New York State Department of Taxation and Finance

Instructions for Form IT-203-TM

Group Return for Nonresident Athletic Team Members

IT-203-TM-I

General Information

A professional athletic team whose employees perform services in New York State may be granted approval to file a *Group Return for Nonresident Athletic Team Members* on behalf of its qualifying members (see below) who elect to participate in the group return. There is no minimum number of qualifying electing members required to file a group return. However, all qualified electing members must have the same accounting period.

The group return is considered a group of individual returns which meet the New York State, New York City and Yonkers tax return filing requirements. Accordingly, if a qualified member elects to participate in the group return, the member is not required to file an individual New York State, New York City or Yonkers personal income tax return for the year.

A professional athletic team is any professional sports team, including, but not limited to, a baseball, basketball, football, soccer or hockey team. A team is a single organization represented by a number of persons associated together in collective play and supporting duties. Affiliated teams that compete in different leagues, such as a major and a minor league team, are considered separate teams for purposes of filing a group return.

A member of a professional athletic team includes any employee who is an active player or a player on the disabled list. In addition, a member also includes any other employee, such as a coach, manager, trainer, etc., who travels with the team and performs services for the team on a regular basis.

Approval to File a Group Return

A professional athletic team that wishes to file a group return must request permission to do so by submitting an application on Form PR-99, *Application for Permission to File a Group Return for Nonresident Partners or Nonresident Athletic Team Members*. Form PR-99 must be submitted to: **Registration and Licensing Services Bureau, New York State Department of Taxation and Finance, Building 8, Room 408, W A Harriman Campus, Albany, NY 12227**. You must file Form PR-99 no later than the last day of the initial tax year for which you are requesting to file a group return. However, see **Special Rule** below.

Special Rule: A request for tax year 1996 may be submitted no later than February 28, 1997. Requests that will initially be effective for tax years beginning after 1996 must be submitted no later than the last day of the initial tax year.

After receipt of a properly completed Form PR-99, the Tax Department will determine whether permission will be granted and will notify the team accordingly. If approval is granted, the team will be issued a special New York identification number to be used only for filing the group return. The Tax Department's approval to file on a group basis is contingent upon the receipt of the final group return, and is subject to revocation upon audit. An approval to file on a group basis will remain in effect unless it is revoked. Annual approval is not required. However, see **Reinstatement**.

Note: You must obtain prior approval to file a group return. If you file a group return without prior approval, the return will be rejected and the participating members could be subject to late filing or late payment penalties.

Reinstatement: If a team that has received approval to file on a group basis decides not to file a group return for a particular tax year, it must notify the Tax Department of its decision in writing at the previously stated address. The notice must show the name and address of the team and the special New York identification number. In addition, if the team wishes to file a group return for a subsequent year, it must request reinstatement of its approval to file a group return. A request for reinstatement must be submitted on Form PR-99. Form PR-99 must be submitted no later than the last day of the first tax year for which reinstatement is requested.

Group Agent and Powers of Attorney

A team that requests approval to file a group return must appoint a common agent as the "group agent." The group agent can be an individual or individuals, or a corporation, partnership or other entity. The group agent does not have to be the team or an officer or employee of the team. However, the team and all qualifying electing members must have the same group agent. The group agent is required to sign the group return and any communications from the Tax Department will be sent to the group agent. Any notices required by law, such as notices of deficiencies or notice and demands, will be sent to the group agent as well as the individual member involved. The group agent will be personally liable only for those penalties relating to making and signing an erroneous, false or fraudulent return, but only if the agent was actually responsible for the error, etc.

The initial application to file a group return must be accompanied by an individual power of attorney (however, see ***Note*** below) for each qualified nonresident member who the group agent knows, at the time of application, will be participating in the group return. The power of attorney must authorize the group agent to represent the participating member in the filing of the group return. If, subsequent to the application date, an additional member elects to participate in the group return (or subsequent year's group return), a power of attorney for that member must be attached to the first group return on which the member is included. If a team requests reinstatement of approval to file a group return (see reinstatement above), the team must also resubmit powers of attorney as previously described.

If the team changes group agents, it must notify the Tax Department immediately at the previously stated address. The notice must also be accompanied by new powers of attorney (however, see ***Note*** below) for all participating members.

Note: Other evidence that establishes the group agent's authority to act as an agent in making, executing and filing a group return for the qualified electing nonresident members, if acceptable to the Tax Department, may be submitted in lieu of individual powers of attorney. If you wish to submit other evidence, attach a statement to Form PR-99 describing the evidence you wish to submit. We will notify you whether or not the evidence is acceptable.

Qualified Member

A qualified member is a member who meets all of the following conditions:

- the member must be a nonresident individual of New York State for the entire tax year;
- the member did not maintain a permanent place of abode in New York State at any time during the tax year;

- the member or member's spouse must have no income derived from New York sources other than compensation received for services performed as a member of a professional athletic team;
- the member or member's spouse cannot be subject to the New York State or New York City minimum income tax or the New York State or New York City separate tax on the ordinary income portion of a lump-sum distribution; and
- the member must waive the right to claim the New York standard deduction or itemized deduction, the New York dependent exemption, any New York State credits and the allowable exclusion for purposes of the New York City nonresident earnings tax.

