

Combined New York Tax Returns
for Nonresident Partners

New York State

A partnership required to file a New York State partnership return may be granted approval to file a combined New York State nonresident personal income tax return on behalf of its qualified nonresident partners who elect to file on the combined return (Section 145.17 of the New York State Personal Income Tax Regulations). Permission to file a combined return is restricted to partnerships with 50 or more qualified electing nonresident partners in each taxable year. All electing partners must have the same accounting period.

A "qualified electing partner" is a partner who meets all of the following conditions:

1. The partner must be a nonresident of New York State for the entire taxable year;
2. The partner did not maintain a permanent place of abode in New York State at any time during the taxable year;
3. The partner or partner's spouse must have no income derived from or connected with New York State sources other than the partner's distributive share of partnership income allocated to New York State;
4. The partner or partner's spouse cannot be subject to the New York State minimum income tax or the separate tax on the ordinary income portion of a lump-sum distribution; and
5. The partner must waive the right to claim the New York standard deduction or itemized deduction, exemptions and any credits against the New York State personal income tax.

A partnership electing to file a combined nonresident income tax return must make a written request to the Department of Taxation and Finance for permission to file. The request must be made by the last day of the taxable year for which the election is requested and must be sent to the N.Y.S. Tax Department, Processing and Revenue Management Division, Building 8, W.A. Harriman Campus, Albany, N.Y. 12227. The request must state the name and address of the partnership as shown on the New York partnership return and the first taxable year for which the combined return will be filed.

Upon approval by the Department, the partnership will file one return on Form IT-203 showing the total New York State tax for all partners included on the combined return. The return must show the partnership name, the special identifying number assigned to the partnership, and the taxable year of the combined return. It must be signed by a common partner having the authority to act as an agent for all participating partners. In addition, the partnership must include with the return a schedule showing each participating partner's:

1. Name, in alphabetical order, and address;
2. Social security number;
3. Distributive share of partnership income, less any allowable federal Keogh deduction, allocable to New York State, determined under Part 134 of the Personal Income Tax Regulations;
4. New York state personal income tax. The tax is computed by multiplying the partner's distributive share of partnership income, less any allowable federal Keogh deduction, allocable to New York by the highest rate of tax in effect for the taxable year;
5. New York State estimated tax paid; and
6. Balance due or overpayment (any overpayment will not be refunded, but will be applied to the respective partner's estimated income tax for the following year).

In addition to supplying the above information with Form IT-203, the partnership must attach to its Form IT-204, New York State Partnership Return, a list showing the name and social security number of each partner who will be included on the combined return.

The filing of a combined return will be considered as a group of separate returns which will meet the individual filing requirements. The Department retains the right to require the filing of an individual New York State personal income tax return by any of the individual partners. However, a participating partner may not change an election to file on a combined basis to an individual basis or from an individual basis to a combined basis after the fifteenth day of the fourth month following the close of the taxable year.

The approval to file a combined return for a particular taxable year will not be revoked after the filing date of that taxable year if the partnership fails to maintain 50 or more qualified electing partners for that taxable year. For example, if a partnership filed a timely combined return on behalf of 52 qualified electing nonresident partners for the taxable year 1988 and, subsequently, three of the partners file superseding or correcting New York State nonresident personal income tax returns on or before April 15, 1989, approval to file on a combined basis for the taxable year 1988 will not be revoked solely for failure to maintain 50 qualified electing nonresident partners. However, if a partnership does not have 50 or more qualified electing nonresident partners in subsequent years, the approval will be revoked. In addition, a partnership that files a combined return that does not conform to the prescribed rules and format may also have its approval to file subsequent combined returns revoked.

City of New York and City of Yonkers

Partnerships that file a combined New York State nonresident return must file a combined New York City or Yonkers nonresident earnings tax return on behalf of those qualified electing nonresident partners whose distributive share of partnership income is derived from New York City or Yonkers. In addition, a separate election to file a combined New York City or Yonkers nonresident earnings tax return may be made even if the election to file a combined return was not made for New York State income tax purposes.

