New York State Department of Taxation and Finance

Instructions for Form Y-203

Yonkers Nonresident Earnings Tax Return

Y-203-I

2009

General instructions

Who must file

You must file Form Y-203, *Yonkers Nonresident Earnings Tax Return*, if you file or are required to file a New York State return, and you are a nonresident of Yonkers who earns wages or carries on a trade or business there, or are a member of a partnership that carries on a trade or business there.

If you and your spouse are both subject to the Yonkers nonresident earnings tax, you each must file a separate Form Y-203 and **attach it to your New York State return**. If you file a joint New York State return, combine your Yonkers nonresident earnings tax from each Form Y-203 and enter the total on your New York State return.

You do not have to file a Yonkers nonresident earnings tax return if you meet **all** of these conditions:

— you do not have to file a New York State income tax return; **and**

— you were a Yonkers nonresident for the entire year; **and**

— your income from Yonkers sources consisted only of wages; **and**

— total wages you received for the year (from all employers) subject to Yonkers nonresident earnings tax was not more than $3,000; **or** you received wages from only one employer and the correct amount of Yonkers nonresident earnings tax was withheld.

For the definition of a Yonkers nonresident, refer to the combined instructions for Forms IT-150, *Resident Income Tax Return (short form),* and IT-201, *Resident Income Tax Return (long form),* or the instructions for Form IT-203, *Nonresident and Part-Year Resident Income Tax Return,* under *Definitions used to determine resident, nonresident, or part-year resident,* and substitute **Yonkers** for **New York State** in those instructions.

You must file Form IT-150, IT-201, or IT-203 to claim a refund.

Definitions

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

Wages also include the following:

— The amount of 414(h) contributions shown on your federal Form W-2 wage and tax statement(s), 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;
- a Tier 3 or Tier 4 member of the New York State Teacher's Retirement System;
- an employee of the State or City University of New York who belongs to the Optional Retirement Program;
- 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; **and**
- members of the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Plan.

— The IRC 125 amount(s) shown on your federal Form W-2 wage and tax statement(s), that was deducted or deferred from your salary (section 612(b)(31) of the Tax Law) under a flexible benefits program established on your behalf 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).

— The salary reduction for the health insurance and welfare benefits fund surcharge of former fractional plan members of the New York City Employees or Board of Education Employees Retirement System pursuant to section 12-126.1 of the New York City Administrative Code, and of certain correction and sanitation workers pursuant to section 12-126.2 of the New York City Administrative Code.

Wages do not include unemployment compensation, or fees paid to a public officer, or payment for active service as a member of the armed forces of the United States.

Other employee compensation includes but is not limited to salaries, fees, bonuses, tips, commissions on sales or on insurance premiums, severance pay, and vacation allowances that are 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 your gross income from any trade or business carried on by you, minus trade or business deductions allowed under the IRC, plus your distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership of which you are 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 tax year that was disallowed according to section 280C of the IRC is allowed in figuring your net earnings from self-employment.

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

— 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 excluded under IRC section 1402(a)(10).

Purpose of form

Compute your Yonkers nonresident earnings tax on Form Y-203. This tax is based on your wages and net earnings from self-employment derived from services performed in Yonkers. If you are a nonresident of Yonkers and you performed services both in and out of Yonkers, you must allocate your wages and net earnings from self-employment. You can use Schedule A on the back of this form to determine the portion to be allocated to Yonkers. If you are married, you cannot file a joint Yonkers nonresident earnings tax return. If you each have taxable earnings, you each must use a separate Form Y-203 to compute your tax. Transfer your total Yonkers nonresident earnings tax to your New York State income tax return.

If you are a part-year Yonkers resident, see *Part-year residents* on page 4.

Complete your return using the line instructions that begin on page 2.

Payments of estimated tax

You must pay estimated Yonkers nonresident earnings tax if you expect your withholding to be less than 90% of the tax shown on your 2010 return and less than 100% of the tax shown on your 2009 return (110% of that amount if you are not a farmer or fisherman and the New York adjusted gross income shown on that return is more than $150,000 or, if married filing separately, more than $75,000), assuming the return covered 12 months and you expect to owe, after withholding and credits, at least $300 of earnings tax for 2010. You may pay your 2010 Yonkers estimated tax by accessing the Tax Department's Web site at *www.nystax.gov* and clicking on the *Online Tax Center* or by using Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*.

