



New York State Fiduciary Income Tax Return and Instructions

This packet contains:

- Form IT-205, *Fiduciary Income Tax Return*
- Form IT-205-I, *Instructions for Form IT-205*

Your Rights Under the Tax Law

The Taxpayer Bill of Rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when appealing a Departmental decision and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the Department to obtain payment. For a complete copy of the information contained in all of these statements, you may request Publication 131, *Your Rights and Obligations Under the Tax Law*, by calling toll free, 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

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NYS INCOME TAX
W A HARRIMAN CAMPUS
ALBANY NY 12227-0125

When preparing and mailing your Fiduciary Income Tax Return, please remember the following:

- Read the instructions
- Enter in the space at the top of the return the name of the estate or trust, the name and title of the fiduciary, and the address of the fiduciary.
- Mail your return to: **STATE PROCESSING CENTER
P O BOX 61000
ALBANY NY 12261-0001**

Private Delivery Services

The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance, will be treated as a postmark, and that date will be considered to be the date of delivery in determining whether your return was filed on time. The private delivery service can tell you how to get written proof of this date. If you use **any** private delivery service, address your return to: **State Processing Center, 431C Broadway, Menands NY 12204**

The current designated delivery services are:

- | | |
|--|--|
| 1. Airborne Express (Airborne):
Overnight Air Express Service
Next Afternoon Service
Second Day Service | 3. Federal Express (FedEx):
FedEx Priority Overnight
FedEx Standard Overnight
FedEx 2 Day |
| 2. DHL Worldwide Express (DHL):
DHL Same Day Service
DHL USA Overnight | 4. United Parcel Service (UPS):
UPS Next Day Air
UPS Next Day Air Saver
UPS 2nd Day Air
UPS 2nd Day Air A.M. |

Need Help?

Telephone Assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. **For tax information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and outside Canada**, call (518) 485-6800.

Fax-on-Demand Forms Ordering System - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

Internet Access - <http://www.tax.state.ny.us>

Access our website for forms, publications, and information.

Hotline for the Hearing and Speech Impaired - If you 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. Assistance is available from 8:30 a.m. to 4:15 p.m. (eastern time), 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.

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



Instructions for Form IT-205

Fiduciary Income Tax Return

New York State • City of New York • City of Yonkers

Changes for 1998

For tax years beginning in 1998 and after, a credit is available to employers who employ persons with disabilities. The credit amount per employee can be up to \$2,100. If the estate or trust qualifies, file new Form IT-251, *Credit for Employment of Persons with Disabilities*, and attach it to the estate or trust return. For more information, see the instructions for Form IT-251.

The alternative fuels credit is applicable to property placed in service in New York State in a tax year beginning after 1997 and before 2003. The credit will be allowed for electric vehicles, clean-fuel vehicle property, and clean-fuel vehicle refueling property placed in service during the tax year. If the estate or trust qualifies, file new Form IT-253, *Alternative Fuels Credit*, and attach it to the estate or trust return. For more information, see the instructions for Form IT-253.

A new investment credit is available for tangible property placed in service in New York on or after October 1, 1998, and before October 1, 2003, in connection with the purchase or sale of stocks, bonds, or other securities as a broker or dealer or for providing certain investment services. If the estate or trust qualifies, file new Form IT-252, *Investment Credit - Financial Services Industry*, and attach it to the estate or trust return. For more information, see the instructions for Form IT-252.

Note: If the estate or trust qualifies for any of these new credits, include the amount claimed on line 10.

The farmers' school tax credit, which began in 1997, has been enhanced for the 1998 tax year. The enhancements allow more taxpayers to qualify for the credit, and increase the amount of the credit for other taxpayers. To see if the estate or trust qualifies for these new enhancements, see the instructions for Form IT-217, *Claim for Farmers' School Tax Credit*, and Publication 51, *Questions and Answers on New York State's Farmers' School Tax Credit*. If the estate or trust qualifies, claim this credit on line 33. In addition, if the estate or trust claimed the farmers' school tax credit in 1997, it must include the amount of that credit as an addition on line 65.

If the estate or trust reported a federal item that resulted in a federal claim of right credit, the estate or trust is now allowed a similar credit for New York State purposes. To claim this credit, the estate or trust must complete new Form IT-257, *Claim of Right Credit*. Enter the amount of any credit claimed on line 34, 35, or 36, whichever applies. For more information see the instructions for new Form IT-257 and Publication 99, *New York State Tax Credits, Retirement Benefits and Deductions*.

The College Tuition Savings Program has been enacted to provide a tax incentive for saving for post-secondary education. Beginning in 1998, a New York State deduction is allowed for contributions made by an account owner to one or more family tuition accounts, up to \$5,000. If the estate or trust has this type of account, include the amount of the deduction on line 68. However, if the estate or trust claimed a nonqualified withdrawal from a family tuition account during the tax year, it must include that amount on line 65.

Beginning in 1998, if a decedent or the creator of a trust was a victim of Nazi persecution, a needy spouse or a descendant of a victim, as defined under P.L. 103-286, the estate or trust may deduct distributions received (because of the decedent's or creator's status as a victim) and included in its federal taxable income on line 68. Also, if it received items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or

otherwise lost immediately before, during, or immediately after World War II, it may deduct that income received and included in its federal taxable income on line 68.

An estate or trust may defer the gain on the sale of qualified emerging technology investments (QETI). The gain deferral applies to any QETI sold on or after March 12, 1998, that meets the holding period criteria. It must be recognized in the year the QETI is sold. If the estate or trust has elected to defer any QETI gain, enter the amount deferred on line 68. Also, any amount previously deferred when a reinvestment in a New York qualified emerging technology company which qualified the estate or trust for that deferral is sold, must be added on line 65.

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; or
- is subject to a separate tax on lump-sum distributions.

If the fiduciary of a **New York City resident** estate or trust is required to file a New York State fiduciary return, the New York City 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 New York City instructions beginning on page 11.

If the fiduciary of a **Yonkers resident** estate or trust is required to file a New York State return, the Yonkers tax liability is based upon the New York State tax liability and must be reported on the state return as explained in the Yonkers instructions beginning on page 11.

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

- had income derived from New York State sources and had New York adjusted gross income;
- 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; or
- 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; and
 - 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; or
 - 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 a Form IT-205 that is filed for (1) a nonresident estate or trust having income derived from New York State sources, (2) a part-year resident trust or (3) a resident estate or trust with a New York State nonresident beneficiary (except as noted under *New York State Forms to be Filed* on page 2). You can get Form IT-205-A at any office of the New York State Tax Department. See *Need Help?* on the inside front cover for how to get forms.

If a **New York City or 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*, or Form Y-206, *City of Yonkers Nonresident Fiduciary Earnings Tax Return*, or both, and attach the form(s) to the New York State fiduciary return, Form IT-205.

New York State Resident and Nonresident Estate and Trust and Part-Year Resident Trust Defined

For purposes of the **New York State** income tax, an estate is either (a) a resident estate or (b) a nonresident estate. A trust is either a resident trust, nonresident trust or part-year resident trust. If a decedent was domiciled in New York State at the time of his or her death, his or her estate is a **resident estate** and any trust created by his or her 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**.

A resident trust meeting the following three conditions is **considered** a nonresident trust not required to file a New York State fiduciary return:

1. all the trustees are domiciled in a state other than New York;
2. the entire corpus of the trust, including real and tangible personal property, is located outside of New York State (it is the Tax Department's position that intangibles located in the state but that are not employed in a business carried on in the state are not deemed to be located in the state for purposes of this rule); and
3. all income and gains of the trust are derived from, or connected with, sources outside of New York State.

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 that 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.

A *nonresident estate or trust* means an estate or trust that is not a resident for any part of the year.

A *part-year resident trust* is a trust that meets the definition of resident or nonresident for only part of the year.

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

Change of New York State Residence of Trust

If the person whose property constitutes a revocable trust has changed his or her domicile from or to New York State, between the time of transfer of the 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 that case the fiduciary must, for the taxable year in which the change of status of the trust occurs, file Form IT-205-A, *Fiduciary Allocation*.

The New York source income of a part-year resident trust is the sum of the following with adjustments for special accruals:

- the fiduciary's share of federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and
- the fiduciary's share of New York source income for the period of nonresidence determined as if the taxable year for federal income tax purposes were limited to the period of nonresidence.

New York State Forms to be Filed

Complete Forms IT-205 and IT-205-A for **New York State** resident and nonresident estates and trusts and part-year resident trusts, as follows:

- 1. 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.
- 2. 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 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, and 4 of Form IT-205-A and any of Schedules 5, 6, 7, and 8 of Form IT-205-A that apply, 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 the above, include a statement indicating this with Form IT-205.
- 3. Nonresident estate or trust and part-year resident trust with resident or nonresident beneficiaries**
 - Complete items A, B, and C, line 1 and lines 9 through 42 on the front page, and Schedules B and C on the back page of Form IT-205.
 - Complete Schedules 1, 2, 3, and 4 of Form IT-205-A.
 - Complete any of Schedules 5, 6, 7, and 8 of Form IT-205-A that apply.
- 4. Special rule if entire income is taxable to fiduciary** — If **all** of the income of the estate or trust is taxable to the fiduciary for the 1998 taxable year, no entries are required in Schedule C of Form IT-205.

Form IT-220, Minimum Income Tax — This is a tax on tax preference items. 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. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule I, *Alternative Minimum Tax*. 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, 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 forward averaging method on Form IT-230.

New York State tax returns for individuals
Every fiduciary in charge of an individual's entire income (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 (**Form IT-100 cannot be filed**), if a federal income tax return is required to be filed for the taxable year or if the individual has federal adjusted gross income for the taxable year, increased by the modifications under section 612(b), in excess of \$4,000 or in excess of his or her New York standard deduction, if lower, (2) for a nonresident individual on Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, if the individual has income from New York sources and the nonresident individual's New York adjusted gross income (*Federal Amount* column) is more than his or her New York standard deduction. 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.

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. Use the form that would have been appropriate had the taxpayer lived. However, Form IT-100 **cannot** be filed. (See *New York State tax returns for individuals*, above, for requirements for filing.)

