



Department of Taxation and Finance

Important:

The New York City nonresident earnings tax was eliminated for New York State nonresidents on or after July 1, 1999 as the result of a New York State Court of Appeals decision. Accordingly, this TSB-M cannot be relied upon for issues related to the nonresident earnings tax on or after July 1, 1999.

For information concerning other nonresident income taxes, see [Filing information for New York State nonresidents \(ny.gov\)](#).

[See *City of New York, et al., v. State of New York, et al.*, NY Court of Appeals, 94 NY2d 577, 709 NYS2d 122; Chapter 5 of the Laws of 1999.]

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

TSB-M-99(6)I
Income Tax
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Important Notice for Estimated Tax Filers

Chapter 5 of the Laws of 1999 eliminates the New York City nonresident earnings tax for New York State residents who are not residents of the city of New York but who earn wages or carry on a trade or business in the city of New York. The new law is effective July 1, 1999. Individuals, estates, and trusts, who are not residents of the city of New York and are also not residents of New York State, remain subject to the New York City nonresident earnings tax.

With the partial elimination of the New York City nonresident earnings tax, sole proprietors who carry on a trade or business in New York City, and partners of partnerships (including members of limited liability companies that are treated as partnerships for federal tax purposes) that carry on a trade or business in the city, may need to adjust the amount of New York City estimated tax they have to pay for 1999.

This memorandum provides the information necessary for sole proprietors and partners to determine the correct amount of New York City nonresident earnings tax estimated tax to pay for 1999. If, based on the information in this memorandum, you need to amend your estimated tax for 1999, see Form IT-2105-I, *Instructions for Form IT-2105* (for individuals) or Form IT-2105-I-F, *Instructions for Form IT-2105* (for fiduciaries).

Sole proprietors

Sole proprietors are subject to the New York City nonresident earnings tax on their net earnings from self-employment, as defined under section 1402(a) of the Internal Revenue Code, which are derived from business activities carried on in New York City. The following explains how to determine the amount of net earnings from self-employment subject to the nonresident earnings tax for 1999 for full-year New York State nonresidents, full-year New York State residents, part-year New York State residents and part-year New York City residents.

Full-year New York State nonresidents

You are subject to the New York City nonresident earnings tax on your net earnings from self-employment allocated to New York City from any trade or business carried on in New York City during any part of 1999.

Full-year New York State residents (who were not residents of New York City for any part of 1999)

You must compute your net earnings from self-employment from any trade or business carried on

in New York City for the period January 1, 1999, through June 30, 1999. The computation is made as if your taxable year for federal income tax purposes were limited to this six-month period.

Example: In 1999, you carried on a trade or business in New York City during the period March 1, 1999, through December 31, 1999. To determine the amount of New York City nonresident earnings tax you owe for 1999, you must compute your net earnings from self-employment using the federal gross income of the business, less any federal trade or business deductions, for the period March 1, 1999, through June 30, 1999.

**Part-year New York State residents
(who were not residents of New York City for any part of 1999)**

You must compute your net earnings from self-employment from any trade or business carried on in New York City during the period January 1, 1999, through June 30, 1999, and for any period after June 30, 1999, that you were a nonresident of New York State.

Example: In 1999, you carried on a trade or business in New York City during the period January 1, 1999, through October 1, 1999. On August 1, 1999, you changed your residence from New York State to New Jersey. You must compute your net earnings from self-employment allocated to New York City using your federal business income and deductions for the period January 1, 1999, through June 30, 1999. In addition, you must compute your net earnings from self-employment allocated to New York City using your federal business income and deductions for the period August 1, 1999, through October 1, 1999. The total of the net earnings from self-employment for both periods is subject to the nonresident earnings tax.

Part-year City of New York residents

If you are a part-year New York City resident your net profit or loss from any trade or business carried on in New York City for any period you were a resident of New York City is subject to the New York City resident tax. If you were a nonresident of New York City during the period January 1, 1999, through June 30, 1999, your net earnings from self-employment from any trade or business carried on in New York City during that period are subject to the New York City nonresident earnings tax. Additionally, if you were a **New York State** nonresident for any period after June 30, 1999, your net earnings from self-employment from any trade or business carried on in New York City for that period are subject to the New York City nonresident earnings tax. However, if you were not a resident of New York City, but were a resident of New York State for

any period after June 30, 1999, **none** of your net earnings from self-employment from any trade or business carried on in New York City after June 30, 1999, are subject to the New York City nonresident earnings tax.

Example 1: In 1999, you carried on a trade or business in New York City for the entire year. You were a resident of New York City from January 1, 1999, through April 1, 1999. You changed your residence from New York City to Westchester, New York on April 2, 1999. You are subject to the New York City resident tax on your net profit or loss from the trade or business for the period January 1, 1999, through April 1, 1999. You are subject to the New York City nonresident earnings tax on your net earnings from self-employment allocated to the city for the period April 2, 1999, through June 30, 1999. You are not subject to either of these New York City taxes after June 30, 1999.

Example 2: Assume the same facts as Example 1 except that on April 2, 1999, you changed your residence from New York City to Trenton, New Jersey. You are subject to the New York City resident tax on your net profit or loss from your trade or business for the period January 1, 1999, through April 1, 1999. You are subject to the New York City nonresident earnings tax on your net earnings from self-employment allocated to the city for the period April 2, 1999, through December 31, 1999.