Refund or tax due

Your New York State, New York City, and Yonkers taxes are combined into a single amount of tax due or overpayment on your New York State return. See the instructions of the return you are filing for payment options and overpayment options.

Changes in your federal income tax

If the Internal Revenue Service (IRS) changes your taxable income or net earnings from self-employment, or if you file an amended federal return, you must report these changes to the New York State Tax Department within 90 days from the date the IRS makes its final determination, or 90 days from the date you amended your federal return. Report any changes for Yonkers nonresident earnings tax purposes on your amended state return with Form Y-203 attached. Include a check or money order for the full amount of any tax and interest due.

If you were eligible for a claim of right credit on your federal return for wages or self-employment income that was included on a prior year's Form Y-203, you may also be eligible for credit against your Yonkers nonresident earnings tax on your New York State return. You may claim this refundable credit by completing Form IT-257, *Claim of Right Credit,* and transferring the allowable credit to the appropriate line of Form IT-201-ATT, *Other Taxes and Credits,* or Form IT-203-ATT, *Other Taxes and Credits*. For more information, see Publication 99-IND, *General Information on New York State and New York City Income Tax Credits for Individuals*.

Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Item A — If you were a Yonkers resident during any part of the year, mark an ***X*** in the *Yes* box, enter the beginning and ending dates of your period of residence (mm-dd-yyyy) and see *Part-year residents* on page 4 of these instructions.

If you were not a Yonkers resident for any part of 2009, mark an ***X*** in the *No* box and skip to item B.

Whether you marked *Yes* or *No*, if you earned wages or had income from a trade or business in Yonkers, you must complete items A, B, and C and lines 1 through 6. If required, also complete Schedules A, B, and C.

Item B — If you or your spouse had living quarters available for your use in Yonkers during any part of 2009, mark an ***X*** in the *Yes* box, and give the address of the living quarters. Also give the number of days you were in Yonkers, even if you were on personal business. Do not count days you traveled through Yonkers to use common carriers such as airplanes, trains, or buses.

Living quarters include a house, apartment, co-op, or any other living quarters maintained or paid for by you or your spouse, or any Yonkers living quarters maintained for your primary use by another person, family member, or employer.

Item C — Complete this section if you are reporting income from self-employment (on line 2 of this form).

Line 1 Gross wages — Enter the amount of your wages (see *Definitions* on the front page) earned in Yonkers. Include any amount of 414(h) retirement contributions shown on your federal Form W-2 wage and tax statement(s).

Also include any amount deducted or deferred from your salary under a New York City flexible benefits program (IRC section 125 plan) established by New York City or by certain other New York City public employers.

For more information about 414(h) retirement contributions and IRC section 125 plans, see the combined instructions for Form IT-150 and Form IT-201, or the instructions for Form IT-203.

If you earned only part of your wages in Yonkers, figure the amount earned in Yonkers by completing *Schedule A* on the back of Form Y-203. Add your allocated wages to any other amounts to be reported on line 1.

Line 2 Net earnings from self-employment — Enter the amount of your net earnings from self-employment (see *Definitions* on the front page) in Yonkers for the entire taxable year.

This is the amount reported on federal Form 1040, Schedule SE, *Self-Employment Tax*, Section A, line 4, or Section B, line 4c, minus the deduction for wages or salaries paid or incurred for the tax year that was disallowed according to section 280C of the IRC. If the amount in Schedule SE includes profit or loss from a trade or business carried on by you wholly outside Yonkers, or your distributive share of the profit or loss of a partnership that does not engage in business in Yonkers, then deduct these amounts from (or add them to, if they are losses) the amount shown in Schedule SE, to figure the amount of your net earnings from self-employment that are subject to the Yonkers nonresident earnings tax. Attach a schedule showing the amount of each deduction or addition.

The net earnings from self-employment of ordained, commissioned, or licensed ministers of churches, members of religious orders, and Christian Science practitioners are subject to the tax even if they have elected exemption from social security coverage.

If you have no regular place of business outside Yonkers, allocate all net earnings from self-employment to Yonkers.

If your net earnings from self-employment were from sources both in and out of Yonkers, figure the amount to be allocated to Yonkers.

If you kept books and records that fairly and equitably show net earnings from self-employment in Yonkers, you may figure the part to be allocated to Yonkers from these books and records. If not, use the formula in Schedule C.

