

IT-250 Maximum Tax on Personal Service Income

1985

You may qualify for a maximum tax benefit if your taxable income includes more than \$15,000 of personal service income.

Name(s) as shown on return	Your social security number	Employer identification number <small>(estate or trust only)</small>
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Before preparing this form, complete your income tax return (Form IT-201 to line 50, or IT-203 to line 50) or fiduciary return (Form IT-205) to line 10, and if it applies, minimum income tax return (Form IT-220) to line 19; then see instructions on page 2.

Married persons filing separate NY State returns on either a combined form or separate forms **MUST** file separate Forms IT-250. However, do not complete a Form IT-250 for a spouse with NY State personal service taxable income of \$15,000 or less (see instructions, page 2).

1 Personal service income (see list, page 2):			
a Wages, salaries, tips, etc.	a		X
b Bonuses, professional fees or commissions	b		
c Pensions and annuities (after exclusion)	c		
d Business income	d		
e Other (identify)	e		
Personal service income (add lines (a) through (e))	Total	1	
2 Deductions against personal service income (see list, page 2):			
a Employee business expenses	a		X
b Payments to an IRA or a Keogh retirement plan	b		
c Moving expense	c		
d Other (identify)	d		
Deductions against personal service income (add lines (a) through (d))	Total	2	
3 Personal service net income (subtract line 2 from line 1; enter here and on Form IT-201, line 51a, or IT-203, line 51a) •		3	
4 Total New York income from Form IT-201 or IT-203, line 32 (fiduciaries, see instructions on page 2)		4	
5 Divide line 3 by line 4; enter percent, not over 100%		5	%
6 NY taxable income from Form IT-201, line 50, or IT-203, line 50; or Form IT-205 or IT-205-A		6	
7 Tax on line 6 amount (use New York State Tax Rate Schedule)		7	
8 Multiply the line 6 amount by the percent on line 5 and enter result	8		You must transfer line 3, 9 and 12 amounts to your return and attach form.
9 Total New York State tax preference items excluding capital gain deduction (Enter here and on Form IT-201, line 51b, or IT-203, line 51b). (If line 9 is greater than line 3, stop, you do not qualify for a maximum tax benefit.) •	9		
10 Personal service taxable income (subtract line 9 from line 8)	10		
11 Figure tax benefit if line 10 is more than \$15,000; use Table M below: enter tax benefit here		11	
12 Maximum tax (subtract line 11 from line 7). Enter here and on Form IT-201, line 51, or IT-203, line 51, or on Form IT-205, line 11		12	

Table M—Tax Benefit

If line 10 is:		The amount of tax benefit is:			
at least	but less than				
\$15,000	\$17,000		½%	of the amount over	\$15,000
17,000	19,000	\$ 10	plus 1½%	of the amount over	17,000
19,000	21,000	40	plus 2½%	of the amount over	19,000
21,000	23,000	90	plus 3½%	of the amount over	21,000
23,000		160	plus 4¼%	of the amount over	23,000

Attach this form to your return.

What is the Maximum Tax — The maximum tax is a benefit that limits the highest tax rate on your personal service income to 9½ percent. You may qualify for this rate if your New York taxable income (line 50 of Form IT-201 or line 50 of IT-203) is more than \$15,000 and includes personal service income. See examples of personal service income below. For further information, see Publication 388, *Maximum Tax on Personal Service Income*.

Who Must File Form IT-250 — File Form IT-250 if your personal service taxable income (line 10 of Form IT-250) is more than \$15,000. If you are married and filing separate returns and if you each have personal service taxable income of more than \$15,000, each of you must file a separate Form IT-250. Do not file Form IT-250 for a spouse with a personal service taxable income of \$15,000 or less. If you must file separate Forms IT-250, figure all income and deductions relating to your personal service income (and tax preference items, if any) under the federal income tax provisions that would apply if each of you had filed separate federal returns.

Nonresidents — Include only personal service income and deduction items that are derived from or connected with New York State sources.

Estates and Trusts — Include only personal service income and deduction items that constitute income in respect of a decedent.

Examples of Personal Service Income

Personal service income, as defined in Section 603-A(b)(1), includes:

- Wages, salaries, tips and other compensation for personal services actually rendered.
- Bonuses and professional fees.
- Commissions on sales or insurance premiums.
- Prizes and awards received in recognition of personal services.
- Pensions and annuities connected with income earned from past personal services, but only if taxable for New York State tax purposes. See instructions for Form IT-201 or Form IT-203 for information on the pension and annuity income exclusion.
- Taxable group term life insurance.
- Property you received as payment for services even if you later transferred the property to someone else.
- Gains (except capital gains) and net earnings from the sale or transfer of an interest in or license for the use of property (other than goodwill) that you created by your personal efforts.
- The portion of income you received from a corporation (including an electing small-business corporation) that represents a reasonable allowance as compensation for the services you performed for the corporation.
- The entire amount you receive for professional services if you are a doctor, dentist, lawyer, architect, accountant, etc., and you are personally responsible for the services performed (even if your assistants perform all or part of the services).
- Income you receive from a noncorporate trade or business where both personal services and capital are material income-producing factors. In this case, your personal service income is a reasonable allowance as compensation for the personal services actually rendered, but not more than the net profits of the business.
- An item of gross income in respect of a decedent if the gross income would have been personal service income for the decedent had he or she lived and received the amount.
- Additions required to be made to federal adjusted gross income regarding certain employee benefits received by shareholders of a professional service corporation (Tax Law, Sections 612(b)(7), (8) and (9)).