Partners

If you are a partner in a partnership that carries on a trade or business in New York City, you are subject to the nonresident earnings tax based upon your pro rata share of the partnership's net earnings from self-employment, as defined under section 1402(a) of the Internal Revenue Code, which are derived from New York City sources. The following explains how to determine the amount of net earnings from self-employment subject to the nonresident earnings tax for 1999 for partners who are full-year New York State nonresidents, full-year New York State residents, part-year New York State residents and part-year New York City residents.

Full-year New York State nonresidents

If you are a full-year New York State nonresident, your entire distributive share of net earnings from self-employment allocated to New York City for the partnership's taxable year ending in 1999 is subject to the nonresident earnings tax.

**Full-year New York State residents
(who were not residents of New York City for any part of 1999)**

If the taxable year of your partnership ends on or before June 30, 1999, your entire distributive share of net earnings from self-employment allocated to New York City is subject to the nonresident earnings tax. If the taxable year of your partnership ends on or after July 1, 1999, your entire share of net earnings from self-employment allocated to the city is exempt from the nonresident earnings tax.

**Part-year New York State residents
(who were not residents of New York City for any part of 1999)**

If you are a part-year New York State resident, whether your distributive share of the partnership's net earnings from self-employment is subject to the New York City nonresident earnings tax depends upon your New York State resident status on the date the partnership's taxable year ends. If the partnership year ends on or before June 30, 1999, your entire distributive share of net earnings from self-employment allocated to the city is subject to the nonresident earnings tax. If the partnership year ends on or after July 1, 1999, your entire distributive share of net earnings from self-employment allocated to the city will be subject to the tax only if you are a New York State nonresident on the date the partnership year ends.

Example 1: You are a partner in a partnership whose taxable year ends on September 30, 1999. On August 1, 1999, you change your residence from New York State to New Jersey. Since you are a New York State nonresident on the date the partnership's taxable year ends (September 30, 1999), your entire distributive share of net earnings from self-employment allocated to New York City is subject to the nonresident earnings tax.

Example 2: You are a partner in a partnership whose taxable year ends on July 31, 1999. On May 1, 1999, you change your residence from New Jersey to New York State. Since you are a New York State resident on the last day of the partnership's taxable year (July 31, 1999), and the partnership's taxable year ends after the date on which the nonresident earnings tax was repealed for New York State residents (July 1, 1999), your entire distributive share of net earnings from self-employment allocated to New York City is not subject to the nonresident earnings tax.

Example 3: You are a partner in a partnership whose taxable year ends on December 31, 1999. On June 1, 1999, you change residence from New York State to New Jersey. Since you are a nonresident of New York State on the date the partnership's taxable year ends (December 31, 1999), your entire distributive share

of net earnings from self-employment allocated to New York City is subject to the nonresident earnings tax.

Part-year New York City residents

If you are a part-year New York City resident, whether your distributive share of partnership items of income, gain, loss, and deductions is subject to the New York City resident tax or whether your distributive share of the partnership's net earnings from self-employment is subject to New York City nonresident earnings tax depends upon your New York City and New York State resident status on the date the partnership's taxable year ends, as follows:

- If the partnership's taxable year ends during the period you were a New York City resident, your entire distributive share of partnership items of income, gain, loss, and deductions is subject to the New York City resident tax.
- If the partnership's taxable year ends on or before June 30, 1999, and you were a New York State resident but were not a New York City resident on this date, your entire distributive share of net earnings from self-employment allocated to the city is subject to the nonresident earnings tax.
- If the partnership's taxable year ends on or after July 1, 1999, and you were a New York State resident but were not a New York City resident on this date, your entire distributive share of net earnings from self-employment allocated to the city is **not** subject to the nonresident earnings tax.
- If the partnership's taxable year ends on or after July 1, 1999, and you were a **New York State nonresident** on the date the partnership's taxable year ends, your entire distributive share of net earnings from self-employment allocated to the city is subject to the nonresident earnings tax.

Example 1: You are a partner in a partnership whose taxable year ends on September 30, 1999. On May 1, 1999, you change your residence from Albany, New York to New York City. Since you are a New York City resident on the date the partnership's taxable year ends (September 30, 1999), your entire distributive share of partnership items of income, gain, loss, and deductions is subject to the New York City resident tax.

Example 2: You are a partner in a partnership whose taxable year ends on August 30, 1999. On April 1, 1999, you change your residence from New York City to Westchester, New York. Since you were not a New York City resident on the date the partnership's taxable year ended (August 30, 1999), and the partnership's taxable

year ended after the date on which the nonresident earnings tax was repealed for **New York State residents** (July 1, 1999), your entire distributive share of net earnings from self-employment allocated to New York City is not subject to the nonresident earnings tax.

Example 3: You are a partner in a partnership whose taxable year ends on April 30, 1999. On February 1, 1999, you change your residence from New York City to Saratoga, New York. Since you were not a resident of New York City on the date the partnership's taxable year ended (April 30, 1999), and the partnership's taxable year ended before the date on which the nonresident earnings tax was repealed for **New York State residents** (July 1, 1999), your entire distributive share of net earnings from self-employment allocated to New York City is subject to the nonresident earnings tax.

Example 4: You are a partner in a partnership whose taxable year ends on November 1, 1999. On March 1, 1999, you change your residence from New York City to the state of Delaware. Since you are a nonresident of New York State on the date the partnership's taxable year ends, your entire distributive share of net earnings from self-employment allocated to New York City is subject to the New York City nonresident earnings tax.

Overpayments of estimated tax

If you determine that you have made an overpayment to your estimated tax account, you can claim a refund of the amount overpaid only when you file your 1999 New York State income tax return.