New York State Department of Taxation and Finance

# Instructions for Form IT-203-F

## Multi-Year Allocation Form

**IT-203-F-I**
(11/14)

## General information

### Who must complete this form

Form IT-203-F, *Multi-Year Allocation Form*, must be filed if you:

- as a nonresident received certain income related to a profession or occupation previously carried on both within New York State and outside New York State (for example, termination agreement or covenant not to compete). Do not use this form if you received income from a termination agreement or covenant not to compete, and you were not an employee of the payor. See TSB-M-10(9)I, *Income Received by a Nonresident Related to a Business, Trade, Profession, or Occupation Previously Carried on Within New York State* for how to determine the amount of New York source income.

  **or**

- have compensation from stock options, restricted stock, or stock appreciation rights as a nonresident (including a part-year resident if compensation is recognized during your nonresident period) that must be allocated to New York, and
  - performed services both in and out of New York State for the grantor during the grant to vest period of such options, stock, or rights and
  - have an allocation period that is different than the period of time that applies to the regular, non-stock-based remuneration from the grantor during the tax year.

### How to file

Submit this completed form with your Form IT-203. Keep a copy for your records.

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

## Specific instructions

### Schedule A – Current year allocation of income attributable to past employment in New York State

Use this schedule to determine the amount of certain income related to past employment in New York State that you must include on Form IT-203, line 1, *New York State amount* column. This income includes but is not limited to a termination agreement or covenant not to compete. For more information, see TSB-M-10(9)I.

To calculate the amount to be included:

Step 1 Add the total amount of compensation included in your New York source income, related to your previous employment in New York State, for the portion of the tax year prior to your termination of that employment and the three tax years immediately preceding your termination

Step 2 Add the total amount of compensation from that employment included in federal adjusted gross income during the same period

Step 3 Divide Step 1 by Step 2 (carry the result to four decimals)

Step 4 Multiply the income related to past employment received in the tax year by Step 3. This is the amount to be included in New York source income for the year

**Example:** *Taxpayer X, a nonresident of New York State, performs services both in and out of New York State for a corporate employer under an employment contract whereby for each year's services he is to receive a salary of $400,000 during the period of employment and an additional $500,000 payable in 10 equal annual installments commencing after his employment terminates. Taxpayer X terminates his employment on July 1, 2014. Assuming that the New York State percentages for allocating his salary were 50% for 2011, 60% for 2012, 75% for 2013, and 40% for the first half of 2014, the portion of additional payments to be included in the New York adjusted gross income would be computed as follows:*

| *Tax year* | *Total compensation* | *New York amount* |
|---|---|---|
| *2011* | *$ 400,000* | *(50%) $ 200,000* |
| *2012* | *400,000* | *(60%) 240,000* |
| *2013* | *400,000* | *(75%) 300,000* |
| *2014 (6 months)* | *200,000* | *(40%) 80,000* |
| *Totals* | *$ 1,400,000* | *$ 820,000* |

$$\frac{\$\ 820{,}000}{\$1{,}400{,}000} \times \$50{,}000 = \$29{,}285.71$$

*Accordingly, $29,286 of the termination payment must be included annually in Taxpayer X's New York adjusted gross income. In addition, he must complete and submit Form IT-203-F with his New York State income tax return for each of the next 9 years.*

### Line instructions

**Allocation period –** Enter the beginning and end dates of the allocation period. The allocation period is that portion of the tax year prior to your termination of employment and the three tax years immediately preceding your termination. The period will generally span multiple years and may include periods in which you were a New York State resident. In the example above, the allocation period is January 1, 2011, to July 1, 2014.

**Description of income –** Enter the type of income you are allocating (for example, covenant not to compete or termination pay).

**Tax year –** Enter the years of the allocation period beginning with the earliest tax year first and respective compensation amounts. If your period of employment is shorter than 4 years, use the shorter period.

**Column A – Total compensation –** Enter the total amount of compensation from that employment included in federal adjusted gross income for that tax year.

**Column B – New York amounts –** Enter the amount of compensation included in your New York source income for that tax year.

**Line 1a –** Enter the totals for column A and column B.

**Line 1c –** Enter the amount of income related to past employment received in the current tax year.

**Line 1d –** Multiply line 1c by the decimal on line 1b. This is the portion of the income or compensation that must be included on Form IT-203, line 1, *New York State amount* column.

### Schedule B – Stock option, restricted stock, or stock appreciation rights allocation

Use this schedule if you:

1) were granted stock options, restricted stock, or stock appreciation rights;
2) have compensation based on the option, stock, or right that must be allocated to New York State;

3) performed services in New York State during the allocation period; and
4) have an allocation period that is different than the allocation period that applies to regular, non-stock-based compensation from the grantor during the taxable year.

For more information, see TSB-M-07(7)I, *New York State Tax Treatment of Stock Options, Restricted Stock, and Stock Appreciation Rights Received by Nonresidents and Part-Year Residents.*

The portion of your compensation related to stock options, restricted stock, and stock appreciation rights that is includable in New York source income is determined by multiplying such compensation by the *New York workday fraction*.

The *New York workday fraction* is a fraction whose numerator is the number of days worked within New York State for the grantor during the allocation period and whose denominator is the number of days worked both within and outside New York State for the grantor during the allocation period. This includes days worked during the allocation period for a corporation related to the grantor and in consideration (in whole or in part) for the compensation from the option, stock, or right.