Form ET-90, New York State Estate Tax Return

New York Residents — The estate of every individual who was a resident of New York State at the time of death (including a person who is deemed to be a United States citizen when determining resident status for New York estate tax purposes) must file a New York State estate tax return with the Tax Department if the aggregate of the New York adjusted gross estate and New York adjusted taxable gifts is equal to or greater than the following amounts:

For estates of individuals dying on or after May 26, 1990, and before June 10, 1994 - \$108,333.

For estates of individuals dying on or after June 10, 1994, and before October 1, 1998 - \$115,000.

For estates of individuals dying on or after October 1, 1998, and before February 1, 2000 - \$300,000.

New York Nonresidents — The estate of every individual who was not a resident of New York State at the time of death (including a nonresident who is not a citizen of the United States) must file a New York State estate tax return with the Tax Department if the aggregate of the New York adjusted gross estate, computed as if a resident (all property, wherever located), and the New York adjusted taxable gifts is equal to or greater than the amounts listed above for a resident, and the estate includes real

property or tangible personal property having an actual situs in New York State.

Form TP-400, New York State Gift Tax Return

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.

Exempt Trusts

A trust that is taxable as a corporation for federal income tax purposes is exempt from New York State personal income tax under Article 22. A trust that, 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 filing deadline is April 15, 1999, for returns filed for the calendar year 1998; for returns filed for a period other than the calendar year, the due date is the 15th day of the fourth month following the close of the taxable year.

Note: The 1998 Form IT-205 may also be used for a tax year beginning in 1999 if:

1. the estate or trust has a tax year of less than 12 months that begins and ends in 1999; **and**
2. the 1999 Form IT-205 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 1999 tax year on the 1998 Form IT-205 and incorporate any tax law changes that are effective for tax years beginning after December 31, 1998.

Extension of Time to File

If the estate or trust cannot meet the filing deadline, ask for an extension of time by filing Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries*. The time to file will be automatically extended for three months if the estate or trust files Form IT-370-PF on time and, if required, pays the tax the estate or trust owes with Form IT-370-PF.

If the trust expects to receive a refund or anticipates having no amount of New York State, New York City or Yonkers income tax remaining unpaid as of the due date of the return and is filing federal Form 8736 to extend the time to file its federal return, the trust can also use a copy of its Form 8736 to extend the time to file its New York State return instead of filing Form IT-370-PF. Write **NY State Copy** in the top margin and mail to: Extension Request - NR, Box 15105, Albany NY 12212-5105.

If you use a delivery service other than the U.S. Postal Service, see *Private Delivery Services* on the inside front cover of your packet.

We will not accept a copy of federal Form 2758 for automatic extension of time to file because of the difference in time of extensions. Estates filing federal Form 2758 must request an extension of time to file the New York State return on Form IT-370-PF.

However, the estate or trust may file Form IT-372-PF, *Application for Additional Extension of Time to File for Partnerships and Fiduciaries*, on or before the expiration of the automatic 3-month extension of time to file to ask for an additional extension of time to file Form IT-205, or upon the timely filing of an approved federal Form 2758 granting an additional extension of time to file for federal purposes, an additional extension of time to file the New York fiduciary income tax return will be allowed to the date on the approved federal Form 2758. In addition, trusts may submit an approved copy of federal Form 8800 before the expiration of the automatic three-month extension of time to file.

Where to File

Mail all returns to: NYS Income Tax, Fiduciary Return Unit, State Processing Center, PO Box 61000, Albany NY 12261-0001.

If you use a delivery service other than the U.S. Postal Service, see *Private Delivery Services* on the inside front cover of your packet.

Estimated Income Tax Payments

Generally, a trust or estate must pay estimated income tax if it expects to owe, after subtracting any withholding and credits, at least \$300 in income tax for 1999 and it expects the withholding to be less than:

1. 90% of the tax shown on the 1999 tax return, or
2. 100% of the tax shown on the 1998 tax return (110% of that amount if the estate's or trust's New York adjusted gross income on that return is more than \$150,000, and less than $\frac{2}{3}$ of the total federal gross income for 1998 or 1999 is from farming or fishing).

However, if the estate or trust did not file a 1998 tax return or that return did not cover all 12 months, item 2 above does not apply.

Estates (and any trusts that were treated as owned by the decedent and that received the residue of a decedent's estate under the will, or if no will is admitted to probate, were primarily responsible for paying debts, taxes, and other expenses of administration) are exempt from paying estimated income tax payments for the tax year of the decedent's death and the following tax year.

Exceptions — Generally, the estate or trust will not have to pay estimated tax if its 1999 income tax return will show (1) a tax refund, or (2) a tax balance due of less than \$300.

Use Form IT-2105, *Estimated Income Tax Payment Voucher*, and instructions, Form IT-2105-I-F, to determine and pay any amount of estimated tax required.

Payments of estimated tax treated as paid by beneficiary (section 685(c)(6)(D) or (F) election, as applicable) —

Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. Fiduciaries making this election must file Form IT-205-T to show the allocation of any estimated tax payment among the beneficiaries. **Note:** The fiduciary of an estate may make a section 685(c)(6)(F) election only for the last tax year of the estate. Amounts applied to each beneficiary should be reported on Form IT-205-T. Be sure to copy the name, address, and employer identification number of the estate or trust exactly as reported on Form IT-205. Amounts applied to each beneficiary are treated as paid or credited to the beneficiary on the last day of the fiduciary's tax year and treated as a payment of estimated tax made by the beneficiary that would otherwise be due January 15, 1999. The fiduciary may make the election only if the Form IT-205-T is filed on or before the 65th day after the close of the fiduciary's tax year.

Signature Area

Sign and date Form IT-205 at the bottom. The return cannot be processed if it is not signed.

Enter the daytime telephone number including the area code. While this telephone number is not required, this voluntary entry will enable the Tax Department to correct minor errors or omissions by calling rather than writing or sending back the return.

Keep a copy of the return and any attachments for future reference. If someone prepares the return for the estate or trust, be sure to get a copy for the estate or trust records.

Paid Preparers — Anyone you pay to prepare your return must sign it and fill in the other blanks in the paid preparer's area of your return. The preparer required to sign your return must sign it by hand; signature stamps or labels are

not acceptable. If someone prepares your return and does not charge you, that person should not sign it.

Paid preparers may be subject to a penalty for failure to conform to certain requirements. (See below.)

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. (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 7.)

Accumulation Distribution Credit

A beneficiary whose New York source income includes an accumulation distribution from a trust is allowed a tax credit on his or her 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 New York adjusted gross income or New York source income. (See Tax Law sections 621 and 635.)

If 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

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 Department of Taxation and Finance.

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 pay any tax when due, for making a false or fraudulent return or for making a false certification. A penalty may be charged for not paying enough estimated tax or for not making the payments on time.

Failure of Paid Preparers to Conform to Certain Requirements

A penalty of \$50 per return or claim for refund will be assessed a paid preparer for failure to conform to any of the following requirements:

- failure to sign the tax return or claim for refund;
- failure to include the identifying number of the paid preparer (if an individual paid preparer is an employee of an employer or a partner in a partnership that is a paid preparer, the return or claim for refund must also include the identifying number of the employer or partnership);
- failure to furnish a completed copy of the tax return to the taxpayer not later than the time the return is presented for the taxpayer's signature;

– failure to keep a completed copy of the return prepared for each taxpayer, or to keep the name and identification number of each taxpayer for whom a return was prepared on a list and to make the copy or list available for inspection upon request.

The period for keeping a completed copy of the return or information on the list is three years after the due date of the return (without regard to extensions) or three years after the date the return was presented to the taxpayer for signature, whichever is later.

For each of the requirements listed above, a paid preparer may be subject to a maximum penalty of \$25,000.

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, the change applies similarly to the New York State fiduciary return.

Short Taxable Year

If a return for a period of less than 12 months is filed for federal income tax purposes, you must also file a short period return for New York State income tax purposes.

Specific Instructions

All information on Form IT-205 should be for the calendar year January 1 through December 31, 1998, or for the fiscal year of the estate. If filing for a fiscal year, enter the month, day and year the tax year began, and the month, day and year that it ended at the top of the front page.

Name and Address Box

Enter in the spaces at the top of the return the name of the estate or trust, the name and title of the fiduciary, and the address of the fiduciary. This is the mailing address for subsequent mailings from the Tax Department (e.g., refund checks, forms, etc.). Also enter the employer identification number of the estate or trust in the space provided to the right of the address box.

Estates only - enter the decedent's social security number.

Initial Return

Check this box if this is the initial return for the estate or trust.

Final Return

Check this box if this is a final return because the estate or trust has terminated.

Do You Need a Tax Packet?

If you use photocopied or computer-produced returns, or if for any other reason you do not need a tax packet mailed to you next year, please check the box to the right of the name and address area. By checking this box, you will help us reduce printing and mailing costs.

Amended Returns or Federal Changes

Generally, an amended return claiming credit for, or a refund of, an overpayment must be filed within three years from the date that the original return was filed, or within two years of the date the tax was paid, whichever is later.

Exception: If the fiduciary files an amended federal return showing a change in its:

- taxable income,
- tax preference items,
- total taxable amount of capital gain or ordinary income portion of a lump-sum distribution,
- the shares of income distributable to the beneficiaries, or
- the amount of the estate's or trust's foreign tax credit affecting the computation of the resident credit for taxes paid to a province of Canada,

the fiduciary must file Form IT-205 (amended) within 90 days of the date the fiduciary amends its federal return.

To amend the fiduciary's original Form IT-205, mark an "X" in the Amended return box on the front page. The fiduciary must also file an amended return to correct any error on its original state return and to report changes made by the Internal Revenue Service. Attach a signed statement indicating you concede the federal audit changes. If you do not concede the federal audit changes, attach a signed statement explaining why.

Note: If the federal changes affect the distributable net income of the estate or trust, each beneficiary's share of any New York fiduciary adjustment that applies to the federal changes must be reported on Form IT-201-X, or Form IT-203-X, as applicable.

Income Distribution Deduction

Enter the total distribution of the estate or trust, from line 58 of Form IT-205. This should also equal the amount entered on federal Form 1041, Schedule B, line 15, income distribution deduction. Please use whole dollars.

Number of Beneficiaries

Enter the number of beneficiaries of the estate or trust.