A "qualified electing partner" for New York City or Yonkers purposes is a partner who meets all of the following conditions:

1. The partner must be a nonresident of New York State for the entire tax year; and
2. The partner or partner's spouse must have no income derived from or connected with New York City or Yonkers sources other than the partner's distributive share of partnership income allocated to New York City or Yonkers.

A partnership that elects to file a combined New York City or Yonkers nonresident earnings tax return on behalf of 50 or more qualified electing nonresident partners with the same accounting period must make a written request to the Tax Department for permission by the same date and in the same manner that applies to making a New York State election.

The partnership must file its combined New York City or Yonkers earnings tax return on Form NYC-203 or Y-203, respectively. Form NYC-203 or Y-203 must show the partnership name, the special identifying number assigned to the partnership and the taxable year of the combined return. In addition, the partnership must attach a schedule showing each participating partner's:

1. Name, in alphabetical order, and address;
2. Social security number;
3. Distributive share of net earnings from self-employment allocable to New York City or Yonkers;
4. Exclusion amount;
5. Taxable earnings;
6. New York City or Yonkers nonresident earnings tax;
7. New York City or Yonkers estimated tax paid; and
8. Balance due or overpayment (any overpayment will not be refunded, but will be applied to the respective partner's estimated income tax for the following year).

If the separate city election is made, in addition to supplying the above information with Form NYC-203 or Y-203, the partnership must attach to its Form IT-204, New York State Partnership Return, a list showing the name and social security number of each partner who will be included on the combined return.

The combined New York City or Yonkers earnings tax return must be accompanied by New York State Form IT-203. Form IT-203 must contain the following entries:

1. The total New York State tax (if the New York State election is made);
2. The New York City or Yonkers nonresident earnings tax;
3. The New York State estimated tax paid (if the New York State election is made);
4. The New York City or Yonkers estimated tax paid; and
5. The balance due or overpayment.

If the separate city election is made, each of the participating nonresident partners shall file an individual New York State nonresident tax return and omit the New York City or Yonkers entries on the return. The partner must attach a statement to the return that the New York City or Yonkers nonresident earnings tax ts being reported separately on a combined report filed by the partnership under the assigned special identification number.

Estimated Tax

A partnership that has received permission to file a combined nonresident tax return on behalf of qualified electing nonresident partners may also elect to file combined estimated tax installments.

The combined installments are filed on Form IT-2105, Estimated Income Tax for Individuals. The form must show the name and address of the partnership and the special identifying number assigned to the partnership. In addition, the partnership must attach a detailed schedule to the first combined installment showing the names of the participating partners, their addresses, social security numbers and the amount of estimated tax paid on behalf of each participating partner. This must be done in columnar form and tn alphabetical order for each participating partner.

Extension of Time

The Tax Department may grant a reasonable extension of time for filing the combined return. The partnership will be allowed an automatic four-month extension of time to file the combined return if the following requirements are met:

1. An application is prepared on Form IT-370, Application for Automatic Extension of Time to File. The form must be signed by a common partner having the authority to act as an agent for all participating partners and must show the partnership name and the special identifying number assigned to the partnership. In addition, the partnership must attach a list to the application showing each participating partner's name, address and social security number.
2. The application must be filed with New York State Income Tax, W.A. Harriman Campus, Albany, N.Y. 12227, on or before the date prescribed for filing of the combined nonresident income tax return.

3. The application must indicate the properly estimated New York State, New York City or Yonkers tax liability for the taxable year. The amount of New York State, New York City or Yonkers tax liability for the taxable year will be considered properly estimated if the combined amounts indicated are not less than ninety percent of the taxes as finally determined. The taxes as finally determined are the amount of total taxes which the New York State income tax return shows to be due. In addition, where the taxes as finally determined are one thousand dollars or more, the application must be accompanied by full remittance of the properly estimated amount of New York State, New York City or Yonkers tax remaining unpaid as of the date prescribed for filing.

In addition to the automatic four-month extension of time for filing a combined nonresident income tax return, the Department may grant an additional extension of time for filing. An application for additional time to file must be made on Form IT-372, Application for Extension of Time to File, before the expiration of the automatic four-month extension of time to file. The application must include the same information and must be prepared in the same manner that applies to the automatic extension of time to file.