1985 Instructions for Form IT-205
Fiduciary Return

General Instructions

Who must file

The fiduciary of a **New York State resident** estate or trust must file a return on Form IT-205 if the estate or trust:

- ☐ Is required to file a federal income tax return for the taxable year.
- ☐ Had any New York taxable income for the taxable year.
- ☐ Had tax preference items for minimum income tax purposes in excess of the specific deduction.
- ☐ Is subject to a separate tax on lump sum distributions.
- ☐ Is subject to a separate tax because a PASS (parents' and students' savings) fund was terminated.

If the fiduciary of a **City of New York resident** estate or trust is required to file a New York State fiduciary return, the City of New York income tax liability is based on the same taxable income as for New York State tax purposes and must be reported on the state return as explained in the City of New York instructions on page 6.

If the fiduciary of a **City of Yonkers resident** estate or trust is required to file a New York State return, the City of Yonkers tax liability is based upon the New York State tax liability and must be reported on the state return as explained in the City of Yonkers instructions on page 6.

The fiduciary of a **New York State nonresident** estate or trust must file a return on Form IT-205 if the estate or trust:

- ☐ Had income or gain derived from New York State sources in excess of its New York exemption ($600).
- ☐ Had tax preference items for minimum income tax purposes derived from or connected with New York State sources in excess of the specific deduction.
- ☐ Is subject to a separate tax on lump sum distributions.
- ☐ Is subject to a separate tax because a PASS (parents' and students' savings) fund was terminated.
- ☐ Incurred a net operating loss for New York State income tax purposes for the taxable year without incurring a net operating loss for federal income tax purposes.

Income from New York State sources includes income or gains from:

- ☐ Real or tangible personal property located in New York State.
- ☐ A business, trade, profession or occupation carried on in New York State.
- ☐ Services performed in New York State.

It does not include:

- ☐ Annuities, interest, dividends or gains from the sale or exchange of intangible personal property, unless they are part of the income from a business, trade, profession or occupation carried on in New York State.
- ☐ Compensation received in respect of a nonresident decedent for active service in the military forces of the United States.

Form IT-205-A, *Fiduciary Allocation,* must be completed and attached to Form IT-205 which is filed for (1) a nonresident estate or trust having income or gain derived from New York State sources or (2) a resident estate or trust with a New York State nonresident beneficiary (except as noted below under New York State forms to be filed). You may obtain Form IT-205-A at any office of the New York State Tax Department.

If a **City of New York or City of Yonkers nonresident** estate or trust has income from wages earned or net earnings from self-employment in either or both cities, the fiduciary of the estate or trust must complete Form NYC-206, *City of New York Nonresident Fiduciary Earnings Tax Return,* and/or Form Y-206, *City of Yonkers Nonresident Fiduciary Earnings Tax Return,* and attach them to the New York State fiduciary return, Form IT-205.

State resident and nonresident estates and trusts defined

For purposes of the **New York State** income tax, estates and trusts are either (a) resident estates and trusts or (b) nonresident estates and trusts. If a decedent was domiciled in New York State at the time of his death, his estate is a **resident estate** and any trust created by his will is a **resident trust.** If an irrevocable trust consists of property of a person domiciled in New York State when such property was transferred to the trust, it is a **resident trust.**

The term "resident trust" also includes (1) any revocable trust consisting of property of a person domiciled in New York State at the time such property was transferred to the trust if it has not later become irrevocable and (2) any revocable trust which has later become irrevocable if the trust consists of property of a person domiciled in New York State when it became irrevocable. For this purpose, a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes the trust. A trust becomes irrevocable when the possibility that such power may be exercised has ended.

Any estate or trust which is not a resident estate or trust as defined in this instruction is a nonresident estate or trust.

The residence of the fiduciary does not affect the status of an estate or trust as resident or nonresident.

Change of state residence of trust

If the person whose property constitutes a revocable trust has changed his domicile from or to New York State, between the time of transfer of such property to the trust and the time it becomes irrevocable, the residence of the trust will be deemed to have been changed at the date it ceases to be revocable. In such a case the fiduciary must, for the taxable year in which the change of status of the trust occurs, file one return as a resident trust for the portion of the year during which the trust is a resident trust and one return as a nonresident trust for the portion of the year during which the trust is a nonresident trust. The income and other information required to be shown on the resident return must be determined as if the taxable year of the trust for federal income tax purposes was limited to the period of resident status. The nonresident return is likewise completed. Each separate return must reflect the special accruals provided by Section 654(c) of the Tax Law. In addition, the New York exemption of the trust allowable under Section 618 and Section 638 must be prorated between the two returns.

Where two returns for one taxable year are filed in accordance with the above, the tax due on the New York taxable income of the fiduciary must not be less than it would have been if the New York taxable income of the fiduciary shown on the two returns were included in a single return.

New York State forms to be filed

Forms IT-205 and IT-205-A should be completed for **New York State** resident and nonresident estates and trusts, as follows:

a) Resident estate or trust with resident beneficiaries only — Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.

b) Resident estate or trust with any nonresident beneficiaries

- Complete all of Form IT-205 and attach a copy of federal Schedule K-1 for each beneficiary.
- Report in Schedule C, page 2 of Form IT-205 the names and addresses of **all** beneficiaries, both resident and nonresident, to whom income is distributable, whether or not the income is taxable to the nonresident beneficiaries.
- Complete Schedules 2, 3, 4 and 5 of Form IT-205-A and any of Schedules 6, 7, 8 and 9 of Form IT-205-A which are applicable, unless **none** of the income distributable to the nonresident beneficiaries is derived from **New York State** sources. In this case, Form IT-205-A need not be completed even though **other** income is distributable to nonresident beneficiaries.
- If Form IT-205-A is not required because of (3) above, include a statement with Form IT-205 to the effect that the distributable income of the nonresident beneficiaries consists only of income which is not taxable to nonresident individuals.

c) Nonresident estate or trust with nonresident beneficiaries only

- Complete page 1, lines 10-33 and Schedule C of Form IT-205.
- Complete Schedules 1, 2, 3, 4 and 5 of Form IT-205-A.
- Complete any of Schedules 6, 7, 8 and 9 of Form IT-205-A which are applicable.

d) Nonresident estate or trust with any resident beneficiaries

- Complete all of Form IT-205, except page 1, lines 1-9, and Schedule A.
- Complete Schedules 1, 2, 3, 4 and 5 of Form IT-205-A.