Filling in your form

Form IT-205 has been designed to let us use the latest scanning and image-processing equipment. Rectangular boxes and white entry areas have been printed on the form to guide you in making your handwritten entries. This will enable our scanning equipment to more accurately read your return and let us process it more efficiently. Please spend a moment reviewing the method below for making your entries:

- Please print (using a blue or black ballpoint pen; no pencils, please) or type all "X" marks and money amounts in the boxes or spaces provided.
- Do not use dollar signs, commas, decimal points, dashes or any other punctuation marks or symbols. All necessary punctuation has been printed on the form.

Write your numerals like this:

1	2	3	4	5	6	7	8	9	0	X
---	---	---	---	---	---	---	---	---	---	---

- Carefully enter your money amounts so that the whole **dollar amount** ends immediately to the **left** of the cents decimal and the **cents amount** starts immediately to the **right** of the cents decimal.

- Make your money amount entries in the white areas allowing one numeral for each box.

Example: If your entry for line 9 is \$13,525.50, your money field entry should look like this:

...

1	3	5	2	5	.	5	0
---	---	---	---	---	---	---	---

- Leave **blank** any spaces and boxes that do not apply to you.

Items A, B, and C on Front Page

Complete lines 1 through 42, if applicable, before completing items A, B, and C.

Item A Resident estates and trusts — Enter the total income from Form IT-205, Schedule A, line 51. **Nonresident estates and trusts and part-year resident trusts** — Enter the total income from Form IT-205-A, Schedule 4, line 22, column (a).

Item B Resident estates and trusts — Enter your New York adjusted gross income from page 6, NYAGI worksheet, line 5. **Nonresident estates and trusts and part-year resident**

trusts — Enter your New York adjusted gross income from Form IT-205-A-I, page 1, NYAGI worksheet, line 5.

Item C Nonresident estates and trusts and part-year residents trusts only — Enter the amount from Form IT-205-A, Schedule 1, line 10, column (a).

Line Instructions

Line 1 Federal taxable income of fiduciary — Resident estates and trusts — Enter the amount of the taxable income of fiduciary as reported on Form IT-205, Schedule A, line 62. **Nonresident estates and trusts and part-year resident trusts** — Enter the amount of the taxable income of fiduciary as reported on Form IT-205-A, Schedule 1, line 6, column (a).

Line 2 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 that are not includable in federal distributable net income of the estate or trust (attach a statement giving full details):

A Sales or dispositions of assets acquired before 1960 with greater state than federal bases — When federally taxable gains are realized from the sale of certain assets that have higher adjusted bases for state tax purposes, subtraction adjustments must be made to reduce the gain for state tax purposes. State income tax laws prior to 1960 and currently existing state income tax laws about depletion can cause these differences in adjusted bases.

If federal taxable income included gain that was from **either**:

- property that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960); or
- property that was held in connection with mines, oil or gas wells, and other natural deposits and that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes when sold;

then include as a subtraction on line 2, the **lesser of**:

- the gain itself; or
- the difference in the adjusted bases.

B Income earned before 1960 and previously reported to New York State — Due to a different set of state income tax laws for any tax year ending before 1960 (and any fiscal tax year ending during 1960), income that is reportable for federal purposes for 1998 that was reported for New York State tax purposes then, is not subject to New York State tax again.

If any income (including annuity income) or gain was included in the 1998 federal taxable income that was properly reported as income to New York State prior to 1960 (or during a fiscal year ending in 1960) by **either**:

- the estate or trust; or
- the decedent or estate or trust from whom the fiduciary acquired that income or gain;

then include that income or gain as a subtraction on line 2.

C Wage and salary expenses allowed as federal credits but not as federal expenses — The federal government allows certain wage and salary payments to others to be taken as credits against taxes instead of as expenses against income. New York State does not have comparable credits, but does allow the expenses.

If the estate or trust is entitled to take either a federal Indian employment credit, a work opportunity credit, or an empowerment zone employment credit for wages and salaries paid in 1998 to one or more persons in certain groups, and if those 1998 wages were not deducted in

determining federal taxable income (as they should not have been), **then** include those wage payments as a subtraction on line 2.

D Gain to be subtracted from the sale of a new business investment reported on your federal income tax return — If the estate or trust reported a capital gain on its federal income tax return from the sale of a new business investment that was issued before 1988 and was held at least four years but less than five years, **then** the estate or trust must include as a subtraction on line 2 twenty-five percent (25%) of that federal gain. If the investment was held at least five years but less than six years, include fifty percent (50%) of that federal gain. If the investment was held at least six years include one-hundred percent (100%) of that federal gain.

E Percentage depletion — If the estate or trust claimed a deduction on its federal return for percentage depletion on mines, oil and gas wells, and other natural deposits, **then** include as an addition on line 2 the amount deducted in figuring the federal taxable income of the estate or trust.

Cost Depletion — New York State does not allow percentage depletion of natural resource holdings but does allow cost depletion.

If the estate or trust is making a New York addition for any percentage depletion deducted for property in determining its federal taxable income, **then**:

- compute the cost depletion that would be allowed on that property by section 611 of the Internal Revenue Code (IRC) without any reference to either section 613 or 613-a of that code; **and**
- include that amount as a subtraction on line 2.

F Special additional mortgage recording tax deducted — If the estate or trust excluded or deducted special additional mortgage recording tax in figuring federal taxable income, and you were previously allowed a New York State personal income tax credit for that tax, **then** include as an addition on line 2 the amount excluded or deducted.

G Special additional mortgage recording tax basis adjustment — If the estate or trust paid a special additional mortgage recording tax when they sold or disposed of property, **then** include as a subtraction on line 2 the amount of the basis that was not adjusted for the special additional mortgage recording tax credit.

H Sales or dispositions of assets acquired from decedents — In certain cases involving assets of decedents, the assets can acquire different bases for state and federal tax purposes. In those cases, adjustments in the gains or losses on the sales or disposition of those assets must eventually be made.

If, during the tax year, there was a sale or other disposition of any stocks, bonds, property or other assets that had been either inherited or sold or disposed of directly by the estate of a decedent, **and if** the estate of the decedent who left behind those assets was not large enough to require the filing of a federal estate tax return, **and if** the executor or administrator of that estate had valued those assets for New York State purposes at less than their value for federal purposes, **then** include as an addition on line 2 the **difference between** (a) the gain or loss on that sale or disposition that you figured into the federal taxable income of the estate or trust for the tax year, and (b) the gain or loss that would have resulted if the executor or administrator had valued the assets for federal purposes at the same value that he or she valued them for New York State purposes.

Loss from the sale or disposition of property that would have been realized if a federal estate tax return had been required — If the

estate or trust acquired property from a decedent and the property was valued by the executor of the estate in such a manner where the estate was insufficient to require the filing of a federal estate tax return, **and** a loss on the sale would have been realized if a federal estate tax return had been required, **then** include as a subtraction on line 2 the amount of the loss that would have been realized.

I Special depreciation — If the estate or trust made an election for tax years beginning before 1987 for special depreciation for:

- research and development expenditures,
- waste treatment facility expenditures,
- air pollution control equipment expenditures, **or**
- acid deposition control equipment,

then include as an addition on line 2 any amount that was added to federal taxable income.

Special depreciation expenditures — The excess expenditures incurred in taxable years beginning before 1987 in connection with depreciable, tangible business property located in New York State may be carried over to the following taxable year or years and subtracted from federal taxable income for that year(s) if those expenses exceeded the New York taxable income of the estate or trust before the allowance of those expenditures.

If the estate or trust incurred such expenditures, **then** complete Form IT-211, *Special Depreciation Schedule*, to figure the amount to include as a subtraction on line 2.

J New business investment; deferral recognition — If in any tax year beginning on or after January 1, 1982, and before 1988, the estate or trust chose to subtract all or a portion of a long term capital gain from federal taxable income because that amount had been reinvested in a new New York business, **and** if that reinvestment was sold in 1998, **then** include as an addition on line 2 the amount that had previously been subtracted.

K Deductions attributable to safe harbor leases (such a lease is a financial arrangement between either a corporation, partnership, or certain grantor trusts and a person, firm, estate, or trust to acquire and use an asset; the arrangement is allowed for federal tax purposes, but is not allowed for state tax purposes unless it involves mass transit vehicles) — If in figuring the federal taxable income of the estate or trust, they took deductions attributable to a safe harbor lease (except for mass transit vehicles) made under an election provided for by section 168(f)(8) of the IRC as it was in effect for agreements entered into prior to January 1, 1984, **then** include those deductions as an addition on line 2 **and** see L below.

Amount that was included in federal income because the IRC 168(f)(8) election was made If an amount was included in federal taxable income (except for mass transit vehicles) solely because the safe harbor election was made on the federal return of the estate or trust for agreements entered into before January 1, 1984, **then** include that amount as a subtraction on line 2.

L Safe harbor leases; election for qualified leased property (see K above for a definition of safe harbor leases) — If the estate's or trust's financial matters in 1998 involved a safe harbor lease (except for mass transit vehicles) made under an election provided for by section 168(f)(8) of the IRC as it was in effect for agreements entered into prior to January 1, 1984, **then** the estate or trust must include as an addition on line 2 the income that they would have included in their federal taxable income if such an election had not been made.

Amount that could have been excluded from federal taxable income had the IRC 168(f)(8) election not been made — If an amount could have been excluded from federal taxable income (except for mass transit vehicles) had the safe harbor election not been made on the federal return of the estate or trust for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount as a subtraction on line 2.

M Accelerated cost recovery system (ACRS) deduction — New York State does not allow ACRS depreciation for property placed in service in certain tax years. The estate or trust must figure their New York State depreciation by using one of the methods provided for in section 167 of the IRC as it was in effect on December 1, 1980 (e.g., straight line, declining balance, etc.).

If the estate or trust claimed ACRS depreciation on their federal return for property not classified as IRC section 280F property (such as luxury automobiles), and:

- that property was placed in service inside or outside New York state during tax years 1981, 1982, 1983 and 1984; **or**
- that property was placed in service outside New York State in tax years beginning after December 31, 1984, but before January 1, 1994 (including property on which ACRS depreciation was figured in accordance with the Federal Tax Reform Act of 1986);

then include as an addition on line 2 the amount that was deducted in figuring the federal taxable income.

