

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

TSB-M-90- (8) I
Income Tax
October 26, 1990

Partnerships and S Corporations
Reporting of Federal Changes, Corrections,
Disallowances or Amendments

Chapter 190 of the Laws of 1990 amended the New York State Tax Law and the Administrative Code of the City of New York to require partnerships and New York S corporations to report any federal changes, corrections, disallowances or amendments to New York State. The new provisions, explained below, apply to final federal determinations made or federal amended returns filed on or after July 1, 1990.

New York State and New York City Personal Income Taxes

Chapter 190 amended section 659 of the Tax Law and section 11-1759 of the Administrative Code to expand the term "taxpayer" to include those partnerships that are required to file a New York partnership return and those corporations that have elected, for the taxable year of the federal change, to be treated as a New York S corporation under section 660(a). In addition, the term "federal income tax return" now includes the returns of income required by Internal Revenue Code sections 6031 and 6037 for partnerships and S corporations, respectively.

As a result of the new law, partnerships and New York S corporations must now report, within 90 days of a final federal determination, any federal changes to items of income, gain, loss or deduction, any changes that affect the amount of federal items of tax preference, the amount of credit for employment-related expenses, the amount an employer is required to deduct and withhold from wages for federal income tax withholding purposes or any change or correction in the amount of taxes described in sections 1366(f)(2) and (3) of the Internal Revenue Code. In addition, if a federal amended return (including a return of income tax withheld) is filed by these entities, they are now required to file an amended return with New York State within 90 days of filing the federal amended return.

The required reports or amended returns are to be filed by using Form IT-204, Partnership Return, or Form CT-3S, New York S Corporation Franchise Tax Return, and writing the words Amended Return across the top (in red for Form CT-3S). The return must include a schedule showing each partner's or shareholder's name, address, social security number and the portion of the federal change allocable to each member. However, if the partnership conducts business entirely outside of

New York State, the schedule is required for resident partners only. In all cases, the partnership or S corporation must attach a copy of the federal report of examination changes.

New York City and Yonkers Nonresident Earnings Taxes

Corresponding amendments were also made to the Tax Law, Administrative Code of the City of New York and the Codes and Ordinances of the City of Yonkers to require those partnerships doing business in New York City or Yonkers to report any federal changes to items of income, gain, loss or deduction that affect the determination of net earnings from self-employment for purposes of the nonresident earnings taxes. To report these changes, the partnership must attach to its amended Form IT-204 a schedule showing each partner's name, address, social security number and the portion of the change to net earnings from self-employment allocable to that partner. In addition, if any of the changes affect the factors used in determining the Yonkers business allocation percentage, the partnership must also file an amended Form Y-204, City of Yonkers Nonresident Partner Allocation.

Penalties

Section 685(h)(2) of the Tax Law and section 11-1785(h)(2) of the Administrative Code were amended to provide that a partnership or an S corporation that fails to file the required amended return or fails to submit the required partner or shareholder information (including information related to the nonresident earnings taxes) within the 90-day period will be assessed a penalty unless it is shown that reasonable cause existed for the failures. The penalty is \$50 per partner (limited to partners subject to New York State income tax) or shareholder per month (or fraction thereof), up to a maximum of five months, that the failure continues.