- Complete any of Schedules 6, 7, 8 and 9 of Form IT-205-A which are applicable.

e) **Special rule where entire income is taxable to fiduciary** — If **all** of the income of the estate or trust is taxable to the fiduciary for the 1985 taxable year, no entries are required on Schedule C of Form IT-205.

Form IT-220 – Minimum Income Tax – This is a tax on tax preference items. Tax preference items include incentive stock options, net long-term capital gains, accelerated depreciation or amortization of certain facilities. If the estate or trust has total tax preference items in excess of the allowable specific deduction, Form IT-220 is to be filed with Form IT-205. The specific deduction is that percentage of $5,000 (not to exceed $5,000) which the total tax preference items (and related modifications) apportioned to the estate or trust is to the total tax preference items (and related modifications) of the estate or trust but without any apportionment between the estate or trust and the beneficiaries.

Form IT-230 and IT-230.1 — Separate Tax on Lump Sum Distributions — If the estate or trust is a recipient of a lump sum distribution from a qualified retirement plan, compute this separate tax on the ordinary income portion using the New York special 10-year averaging method on Form IT-230 or IT-230.1.

Form IT-250 — Maximum Tax on Personal Service Income — The maximum tax rate on personal service income is 9½%. If New York State personal service taxable income is more than **$15,000,** complete Form IT-250. For more information about maximum tax and a definition of personal service income, see Form IT-250 and the instructions on the back of the form.

Form IT-270 — Tuition Deduction and Higher Education (PASS) Funds — This form is used to claim a deduction for contributions made to a higher education (PASS) fund and, if necessary, to compute a separate tax on the termination of a higher education (PASS) fund. Additional information is found in Publication 320.

NY State tax returns for individuals — Every fiduciary who acts for an individual whose entire income is in his charge (as, for example, a guardian or committee for an incompetent person), must file a return, (1) for a resident individual, on the appropriate individual resident form, if a federal income tax return is required to be filed for the taxable year or if the individual had total New York income in excess of his exemptions, or (2) for a nonresident individual, on the appropriate individual nonresident form, if his total New York income is in excess of his exemptions. In these cases, the fiduciary must pay the tax due. Returns are also required if, for minimum income tax purposes, a resident individual has tax preference items in excess of the specific deduction or if a nonresident individual has tax preference items derived from or connected with New York State sources in excess of the specific deduction, or is subject to a separate tax on the ordinary income portion of a lump sum distribution or is subject to a separate tax relating to the termination of a higher education (PASS) fund.

Tax returns for decedents — A return must be filed by the executor, administrator or other representative of a taxpayer who died during the taxable year on the form which would have been appropriate had he lived. (See *NY State tax returns for individuals*, above, for requirements for filing.)

Exempt trusts — A trust which is taxable as a corporation for federal income tax purposes is exempt from New York State personal income tax under Article 22. A trust which, by reason of its purposes or activities, is exempt from federal income tax is exempt from tax under Article 22 (regardless of whether it is subject to federal and state income tax on unrelated business taxable income).

When to file — The due date is **April 15, 1986** for returns filed for the calendar year 1985 and the 15th day of the fourth month following the close of the taxable year for returns filed for a period other than the calendar year.

Where to file — File all returns with **New York State Income Tax, W.A. Harriman Campus, Albany, NY 12227.**

Research and development — special depreciation — Section 612(g) of the Tax Law The estate or trust may elect to deduct depreciation not in excess of twice that allowed for federal purposes on certain property acquired before 1969 or any amount expended during the taxable year for the construction, erection or acquisition of certain qualifying property used for research and development purposes. (See Form IT-211-I for instructions.)

Payments for charitable purposes — effect on fiduciary adjustment — The fiduciary adjustment determined as required in Schedule B of Form IT-205 does not include the modifications under paragraphs (1) and (2) of Section 612(b) and paragraphs (1), (2), (4), (5), (6) and (7) of Section 612(c) of the Tax Law with respect to any amount paid or set aside for a charitable purpose during the taxable year. (See instructions for Schedule B on page 3.)

Accumulation Distribution Credit – A beneficiary whose New York adjusted gross income includes an accumulation distribution from a trust is allowed a tax credit on his New York State individual income tax return for the income tax previously paid by the trust attributable to such accumulation distribution. The credit may not reduce the beneficiary's tax to an amount less than would have been due if the accumulation distribution were excluded from his New York adjusted gross income. (See Tax Law Sections 621 and 640.)

Where an accumulation distribution has been made, attach to the return of the trust a copy of federal Schedule J (Form 1041) and a statement showing the computation of the credit claimed with respect to each beneficiary involved.

Use of federal figures — The return and instructions for Form IT-205 provide that income and deductions are to be entered as reportable for federal income tax purposes. However, all items reported on Form IT-205 or on statements or schedules attached are subject to audit and revision by the New York State Tax Commission.

Whole dollar amounts — You may round all money items on your return to the nearest dollar. For example, round $10.49 to $10; round $10.50 to $11. If you round to the nearest dollar, round for all amounts.

Penalties — The law imposes penalties for failing to file a return or to pay any tax when due or for making a false or fraudulent return or for making a false certification.

Accounting periods and methods — The accounting period for which Form IT-205 is filed and the method of accounting used are the same as for federal income tax purposes. If the taxable year or method of accounting is changed for federal income tax purposes, such change applies similarly to the New York State fiduciary return.

Federal changes — If the Internal Revenue Service changes the taxable income, tax preference items, total taxable amount or ordinary income portion of a lump sum distribution or the shares of income distributable to the beneficiaries, the fiduciary must report the change to the New York State Tax Department within 90 days after the date of the final determination of the change. To report these changes, complete Form IT-115 and supplemental Forms IT-115.1 (Minimum Income Tax), and IT-115.3 (Lump Sum Distributions.)

