



Department of Taxation and Finance

Important:

The New York State and New York City minimum income taxes were repealed, effective for tax years beginning on or after January 1, 2014.

As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to the minimum income tax.

[See, Part J of Chapter 59 of the Laws of 2014]

The TSB-M begins on page 2 below.

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-87 (4)I
Income Tax
June 17, 1987

This memorandum supersedes memorandum TSB-M-83-(8)-I dated April 19, 1983 which should be destroyed

Minimum Income Tax
New York State Tax Benefit Rule

In the matter of Robert J. Hunt et al., vs the State Tax Commission, 65 NY2d 13 (1985), the Court of Appeals ruled that the federal tax benefit rule is to be applied in computing the New York State minimum income tax where a taxpayer receives no tax benefit from a New York item of tax preference. As a result of this ruling, New York State will follow the rules and procedures for the federal tax benefit rule under the Internal Revenue Code, but will base the computation on items of income and deduction as shown on the New York return.

The following examples illustrate the application of the tax benefit rule for New York State tax purposes:

Example 1: For taxable year 1986, a New York State resident individual had federal adjusted gross income of \$100,000, New York State subtraction modifications of \$120,000, New York itemized deductions of \$10,000, one personal exemption of \$850, and New York items of tax preference (before application of the tax benefit rule) of \$80,000. New York State items of tax preference, applying the tax benefit rule, are computed as follows:

Federal adjusted gross income	\$100,000
New York subtraction modification	<u>120,000</u>
Total New York income	(\$20,000)
New York itemized deductions	<u>10,000</u>
Balance	(\$30,000)
Exemption	<u>850</u>
New York taxable income	<u>(\$30,850)</u>
Items of tax preference	\$ 80,000
Less: New York taxable income	<u>(30,850)</u>
Items of tax preference subject to New York minimum income tax	<u>\$ 49,150</u>

Since the taxpayer had no tax benefit from the negative New York taxable income of (\$30,850), that amount is subtracted from the items of tax preference subject to minimum income tax.

Example 2: For taxable year 1986, a New York State nonresident individual had federal adjusted gross income of \$140,000, of which \$40,000 was from New York State sources. New York State subtraction modifications were \$80,000 of which \$65,000 was from New York State sources and there was one personal exemption of \$850. Federal items of tax preference were \$100,000 of which \$90,000 were from New York sources. New York State items of tax preference, applying the tax benefit rule, are computed as follows:

	<u>Federal</u>	<u>New York State</u>
Federal adjusted gross income	\$140,000	\$ 40,000
New York subtraction modification	<u>80,000</u>	<u>65,000</u>
Total New York income	<u>\$ 60,000</u>	(\$25,000)
*Limitation percentage is 0%		
Minimum standard deduction (single individual) (\$2600 x 0%)		<u>-0-</u>
Balance		(\$25,000)
Exemption (\$850 x 0%)		<u>-0-</u>
New York taxable income		<u>(\$25,000)</u>
Items of tax preference	<u>\$100,000</u>	\$ 90,000
Less: New York taxable income		(25,000)
Items of tax preference subject to New York minimum income tax		<u>\$ 65,000</u>

Since the taxpayer had no tax benefit from the negative New York taxable income of (\$25,000), that amount is subtracted from the items of tax preference subject to minimum income tax.

* For tax years before 1985, the limitation percentage was not applied to the standard deduction. Therefore, the "minimum standard deduction" would be allowed for those years even though the limitation percentage is 0%.

This new policy takes effect immediately. Taxpayers may file amended returns for prior years within the statute of limitations.