Personal service income does not include:

- Family adjustment.
- Interest and dividends.
- Other distributions of corporate earnings and profits.
- Gambling gains.
- Gains treated as capital gains.
- Premature or excess distributions from a qualified employee pension plan under Internal Revenue Code Section 72(m)(5).
- Lump-sum distributions from pension or other plans taxed under Internal Revenue Code Sections 402(a), 402(e) and 403(a)(2).
- Certain distributions from individual retirement accounts or annuities described in Internal Revenue Code Sections 408(e)(2), (3), (4), (5) and 408(f).
- Redemption of retirement bonds includible in income under Internal Revenue Code Section 409(b) or (c).
- Pensions and annuities not taxable for New York State purposes (such as pensions received by retired officers or employees of New York State or its political subdivisions).
- Subtraction required to be made by shareholders of a professional service corporation (Tax Law, Section 612(c)(12)).
- Unemployment insurance.

Deductions against personal service income are items related to personal service income and are used in figuring your federal adjusted gross income. These items are included in the **Adjustments to Income section of your federal return**. They are not itemized deductions. As explained in Publication 388, *Maximum Tax on Personal Service Income*, alimony and the penalty on early withdrawal of savings are federal adjustments and not required to be deducted from personal service income.

Examples of allowable deductions that must be subtracted from personal service income are:

Expenses of a trade or business from which you received personal service income — Expenses of performing services as an employee — Payments to a Keogh plan or an IRA — Moving expenses — Deduction for a married couple filing joint federal and New York State returns when both work — A net operating loss deduction to the extent that the net operating losses carried to the taxable year are properly allocable to or chargeable against personal service income.

When the expenses of a business are more than the income from that business, and both personal services and capital are material income-producing factors, deduct only part of the expenses against personal service income. To figure your deduction, multiply the total business expenses of that business by the ratio of a reasonable amount of pay for your services over the gross receipts of that business. You must make the computation separately for each business with a loss. You cannot apply the profits of one business against the profits or losses of another.

The family adjustment is not considered a deduction against personal service income.

Line-by-Line Instructions for Form IT-250

Line 1 — **Residents** enter your personal service income amount(s). **Nonresidents** enter only your personal service income amount(s) derived from or connected with New York State sources. If you are married filing separately on one form, enter amounts as if you filed separate federal returns. **Estates and trusts** enter your personal service income amounts (following the residency instructions for this line) whether part of any beneficiary's share or part of the fiduciary's share.

Line 2 — **Residents** enter your deduction amount(s). **Nonresidents** enter only your deduction amount(s) derived from or connected with New York State sources. **Estates and trusts** enter your deduction amounts (following the residency instructions for this line) whether part of any beneficiary's share or part of the fiduciary's share.

Line 3 — Subtract **line 2** from **line 1**; transfer your **line 3** amount to Form IT-201, line 51a, or IT-203, line 51a.

Line 4 — **Residents and nonresidents** transfer your total New York income from Form IT-201, line 32, or IT-203, line 32, to this line. **Resident estates and trusts** enter the total New York adjusted gross income, whether part of any beneficiary's share or part of the fiduciary's share, computed as if the estate or trust were a resident individual. **Nonresident estates and trusts** enter the total New York adjusted gross income, whether part of any beneficiary's share or part of the fiduciary's share, computed as if the estate or trust were a nonresident individual.

Line 5 — Divide **line 3** by **line 4**; enter the result as a percent, carry the percent to four places. For example, if you divide \$50,000 by \$60,000, the percent would be 83.33. If **line 3** is the same as **line 4** or more, enter 100 percent.

Line 6 — **Residents and nonresidents** transfer your New York taxable income from Form IT-201, line 50, or IT-203, line 50, to this line. **Fiduciaries** transfer New York taxable income from Form IT-205 or IT-205-A to this line.

Line 7 — Figure tax on the **line 6** amount; use the New York State Tax Rate Schedule on the back cover of the IT-201 or IT-203 instructions and enter result. Fiduciaries use the New York State tax rate schedule in the IT-205 instructions.

Line 8 — Multiply the **line 6** amount by the percent on **line 5**; enter result.

Line 9 — Enter your total New York State tax preference items (incentive stock options, intangible drilling costs, etc.) even if you do not have to file Form IT-220, *Minimum Income Tax*. If you have any of these items or other tax preference items (not including the capital gain deduction) from Form IT-220, enter the total. Transfer your **line 9** amount to Form IT-201, line 51b, or IT-203, line 51b. For more information on tax preference items see Form IT-220 and instructions, IT-220-I. **Estates and trusts** enter your total of New York State tax preference items (not including the capital gain deduction) which were not included in any beneficiary's share.

Line 10 — Subtract **line 9** from **line 8** and enter the result. If **Line 10** is \$15,000 or less, **stop**; you do not qualify for the maximum tax rate.

Change of Resident Status — If you have to combine New York State taxable income for both resident and nonresident periods, you must also combine New York State personal service taxable income for both resident and nonresident periods. To qualify for the maximum tax benefit, your combined New York State personal service taxable income must be more than \$15,000. For more information, see Form IT-360-I, *Change of Resident Status*.

Line 11 — Figure your tax benefit by using Table M; enter result.

Line 12 — Subtract **line 11** from **line 7**; transfer your **line 12** amount to Form IT-201, line 51, or IT-203, line 51. Fiduciaries transfer to Form IT-205, line 11.