Alternate depreciation allowed for New York State New York does not allow ACRS depreciation for property placed in service inside or outside New York State during tax years 1981, 1982, 1983 and 1984, or for property placed in service outside New York State in tax years beginning after December 31, 1984, but before January 1, 1994. Instead, the estate or trust must compute New York State depreciation by using one of the methods provided for in section 167 of the IRC as it was in effect on December 31, 1980 (e.g., straight line, declining balance, etc.).

If the estate or trust had this type of property, **then** include as a subtraction on line 2 the amount of the New York depreciation.

If you are required to make this New York addition **and** subtraction, you must complete Form IT-399, *New York State Depreciation Schedule*.

N Accelerated cost recovery property; year of disposition adjustment — If the estate or trust disposed of property during 1998 that it depreciated for federal purposes using ACRS, **then** the estate or trust **must** complete Part II of Form IT-399, *New York State Depreciation Schedule*, to figure the amount to include as an addition, or subtraction on line 2, depending on the total federal ACRS deduction claimed being less than or more than the total NY depreciation claimed.

O Gain on property transferred to trust at less than fair market value — If a trust sells or exchanges property at a gain not more than 2 years after the date of the initial transfer of the property in trust by the transferor, and the fair market value of the property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after the transfer, **then** include as an addition on line 2 the amount of any includable gain, reduced by any allowable deductions to that gain, where tax was imposed by section 644 of the IRC, relating to sales or exchanges occurring on or before August 5, 1997.

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 modification to be included on line 2 where S corporation income, loss or deduction has been allocated to principal.

Line 4 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 Form IT-205, Schedule C, column 5.

Line 6 — See table and worksheet on page 6.

Line 7 — Enter on line 7 the amount of New York State tax on the capital gain portion of the estate's or trust's lump-sum distribution from Form IT-230, Part II, line 2. Attach Form IT-230 to the fiduciary return (Form IT-205).

Line 9 Allocated New York State tax — Enter the amount from Form IT-205-A, Schedule 1, line 13 if a nonresident estate or trust or a part-year resident trust.

If the estate or trust used Form IT-230, Part II, to figure the tax on the capital gain portion of the estate's or trust's lump-sum distribution, check the box at line 9. Attach Form IT-230 to the fiduciary return.

Line 10 State credits — Enter on this line the total of state credits allowable under sections 606 (except for the household credit, earned income credit and real property tax credit), 620, 621, and 635 of the Tax Law, except for the investment credit refund. See the instructions for Form IT-212 and include the investment credit refund on line 34. The credit provided for under section 620-A is allowed only against the state separate tax on lump-sum distributions entered on line 12.

Line 11 — Resident estate or trust: Subtract line 10 from line 8. Enter the result on line 11.
Nonresident estate or trust or part-year resident trust: Subtract line 10 from line 9. Enter the result on line 11.

Line 12 State separate tax on lump-sum distributions and other add-backs — Enter the amount of any separate tax on lump-sum distributions due from Form IT-230 (attach form). If the credit 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 enter on this line any amount of add-back of the following credits:

- investment credit on early dispositions
- EDZ investment credit on early dispositions
- resident credit for taxes paid to a province of Canada
- alternative fuels credit on early dispositions (for trusts only)
- farmers school tax credit on early dispositions
- investment credit - financial services industry - on early dispositions
- EDZ investment - financial services industry - on early dispositions.

Add-backs Worksheet

1. Total add-back credits	1. _____
2. Amount entered on line 10	2. _____
3. Amount entered on line 8 or 9	3. _____
4. Subtract line 3 from line 2 (if zero or less, enter 0)	4. _____
5. Subtract line 4 from line 1 (if zero or less, enter 0)	5. _____
6. Enter separate tax on lump-sum distributions (see line 12 instructions)	6. _____
7. Add lines 5 and 6 and enter the total on line 12	7. _____

Note: You must complete this worksheet **only** if you have any of the add-backs listed above in order to determine the amount to enter on line 12.

New York State Tax Rate Schedule (for line 6)

If the amount on line 5 is:

over	but not over	Enter on line 6	
\$ 0	\$ 8,000	4%	of amount on line 5
8,000	11,000	\$320 plus 4.5%	of amount over \$8,000
11,000	13,000	455 plus 5.25%	" " " 11,000
13,000	20,000	560 plus 5.9%	" " " 13,000
20,000		973 plus 6.85%	" " " 20,000

Line 6 New York State Tax

Complete New York adjusted gross income (NYAGI) worksheet as follows:

- Enter federal adjusted gross income (as computed using federal Form 1041, line 15b instructions allowable miscellaneous deductions) 1. _____
- Enter amount from Form IT-205, line 2. 2. _____
- Enter the net amount of the fiduciary share of additions and subtractions from Form IT-205, Schedule B, lines 63 through 69, that relate to the income reported on Form IT-205, Schedule A, lines 43 through 50 3. _____
- Add lines 2 and 3 4. _____
- New York adjusted gross income (line 1 and add or subtract line 4; enter here and on Form IT-205, front page, Item B). 5. _____

Tax Computation

If line 5 above is \$100,000 or less, find your New York State tax on the amount on Form IT-205, page 1, line 5, using the *New York State Tax Rate Schedule* above. Enter the tax amount on Form IT-205, line 6.

If line 5 above is more than \$100,000 but not more than \$150,000, you must compute your tax using *Tax Computation Worksheet I* below.

If line 5 above is more than \$150,000, you must compute your tax using *Tax Computation Worksheet II* below.

Tax Computation Worksheet I

- Enter the amount from line 5 above 1. _____
- Enter your taxable income from Form IT-205, line 5 2. _____
- Multiply line 2 by 6.85% (.0685) 3. _____
- Enter your New York State tax on the line 2 amount using the *New York State Tax Rate Schedule* above 4. _____
- Subtract line 4 from line 3 5. _____
- Enter the excess of line 1 over \$100,000 (cannot exceed \$50,000) 6. _____
- Divide line 6 by \$50,000 and carry the result to four decimal places (cannot exceed 1.0000) 7. _____
- Multiply line 5 by line 7 8. _____
- Add lines 4 and 8 (enter here and on Form IT-205, line 6) 9. _____

Tax Computation Worksheet II

- Enter your taxable income from Form IT-205, line 5 1. _____
- Multiply line 1 by 6.85% (.0685) (enter here and on Form IT-205, line 6) 2. _____

Line 13 State minimum income tax — Enter the amount of any minimum income tax due from Form IT-220 and attach form. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule I, *Alternative Minimum Tax*.

Lines 15a through 25 City of New York taxes and credits — These lines refer only to New York City taxes and credits. General and specific instructions for these lines are on pages 11 and 12.

Lines 26, 27, and 28 — City of Yonkers taxes — These lines refer only to Yonkers tax. Specific instructions for these lines are on pages 11 and 12.

Line 30 — Enter estimated tax payments. Also enter the amount you paid with Form IT-370-PF, *Application for Automatic Extension of Time to File for Partnerships and Fiduciaries*. If the amount does not agree with the account statement included in your estimated tax packet,

complete Form IT-2105.1, *Reconciliation of Estimated Income Tax Account*, and fax or mail it **immediately** to the fax number or address shown in its instructions.

Line 31 — If the fiduciary makes the election under section 685(c)(6)(D) or (F) to have any portion of an estimated tax payment treated as a payment of estimated tax made by a beneficiary or beneficiaries, enter the amount on line 31.

The estimated tax payment allocated to beneficiaries is treated as having been distributed on the last day of the preceding tax year. If the election is made, Form IT-205-T must be filed on or before the 65th day after the close of the fiduciary's tax year.

Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries*, shows the amounts to be allocated to each beneficiary. Failure to file Form IT-205-T on or before March 6, 1999, will result in an invalid election. (Since March 6, 1999, falls on a Saturday, you will actually have

until March 8, 1999.) For more information, see the instructions for Form IT-205-T. Attach Form IT-205-T to your return only if you are making the section 685(c)(6)(D) or (F) election, as applicable, with Form IT-205. If you have already filed Form IT-205-T, **do not** attach a copy to your return.

Line 33 Farmers' School Tax Credit — For tax years beginning after 1996, an eligible farmer may be entitled to an income tax refundable credit for the school district property taxes the farmer pays. The credit is allowed only for school taxes paid on land, structures, and buildings owned by the farmer that are located in New York State and used or occupied for agricultural production. An eligible farmer may be an estate or trust subject to tax under Article 22 of the Tax Law (the personal income tax). In addition, an eligible farmer may be entitled to the credit if the farmer is a partner in a partnership or a shareholder of a New York S corporation that owns property used in agricultural production.

To claim this credit, fill in Form IT-217, *Claim for Farmers' School Tax Credit*, and transfer the amount from Form IT-217 to Form 205, line 33. Attach Form IT-217 to the fiduciary return. For more information, see the instructions for Form IT-217 and Publication 51, *Questions and Answers on New York State's Farmers' School Tax Credit*. Also, see the instructions for line 65, Other additions, for item A-16.

Line 34 New York State tax withheld — Enter any amount of New York State tax withheld as shown on a decedent's wage and tax statement(s), Form IT-2102 or federal Form W-2, received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If New York State tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return.

If the estate or trust is claiming a refund of one or more of the other refundable credits listed below, identify each credit being claimed and its amount in the box labeled *Identify* on line 34, and include the amount(s) of the other refundable credit(s) in the total for line 34. If you need more room, make a list showing each adjustment and its amount and attach the list to your fiduciary return.

- Investment Credit refund (ICR) from Form IT-212
- Investment Credit - Financial Services Industry Refund from Form IT-252
- Economic Development Zone Wage Tax Credit (EDZ-WTC) from Form DTF-601
- Zone Equivalent Area Wage Tax Credit (ZEA-WTC) from Form DTF-601.1
- Economic Development Zone Investment and Employment Incentive Tax Credit (EDZ-ITC) from Form DTF-603
- Economic Development Zone Investment Tax Credit - Financial Services Industry from Form DTF-605
- Credit for prior taxes paid under a Claim of Right (COR) from Form IT-257, *Claim of Right Credit*. (See Publication 99, *New York State Tax Credits, Retirement Benefits and Deductions*, for more information on the computation of the claim of right credit.)