## Line instructions

**Description of stock –** Enter a brief description of the stock (for example, 100 shares of XYZ Corp).

Enter the grant date, vest date, and exercise date in the appropriate spaces on Schedule B.

**Allocation period –** To determine the dates to enter for the allocation period, see *Schedule B Table* on the following page and TSB-M-07(7)I. The allocation period varies depending on whether you were granted stock options, restricted stock, or stock appreciation rights. The allocation period may span multiple years and may include periods in which you were a New York State resident.

**Statutory stock options –** Options governed by Internal Revenue Code (IRC) sections 421 through 424 that impose restrictions on both the grantor and the individual. Statutory stock options include incentive stock options as provided in section 422 of the IRC and options issued pursuant to employee stock purchase plans as provided in section 423 of the IRC.

**Nonstatutory stock options –** In general, these do not meet the IRC requirements to qualify as statutory stock options or are granted pursuant to a plan or offering that does not qualify. The tax treatment for federal and New York State purposes is dependent upon whether the fair market value (FMV) of the option can be readily determined at the time of grant. See TSB-M-07(7)I.

**Restricted stock –** Restricted stock is governed by section 83 of the IRC. A restricted stock award is a grant of company stock in which the recipient's rights in the stock are restricted until the shares vest. See TSB-M-07(7)I for details on the New York tax treatment of compensation attributable to restricted stock.

**Stock appreciation rights –** A stock appreciation right is a grant to an individual giving the individual the right at some specific time in the future to receive a cash or stock award equal to the appreciation in value of a certain number of shares of company stock.

**Lines 3 and 4 –** See *Schedule B Table* on the following page.

**Line 6 –** Enter the total number of days in the allocation period. The allocation period may span multiple years and may include periods in which you were a New York State resident.

**Line 7 –** Enter the total number of Saturdays and Sundays not worked during the allocation period.

**Line 8 –** Enter the total number of holidays (such as Christmas, Thanksgiving, or Columbus Day) not worked during the allocation period.

**Line 9 –** Enter the total number of days you did not work because of sickness during the allocation period.

**Line 10 –** Enter the total number of days you did not work because you were on vacation during the allocation period.

**Line 11 –** Enter the total number of days you did not work for other reasons during the allocation period.

**Line 14 –** Any allowance for days worked outside New York State must be based upon the performance of services which, because of necessity (not convenience) of the employer, obligate you to out-of-state duties in the service of your employer.

**Line 15 –** Normal work days spent at home are considered days worked in New York State. Days spent working at home that are not normal work days are considered to be nonworking days.

**Line 20 –** Include the Schedule B, line 20 amount on the appropriate line of Form IT-203, in the *New York State amount* column.

*(continued)*

## Schedule B Table

| Type of grant | | Column A *(amount to be entered on line 3)* | Column B *(amount to be entered on line 4)* | Allocation period |
|---|---|---|---|---|
| **Nonstatutory stock options** | **With** readily ascertainable FMV at time of grant | FMV of stock on date option is granted | Amount paid for option | |
| | | **Do not use Form IT-203-F.** Allocate compensation using Form IT-203-B. | | |
| | **With no** readily ascertainable FMV at time of grant and **not** subject to section 409A of the IRC | FMV on exercise date | Option price | Grant date to date option vested* |
| | Option subject to section 409A of the IRC | See TSB-M-07(7)I to calculate the amounts to enter and how to determine the allocation period. | | |
| **Statutory stock options** | Sold at greater than FMV on exercise date | FMV on exercise date | Option price | Grant date to date option vested* |
| | Sold at less than or equal to FMV on exercise date | Selling price | Option price | Grant date to date option vested* |
| | Sold at less than option price | **Do not use Form IT-203-F.** No compensation recognized for New York State purposes. | | |
| **Restricted stock** | Section 83(b) election **not** made | FMV on date stock becomes substantially vested. See ***Note***.<br>**or**<br>Amount realized on sale (if sold at arms length before substantially vested). See ***Note***. | Price paid (if any) | Date stock received to earliest of:<br>1) date stock substantially vested<br>2) employee termination date<br>3) date stock sold |
| | | **Note:** Dividends received on the stock before it becomes substantially vested (or before the stock is sold) are also considered compensation in the year in which the dividends are received. Dividends must be allocated using the decimal from your Form IT-203-B that applies to your regular, non-stock-based remuneration from the grantor during the taxable year the dividends were received. | | |
| | Section 83(b) election made | FMV on date stock received | Price paid (if any) | |
| | | **Do not use Form IT-203-F.** Allocate compensation using Form IT-203-B. | | |
| **Stock appreciation right** | Right **not** subject to section 409A of the IRC | FMV of stock on exercise date | FMV of stock on grant date | Grant date to date right vested* |
| | Right subject to section 409A of the IRC | See TSB-M-07(7)I to calculate the amounts to enter and how to determine the allocation period. | | |

* If the grant date and the date the option or right vested are the same, skip lines 6 through 18 of Schedule B and enter on line 19 the decimal from your Form IT-203-B that would apply to your regular, non-stock-based remuneration from the grantor during the tax year the option or right was granted.