File these forms separately; do not attach to any return. They must be accompanied by a remittance for the amount of any tax and interest due.

If an amended federal return is filed, reflecting a change in taxable income, tax preference items or total taxable amount or ordinary income portion of a lump sum distribution of the fiduciary or in shares of income distributable to the beneficiaries, an amended New York State return must be filed within 90 days.

Gift Tax — You must file a gift tax return if the total value of the gift or gifts you gave to any one donee during the calendar year exceeds $10,000.

Specific Instructions

All information on Form IT-205 should be for the calendar year January 1 through December 31, 1985, or for the fiscal year of the estate or trust. If filing for a fiscal year, enter the month and day the tax year began, and the month, day and year that it ended at the top of page 1.

Name and Address Box

Enter in the spaces at the top of the return the name of the estate or trust and the name and address of the fiduciary. Also enter the employer identification number of the estate or trust in the space provided to the right of the address box. Complete applicable items A through H near the top of the page. Be sure to check applicable resident status boxes for state and for city.

The dark blue areas on the return refer only to the City of New York taxes and the City of Yonkers taxes. See page 6. The fiduciary of an estate or trust not subject to the City of New York taxes or City of Yonkers taxes should disregard these areas.

Real Property Transfer Gains Tax

Section 1449-a. of Article 31-B of the Tax Law requires every estate or trust, with an interest in real property located in New York State, to keep a record of and report annually every transfer of a "controlling interest" in such estate or trust and any other information that the Tax Commission may require.

A "controlling interest" of an estate or trust means 50 percent or more of the capital, profits or beneficial interests in such estate or trust.

All fiduciaries must answer questions G & H on page 1 of Form IT-205. If the answer to both questions is "YES," attach a statement giving complete details including:

- Name, address and social security or employer identification number of person or entity (transferee) who acquired the controlling interest.
- Name, address and social security or employer identification number of person(s) or entity(s) who transferred an interest in the estate or trust.
- Date of acquisition of the controlling interest by the transferee.
- Amount of consideration paid by the transferee to acquire the controlling interest.

Computation of New York taxable income of a resident estate or trust

Line 1/Federal taxable income of fiduciary: Enter the exact amount of the taxable income of fiduciary as reported on page 2, line 25.

Line 4/New York exemption: An exemption of $600 is allowed every estate or trust, instead of the federal exemption.

Line 6/New York modifications relating to amounts allocated to principal: The following amounts are to be added or subtracted on this line to the extent they are attributable to amounts which are not includible in federal distributable net income of the estate or trust (give full details in an attached statement):

A Subtract the part of any gain from the sale or other disposition of (a) property which had a higher basis for New York State income tax purposes than for federal income tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960), and (b) property held in connection with mines, oil or gas wells and other natural deposits which has a higher adjusted basis for New York State income tax purposes than for federal income tax purposes, which does not exceed this difference in basis. If the gain is considered a long-term capital gain for federal income tax purposes, the subtraction is limited to 40% of such portion of the gain.

B Subtract the amount of any gain which was properly included in gains reported on a prior New York State income tax return under Article 16 of the Tax Law by the decedent or the estate or trust or by another estate or trust from which the taxpayer received such gain.

C Subtract the amount of wages and salaries paid or incurred during the taxable year for which a deduction is not allowed with regard to claiming the federal targeted jobs credit.

D Subtract the total amount of any PASS fund deduction pursuant to Section 612(k) of the Tax Law. Complete and attach Form IT-270. For further information, see Publication 320.

E Subtract expenditures pursuant to an election under Section 612(h) of the Tax Law in connection with waste treatment facilities, air pollution control equipment or acid deposition control equipment, the construction, reconstruction, erection or improvement of which was initiated (in the case of waste treatment facilities) on or after January 1, 1965 and (in the case of air pollution control equipment) on or after January 1, 1966. This applies only to depreciable, tangible business property located in New York State and certified under the provisions of the Environmental Conservation Law. This subtraction is not permitted when the election under Section 612(g) of the Tax Law has been exercised on such property.

F Subtract the amount of gain from the sale of a new business investment included in federal income (Section 612(c)(20) of the Tax Law).

G Add any deduction for percentage depletion in connection with mines, oil and gas wells and other natural deposits used in arriving at the federal taxable income of the fiduciary. Subtract cost depletion pursuant to I.R.C. Section 611 on such property.

H Add an amount equal to 110% of the value of the assets of the fund immediately prior to termination of a higher education (PASS) fund under conditions specified in Section 612(l) of the Tax Law. For further information, see Publication 320.

I Add the amount of special additional mortgage recording tax credit allowed under Section 606(f) of the Tax Law.

J Add the amounts required by Section 612(b)(16) of the Tax Law relating to the special additional mortgage recording tax credit where the property for which the credit was claimed is sold or otherwise disposed of at a gain.

K Add the gain or subtract the loss which would have been realized for New York State tax purposes from the sale or other disposition of property acquired from a decedent and valued by the executor under New York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (Sections 612(b)(17) and 612(c)(19) of the Tax Law).

L If an election under Section 612(h) of the Tax Law has been exercised, add any amounts deducted for federal income tax purposes for expenditures or for depreciation or amortization on the same property, to the extent they are attributable to items not reflected in federal distributable net income.

M For possible modifications under Section 612(g) of the Tax Law for optional depreciation and research and development expenditure deductions attributable to corpus items, see *General Instructions*.

N For information regarding modifications resulting from the investment in, or sale of, a New York new business, see Sections 612(b)(22) and 612(c)(23) of the Tax Law.

O If an election for safe harbor leasing was made for federal purposes, see additions under Sections 612(b)(23) and 612(b)(24) and subtractions under Sections 612(c)(24) and 612(c)(25).

