax liabilities of \$17,500 for 2011, \$18,025 for 2012, and \$7,000 for 2013. The total, \$42,525, plus any income tax liability for 2014, was eligible for tax forgiveness if Pat's personal representative requested tax forgiveness by April 15, 2015, (since the 2011 statute expired on that date).*

In the above example, the amount of tax forgiveness is more than \$30,000. Therefore, special rules for the issuing of the refund may apply. See **Survivor's affidavit** on page 2.

### How to file

**If a final return for the decedent has not yet been filed:** Complete one Form IT-59 for all years that are eligible for forgiveness and submit it with the decedent's final return Form IT-201 or Form IT-203. Complete the appropriate return according to its instructions but do not reduce the decedent's tax liability by any taxes that will be forgiven. Write **KITA-9/11** across the top of the return. In addition, enter **K2** in one of the special condition code boxes on Form IT-201 or Form IT-203. Submit all required documentation (see *Required supporting documentation*). The Tax Department will calculate the amount of tax to be forgiven for all eligible years.

**If a final return for the decedent has been filed:** Complete one Form IT-59 for all eligible years (see *Statute of limitations*) for which you are claiming tax forgiveness and submit it with all required documentation (see *Required supporting documentation*). The Tax Department will calculate the amount of tax to be forgiven.

If you need to obtain a copy of a previously-filed return, see our website.

An amended return, Form IT-201-X, *Amended Resident Income Tax Return*, or Form IT-203-X, *Amended Nonresident and Part-Year Resident Income Tax Return*, does not need to be filed in order to claim tax forgiveness for an eligible year for which an original return, Form IT-201 or Form IT-203, has already been filed. However, an amended return must be filed to correct an error on an original return already filed or to report a federal change made to the decedent's federal income tax return.

**Note: Statute of limitations** – Generally, a claim for a credit or refund of an overpayment of income tax must be filed within the later of three years from the date the return was filed or two years from the date the tax was paid. If a return has not yet been filed, the claim for a credit or refund must be filed within the later of three years from the due date of the return or two years from the time the tax was paid.

### Specific instructions

#### Name and address boxes

Enter the decedent's name, date of death, and Social Security number (and surviving spouse's name and Social Security number, if applicable) in the spaces provided.

Enter the name, relationship, and address of the person claiming the tax forgiveness on behalf of the deceased taxpayer. This is the mailing address the Tax Department will use for mailing the refund check.

#### Part 1 – All filers

All filers **must** complete **Part 1** for each eligible year for which tax forgiveness is being claimed, entering the appropriate amounts on each line for each eligible year. Be sure to identify each year for which you are claiming forgiveness. If both spouses died and they filed a joint return for an eligible year, complete **Part 1** using the total tax amounts from the joint return.

#### Part 2 – Joint return filers – allocation of income

Use **Part 2** for decedents who filed a joint return for a year for which tax forgiveness is being claimed. Allocate income, deductions, and New York addition and subtraction modifications between spouses.

Allocate wages and salaries to the spouse who performed the services and received the Form W-2. Business and investment income (including capital gains) are generally allocated to the spouse who owned the business or the investment that produced the income. Income from a jointly owned business or investment should be allocated equally between the spouses unless there is evidence that shows a different allocation is appropriate. Allocate business deductions to the owner of the business. Allocate personal deductions, such as itemized deductions for mortgage interest and taxes, equally between the spouses unless there is evidence that shows a different allocation is appropriate.

Three additional copies of **Part 2** are provided on page 2. Use one part for each tax year tax forgiveness is being claimed for, and enter the tax year above columns A, B, and C.

**Line 3a** – Identify the type of income and the amount attributable to each spouse (for example, wages, taxable interest income, or capital gains). Allocate separate income to the spouse who earned it. Allocate joint income, such as interest earned on a joint bank account, as you deem appropriate. The amounts to be entered in column A are shown on Form IT-201, lines 2 through 16, or Form IT-203, lines 2 through 16, *Federal amount* column.