If a member performed services for more than one professional athletic team, the member must participate in a group for each team. If the member is not participating in a group return for one team, or one of the teams is not filing a group return for the year, the member may not participate in any team's group return.

If both a husband and wife are members of a professional athletic team(s), both spouses may be included on their respective team's group return if they meet the qualifications described above and both spouses elect to participate. Unless both spouses elect to participate, **neither** spouse may participate in a group return.

Electing to Participate in the Group Return

A qualified nonresident member elects to participate in the group return by informing the group agent that he or she wishes to participate and, if not done previously, by executing a power of attorney as described above. The election must be made by the fifteenth day of the fourth month following the close of the tax year for which the election is being made. The members inclusion in the group return constitutes notice to the Tax Department that the member is electing to participate in the group return.

A member that elects to be included in the group return may not change that election after the fifteenth day of the fourth month after the close of the tax year. However, if it is subsequently determined that a member included in the group return did not meet the definition of a qualified nonresident member for the tax year, the member would be required to file an amended return on an individual basis.

City of New York and City of Yonkers Nonresident Earnings Taxes

If the team files a group New York State return **and** its nonresident members perform services within New York City or Yonkers, the team **must** also file a group New York City and/or Yonkers nonresident earnings tax return. The group city return must include all qualified nonresident members who participate in the group state return. If a member does not participate in the group state return, the member may not participate in the group city return.

Estimated Tax Payments

A team that has received approval to file a group nonresident return may also elect to file group estimated tax installments on behalf of its qualifying nonresident members.

Note: Professional athletic teams located in New York State are required to withhold state and city income taxes from wages paid to their employees. For these teams, group estimated tax installments may not be substituted for the required tax withholding.

The group installments are filed on Form IT-2105, *Estimated Tax for Individuals*. The form must show the name and address of the team and the special New York identification number assigned to the team. Enter on Form IT-2105 the total state and city estimated tax paid on behalf of the group. However, the group agent must maintain records to show that portion of the total that is paid on behalf of each participating member.

If a qualified nonresident member who was included in the group estimated tax decides not to participate in the group return, or if the team subsequently decides not to file a group return for the tax year, the group agent should notify the Tax Department no later than February 15 of the year in which the return is due. This notification must contain the following information:

- the name and address of the team;
- the special New York identification number assigned to the team;
- the member's name, address, and social security number;
- the amount of state, and, if applicable, city estimated tax paid on the member's behalf; and
- a request that the payment or payments be transferred to an individual estimated tax account in the member's name.

If more than one member included on the group estimated tax will not be participating, the above member information should be provided for each member. The notification must be mailed to:

New York State Tax Department
Estimated Tax Unit
W A Harriman Campus
Albany, NY 12227-0125

This transfer of estimated tax payments could take two to three weeks to become effective. If the member files an individual personal income tax return before the transfer becomes effective, the member will not get credit for these payments when the return is processed and a tax due notice will be issued to the member. Therefore, this time period should be taken into account when filing the member's individual return.

If a member who was included in the group estimated tax notifies the group agent after February 15, 1997 but before April 15, 1997, the group agent should notify the Department immediately, using the procedure described above. In these situations, the individual member may wish to request an extension of time to file to insure that the estimated tax payment will be properly credited to the individual account.

Specific Instructions

Form IT-203-TM

Name and Address Box

Enter in the spaces at the top of the return the name, trade name, address and employer identification number of the team. In addition, enter the special New York identification number in the box indicated.

Line 15

If you owe more than one dollar, attach your payment to the front of the return. Make your check payable to ***New York State Income Tax*** and write your special New York identification number and ***1996 IT-203-TM*** on it. Do not send cash.

Line 16

The amount overpaid will automatically be applied to your 1997 estimated tax. This amount **cannot** be refunded to you.

Signature

This form must be signed by the group agent on behalf of the participating partners. A paid preparer must also sign the return and fill in the other information requested.

When to File

You may file Form IT-203-TM at any time after January 1, 1997, but not later than the filing deadline of April 15, 1997. If you file late, you may have to pay penalties and interest.

Extension of time to file — If you cannot meet the filing deadline, the team may request an extension to file the group return using Form IT-370. Form IT-370 must show the special New York identification number and must be signed by the group agent. The team must also attach to Form IT-370 a list showing each participating member's name *(in either alphabetical or social security number order)*, address and social security number.

If the team needs additional time to file the group return, it may request an additional extension of time using Form IT-372, *Application for Additional Extension of Time to File for Individuals.* Form-372 must show the special New York identification number assigned to the team and must be signed by the group agent. However, a list of the participating members is not required to be attached to Form IT-372.

Where to File

The group return must be filed with:

NEW YORK STATE INCOME TAX
W A HARRIMAN CAMPUS
ALBANY, NY 12227

Forms IT-203-TM-ATT-A, B and C

Schedules A, B and C

If you are filing a group New York State return, you must complete Schedule A. You must also complete Schedule B and/or Schedule C if you are required to file a New York City or Yonkers group return.

