

1978 Legislation

Separate Tax on Lump Sum Distributions

Chapter 607 of the Laws of 1978 has been enacted effective July 24, 1978. This chapter amends Articles 22 and 30 of the New York State Tax Law and Title T of the Administrative Code of the City of New York with respect to lump sum distributions.

Chapter 713 of the Laws of 1977 added a new section referred to as 601-c which imposed a tax on the ordinary income portion of lump sum distributions. Section 601-c has been amended to read section 601-C and no longer refers specifically to resident individuals. This new section imposes a separate tax on the ordinary income portion of the lump sum distribution received by every individual, estate or trust. A new section 624 has been added to provide the computation of tax for residents and a new section 642 has been added to provide the computation of tax for nonresidents. The computation of tax has been taken out of section T46-101.2 of the Administrative Code of the City of New York and included in a new section T46-124.0. The computation of tax for residents is unchanged. The computation of tax for nonresidents is the same as for residents unless a lump sum distribution is partly derived from or connected with New York sources. The lump sum distribution will then be apportioned or allocated pursuant to regulations promulgated by the State Tax Commission. These amendments are applicable to tax years beginning after December 31, 1977.

A new section 620-A has been added to provide for a credit against the separate tax of residents for income taxes imposed on the ordinary income portion of a lump sum distribution by another state, political subdivision of such state or the District of Columbia. If the other taxing jurisdiction does not tax the ordinary income portion of the lump sum distribution separately, but includes it as ordinary income, a credit is allowed for the portion of tax allocable to the lump sum distribution. This credit is applicable to tax years beginning after December 31, 1977 and is subject to the following limitations:

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| 1. | $\frac{\text{Ordinary income portion of lump sum distribution taxable by other jurisdiction}}{\text{Total ordinary income portion of lump sum distribution reported on New York return}}$ | x | New York
Separate =
Tax on Lump
Sum Distri-
butions payable | Credit
Allowable |
| 2. | The credit shall not reduce the New York separate tax on lump sum distributions to an amount less than would be payable if the lump sum distribution from the other jurisdiction were excluded in computing the New York separate tax. | | | |

Section 651(a) of the Tax Law has been amended to provide that an income tax return must be filed by all resident and nonresident individuals, estates and trusts if they received a lump sum distribution which is taxable under section 601-C. Section 654(i) has been added to include lump sum distributions as an item which must be accrued upon change of residence if the ordinary income portion is not subject to tax under section 601-C for the current year or for a prior year. The same amendments have been made in sections T46-151.0(a) and T46-154.0(i) of the Administrative Code of the City of New York. This change is applicable to tax years beginning after December 31, 1977.

Chapter 607 has also amended various sections of the Tax Law and the Administrative Code of the City of New York for procedural and clarifying purposes. Sections 659, 681(e)(1), 683(c)(1)(C), 683(c)(3), 683(d), 687(c), 689(d)(4) and 689(e)(3) of the New York State Tax Law and sections T46-159.0, T46-181.0(e)(1), T46-183.0(c)(1)(C), T46-183.0(c)(3), T46-183.0(d), T46-187.0(c), T46-189.0(d)(4) and T46-189.0(e)(3) of the Administrative Code of the City of New York have been amended. These sections add the separate tax on the ordinary income portion of lump sum distributions as an item which must be reported within 90 days after a Federal change and as an item which may be assessed within six years if an amount in excess of 25% is omitted. The separate tax is also added to the assessment and deficiency procedures. These technical amendments are effective for years beginning after December 31, 1976.

Sections 1301-B, 1302(a), 1304(a) and (b) and 1306(a) of Article 30 have been amended and a new section 1307(e) has been added. These amendments correspond to the changes in Article 22 and Title T with respect to lump sum distributions and to make these sections technically correct. The new section 1307(e) includes lump sum distributions as an item which must be accrued upon change of residence if the ordinary income portion is not subject to tax under section 601-C for the current year or for a prior year. These amendments are applicable for tax years beginning after December 31, 1977.