Line 35 City of New York tax withheld — Enter any amount of New York City tax withheld on a decedent's wage and tax statement(s), Form IT-2102 or federal Form W-2, received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If New York City tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return. If the estate or trust is claiming a credit for prior taxes paid under a Claim of Right, identify it in the white area to the left of the amount column by entering

COR and showing the amount of the credit being claimed. In the total for line 35, include the amount from Form IT-257, *Claim of Right Credit*, line 8 or line 11, or the total of both lines. Attach Form IT-257 to your return. For more information, see the instructions for Form IT-257.

Line 36 City of Yonkers tax withheld — Enter any amount of Yonkers tax withheld on a decedent's wage and tax statement(s), Form IT-2102 or federal Form W-2, received by the estate or trust. Staple any wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2), to this return. If Yonkers tax was withheld from New York State lottery distributions, staple Copy 1 of New York State Form IT-2102-G or Copy 2 of federal Form W-2G to this return. If the estate or trust is claiming a credit for prior taxes paid under a Claim of Right, identify it in the white area to the left of the amount column by entering **COR** and showing the amount of the credit being claimed. In the total for line 36, include the amount from Form IT-257, *Claim of Right Credit*, line 14 or line 17, or the total of both lines. Attach Form IT-257 to your return. For more information, see the instructions for Form IT-257.

Lines 38 through 41 — The New York State, New York City and 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 the estate's or trust's 1999 estimated income taxes. If it is credited to 1999 estimated taxes, the credit may not be changed after April 15, 1999.

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

An overpayment of more than one dollar will be refunded automatically. An overpayment of one dollar or less will be refunded only if requested in a separate signed statement attached to the return.

Line 42 Estimated tax penalty — If line 41 is at least \$100 and represents more than 10% of the tax shown on the fiduciary return, or the fiduciary underpaid its estimated tax liability for any payment period, the fiduciary may owe a penalty. However, the fiduciary may not be subject to a penalty if its 1998 prepayments equal at least 100% of its 1997 tax, 110% of the amount if the estate's or trust's New York adjusted gross income on that return is more than \$150,000, and less than $\frac{2}{3}$ of the total federal gross income for 1997 or 1998 is from farming or fishing (based upon a return covering 12 months). Get Form IT-2105.9, *Underpayment of Estimated Tax by Individuals and Fiduciaries*, to see if the estate or trust owes a penalty and to figure the amount. If the estate or trust owes a penalty, enter the amount on line 42 and attach Form IT-2105.9 to Form IT-205. This penalty will either reduce the overpayment or increase the amount you owe. For more information, see the instructions for Form IT-2105.9.

Do not include any other penalty or interest amounts on line 42. If the estate or trust includes penalties or interest with the payment, identify them and enter these amounts in the right margin of the front page of Form IT-205.

Schedule A

Federal Taxable Income of Fiduciary

Lines 43 through 62 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 that federal schedule. If a capital gain or loss is reported on

line 46, attach a copy of federal Schedule D and any related schedules. Instead of completing Schedule A, you may attach a copy of federal Form 1041.

Attach a copy of federal Schedule K-1 (Form 1041) for each beneficiary.

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 64, 65, and 68, that 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 63 and 67 of Schedule B and those described for line 65, item A-1 and for line 68, items S-2, S-4, S-5, S-13 (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 - Effect on Fiduciary Adjustment* on page 3.)

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. Obtain the estate's or trust's share of S corporation items of income, loss and deduction from the S corporation.

If the estate or trust is a shareholder of an S corporation that was eligible to make the election to be a New York S corporation for the tax year but did not make the election, 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 the estate or trust had a gain or loss recognized on its federal income tax return because of the disposition of stock or indebtedness of an S corporation, and if that S corporation did not have an election to treat the corporation as a New York S corporation in effect for any taxable year beginning:

- after December 31, 1980, if taxable as a corporation under Article 9-A (General Business Corporation Franchise Tax) of the Tax Law, **or**
- after December 31, 1996, if taxable as a corporation under Article 32 (Banking Corporation Franchise Tax) of the Tax Law,

then include on line 65 the increase in basis of stock or indebtedness that is due to the application of Internal Revenue Code sections 1376(a) (as in effect for taxable years beginning before January 1, 1983) and 1367(a)(1)(A) and (B) for each taxable year that the New York election was **not** in effect **and** include on line 68 the reduction in basis of stock or indebtedness that is due to the application of IRC sections 1376(b) (as in effect for taxable years beginning before January 1, 1983) and 1367(a)(2)(B) and (C) for each taxable year that the New York election was **not** in effect.

Member of Partnership

If the estate or trust has income as a member of a partnership, any of the additions or subtractions that apply to the income should be included in Schedule B of Form IT-205. The estate's or trust's share of the 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 the other estate or trust to be included in Schedule B of Form IT-205 may generally be obtained from its fiduciary. Attach a schedule showing how the fiduciary adjustment was figured.

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, as discussed above.

Line 63 Interest income on state and local bonds other than New York — Enter any interest income on obligations of other states or political subdivisions of those states that the fiduciary received or that was credited to the fiduciary during 1998 that was not included in the fiduciary's federal adjusted gross income. This includes interest income on state and local bonds (but not those of New York State and local governments within the state), interest and dividend income on tax-exempt bond mutual funds and tax-exempt money market funds that invest in obligations of states other than New York (section 612(b)(1) of the Tax Law).

Line 64 Income taxes deducted on federal fiduciary return — All state, local and foreign income taxes including unincorporated business taxes deducted on the federal fiduciary return are to be added back on line 64 with the exception of state income taxes imposed upon or paid by the S corporation to another state, political subdivision of another state or the District of Columbia and the New York City nonresident earnings tax to the extent that the 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 65 — Other additions — Some additions that are not as common as those identified individually on Form IT-205 are reported on line 65 as *Other* additions. The requirement for these additions to federal taxable income are provided for in New York Tax Law section 612(b).

Identify any of the following additions (below and on pages 8 and 9) that apply to the estate or trust by writing an item number (A-1 through A-17) and the amount of each addition in the *Identify* box on line 65. Enter the total amount of these other additions on line 65.

A-1 Investment income from certain obligations of U.S. government agencies or affiliations — Federal laws specifically exempt investment income from certain obligations of U.S. government agencies or affiliations from federal taxation but not from state taxation. **If**, during 1998, the estate or trust received or was credited with any interest or dividend income from any United States authority, commission or instrumentality that federal laws exempt from federal income tax but do not exempt from state income tax, **then** include that income on line 65. If the estate or trust is uncertain whether a particular federal bond or obligation is subject to state income tax, contact the New York State Tax Department (*see Need Help?* on the inside front cover of these instructions).

A-2 Interest expense on loans used to buy obligations exempt from New York State tax, amortized bond premium on bonds that are exempt from New York State tax and other expenses relating to the production of income exempt from New York State tax

If the estate's or trust's federal taxable income includes a deduction for interest expense used to buy bonds, obligations or securities whose interest income is taxable for federal purposes but is exempt from New York State tax, **then** include that interest expense on line 65.

If the estate's or trust's federal taxable income included a deduction for the amortization of bond premiums on bonds whose interest income is taxable for federal purposes but exempt from New York State tax, **then** include that amortized premium on line 65.

If the estate's or trust's federal taxable income included a deduction for expenses relating to the production of income that is taxable for federal purposes but exempt from New York State tax, **then** include that interest expense on line 65.

A-3 Percentage depletion — If the estate or trust claimed a deduction on its federal return for percentage depletion on mines, oil and gas wells, and other natural deposits, **then** include on line 65 the amount deducted in figuring its federal taxable income. Also see subtraction S-11 on page 10.

A-4 Special depreciation — If the estate or trust made an election for tax years beginning before 1987 for:

- special depreciation,
- research and development expenditures,
- waste treatment facility expenditures,
- air pollution control equipment expenditures, or
- acid deposition control equipment;

then include on line 65 the amount of depreciation or expenditures relating to these items that was deducted in determining its federal taxable income. Also see subtraction S-16 on page 10.

A-5 Sales or dispositions of assets acquired from decedents — In certain cases involving assets of decedents, the assets can acquire different bases for state and federal tax purposes. In those cases, adjustments in the gains or losses on the sales or disposition of those assets must eventually be made.

If, during the tax year, there was a sale or other disposition of any stocks, bonds, property or other assets that had been either inherited or sold or disposed of directly by the estate of a decedent, **and** if the estate of the decedent who left behind those assets was not large enough to require the filing of a federal estate tax return, **and** if the executor or administrator of that estate had valued those assets for New York State purposes at less than their value for federal purposes, **then** include on line 65 the **difference between** (a) the gain or loss on that sale or disposition that was figured into the estate or trust federal taxable income for the tax year and (b) the gain or loss that would have resulted if the executor or administrator had valued the assets for federal purposes at the same value that he or she valued them for New York State purposes.

A-6 New business investment; deferral recognition — If in any tax year beginning on or after January 1, 1982, and before 1988, the estate or trust chose to subtract all or a portion of a long term capital gain from its federal income because that amount had been reinvested in a new New York business, **and** if that reinvestment was sold in 1998, **then** include on line 65 the amount that had previously been subtracted.

A-7 Deductions attributable to safe harbor leases (such a lease is a financial arrangement between either a corporation, partnership, or certain grantor trusts and a person, firm, estate, or trust to acquire and use an asset; the arrangement is allowed for federal tax purposes, but is not allowed for state tax purposes unless it involves mass transit vehicles).

If, in figuring its federal taxable income, the estate or trust took deductions attributable to a safe harbor lease (except for mass transit vehicles) made under an election provided for by section 168(f)(8) of the IRC as it was in effect for agreements entered into prior to January 1, 1984, **then** include those deductions on line 65, **and** see A-8, S-17, and S-18.

A-8 Safe harbor leases; election for qualified leased property (see A-7 above for a definition of safe harbor leases) — If the estate's or trust's financial matters in 1998 involved a safe harbor lease (except for mass transit vehicles) made under an election provided for by section 168(f)(8) of the IRC as it was in effect for agreements entered into prior to January 1, 1984, **then** the estate or trust must include on line 65 the income that it would have included in federal taxable income if such an election had not been made. **Also see A-7, S-17, and S-18.**

A-9 Accelerated cost recovery system (ACRS) deduction — New York State does not allow ACRS depreciation for property placed in service in certain tax years. The estate or trust must figure their New York State depreciation by using one of the methods provided for in section 167 of the IRC as it was in effect on December 31, 1980 (e.g., straight line, declining balance, etc.). See subtraction S-19 on page 10.