P If accelerated cost recovery depreciation (ACRS) was claimed under Section 168 of the Internal Revenue Code, you must add the amount allowable for federal purposes (Section 612(b)(25)) and subtract the amount of depreciation allowable under Section 167 of the Internal Revenue Code as such section would have applied to property placed in service on 12/31/80. (Section 612(c)(26)). The addition and subtraction must be made only for property placed in service during 1981, 1982, 1983 and 1984. Attach Form IT-399. It also must be made for property placed in service outside New York State after December 31, 1984, except for recovery property subject to the provisions of Section 280-F of the Internal Revenue Code (such as luxury automobiles).

Q An addition or subtraction for depreciation is required at the time of disposition when there is a difference between the accumulated federal and state depreciation taken. See Sections 612(b) (27) and 612(c)(28). Attach Form IT-399.

R Add the amount of gross receipts tax imposed on petroleum business under Article 13-A of the Tax Law that was deducted in figuring your federal adjusted gross income (Section 612(b)(28) of the Tax Law).

S Corporation Shareholders: If the estate or trust is a shareholder in an S corporation, use the S corporation information in the Schedule B instructions to determine the modifications to be included on line 6 where S corporation income, loss or deduction has been allocated to principal.

Note. For more information on the New York additions and subtractions, see Publication 382, ***How to Figure Your New York Additions and Subtractions.***

Line 8/Fiduciary's share of New York fiduciary adjustment: Enter on this line the total of the fiduciary's share of New York fiduciary adjustment from page 2, Schedule C, Column 5.

Computation of tax

Line 10/New York taxable income of fiduciary: Enter amount from line 9, if a resident estate or trust, or amount from Form IT-205-A, Schedule 1, line 12, if a nonresident estate or trust.

Line 11/New York State tax: Apply the NY State tax rates below to the amount on line 10. Enter tax on line 11. However, if the maximum tax on personal service income applies, use Form IT-250 and enter maximum tax amount on line 11. Attach Form IT-250 to this return.

New York State Tax Rate Schedule

If the amount on line 10 is:

	over	but not over	Enter on line 11:
	$ 0	$1,000	2% of amount on line 10
	1,000	3,000	$20 plus 3% of amount over $1,000
	3,000	5,000	80 plus 4% " " " 3,000
	5,000	7,000	160 plus 5% " " " 5,000
	7,000	9,000	260 plus 6% " " " 7,000
	9,000	11,000	380 plus 7% " " " 9,000
	11,000	13,000	520 plus 8% " " " 11,000
	13,000	15,000	680 plus 9% " " " 13,000
*	15,000	17,000	860 plus 10% " " " 15,000
	17,000	19,000	1,060 plus 11% " " " 17,000
	19,000	21,000	1,280 plus 12% " " " 19,000
	21,000	23,000	1,520 plus 13% " " " 21,000
	23,000		1,780 plus 13.75% " " 23,000

*If personal service taxable income exceeds $15,000, you may be entitled to a New York State maximum tax rate of 9.5% on personal service income. See Form IT-250.

Line 12/State credits: Enter on this line the total of state credits allowable under Sections 606, 620, 621 and 640 of the Tax Law except for the investment credit and retail enterprise credit refund for new businesses. See the instructions for Form IT-212 and include the investment credit and retail enterprise credit refund on line 25. The credit provided for under Section 620-A is allowed only against the state separate tax on lump sum distributions entered on line 14.

Line 14/State separate tax on lump sum distributions: Enter the amount of any separate tax on lump sum distributions due from Form IT-230 or IT-230.1 (attach form). If the credit provided for under Section 620-A is claimed, enter the amount of separate tax on lump sum distributions due after allowance of the credit and attach Form IT-112.1. Also on this line, enter any amount of add-back of investment credit and retail enterprise credit and research and development credit on early dispositions.

Line 15/State separate tax on PASS funds: Enter the amount of any separate tax on the termination of a higher education (PASS) fund from Form IT-270 and attach form.

Line 16/State minimum income tax: Enter the amount of any minimum income tax due from Form IT-220 and attach form.

Lines 18 through 21/City of New York taxes: These lines refer only to City of New York tax. Specific instructions for these lines are on page 7.

Lines 22 and 23/City of Yonkers taxes: These lines refer only to City of Yonkers tax. Specific instructions for these lines are on page 7.

Line 24/Total New York State, City of New York and City of Yonkers tax: Enter the total of lines 17 through 23 on line 24. If no city tax is shown on lines 18 through 23, transfer the amount from line 17 to line 24.

Line 25/NY State tax withheld: Enter any amount of NY State tax withheld on the decedent's wages received by the estate or trust. Attach NY State wage and tax statements to this return. Also include on line 25 any investment credit refund for new businesses. On the dotted line next to this total write "ICR" and show the amount.

Line 26/City of NY tax withheld: Enter any amount of City of NY tax withheld on the decedent's wages received by the estate or trust. Attach City of NY wage and tax statements to this return.

Line 27/City of Yonkers tax withheld: Enter any amount of City of Yonkers tax withheld on the decedent's wages received by the estate or trust. Attach City of Yonkers wage and tax statements to this return.

Line 28: Enter estimated tax payments.

Lines 30, 31, 32 and 33: The New York State, City of New York and City of Yonkers income tax liabilities are combined into a single amount of tax due or overpayment on Form IT-205. One check will be issued for the amount of a refund due or the overpayment (or part of it) may be credited to your 1986 estimated income tax. If it is credited to 1986 estimated taxes, the credit may not be changed after April 15, 1986.

If the combined amount of City and State tax liability results in a balance due, one check or money order payable to **"NY State Income Tax"** is to be attached to the fiduciary return when filed. A balance due of more than $1.00 must be paid with your return. It is not necessary to pay a balance due of $1.00 or less.

An overpayment of more than $1.00 will be [illegible]d automatically. An overpayment of $1.00 or less will be refunded only if requested in a separate signed statement attached to the return.

Schedule A

Details of federal taxable income of fiduciary

Lines 1-25 of Schedule A are similar to the lines of the schedule on page 1 of federal Form 1041. Enter on each applicable line of Schedule A the amount reported on the federal schedule. **If a capital gain or loss is reported on line 7, attach a copy of federal Schedule D and any related schedules.** Instead of completing Schedule A, a copy of federal Form 1041 may be attached to Form IT-205.