**Line 3b** – Enter in column A the amount from Form IT-201, line 18, or Form IT-203, line 18, *Federal amount* column. Allocate separate adjustments, such as an IRA deduction, to the spouse to whom they belong.

**Line 3c** – If you have New York State addition and subtraction modifications, enter the net amount (from Form IT-201, lines 20 through 23 and line 32, or Form IT-203, lines 20 through 22 and line 30) on line 3c. If the net amount is a subtraction, place a minus sign (-) immediately to the left of the amount you enter on line 3c. Allocate separate modifications, such as the addition modification for public employee 414(h) retirement contributions, or the subtraction modification for taxable amount of Social Security benefits, to the spouse to whom they belong.

**Line 3d** – Allocate itemized deductions, such as mortgage interest and taxes, equally between the spouses unless there is evidence that shows a different allocation is appropriate.

Complete a separate **Part 2** for each eligible year.

### Paid Preparer's signature

If you pay someone to prepare your Form IT-59, the paid preparer must also sign it and fill in the other blanks in the paid preparer's area. A person who prepares your form and does not charge you should not fill in the paid preparer's area.

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

When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *NYTPRIN excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN **or** an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your Social Security number.

Code	Exemption type	Code	Exemption type
01	Attorney	02	Employee of attorney
03	CPA	04	Employee of CPA
05	PA (Public Accountant)	06	Employee of PA
07	Enrolled agent	08	Employee of enrolled agent
09	Volunteer tax preparer	10	Employee of business preparing that business' return

See our website for more information about the tax preparer registration requirements.

### Claimant's signature

You must sign Form IT-59; we cannot process unsigned forms. Enter your phone number and email address so we can easily contact you if we have a question during the processing of your claim. You must complete **Part 3, Survivor's affidavit**, on pages 3 and 4 of Form IT-59 and have your signature notarized to allow us to properly issue the refund check.

**Survivor's affidavit** – New York law allows certain relatives of a deceased person to collect money without filing any papers in court. The law also allows anyone that paid for the decedent's funeral expenses to get repaid from the decedent's funds, again without court intervention.

Upon the death of the decedent, the surviving spouse may collect up to \$30,000 in assets by presenting a *Survivor's affidavit* and a death certificate. The affidavit must state that the payment and all other payments received do not exceed \$30,000.

After 30 days have elapsed from the date of death, up to \$15,000 may be collected by the spouse, children, parents, siblings, and nieces or nephews (preference being given in the order named if the request for payment is made by more than one person) or a creditor who has paid funeral expenses at the request of the spouse or one of the decedent's relatives.

Anyone receiving payment is accountable to the fiduciary of the decedent (including a Public Administrator) if a fiduciary is later appointed for the decedent's estate.

If the refund for tax forgiveness is over the above limits, the check will be issued in the name of the decedent.

### Where to mail

**If you are filing Form IT-59 with a New York State income tax return**, send them to the mailing address for the return. Submit your completed Form IT-59 and all required documentation with the return (see *Required supporting documentation* below).

**If you are filing Form IT-59 by itself**, send your completed Form IT-59 and all required documentation (see *Required supporting documentation* below) to:

**NYS TAX DEPARTMENT  
KITA RETURNS UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0853**

**Private delivery services** – See Publication 55, *Designated Private Delivery Services*.

### Required supporting documentation

- Completed Form IT-59, including **Part 3, Survivor's affidavit**, on pages 3 and 4.
- Proof of death. Submit a copy of the victim's death certificate. If the Department of Defense issued DD Form 1300, *Report of Casualty*, submit that form instead of the death certificate.
- Proof that the death was caused by wounds or injury sustained in the September 11 terrorist attack, or the rescue or recovery operation, or by an illness or disease arising from wounds or injury sustained during the attack or from the rescue or recovery operations. You may show the cause of death from the death certificate (if stated), or by submitting a letter from the treating physician, medical examiner, or hospital, that explains the cause of death.

Failure to submit the required documentation above may result in a delay in the processing of your claim.

### Need help?



Visit our website at [www.tax.ny.gov](http://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) or TDD: Dial 7-1-1 for the New York Relay Service

**Privacy notification** – New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.