If the estate or trust claimed ACRS depreciation on its federal return for property not classified as IRC section 280F property (such as luxury automobiles), and

- that property was placed in service inside or outside New York State during tax years 1981, 1982, 1983, and 1984; or
- that property was placed in service outside New York State in tax years beginning after December 31, 1984, but before January 1, 1994 (including property on which ACRS depreciation was figured in accordance with the Federal Tax Reform Act of 1986);

then include on line 65 the amount that was deducted in figuring federal taxable income. The estate or trust must complete and attach Form IT-399, *New York State Depreciation Schedule*.

A-10 Accelerated cost recovery property (year of disposition adjustment) — If the estate or trust disposed of property that was depreciated for federal purposes using ACRS, and if ACRS depreciation was not allowed for state purposes, **then** the estate or trust must complete Part II of Form IT-399, *New York State Depreciation Schedule*, to figure the amount to include on line 65.

A-11 Interest related to a corporate acquisition — New York State Law specifically requires that, in some cases, up to 5% of interest that is related to a corporate acquisition and that is deducted in figuring New York taxable income (without regard to this modification) be added to federal taxable income.

If the estate or trust figured in a deduction for interest expense relating to a corporate acquisition when figuring **either** its federal taxable income or a subtraction modification used to determine its New York taxable income, **then** include this interest expense on line 65.

Attach a separate schedule to the return showing the computation. For more information, see TSB-M-89-(10)I, *Mergers and Acquisitions*, dated February 20, 1990.

A-12 414(h) Retirement contributions — If the estate or trust has an amount shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (copy 1) or federal Form W-2 (copy 2), that was deducted from their salary as a retirement contribution, **then** include this amount on line 65.

Note: These are retirement contributions made by:

- a Tier 3 or Tier 4 member of the New York State and Local Retirement Systems, which include the New York State Employees' Retirement System and the New York State Police and Fire Retirement System; or
- a Tier 3 or Tier 4 member of the New York State Teachers' Retirement System; or
- a deceased employee of the State or City University of New York who belongs to the Optional Retirement Program; or
- any tier member of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund or the New York City Fire Department Pension Fund; or
- a member of the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Plan.

Do not enter on line 65 contributions to a section 401(k) deferred arrangement, section 403(b) annuity or section 457 deferred compensation plan.

A-13 New York City flexible benefits program (IRC 125) — If the estate or trust has an amount shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1, box 8) or federal Form W-2 (Copy 2, box 14), that was deducted or deferred from their salary under a flexible benefits program established by the city of New York or certain other New York City public employers on a decedent's behalf, **then include this amount on line 65.**

Note: For purposes of this addition, certain other New York City public employers include:

- City University of New York;
- New York City Health and Hospitals Corporation;
- New York City Transit Authority;
- New York City Housing Authority;
- New York City Off-Track Betting Corporation;
- New York City Board of Education;
- New York City School Construction Authority;
- Manhattan and Bronx Surface Transit Operating Authority (MABSTOA); and
- Staten Island Rapid Transit Authority.

A-14 Health insurance and the Welfare Benefit Fund surcharge — If the decedent was a career pension plan member of the New York City Employees' Retirement System or the New York City Board of Education Retirement System, **and** if the decedent has an amount shown on his or her wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) that was deducted from the decedent's salary for health insurance and the welfare benefit fund surcharge, **then** include this amount on line 65.

A-15 Farmers' school tax credit — If the estate or trust claimed the farmers' school tax credit on its 1997 tax return, **then** include the amount of the credit claimed for 1997 on line 65.

A-16 College tuition savings distributions — If the estate or trust made a nonqualified withdrawal from a New York State family tuition account, **then** include that amount on line 65. A withdrawal is nonqualified if the funds are used for purposes other than the higher education of the designated beneficiary. If the estate or trust received a nonqualified withdrawal that was reduced by any penalty imposed, it must include the total withdrawal even though the amount actually received was reduced by the penalty amount.

A-17 Qualified Emerging Technology Investments (QETI) — If the estate or trust elected to defer the gain from the sale of QETI, **then** it must include on line 65 the amount previously deferred when the reinvestment in the New York qualified emerging technology company which qualified the estate or trust for that deferral is sold. Also, see subtraction S-27 on page 11.

Line 67 — Interest income on United States government bonds — Enter the amount of interest income from U.S. government bonds or other government obligations that the estate or trust included in the amount the estate or trust reported on line 43. This may be all or part of the line 43 amount or it may be zero. Check the estate's or trust's interest income records to determine the correct amount to enter on line 67. Interest income on bonds or other obligations of the U.S. government is not taxed in New York State. Dividends received from a regulated investment company (mutual fund) that invests in obligations of the U.S. government and meets the 50% asset requirement each quarter qualify for the subtraction at line 67. Once this requirement is met, the portion of the dividends received that may be subtracted is based upon the portion of taxable income received by the mutual fund that is derived from federal obligations.

Further information relating to meeting the 50% asset requirement and figuring the allowable subtraction (if any) can be obtained from the mutual fund.

If you include an amount on line 67 from more than one line above, attach a schedule showing the breakdown from each line.

Do not list the same interest more than once; see the instructions for line 68, subtractions S-2 and S-4 below.

Line 68 — Other subtractions — Some subtractions that are not as common as those identified individually on Form IT-205 are reported on line 68 as *Other* subtractions. The requirement for these subtractions from federal taxable income is provided for in New York State Tax Law section 612(c).

Identify any of the following subtractions (below and on pages 10 and 11) that apply to the estate or trust by writing the item number (S-1 through S-27) and the amount of each subtraction in the white area on line 68. Enter the total amount of these other subtractions on line 68.

S-1 Pension and annuity income exclusion New York State Law allows for a pension and annuity income exclusion, but not more than \$20,000, for pension and annuity income included in federal taxable income of the estate or trust.

If the estate or trust had pension and annuity income included in the federal taxable income of a decedent who, at the time of his or her death, was 59½ years of age or older, **then** include this amount, up to a maximum of \$20,000, on line 68.

Note: Do not enter any pension received from New York State or its political subdivisions. Qualifying pension and annuity income includes;

- periodic payment for services performed as an employee 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 Form 4972 is not used. Do **not** include the part of the payment that was derived from contributions made after retirement;
- distributions of benefits from a cafeteria plan (IRC section 125) or a qualified cash or deferred profit sharing or stock bonus plan (IRC section 401(k)) but not distributions derived from contributions made after you retired.

For more information, see Publication 99, *New York State Tax Credits, Retirement Benefits and Deductions*.

S-2 Certain investment income from U.S. government agencies — If the estate or trust included in its federal taxable income any interest or dividend income on bonds or securities of any United States authority, commission or instrumentality that is exempt from state income taxes under federal laws, **then** include that income on line 68. If the estate or trust is uncertain whether a particular federal bond or security is exempt from state income tax, contact the New York State Tax Department (see *Need Help?* on the inside front cover of these instructions).

S-3 Pensions of New York State and local governments and federal government — If a decedent received any pension or distributions from a pension plan that represents a return of contributions in a year prior to retirement, as an officer, employee, or beneficiary of an officer or employee of:

- New York State which includes:
 - State and City University of New York and New York State Education Department employees who belong to the Optional Retirement Program;
 - Manhattan and Bronx Surface Transit Operating Authority (MABSTOA); and
 - Long Island Railroad Company
- Local governments within the state
- The United States, its territories or possessions, political subdivisions of these territories or possessions, the District of Columbia or any agency or instrumentality of any of the above (including the military)

that was included in federal taxable income; **then** include this amount on line 68.

S-4 Certain investment income exempted by other New York State laws — If the estate or trust included in its federal taxable income any interest or dividend income from any obligations or securities authorized to be issued by the laws of New York State, **and if** that income is exempt from state taxation by those laws (such as income received from bonds, mortgages, and income debenture certificates of limited dividend housing corporations organized under the Private Housing Finance Law), **then** include that income on line 68. If you are uncertain whether a particular obligation or security is exempt from state income tax, contact the New York State Tax Department. See *Need Help?* on the inside front cover of these instructions.

S-5 Taxable refunds, credits, or offsets of state and local income taxes — If during 1998 the estate or trust received any refunds, credits, or offsets of state and local income taxes that were included in figuring its federal taxable income, **then** include that income on line 68.

S-6 Interest expense on loans used to buy federally tax exempt obligations that are taxable to New York State — If investment income from an obligation is taxable, then interest expense incurred to buy that obligation is deductible when determining New York taxable income.

If the estate or trust included, on either line 63 or line 65, interest income from bonds or other obligations that are federally tax exempt but taxable to New York State, **and if** the estate or trust reduced their federal taxable income by deducting interest expense on money borrowed to purchase or carry those obligations, **then** include that interest expense on line 68.

S-7 Expenses (other than interest expense) connected with federally tax exempt income that is taxable to New York State — If income from an obligation is taxable, then expenses incurred to acquire or maintain that income are deductible when determining New York taxable income.

If the estate or trust is including, on either line 63 or line 65, income that is federally tax exempt but taxable to New York State, **and if** in figuring its federal taxable income, the estate or trust deducted expenses, other than those in item S-6 above or S-8 below, used to either produce or collect that income or manage, conserve or protect the assets that produce that income, **then** include that expense on line 68.

S-8 Amortizable bond premiums on bonds the interest on which is federally tax exempt income but taxable to New York State — If investment income from an obligation is taxable, then expenses incurred to buy that obligation are deductible when determining New York taxable income.

If the estate or trust is including, on either line 63 or line 65, interest income that is federally tax exempt but taxable to New York State, **and if** those bonds were bought for more than their face value (i.e., at a premium), **and if** the estate or trust did not reduce its federal taxable income by deducting the amortization of that premium attributable to 1998, **then** include that amortization on line 68.

S-9 Certain railroad retirement income and railroad unemployment insurance benefits — If the estate or trust included in its 1998 federal taxable income **either:**

- supplemental annuity or tier 2 benefits received under the Railroad Retirement Act of 1974, **or**
- benefits received under the Railroad Unemployment Insurance Act,

and if those benefits are exempt from state income taxes under Title 45 of the United States Code, **then** include that income on line 68.