Attach a copy of federal Schedule K-1 (Form 1041) for each beneficiary and a statement showing each beneficiary's share of any modification for amortization of certified pollution control facilities under Section 612(h) of the Tax Law.

Schedule B

New York fiduciary adjustment

This schedule is used for computing the New York fiduciary adjustment, which is then allocated among the estate or trust and its beneficiaries in Schedule C. The additions and subtractions enumerated in Schedule B of Form IT-205 and in the instructions for lines 27, 28 and 31, which relate to items of income, gain, loss or deduction of the estate or trust, constitute the fiduciary adjustment under Section 619 of the Tax Law. However, the additions and subtractions for lines 26 and 30 of Schedule B and those described for line 28, item A-1 and for line 31, items S-2, S-4, S-5, S-14 (part a) and S-15 need not be made with respect to any amount paid or set aside for charitable purposes. (See *Payments for charitable purposes*, page 2.)

S Corporation Shareholders — If the estate or trust is a shareholder of a federal S corporation for which the election to be a New York S corporation was in effect for the taxable year, include any of the following additions and subtractions that apply to the estate's or trust's share of S corporation items of income, loss or deduction, plus the addition required by Section 612(b)(18) of the Tax Law.

If the election to treat the corporation as a New York S corporation terminated during the taxable year, the estate or trust must allocate the additions and subtractions (see Publication 382 for more information). Obtain the estate's or trust's share of S corporation items of income, loss and deduction from the S corporation return, Form CT-3S.

If the estate or trust is a shareholder of a federal S corporation for which the election to be a New York S corporation was **not** in effect for the taxable year, include only those additions required by Sections 612(b)(19) and 612(b)(20) and the subtraction required by Section 612(c)(22) of the Tax Law.

If the estate or trust was not eligible to make the election to treat its corporation as a New York S corporation because the corporation was not subject to Article 9-A Franchise Tax, include any of the following additions and subtractions that apply to estate's or trust's pro rata share of S corporation items of income, loss or deduction.

If gain or loss is recognized on the estate's or trust's federal income tax return due to the disposition of stock or indebtedness of an S corporation that did **not** have an election to be a New York S corporation in effect for any taxable year after December 31, 1980, make the addition required by Section 612(b)(21) and the subtraction required by Section 612(c)(21) of the Tax Law.

Member of partnership — If the estate or trust has income as a member of a partnership, any of the additions or subtractions which apply to such income should be included in Schedule B of Form IT-205. The estate's or trust's share of such partnership items may be obtained from the New York partnership return on Form IT-204.

Beneficiary of another estate or trust — If the estate or trust is a beneficiary of another estate or trust, the share of the fiduciary adjustment of such other estate or trust to be included in Schedule B of Form IT-205 may generally be obtained from its fiduciary.

The estate or trust must make the additions and subtractions for the taxable year of the S corporation, partnership or estate or trust that ends within the estate's or trust's taxable year.

Note: For more information on the New York additions and subtractions, see Publication 382, *How to Figure Your New York Additions and Subtractions.*

Line 27/Income taxes deducted on federal fiduciary return: All income taxes deducted on the federal fiduciary return are to be added back on line 27 with the exception of the City of New York nonresident earnings tax to the extent that such tax exceeds the tax computed as if the rates were (0.25%) of wages subject to tax and (0.375%) of net earnings from self-employment subject to tax.

Line 28/Other additions: Describe on the lines provided the nature and amount of any of the following items:

A-1 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality which U.S. laws exempt from federal income tax but not from state income taxes.

A-2 Amounts **deducted** for **interest** on loans used to buy bonds and securities whose interest is exempt from New York State tax, **expenses** relating to income exempt from New York State tax and **amortization** of bond premium whose bond interest is exempt from New York State tax (Sections 612(b)(4) and (5) of the Tax Law).

A-3 Amounts required under Section 612(b)(7), 612(b)(8) and 612(b)(9) of the Tax Law in connection with certain employee benefits received by shareholders of a professional service corporation.

A-4 Any deduction for percentage depletion on mines, oil and gas wells, and other natural deposits made in figuring your federal distributable net income (Section 612(b)(10) of the Tax Law). See subtraction S-12.

A-5 Any amount required to be added to federal income if an election was made under the Tax Law for waste treatment facility expenditures, air pollution control equipment or acid deposition control equipment expenditures (Section 612(h)). See subtraction S-13.

A-6 Add the amounts required under Section 617-a of the Tax Law in connection with the distributive pro rata share of allocated entire net income from an insurance business doing business as a member of the New York Insurance Exchange.

A-7 Add the amount of gain which would have been realized for New York State tax purposes from the sale or other disposition

of property acquired from a decedent and valued by the executor under New York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (Section 612(b)(17) of the Tax Law).

A-8 Compute any addition required because of an election under Section 612(g) of the Tax Law on Form IT-211. See *General Instructions*, page 2, *Research and development - special depreciation - Section 612(g) of the Tax Law.*

A-9 If the estate or trust made investments in or sold, a New York new business, see Section 612(b)(22). See Section 612(c)(23) for the relating subtraction.

A-10 Additions under Sections 612(b)(23) and 612(b)(24) are required if an election for safe harbor leasing was made for federal purposes. See subtraction S-19.

A-11 If accelerated cost recovery depreciation (ACRS) was claimed, the amount of the ACRS deduction on Form IT-399, line 1, column G (Section 612(b)(25) of the Tax Law). In the case of an estate or trust that is on a fiscal year basis, the amount of the modification for the beneficiaries will be their distributive share of the cost recovery deduction determined as of the end of the estate's or trust's taxable year ending within the beneficiary's taxable year. The beneficiaries will make the modification on their personal income tax returns for property placed in service during 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State after December 31, 1984, except for recovery property subject to the provisions of Section 280-F of the Internal Revenue Code (such as luxury automobiles). Attach Form IT-399. See subtraction S-20.

A-12 See Section 612(b)(27) for the addition required at the time of disposition when the New York depreciation taken is greater than the federal **ACRS** depreciation taken. Attach Form IT-399.