Line 4 Allowable exclusion — Enter your allowable exclusion. You are allowed an exclusion against the total amount of wages and net earnings from self-employment allocated to Yonkers (line 3 amount). Use the *Exclusion table* on the front of Form Y-203 to find your exclusion.

If you changed your residence to or from Yonkers during your taxable year or had a taxable period of less than one year, you must prorate your allowable exclusion. To do this, count any period of more than one-half month as a full month; do not count any period of one-half month or less. Then use the *Exclusion table* on the front of Form Y-203 to find the amount of your allowable exclusion.

Line 6 Total nonresident earnings tax — Enter the total Yonkers nonresident earnings tax. Figure the tax by multiplying the amount on line 5 by the rate of 0.5% (.005). Enter only one numeral in each box, verifying that the digits are placed to correctly represent the dollar amount of the tax computed. Also transfer your total Yonkers nonresident earnings tax to your New York State return. **Attach Form Y-203 to your New York State return.**

If you and your spouse are filing a joint New York State return and you each completed Form Y-203 because each had taxable earnings from Yonkers sources, combine your Yonkers nonresident earnings tax from each Form Y-203 and enter the total on your New York State return.

Limitation on tax

As a Yonkers nonresident, you do not have to pay a higher tax than you would if you were a Yonkers resident. Use the combined instructions for Forms IT-150 and IT-201 to figure your tax liability as a Yonkers resident. For example: If you had losses that entered into the computation of your taxable income computed **as if** a resident, your Yonkers tax computed as a resident may be **lower** than the actual Yonkers nonresident earnings tax computed. You would therefore be allowed to pay the amount of tax computed as a Yonkers resident. If your Yonkers resident income tax surcharge is less than your Yonkers nonresident earnings tax, attach a separate schedule to Form Y-203 showing your computation. Enter the Yonkers resident income tax surcharge on line 6 of Form Y-203.

Payments and credits

Enter on your New York State return the total Yonkers nonresident earnings tax withheld by all your employers. Be sure that the amounts of withholding are for **Yonkers withholding tax only**.

Enter on your New York State return the total payments of your 2009 estimated Yonkers nonresident earnings tax.

Checklist

Use the checklist on the front of Form Y-203 to make sure you have properly completed your return, and to avoid common errors that will delay the processing of your return, and delay your refund if you are entitled to one.

Schedule A

Allocation of wage and salary income to Yonkers — If any of your wage and salary income earned is from work within Yonkers and outside of Yonkers, and that income does not depend directly on the volume of the business transacted (for example, hourly wages), you must complete Schedule A to compute the amount to enter on line 1. If you have to allocate wage and salary income received from more than one employer, you must complete a separate Schedule A for each job. Complete as many Forms Y-203 (name, identification number, and Schedule A only) as necessary. Include on Line 1 of the first Form Y-203 the total of Schedule A, line 22, from all additional Forms Y-203. Attach the additional Form(s) Y-203 to the back of the first Form Y-203 that has the entry on line 1.

If you were married and both you and your spouse worked in Yonkers and earned wages subject to allocation, each of you must complete a separate Schedule A for each job with allocable wages.

Work days are days on which you were required to perform the usual duties of your job. Any allowance for days worked outside Yonkers must be based upon the performance of services which, because of necessity (not convenience) of the employer, obligate the employee to out-of-Yonkers duties in the service of his or her employer. Such duties are those which, by their very nature cannot be performed at the employer's place of business.

Applying the above principles, normal work days spent at home are considered days worked in Yonkers, and days spent working at home that are not normal work days are considered to be nonworking days. Under this rule, days worked at home are considered Yonkers work days only if the employee's assigned or primary work location is at an established office or other bona fide place of business of the employer (a *bona fide employer office*) in Yonkers. If the employee's assigned or primary work location is at an established office or other bona fide place of business of the employer outside Yonkers, then any normal work day worked at home would be treated as a day worked outside Yonkers.

If an employee's assigned or primary office is in Yonkers, any normal work day spent at the home office will be treated as a day worked outside Yonkers if the employee's home office is a *bona fide employer office.* Any day spent at the home office that is not a normal work day would be considered a nonworking day. For more information on a *bona fide employer office,* see TSB-M-06(5)I, *New York Tax Treatment of Nonresidents and Part-Year Residents Application of the Convenience of the Employer Test to Telecommuters and Others,* available on the Tax Department's Web site (at *www.nystax.gov)*.