S-10 Professional service corporation shareholders — Between 1969 and 1988, New York State did not allow certain expenses of professional service corporations that were deductible on federal returns. When income attributable to those expenses is eventually received, it is not taxable to New York State.

If the estate or trust received or was credited with pension or annuity income or other income or gain from a plan acquired through a professional service corporation (PSC) **that was both:**

- based on membership in that PSC, **and**
- included in its federal taxable income for 1998,

and if, in a taxable year ending after 1969 and beginning before 1988, the estate or trust included deductions made by that PSC for contributions to plans that produced that pension, annuity or other income, **then** include on line 68 the portion of those previously added deductions that can be allocated to the income the estate or trust included in its 1998 federal taxable income.

Note: The following subtractions (S-11 through S-15) may be made only to the extent that they relate to items included in the federal distributable net income of the estate or trust:

S-11 Cost depletion — New York State does not allow percentage depletion of natural resource holdings (see A-3 on page 8) but does allow cost depletion.

If the estate or trust is making addition number A-3 for any percentage depletion deducted for property in determining its federal taxable income, **then**:

- compute the cost depletion that would be allowed on that property by section 611 of the IRC without any reference to either section 613 or 613-a of that code, **and**
- include that amount on line 68.

S-12 Sales or dispositions of assets acquired before 1960 with greater state than federal bases When federally taxable gains are realized from the sale of certain assets that have higher adjusted bases for state tax purposes, subtraction adjustments must be made to reduce the gain for state tax purposes. State tax laws prior to 1960 and currently existing state tax laws about depletion can cause these differences in adjusted basis.

If the estate's or trust's federal taxable income included gain that was from **either**:

- property that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes on December 31, 1959 (or on the last day of a fiscal year ending during 1960), **or**
- property that was held in connection with mines, oil or gas wells, and other natural deposits and that had a higher adjusted basis for New York State income tax purposes than for federal tax purposes when sold,

then include on line 68 the **lesser of**:

- the gain itself, **or**
- the difference in the adjusted basis.

S-13 Income earned before 1960 and previously reported to New York State — Due to a different set of state income tax laws for any tax year ending before 1960 (and any fiscal tax year ending during 1960), income that is reportable for federal purposes for 1998 that was reported for New York State tax purposes then, is not subject to New York State tax again.

If the estate or trust included any income (including annuity income) or gain in its 1998 federal taxable income that was properly reported as income to New York State prior to 1960 (or during a fiscal year ending in 1960) by **either**:

- the estate or trust, **or**
- a decedent or estate or trust from whom the fiduciary acquired that income or gain, **then** include that income or gain on line 68.

S-14 Loss from the sale or disposition of property that would have been realized if a federal estate tax return had been required If the estate or trust acquired property from a decedent and the property was valued by the executor of the estate in such a manner where the estate was insufficient to require the filing of a federal estate tax return, **and** a loss on the sale would have been realized if a federal estate

tax return had been required, **then** include on line 68 the amount of the loss that would have been realized.

S-15 Gain to be subtracted from the sale of a new business investment reported on your federal income tax return — If the estate or trust reported a capital gain on its federal income tax return from the sale of a new business investment that was issued before 1988 and was held at least four years but less than five years, **then** the estate or trust must include on line 68 twenty-five percent (25%) of that federal gain. If the investment was held at least five years but less than six years, include fifty percent (50%) of that federal gain. If the investment was held at least six years include one-hundred (100%) of that federal gain.

S-16 Special depreciation expenditures The excess expenditures incurred in taxable years beginning before 1987 in connection with depreciable, tangible business property located in New York State may be carried over to the following taxable year or years and subtracted from federal taxable income for that year(s) if those expenses exceeded the New York taxable income before the allowance of those expenditures.

If the estate or trust incurred such expenditures, **then** complete Form IT-211, *Special Depreciation Schedule*, to figure the amount to include on line 68.

S-17 Amount that was included in federal taxable income because the IRC 168(f)(8) election was made (see A-7 for a definition of safe harbor leases) — If an amount was included in federal taxable income (except for mass transit vehicles) solely because the estate or trust made the safe harbor election on its federal return for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount on line 68.

S-18 Amount that could have been excluded from federal taxable income had the IRC 168(f)(8) election not been made (see A-7 for a definition of safe harbor leases) — If an amount could have been excluded from federal taxable income (except for mass transit vehicles) had the safe harbor election not been made on the estate's or trust's federal return for agreements entered into before January 1, 1984, **then** the estate or trust must include that amount on line 68.

S-19 New York depreciation allowed — New York does not allow ACRS depreciation for property placed in service inside or outside New York State during tax years 1981, 1982, 1983, and 1984 or for property placed in service outside New York State in tax years beginning after December 31, 1984, but before January 1, 1994. Instead, the estate or trust must compute New York State depreciation by using one of the methods provided for in section 167 of the IRC as it was in effect on December 31, 1980 (e.g., straight line, declining balance, etc.). See addition A-9 on page 8.

If the estate or trust had this type of property, **then** complete Part I of Form IT-399, *New York State Depreciation Schedule*, to figure the amount of New York depreciation to include on line 68.

S-20 Amount of ACRS deduction that is greater than depreciation claimed for New York State (year of disposition adjustment) — If the estate or trust disposed of property that was placed in service inside or outside New York State after December 31, 1980, but before January 1, 1985, or property that was placed in service outside New York State after

December 31, 1984, but before January 1, 1994 (except for section 280F property), **and** the estate's or trust's total federal ACRS deduction is more than its New York depreciation deduction for that property, **then** complete Part II of Form IT-399, *New York State Depreciation Schedule*, to figure the amount of the adjustment to enter on line 68. See addition A-10 on page 8.

S-21 Accelerated death benefits received that were includable in federal gross income — If the estate or trust included in its federal taxable income an amount received by any person as an accelerated payment or payments of part or all of the death benefit or special surrender value under a life insurance policy or a payment received as a viatical settlement as a result of terminal illness defined as life expectancy of 12 months or less, or of a medical condition requiring extraordinary medical care or treatment regardless of less expectancy, **then** include that amount on line 68.

S-22 Contributions for Executive Mansion, natural & historical resources, not deducted elsewhere — If the estate or trust made contributions for the purpose of the preservation, improvement, and promotion of the Executive Mansion as a historical and cultural resource of the state of New York; **or** if the estate or trust made contributions for the purpose of the preservation and improvements of the natural and historical resources constituting the natural heritage of the people of the state of New York in furtherance of their welfare and prosperity, **and** the estate or trust did not deduct the amounts in determining federal taxable income, **then** include that amount on line 68 (sections 54.15 and 55.15 of the Arts and Cultural Affairs Law).

S-23 College tuition savings deduction — If the estate or trust made contributions as the account owner to one or more family tuition account(s) and the contributions were not deductible or eligible for a credit for federal income tax purposes, **then** include that amount, up to \$5,000, on line 68.

S-24 College tuition savings distributions — If the estate or trust made a qualified withdrawal from a New York State family tuition account, and part of the withdrawal was included in its federal taxable income, **then** include on line 68 the amount included in federal taxable income.

S-25 Distributions made to a victim of Nazi persecution — If the estate or trust included in its federal taxable income distributions received because of the status of the trust's creator or of the decedent as a victim of Nazi persecution, as defined in P.L. 103-286, or as a needy spouse or descendant of a victim, **then** include that amount on line 68.

S-26 Items of income related to assets stolen from, hidden from, or otherwise lost to a victim of Nazi persecution — If the estate or trust received items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of Nazi persecution, as defined in P.L. 103-286, immediately prior to, during, and immediately after World War II (including, but not limited to, interest on the proceeds receivable as insurance policies issued to a victim of Nazi persecution by European insurance companies immediately prior to and during World War II) and that income was included in its federal taxable income, **then** include on line 68 the amount of that income included in federal taxable income. However, do not include on line 68 income attributable to assets acquired with assets as described above or with the proceeds from the sales of any asset described above. Also, do not enter on line 68 any income if the estate or

trust was not the first recipient of the asset or if it is not considered to be a victim of Nazi persecution or a descendant of a victim.

S-27 Qualified Emerging Technology Investments (QETI) — An estate or trust may defer the gain on the sale of qualified emerging technology investments (QETI) that are

- (1) held for more than 36 months, and
- (2) rolled over into the purchase of a new QETI within 365 days.

Replacement QETI must be purchased within the 365 day period beginning on the date of sale. Gain is not deferred and must be recognized to the extent that the amount realized on the sale of the original QETI exceeds the cost of replacement QETI. The gain deferral applies to any QETI sold on or after March 12, 1998, that meets the holding-period criteria. The gain deferred must be added back in the year the replacement QETI is sold.

If the estate or trust elects to defer the gain from the sale of QETI, **then** include on line 68 the amount of the gain deferral to the extent the gain was included in federal taxable income. If purchase of the replacement QETI within the 365 day period occurs in the same taxable year as the sale of the original QETI, or in the following taxable year and before the date the fiduciary income tax return is filed, **then** take the deduction on that return. If purchase of the replacement QETI within the 365 day period occurs in the following taxable year and on or after the date the estate or trust's tax return is filed, **then** the fiduciary must file an amended return to claim the deduction.

A QETI is an investment in the stock of a corporation or an ownership interest in a partnership or limited liability company (LLC). A QETI is also an investment in a partnership of an LLC to the extent that such partnership or LLC invests in qualified emerging technology companies. The investment must be acquired by the taxpayer as provided in Internal Revenue Code (IRC) section 1202(c)(1)(B) or from a person who acquired it pursuant to such IRC section. IRC section 1202(c)(1)(B) requires the acquisition to be original issue from the company, either directly or through an underwriter, and in exchange for cash, services or property (but not stock).

A *qualified emerging technology company* is a company that is located in New York State, that has total annual product sales of \$10 million or less, and meets either of the following criteria:

- its primary products or services are classified as emerging technologies; **or**
- it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation in the most recently published results from its Survey of Industry Research and Development, or any comparable successor survey, as determined by the Tax Department).

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, New York City or Yonkers nonresident, check the appropriate box to the right of his or her name. If space is needed to list additional beneficiaries, attach a separate sheet of paper to the return, with the same information required in Schedule C.

Column 3 — Enter the respective share of the federal distributable net income of each beneficiary and of the fiduciary on the appropriate lines of column 3. Entries must be made in Schedule C for all beneficiaries, both resident and nonresident.