A-13 Add the amount of gross receipts tax imposed on petroleum businesses under Article 13-A of the Tax Law that was deducted in figuring your federal adjusted gross income (Section 612(b)(28) of the Tax Law).

Line 31/Other subtractions: Describe on the lines provided the nature and amount of any of the following items:

S-1 Pension and annuity income included in federal adjusted gross income of a decedent who, at the time of his death, was 59½ years of age or older, but not more than $20,000 (Section 612(c)(3-a)). Do not enter any pension received from New York State or its political subdivisions.
Qualifying pension and annuity income includes:

- Periodic payments for services performed before retirement.
- Periodic and lump sum payments from an IRA or from an HR-10 (Keogh) plan, but **not** payments derived from contributions made after retirement.
- Lump sum payment from an HR-10 (Keogh) plan, but only if the federal special 10-year averaging method is not used. Do **not** include the part of the payment that was derived from contributions made after retirement.

S-2 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included in federal income but exempt from state income taxes under federal laws.

S-3 Pensions of retired officers or employees of New York State or its political subdivisions (towns, cities, etc.) to the extent included in federal income or gain as well as pensions received as beneficiaries of deceased officers or employees of NY State or its political subdivisions.

S-4 Interest or dividend income on bonds or securities to the extent exempt from income tax under New York laws authorizing the issuance of such bonds or securities but included in federal income.

S-5 Any refund or credit for overpayment of income tax of any kind to the extent included in federal income.

S-6 Interest expense on money borrowed to purchase or carry bonds or securities subject to the New York State income tax but exempt from federal income tax provided this interest was not deducted on the federal Fiduciary return (Section 612(c)(9) of the Tax Law).

S-7 Ordinary and necessary expenses paid or incurred during 1985 in connection with income, or property held for the production of income, which is subject to New York State income tax but exempt from federal income tax, provided these expenses were not deducted on the federal Fiduciary return (Section 612(c)(10) of the Tax Law).

S-8 Amortization of bond premium attributable to 1985 on any bond, the interest from which is subject to New York State income tax but exempt from federal income tax, provided this amortization was not deducted on the federal Fiduciary return (Section 612(c)(10) of the Tax Law).

S-9 The amount of supplemental annuity received under the Railroad Retirement Act of 1974 included in total federal income but exempt from state income taxes under United States laws.

S-10 The amount necessary to prevent taxation of amounts properly included in New York adjusted gross income in prior years (in accordance with Section 612(b)(7) of the Tax Law) by a shareholder of a professional service corporation.

S-11 Any amount included in federal income which is the distributive or pro rata share of income or gain from an insurance business doing business as a member of the New York Insurance Exchange (in accordance with Section 617-a of the Tax Law).

Note: The following subtractions (S-12 through S-17) may be made only to the extent that they relate to items included in federal distributable net income of the estate or trust:

S-12 Cost depletion figured according to federal tax law on property where a percentage depletion was added on line 28, item A-4.

S-13 Expenses for waste treatment facilities, air pollution control equipment or acid deposition control equipment. This subtraction applies only to depreciable, tangible business property located in New York State and certified under the provisions of the Environmental Conservation Law (Section 612(c)(11) of the Tax Law). This subtraction may not be made if a subtraction was made under Section 612(g) of the Tax Law. See addition A-5.

S-14 The part of any gain from the sale or other disposition of (a) property which had a higher basis for New York State income tax purposes than for federal income tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960) and (b) property held in connection with mines, oil or gas wells and other natural deposits which has a higher adjusted basis for New York State income tax purposes than for federal income tax purposes which does not exceed this difference in basis. If the gain is considered a long-term capital gain for federal income tax purposes, the deduction is limited to 40% of such portion of the gain.

S-15 The amount of any income or gain which was properly included in income or gain reported on a prior New York State income tax return under Article 16 of the Tax Law by the estate or trust or by the decedent or by another estate or trust from which the taxpayer received such income or gain.

S-16 Amount of loss which would have been realized for New York State tax purposes from the sale or other disposition of property acquired from a decedent and valued by the executor under New York State Tax Law because the estate had an insufficient amount of assets to require the filing of a federal estate tax return (Section 612(c)(19) of the Tax Law).

S-17 The amount of gain from the sale of a new business investment included in federal income (Section 612(c)(20) of the Tax Law).

S-18 Compute any subtraction required because of an election under Section 612(g) of the Tax Law on Form IT-211. See *General Instructions*, page 2, *Research and development - special depreciation - Section 612(g) of the Tax Law.*

S-19 Subtractions under Sections 612(c)(24) and 612(c)(25) are required if an election for safe harbor leasing was made for federal purposes. See addition A-10.

S-20 If accelerated cost recovery depreciation (ACRS) was claimed, the amount of the total New York depreciation on Form IT-399, line 1, column F (Section 612(c)(26) of the Tax Law). In the case of an estate or trust that is on a fiscal year basis, the amount of the modification for the beneficiaries will be their distributive share of the total New York depreciation determined as of the end of the estate's or trust's taxable year ending within the beneficiary's taxable year. The beneficiaries will make the modification on their personal income tax returns for property placed in service during 1981, 1982, 1983 and 1984. It also must be made for property placed in service outside New York State after December 31, 1984, except for recovery property subject to the provisions of Section 280-F of the Internal Revenue Code (such as luxury automobiles). Attach Form IT-399. See addition A-11.

S-21 See Section 612(c)(28) for the subtraction required at the time of disposition when the federal **ACRS** depreciation taken is greater than the New York depreciation taken. Attach Form IT-399.

Schedule C

Shares of NY fiduciary adjustment

The purpose of this schedule is to show the distribution of the New York fiduciary adjustment among the beneficiaries and the fiduciary of the estate or trust. The shares of the beneficiaries and of the fiduciary in the New York fiduciary adjustment (line 33 of Schedule B) are in

proportion to their respective shares of federal distributable net income of the estate or trust.