Line 7 — Enter the total number of days you were employed at this job during the year while you were a Yonkers nonresident. If you were employed at the same job from January 1 through December 31, you would enter ***365*** (except in leap years). If the period of employment is less than a full year, enter the actual period of employment. For example, if you were employed in and out of Yonkers for separate periods of 170 days by one employer and 195 days by another employer, you would enter ***170*** on the first Schedule A, line 7, and ***195*** on the second Schedule A, line 7.

If your income subject to allocation depends entirely on the volume of business transacted, as in the case of a salesperson working on commission, do not use Schedule A. Divide your volume of business transacted in Yonkers by your total volume of business transacted both in and out of Yonkers. Multiply the total income subject to allocation by this ratio. This is the amount of your income allocated to Yonkers. The location where the services or sales activities were actually performed determines where business is transacted. Attach a schedule to your return showing how you figured this allocation. If you allocate your personal service income differently than explained above, attach a separate schedule showing complete details.

Schedule B

List all places, both in and out of Yonkers, where you carry on business — If you have net earnings from self-employment, list the exact locations, both in and out of Yonkers, where you carry on business. Describe the places listed (such as branch office, agency, factory, or warehouse) and state whether you rent or own these places. Attach additional sheet(s), if necessary.

Schedule C

Allocation of net earnings from self-employment to Yonkers
Complete Schedule C if you do not keep books and records that fairly and equitably show net earnings from self-employment in Yonkers.

The amount to be allocated to Yonkers is that part of your total net earnings from self-employment (line 31) that results from multiplying total net earnings by the average of the property percentage, payroll percentage, and gross income percentage (line 30).

If you receive net earnings from self-employment from more than one business activity carried on both in and out of Yonkers, complete a separate Schedule C for each business activity and attach it to your return.

If you use Schedule C and the net earnings are from a partnership, the factors used must be the partnership's property, payroll, and gross income.

Property percentage

Lines 23, 24, and 25 — Figure the average value of real and tangible personal property connected with your net earnings from self-employment by completing lines 23, 24, and 25.

Line 23 Real property owned — Enter in Column 1 the average value of all real property you own that is connected with net earnings from self-employment. Enter in Column 2 the average value of this real property that is located in Yonkers.

To determine the average value of the property, add its adjusted basis at the beginning of the taxable year to its adjusted basis at the end of the taxable year, and divide the result by two.

Line 24 Real property rented from others — Enter in Column 1 the value of all real property you rented that is connected with net earnings from self-employment. Enter in Column 2 the value of this rented real property that is located in Yonkers.

The fair market value of rented real property included on line 24 is generally eight times the gross rent payable during the taxable year for which the return is filed. Gross rent includes:

— Any amount payable for the use or possession of real property, or any part of it, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise.

— Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other agreement.

— A portion of the cost of any improvement to real property made by you or on your behalf that reverts to the owner or lessor upon termination of a lease or other arrangement. However, if a building is erected on leased land by you or on your behalf, the value of the building is figured the same way as if you owned it.

Line 25 Tangible personal property owned — Enter in Column 1 the average value of all tangible personal property you own that is connected with net earnings from self-employment. Enter in Column 2 the average value of this tangible personal property that is located in Yonkers.

Line 26 Property percentage — Add lines 23, 24, and 25 in Columns 1 and 2 and enter the totals on line 26.

Divide the Column 2 total by the Column 1 total and round the result to the fourth decimal place. For example, if the total in Column 1 is $15,000 and the total in Column 2 is $10,000, divide the $10,000 by the $15,000 and enter the result (0.6667) as a percentage (66.67%) in Column 3.

Line 27 Payroll percentage — Enter the total of the wages, salaries, and other personal service compensation paid to your **employees** in connection with your net earnings from self-employment derived from a trade, business, or profession carried on in Yonkers. Do not include payments to independent contractors or independent sales agents.

Enter in Column 1 the total of the compensation paid to your employees during the taxable year in connection with your net earnings from self-employment carried on both in and out of Yonkers. Enter in Column 2 the amount paid in connection with operations carried on in Yonkers.

The compensation paid to an employee is considered to be connected with operations carried on in Yonkers if the employee works in or travels out of an office or other place of business located in Yonkers.

Divide the Column 2 total by the Column 1 total. Round the result to the fourth decimal place and enter it as a percentage in Column 3.