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

Column 5 — Enter the amount of the New York fiduciary adjustment (from line 70 of Schedule B) on the total line of column 5. The share of each beneficiary and of the fiduciary in the 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 or her share of the estate or trust income for the taxable year, under local law or the governing instrument, that is required to be distributed currently and any other amounts of the 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.

If 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 the Personal Income Tax Regulations section 119.3, regarding alternate methods of attributing modifications, a fiduciary may, at his or her discretion, use the applicable method set forth in the 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.

If the New York fiduciary adjustment is a **positive** amount, **add** the fiduciary's share for a full-year resident estate or trust at line 4, on the front of Form IT-205, and **add** a resident beneficiary's share to the total federal income on his or her New York return. If the fiduciary adjustment is a **negative** amount, **subtract** their respective shares. For a nonresident estate or trust or a part-year resident trust, enter this amount on Form IT-205-A, Schedule 1, line 9, column a.

City of New York and City of Yonkers Fiduciary Taxes

General Instructions

City Resident Fiduciary Tax

The fiduciary of a New York City or Yonkers resident estate or trust or part-year resident trust who is required to file a New York State fiduciary return must file a New York City or Yonkers fiduciary return for the estate or trust on the same New York State form on which the New York State tax liability is reported. If forms are required to be filed reporting a state minimum income tax or a state separate tax on lump-sum distributions, the respective New York City

separate tax is also required to be computed on the same state forms.

City Nonresident Fiduciary Earnings Tax

The fiduciary of a nonresident estate or trust must file a New York City and/or 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 New York City and/or Yonkers.

The fiduciary of a part-year resident trust must also file Form NYC-206 or Form Y-206 if the part-year resident trust has income from wages earned or net earnings from self-employment in New York City and/or Yonkers from the part-year nonresident period.

Wages as defined under section 3401(a) of the IRC 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 an employer.

Wages also include:

- the amount of 414(h) contributions shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1), or federal Form W-2 (Copy 2), made by:

- a Tier 3 or Tier 4 member of the New York State and Local Retirement Systems, which include the New York State Employees' Retirement System and the New York State Police and Fire Retirement System; **or**

- a Tier 3 or Tier 4 member of the New York State Teacher's Retirement System; **or**

- a deceased employee of the State or City University of New York who belongs to the Optional Retirement Program; **or**

- any tier member of the New York City Employee's Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund or the New York City Fire Department Pension Fund; **or**

- members of the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Plan;

- The IRC 125 amount(s) shown on a decedent's wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2) that was deducted or deferred from that salary (section 612(b) (31) of the Tax Law) under a flexible benefits program established on behalf of the deceased employee by the city of New York and certain other New York City public employers (City University of New York, New York City Health and Hospitals Corporation, New York City Transit Authority, New York City Housing Authority, New York City Off-Track Betting Corporation, New York City Rehabilitation Mortgage Insurance Corporation, New York City Board of Education, New York City School Construction Authority, Manhattan and Bronx Surface Transit Operating Authority or the Staten Island Rapid Transit Authority).

Wages do not include unemployment compensation, 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.

Other employee compensation includes but is not limited to salaries, fees, bonuses, tips, commissions on sales or on insurance premiums, vacation allowances and severance pay subject to withholding under section 3401(a) of the IRC.

Net earnings from self-employment, as defined under section 1402(a) of the IRC, consist of gross income from any trade or business less trade or business deductions allowed under the

Schedule C

Shares of New York 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 70 of Schedule B) are in proportion to their respective shares of the federal distributable net income of the estate or trust.

IRC, 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 the taxpayer is a member. **Limited partners** are only considered to receive net earnings from self-employment if the income received represents guaranteed payments for services rendered. The deduction for wages and salaries paid or incurred for the taxable year, that was disallowed according to section 280C of the IRC regarding the federal Indian employment credit, work opportunity credit, and empowerment zone employment credit, is allowed in computing your net earnings from self-employment.

Net earnings from self-employment **do not** include any of 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 not received in the ordinary 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 and excluded under IRC section 1402(a)(10); **or**

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 IRC 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 for lines 6 and 8 or Form Y-206 for lines 2 and 4.

For the definition of a **city** resident and nonresident estate or trust and part-year resident trust, refer to the definitions of a New York 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, NYC-206, and Y-206 should be completed for estates and trusts as follows:

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

Form IT-220, Minimum Income Tax — The New York City 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.)

Form IT-230, City of New York Separate Tax on Lump-Sum Distributions — The New York City taxable income on lump-sum distributions of an estate or trust is the same as the New York State taxable income on lump-sum distributions on Form IT-230. (See *Form IT-230, Separate Tax on Lump-Sum Distributions*, on page 2 of these instructions).
- 2. New York City nonresident estate or trust and part-year resident trust.** Complete Form NYC-206 and transfer the total from line 13 to state Form IT-205, line 24.
- 3. Yonkers resident estate or trust.** Complete

the Yonkers line on the same state Form IT-205 filed for New York State purposes.

- 4. Yonkers nonresident estate or trust and part-year resident trust.** Complete Form Y-206 and transfer the amount from line 10 to state Form IT-205, line 28.
- 5. New York City or Yonkers part-year resident trust.** Complete New York City Worksheet A on page 2 of the instructions for Form IT-205-A or Yonkers Worksheets B and C on pages 2 and 4 of the instructions for Form IT-205-A. Transfer the total to Form IT-205, line 15b or line 27 as applicable.

Forms NYC-206 and Y-206 are due at the same time as the New York State fiduciary return and must be attached to it.

City tax returns for individuals — Every fiduciary who acts for a nonresident individual whose entire income is in the fiduciary's charge (for example, a guardian or committee for an incompetent person) must make a return for the nonresident individual on the appropriate individual nonresident Form NYC-203 or Form Y-203 (if that individual is subject to the tax), and pay the tax due.

Change of City Residence of Trust

If the person whose property constitutes a revocable trust has changed his or her domicile from or to New York City or Yonkers between the time of transfer of the 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 this case the fiduciary must, for the taxable year in which the change of status of trust occurs, include on Form IT-205-A, Schedule 4, column (c) or column (d), any item of income, gain, loss or deduction the trust received or accrued up to the time the trust changed its residence and complete a 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 pages 2 and 3 regarding tax returns for individuals and decedents, exempt trusts — 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 New York City and Yonkers resident and nonresident estates and trusts and part-year resident trust, if applicable.

Specific Instructions

City of New York Resident Tax

The New York City taxable income is the same as the New York State taxable income shown on Form IT-205, line 5.

Line 15a City of New York resident tax — Compute the New York City income tax on the amount on line 5 using the following *City of New York Resident Tax Rate Schedule*. Enter the amount of New York City income tax on line 15a.

New York City Tax Rate Schedule

If the amount on page 1, line 5 is:

but		Enter on line 15a	
over	not over		
\$ 0	\$ 8,400	3.08%	of amount on line 5
8,400	12,000	\$ 259 plus 3.66%	of the excess over \$8,400
12,000	15,000	391 plus 4.34%	" " " 12,000
15,000	25,000	521 plus 4.39%	" " " 15,000
25,000	50,000	960 plus 4.40%	" " " 25,000
50,000		2,060 plus 4.46%	" " " 50,000

Line 15b City of New York part-year resident tax — Enter on line 15b the amount of New York City part-year resident tax from Form IT-205-A-I, page 2, Worksheet A, line b.

Line 16 — Enter on line 16 the amount of city of New York tax on the capital gain portion of the estate's or trust's lump-sum distribution from Form IT-230, Part II, line 2. Attach Form IT-230 to the fiduciary return (Form IT-205).

Line 18 — If an accumulation distribution has been made, attach a statement showing the computation of the credit claimed and enter on line 18. (See *Accumulation Distribution Credit* on page 3.)

Line 20 City of New York separate tax on lump-sum distributions — Enter the amount of any New York City separate tax on lump-sum distributions from Form IT-230, line 24 or line 31, city of New York column. Attach Form IT-230 to Form IT-205.

Line 22 — Credit for city of New York unincorporated business tax (UBT) — Enter the amount of city of New York unincorporated business tax credit from Form IT-219. The estate or trust can claim this credit if:

- the estate or trust was the owner of a business located in the city of New York that filed Form NYC-202 and paid unincorporated business tax; **or**
- the estate or trust was a partner in a partnership that operated a business located in the city of New York that filed Form NYC-204 and paid unincorporated business tax.

To claim this credit, fill in Form IT-219, *Credit for City of New York Unincorporated Business Tax*, and transfer the amount to Form IT-205, line 22. Attach Form IT-219 to your return. For more information, see the instructions for Form IT-219.

Line 24 City of New York nonresident fiduciary earnings tax — Compute the New York City nonresident fiduciary earnings tax on Form NYC-206 and enter the tax on Form IT-205, line 24. Attach Form NYC-206 to Form IT-205.

Line 25 City of New York minimum income tax — Enter the amount of any New York City minimum income tax due from Form IT-220. Items of tax preference that fiduciaries report on Form IT-220 are to be taken from federal Form 1041, Schedule I, *Alternative Minimum Tax*. Attach Form IT-220 to Form IT-205.

Line 26 City of Yonkers resident income tax surcharge — Enter on this line the estate's or trust's Yonkers resident income tax surcharge from the *Yonkers Worksheet*, line e, below. However, if the estate or trust did not make an entry on line 14, leave line 26 blank also.

Yonkers Worksheet	
a. Amount from line 14 a.	_____
b. Amount from Form IT-217, <i>Claim for Farmers' School Tax Credit</i> , line 19, if any b.	_____
c. Subtract line b from line a c.	_____
d. Yonkers resident tax rate (15 percent) d.	_____ .15
e. Multiply line c by line d. Enter this amount here and on Form IT-205, line 26 e.	_____

Line 27 City of Yonkers part-year resident tax — Enter on line 27 the amount of Yonkers part-year resident tax from the instructions for Form IT-205-A, page 4, Worksheet C, line 14.

Line 28 City of Yonkers nonresident fiduciary earnings tax — Compute the Yonkers nonresident fiduciary earnings tax on Form Y-206 and enter the tax on Form IT-205, line 28. Attach Form Y-206 to Form IT-205.

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 Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.