Enter in columns 1 and 2 the name, address and identifying number of each beneficiary of the estate or trust. **If the mailing address differs from the home address, give both. If a beneficiary is a New York State, City of New York or City of Yonkers nonresident, check the appropriate box to the right of his name.**

Privacy notification — The authority to request this personal information from you or your employer, including identifying numbers (Social Security numbers, etc.) is found in Sections 651, 652, 658, 697, 1306, 1332 and 1342, Articles 22, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and Part 152 of the Personal Income Tax Regulations. The principal purposes of which the information is collected is to assist the Department of Taxation and Finance in determining New York State personal income tax liabilities under Article 22 of the Tax Law, New York City personal income tax liabilities under Article 30 of the Tax Law and Article 2-E of the General City Law, and City of Yonkers income tax surcharge on residents and earnings tax on nonresidents under articles 30-A and 30-B of the Tax Law. The authority to maintain this information is found in Section 697(e) of the Tax Law and Section 152.8 of the Personal Income Tax Regulations.

The information will be used for tax administration purposes and as necessary under Education Law Section 663 Social Services Law Section 23, 111-b and 136-a, Executive Law Section 49, Labor Law Section 537, Tax Law Sections 171-a, 171-b, 171-c, 171-d, 171-e and 697 and for any other purpose authorized by law and when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access, limited or otherwise, to information contained in his return.

Failure to provide the requested information may result in civil penalties under Section 685, 1312, 1332 and 1342 of the Tax Law and/or criminal penalties under Article 37 of the Tax Law.

This information will be maintained by the Director, Accounting and Records Management Bureau, Processing Division, Department of **Taxation and Finance, W. A. Harriman Campus, Building 8, Room 905, Albany, New York. (518) 457-2260.**

Column 3 — Enter the respective share of federal distributable net income of each beneficiary and of the fiduciary on the appropriate lines of column 3. Note that for purposes of allocating the fiduciary adjustment among the resident taxpayers, entries must be made in columns 3 and 4 of Schedule C for all beneficiaries, both resident and nonresident, even though a nonresident beneficiary's share of modifications is determined in Schedule 2 of Form IT-205-A.

Column 4 — Determine the percentage interest of each beneficiary and of the fiduciary in federal distributable net income of the estate or trust, based upon amounts in column 3, and enter such percentage on the appropriate line of column 4.

Column 5 — Enter the amount of the New York fiduciary adjustment (from line 33 of Schedule B) on the Total line of column 5. The share of each beneficiary and of the fiduciary in such total amount is determined by multiplying the total fiduciary adjustment by the column 4 percentage.

If the estate or trust has no federal distributable net income, the share of each beneficiary in the fiduciary adjustment must be in proportion to his share of the estate or trust income for the taxable year, under local law or the governing instrument which is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of the fiduciary adjustment not allocable to beneficiaries must be allocated to the estate or trust. If the shares in the New York fiduciary adjustment are apportioned in accordance with this paragraph, do not complete Schedule C. Instead, show the apportionment in a schedule attached to the return.

Where an item of income, gain, loss or deduction is attributable to corpus or principal or the beneficiaries do not share pro rata and the applicable method set out above for apportioning the fiduciary adjustment results in an inequity, as defined in Sections 120.27 and 135.28 of the Personal Income Tax Regulations regarding alternate methods of attributing modifications, a fiduciary may, in his discretion, use the applicable method set forth in such regulations. If an alternate method is used, the fiduciary, in lieu of completing Schedule C, should attach to the return a schedule containing the information required under the applicable regulations.

General Instructions City of New York and City of Yonkers Fiduciary Taxes

City Resident Fiduciary Tax

The fiduciary of a **City of New York or City of Yonkers resident** estate or trust who is required to file a New York State fiduciary return must file a City of New York or City of Yonkers fiduciary return for the estate or trust on the same New York State form on which the NY State tax liability is reported. If schedules are required to be filed reporting a state minimum income tax, a state separate tax on a lump sum distribution or a state separate tax on PASS funds, the respective **City of New York** separate tax is also required to be computed on the same state schedules.

City Nonresident Fiduciary Earnings Tax

The fiduciary of a nonresident estate or trust must file a City of New York and/or a City of Yonkers Nonresident Fiduciary Earnings Tax Return on Form NYC-206 or Form Y-206 if the estate or trust has income from wages earned or net earnings from self-employment in the City of New York and/or the City of Yonkers.

Wages as defined under Section 3401(a) of the Internal Revenue Code include all payments and the cash value of all payments made in any form other than cash for services performed by a decedent employee for his employer.

Wages do not include fees paid to a public officer or payment for active service as a member of the armed forces of the United States, or income of a nonresident individual or partner doing an insurance business as a member of the New York Insurance Exchange.

Net earnings from self-employment consist of gross income from any trade or business less deductions allowed under the Internal Revenue Code which are connected with the trade or business, plus the taxpayer's distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership of which he is a member. The deduction for wages and salaries paid or incurred for the taxable year which was disallowed according to Section 280C of the Internal Revenue Code regarding the federal targeted jobs credit and WIN credit is allowed in computing your net earnings from self-employment.

Net earnings from self-employment **do not** include the following:

- ☐ Rental income from real estate and from personal property leased with the real estate, together with the deductions attributed to it, unless received in the course of a trade or business as a real estate dealer;
- ☐ Dividends and interest, unless received in the course of a trade or business as a dealer in stocks or securities;
- ☐ Gain or loss from the sale or exchange of capital assets, or from the sale, exchange or involuntary conversion of property other than stock in trade;
- ☐ Any deduction for net operating losses;
- ☐ Retirement payments received by a partner according to a written plan; or
- ☐ Income, gain, loss or deduction resulting from activities as a dealer or partner doing an insurance business as a member of the New York Insurance Exchange.

A nonresident estate or trust is deemed to have net earnings from self-employment determined in the same manner as if it were an individual subject to the federal tax on self-employment income, reduced by deductions allowed under the Internal Revenue Code for (a) amounts paid or permanently set aside for charitable purposes, and (b) income distributed or required to be distributed currently and corpus credited or required to be distributed to the extent that they represent distributions or payments to a resident of the city. (See instructions on Form NYC-206 or Form Y-206 for line 2.)