Line 28 Gross income percentage — Enter in Column 1 the total gross sales made or charges for services performed by you or your employees, agents, agencies, or independent contractors of the business in and out of Yonkers. Enter in Column 2 the part of the total gross sales or charges that represents sales made, or services performed, by or through an agency in Yonkers. This includes sales made or services performed by employees, agents, agencies, or independent contractors situated at, connected with, or sent out from offices of the business (or its agencies) located in Yonkers. For example, if a salesperson working out of the Yonkers office of the business covers New York State, New Jersey, and Pennsylvania, **all sales** made by that salesperson are allocated to Yonkers and must be included in Column 2 on line 28.

Special rule for real estate: Income and deductions from the rental of real property and gain or loss from the sale, exchange, or other disposition of real property are not subject to allocation but are considered to be entirely derived from or connected with the place in which the property is located.

Divide the Column 2 total by the Column 1 total. Round the result to the fourth decimal place and enter it as a percentage in Column 3.

Line 30 Business allocation percentage — Divide the amount on line 29 by three (or by the actual number of percentages if less than three). Round the result to the fourth decimal place and enter it as a percentage.

Line 31 Net earnings from self-employment to be allocated Enter your net earnings from self-employment, as defined on page 1 of these instructions.

Part-year residents

If you changed your residence to or from Yonkers during the year, you may have to pay a part-year Yonkers resident income tax surcharge for the part of the year you were a resident. If you earned wages in Yonkers or carried on a trade or business there (either as an individual or a member of a partnership) during the part of the year that you were not a Yonkers resident, you may have to pay the Yonkers nonresident earnings tax.

Returns to be filed — If you are required to file a New York State return and you were a resident of Yonkers for part of the year, you must file Form IT-360.1, *Change of City Resident Status*, for the part of the year you were a Yonkers resident. You may also be required to file Form Y-203 for the part of the year you were a nonresident, and transfer the tax to your New York State Form IT-201 or Form IT-203.

Form IT-360.1-I, *Instructions for Form IT-360.1*, explains the computation of your Yonkers resident income tax surcharge. The instructions will help you compute your Yonkers resident income tax surcharge for the resident period. Attach Form IT-360.1 to your completed New York State income tax return.

You are not required to file Form Y-203 for the period that you were a nonresident of Yonkers if you had no wages or net earnings from self-employment from Yonkers sources during this period. Instead, attach a statement to your return for the resident period explaining that you had no taxable income during the nonresident period.

Returns for married taxpayers — If you and your spouse changed your Yonkers resident status and file a joint New York State return, you must compute your Yonkers resident income tax surcharge jointly on Form IT-360.1. For the period of nonresidence, if you each have taxable earnings, you must use separate Forms Y-203.

If you filed separate New York State returns, you must compute your Yonkers resident income tax surcharge on separate Forms IT-360.1 for the period of residence. For the period of nonresidence, you must use separate Forms Y-203.

If you are married, filing a joint New York State return, and only one spouse changed Yonkers residence during the taxable year, you must compute your Yonkers resident income tax surcharge separately. The spouse who changed Yonkers residence must complete Form IT-360.1 and Form Y-203, if applicable, and attach them to Form IT-201 or Form IT-203. The other spouse, if a resident, must compute a separate Yonkers resident income tax surcharge for the entire taxable year on Form IT-201 as if separate federal returns were filed, or, if a nonresident subject to the Yonkers nonresident earnings tax, must complete Form Y-203 and attach it to Form IT-201 or Form IT-203.

How to file — If you changed your Yonkers residence but were a New York State resident all year, read the instructions for Form IT-360.1 and complete Form IT-360.1 for the period of Yonkers residence. Transfer the tax computed on Form IT-360.1 to Form IT-201. For the nonresident period, compute your Yonkers nonresident earnings tax on Form Y-203 and transfer the tax to Form IT-201. Attach Form Y-203, if applicable, and Form IT-360.1 to your New York State resident return, Form IT-201.

If you changed both your Yonkers and New York State residence during the year, get the instructions for Form IT-360.1 and complete Form IT-360.1 for the period of Yonkers residence. Transfer the tax computed on Form IT-360.1 to Form IT-203. For the nonresident period, compute your Yonkers nonresident earnings tax on Form Y-203 and enter the tax on Form IT-203. Attach Form Y-203, if applicable, and Form IT-360.1 to Form IT-203.