Use as many schedules as you need. Enter the column totals for all pages on the last page of each set of schedules.

Note: You may computer generate Schedules A, B and C provided they conform substantially to the official schedules.

Schedule A

Column C – Enter each member's total duty days (see *Duty Days* below) spent both within and without New York State during the year. If the member was a member of more than one team during the year, include only the total duty days for this team.

Column D – Enter the number of each member's duty days (see *Duty Days* below) spent in New York State during the tax year. If the member was a member of more than one team during the year, include only the duty days spent in New York State for this team.

Column F – Enter each member's total compensation (see *Total Compensation* below) received during the tax year. If the member was a member of more than one team during the year, enter only the compensation paid by this team.

Column I – *Wage and Tax Statements,* New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) for each participating member who had New York State tax withheld must be submitted with the group return. The wage and tax statements must be arranged in alphabetical order.

Column N – If the member performed services for another team(s) during the tax year, enter the name of that team(s). **Note:** The member **must** be participating in a group return for the other team(s) in order to participate in the group return for this team.

Schedule B

Column C – Enter each member's total duty days (see *Duty Days* below) spent both within and without New York City during the tax year. If the member was a member of more than one team during the year, enter only the total duty days for this team.

Column D – Enter each member's duty days (see *Duty Days* below) spent within New York City during the tax year. If the member was a member of more than one team during the tax year, enter only the New York City duty days for this team.

Column F – Enter amount of each member's total compensation (see *Total Compensation* below) that is treated as wages subject to withholding for **federal** income tax purposes. If the member was a member of more than one team during the tax year, enter only the amount of wages subject to withholding for this team.

Column I – *Wage and Tax Statements,* New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) for each participating member who had New York City tax withheld must be submitted with the group return. The wage and tax statements must be arranged in alphabetical order.

Schedule C

Column C – Enter each member's total duty days (see *Duty Days* below) spent both within and without Yonkers during the tax year. If the member was a member of more than one team during the year, enter only the total duty days for this team.

Column D – Enter each member's duty days (see *Duty Days* below) spent within Yonkers during the tax year. If the member was a member of more than one team during the tax year, enter only the Yonkers duty days for this team.

Column F – Enter amount of each member's total compensation (see *Total Compensation* below) that is treated as wages subject to withholding for **federal** income tax purposes. If the member was a member of more than one team during the tax year, enter only the amount of wages subject to withholding for this team.

Column I – *Wage and Tax Statements,* New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) for each participating member who had Yonkers tax withheld must be submitted with the group return. The wage and tax statements must be arranged in alphabetical order.

Duty Days

Duty days means all days during the tax year from the beginning of the team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days are to be taken into account in the year they occur even if the period previously described covers more than one tax year. In addition, duty days also include days on which the member is performing

a service for the team which fall outside the period previously described, such as days participating in instructional leagues or promotional "caravans." Rendering a service includes conducting training and rehabilitation activities, but only if conducted at the facilities of the team.

Days for which the member is not compensated and the member is not performing services for the team in any manner are not treated as duty days. These days would include days where a member has been suspended without pay and is prohibited from performing any services for the team.

New York State, New York City or Yonkers duty days means all days spent within the state or city for game days, practice days, days spent at team meetings, promotional "caravans" and preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete. Days on the disabled list are not considered New York State, New York City or Yonkers duty days unless the member is engaged in rehabilitation duties at a facility located in the state or city or the member is otherwise performing services for the team in New York. Travel days that do not involve either a game, practice, team meeting, promotional "caravan" or other similar team event are not considered New York State, New York City or Yonkers duty days. This is true even if the member is present in the state or city on that day. However, those days are considered as duty days for purposes of the *total duty days* spent in and out of the state or city.

Total Compensation

Total compensation means the total compensation received by the member during the tax year for services rendered from the beginning of the official preseason training period through the last game in which the team competes or is scheduled to compete. It also includes compensation received during the tax year for services performed by the member outside the period previously described, such as compensation for participation in instructional leagues or promotional "caravans."

Compensation includes, but is not limited to, salaries, wages, bonuses (however, see bonuses below), and any other type of compensation paid during the year for services performed for the team. Compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered for the team.

Bonuses: Bonuses earned as a result of play during the season, such as performance bonuses, bonuses paid for championship, playoff or "bowl games," and bonuses for selection to all-star or other honorary positions are includable in total compensation. In addition, bonuses paid for signing a contract must also be included in total compensation unless **all** of the following conditions are met:

- the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team or even making the team;
- the signing bonus is paid separately from the salary and any other compensation; and
- the signing bonus is not refundable.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 22, 26, 26-A, 26-B, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829; from areas outside the U.S. and Canada, call (518) 485-6800.

Need Help?

For information, call toll free 1 800 225-5829. **For forms or publications,** call toll free 1 800 462-8100. Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday.

From areas outside the U.S. and Canada, call (518) 485-6800.

Hotline for the Hearing and Speech Impaired - If you have a hearing or speech impairment and have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Hours of operation are from 8:30 a.m. to 4:15 p.m., Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with Disabilities - In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information numbers listed above.

If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.