For the definitions of a **City** resident and nonresident estate or trust, refer to the definitions of a NY State resident and nonresident estate or trust on page 1 of these instructions and substitute the word "City" in place of the word "State".

City Forms to be Filed

Forms IT-205, IT-220, IT-230, IT 230.1, NYC 206 and Y-206 should be completed for estates and trusts, as follows:

a) **City of NY resident estate or trust**
Complete the required City of New York areas on the same state Form IT-205 filed for New York State purposes.

Form IT-220 — Minimum Income Tax — The City of New York minimum taxable income is the same as the New York State minimum taxable income. (See *Form IT-220 — Minimum Income Tax* on page 2 of these instructions.)

Forms IT-230 and IT-230.1 — City of New York Separate Tax on Lump Sum Distributions — The City of New York taxable income on lump sum distributions of an estate or trust is the same as the NY State taxable income on lump sum distributions on Forms IT-230 and IT-230.1. (See *Forms IT-230 and IT-230.1 — Separate Tax on Lump Sum Distributions,* on page 2 of these instructions.)

b) **City of NY nonresident estate or trust**
Complete Form NYC-206 and transfer the total on line 8 to state Form IT-205, page 1, line **19.**

c) **City of Yonkers resident estate or trust**
Complete the City of Yonkers line on the same state Form IT-205 filed for New York State purposes.

d) **City of Yonkers nonresident estate or trust**
Complete Form Y-206 and transfer the amount on line 8 to state Form IT-205, page 1, line **23.**

City tax returns for individuals — Every fiduciary who acts for a nonresident individual whose entire income is in his charge (as, for example, a guardian or committee for an incompetent person) must make a return for such nonresident individual on the appropriate individual nonresident form if he is subject to the tax. In such case, the fiduciary must pay the tax due.

Change of city residence of trust

If the person whose property constitutes a revocable trust has changed his domicile from or to the City of New York or the City of Yonkers between the time of transfer of such property to the trust and the time it becomes irrevocable, the residence of the trust will be deemed to have been changed at the date it ceases to be revocable. In such a case the fiduciary must, for the taxable year in which the change of status of the trust occurs, file one return as a resident trust (on state Form IT-205) for the portion of the year during which the trust is a resident trust and one return as a nonresident trust (on Form NYC-206 or Form Y-206) for the portion of the year during which the trust is a nonresident trust. Income, gain, loss or deduction for the year of change is subject to the applicable special accruals permitted or required by law to the extent they affect the taxable income of the fiduciary. In addition, the exemption of the trust must be prorated according to the period of residence.

The General Instructions on page 2 regarding tax returns for individuals and decedents, exempt trust, research and development — special depreciation, payments for charitable purposes, use of federal figures, whole dollar amounts, penalties, accounting periods and federal changes also apply for purposes of the City of New York and City of Yonkers resident and nonresident estates and trusts, where applicable.

When and where to file — The City of New York and City of Yonkers fiduciary returns are due at the same time as the New York State fiduciary return.

Specific Instructions

City of New York Resident Tax

The City of New York taxable income is the same as the New York State taxable income shown on page 1, line 10 of Form IT-205.

Line 18/City of New York resident tax: Compute the City of New York income tax on the amount on line 10 using the following City of New York Tax Rate Schedule. Enter the amount of City of New York income tax on line 18.

City of New York Resident Tax Rate Schedule

If amount on page 1, line 10 is: over	but not over	Enter on line 18:
$ 0	$1,000	0.9% of amount on line 10
1,000	3,000	$ 9 plus 1.4% of amount over $1,000
3,000	5,000	37 plus 1.8% " " " 3,000
5,000	7,000	73 plus 2.0% " " " 5,000
7,000	9,000	113 plus 2.3% " " " 7,000
9,000	11,000	159 plus 2.5% " " " 9,000
11,000	13,000	209 plus 2.7% " " " 11,000
13,000	15,000	263 plus 2.9% " " " 13,000
15,000	17,000	321 plus 3.1% " " " 15,000
17,000	19,000	383 plus 3.3% " " " 17,000
19,000	21,000	449 plus 3.5% " " " 19,000
21,000	23,000	519 plus 3.8% " " " 21,000
23,000	25,000	595 plus 4.0% " " " 23,000
25,000		675 plus 4.3% " " " 25,000

Line 20/City of New York minimum income tax: Enter the amount of any City of New York minimum income tax due from Form IT-220. Attach Form IT-220 to Form IT-205.

Line 21/City of New York separate tax on lump sum distributions and/or on PASS funds: Enter the amount of any City of New York separate tax on lump sum distributions from Form IT-230 or IT-230.1. Attach Form IT-230 or IT-230.1 to Form IT-205.

If the estate or trust is subject to the City of New York separate tax on PASS funds, include this amount on line **21.** Attach Form IT-270 to Form IT-205.

Accumulation Distribution Credit — A resident beneficiary whose City of New York adjusted gross income includes an accumulation distribution from a trust is allowed a tax credit for the City income tax previously paid by the trust attributable to such accumulation distribution. The credit may not reduce the beneficiary's tax to an amount less than would have been due if the accumulation distribution were excluded from his City of New York taxable income.

Where an accumulation distribution has been made, there should be attached to the return of the trust a copy of federal Schedule J (Form 1041) and a statement showing the computation of the credit claimed with respect to each beneficiary involved. The credit should be combined with other City of New York prepayments and the total should be entered on page 1, line **26** of state Form IT-205.

City of New York Nonresident Fiduciary Earnings Tax

Compute the City of New York nonresident fiduciary earnings tax on Form NYC-206 and enter the tax on Form IT-205, line **19.** Attach Form NYC-206 to Form IT-205.

City of Yonkers Resident Fiduciary Income Tax Surcharge

To figure your City of Yonkers resident fiduciary income tax surcharge, multiply the amount on line 17, Form IT-205 by 15% (.15). Enter the result on Form IT-205, line **22.**

City of Yonkers Nonresident Fiduciary Earnings Tax

Compute the City of Yonkers nonresident fiduciary earnings tax on Form Y-206 and enter the tax on Form IT-205, line **23.** Attach Form Y-206 to Form IT-205.