

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

TSB-M-81(10)
Corporation Tax
Estate and Gift Tax
Income Tax
Miscellaneous Tax
Sales Tax
July 22, 1981

1981 Legislation

INTEREST RATES ON LATE PAYMENTS, ASSESSMENTS, AND REFUNDS OF TAX

Chapter 103 of the Laws of 1981 changed the rate of interest and the basis for computing interest on Late Payments, Assessments, and Refunds of taxes with respect to New York City Personal Income Tax on Residents, Earnings Tax on Non-Residents, New York State Personal Income Tax, Unincorporated Business Income Tax, Gift Tax, Sales and Use Taxes, Corporate, and certain other taxes effective August 13, 1981.

The rates of interest which go into effect on August 13, 1981 are 14% per annum for Sales Tax, Gift Tax, Income Tax, and Overpayment of Withholding Taxes and 17% per annum for Underpayment of Withholding Taxes, Corporate, and certain other taxes. These rates will remain in effect through February 28, 1982.

Prior to the enactment of this legislation, the amount of interest to be added to late payments, assessments and refunds of tax was computed based on the rate in effect on the beginning date of the taxable year or other period covered by the return. Such rate of interest remained in effect until the tax was paid or refunded. As a result of this legislation the amount of interest to be added to late payments, assessments and refunds of tax that are paid or refunded prior to August 13, 1981 shall be computed at the rate in effect for the taxable year or other period covered by the return. If such taxes are payable or refundable prior to August 13, 1981 but not paid or refunded until after such date, the amount of interest to be added shall be an amount computed at the applicable rate in effect for the period up to and including August 12, 1981 plus an amount computed at the applicable rate or rates in effect from August 13, 1981 to the date paid. The amount of interest to be added to taxes which become underpaid or overpaid on or after August 13, 1981 shall be based on the new rate or rates in effect for the dates such taxes remain underpaid or overpaid.

The amount of interest to be added to late payments, assessments, and refunds of taxes shall be computed according to the dates and rates of interest as follows:

A - NEW YORK CITY INCOME TAX ON RESIDENTS AND EARNINGS TAX ON NON-RESIDENTS

1. Interest on taxes paid or refunded prior to August 13, 1981 for taxable years or other periods beginning on or after January 1, 1976 shall be computed at the rate of 8 1/2% per annum.
2. Interest on taxes payable or refundable before August 13, 1981 but not paid or refunded until after August 12, 1981 shall be computed at the rate of 8 1/2% per annum through August 12, 1981 and at the rate of 14% per annum from August 13, 1981 to the date paid or refunded unless such rate changes before the tax or balance thereof is paid or refunded.

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- 3. Interest on taxes for taxable years or other periods due on or after August 13, 1981 shall be computed at the rate of 14% per annum unless such rate changes before the tax or balance thereof is paid or refunded. NOTE: The rate of interest for underpayment of withholding tax after August 12, 1981 shall be 17% per annum to the date paid unless such rate changes before the tax or balance thereof is paid.

B - NEW YORK STATE PERSONAL INCOME TAX, UNINCORPORATED BUSINESS INCOME TAX, AND GIFT TAX

- 1. Interest on taxes paid or refunded prior to August 13, 1981 shall be computed at the rate of interest applicable to the taxable year, calendar quarter, or other period as follows:

a. PERSONAL and UNINCORPORATED BUSINESS INCOME TAXES

<u>For Taxable Periods Beginning</u>	<u>Rate Per Annum</u>
After 12/31/62 but before 1/1/72	6.00%
After 12/31/71 but before 8/15/73	7.50%
After 8/14/73 but before 10/11/73	8.00%
After 10/10/73	8.50%

b. GIFT TAX

<u>For Taxable Periods Beginning</u>	<u>Rate Per Annum</u>
After 12/31/71 but before 1/1/73	6.00%
After 12/31/72 but before 8/15/73	7.50%
After 8/14/73 but before 10/11/73	8.00%
After 10/10/73	8.50%

- 2. Interest on taxes payable or refundable before August 13, 1981 but not paid or refunded until after August 12, 1981 shall be computed at the applicable rate of interest as described in B-1 of this memorandum from the due date of the return through August 12, 1981 and at the rate of 14% per annum from August 13, 1981 to the date paid or refunded unless such rate changes before the tax or balance thereof is paid or refunded.

- 3. Interest on taxes for taxable years or other periods due on or after August 13, 1981 shall be computed at the rate of 14% per annum unless such rate changes before the tax or balance thereof is paid or refunded. NOTE: The rate of interest for underpayment of withholding tax after August 12, 1981 shall be 17% per annum to the date paid unless such rate changes before the tax or balance thereof is paid.

C - UNDERPAYMENT OF WITHHOLDING TAXES, CORPORATE AND CERTAIN OTHER TAXES ADMINISTERED BY CORPORATION TAX

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1. Interest on taxes paid or refunded prior to August 13, 1981 shall be computed according to the taxable year or other period covered by the return at the applicable rate of interest as described in B-1-a of this memorandum (See Note).
2. Interest on taxes payable or refundable prior to August 13, 1981 but not paid or refunded until after August 12, 1981 shall be computed at the applicable rate of interest as described in B-1-a of this memorandum (See Note) from the due date of the return through August 12, 1981 and at the rate of 17% per annum from August 13, 1981 to the date paid or refunded unless such rate of interest changes before the tax or balance thereof is paid or refunded.
3. Interest on taxes for taxable years or other periods due on or after August 13, 1981 shall be computed at the rate of 17% per annum unless such rate of interest changes before the tax or balance thereof is paid or refunded.

NOTE: In B-1-a, "For Taxable Periods Beginning After 12/31/62 but before 1/1/72" is to be read as "For Taxable Periods Ending on or After 12/31/64 but beginning before 1/1/72."

D - SALES AND USE TAXES

1. Interest added for failure to pay or pay over taxes shall be computed at the rate of 1% per month if such taxes are paid or paid over prior to August 13, 1981. Interest added to refunds of tax shall be computed at the applicable rate of interest as described in B-1-a of this memorandum if such taxes are refunded prior to August 13, 1981.
2. Interest on taxes payable prior to August 13, 1981 but not paid or paid over until after August 12, 1981 shall be computed at the rate of 1% per month from the due date of the return through August 12, 1981 plus interest at the rate of 1/12 of 14% per month from August 13, 1981 to the date paid or paid over unless such rate of interest changes before the tax or balance thereof is paid or paid over. Should the rate of interest change to less than 12% per annum then the rate of interest shall be 1% per month.
3. Interest on taxes paid or paid over before August 13, 1981 and refunded after August 12, 1981 shall be computed at the applicable rate of interest as described in B-1-a of this memorandum from the due date of the return through August 12, 1981 and at the rate of 14% per annum from August 13, 1981 to the date refunded unless such rate of interest changes before the tax is refunded.
4. Interest on taxes for taxable years or other periods due on or after August 13, 1981 shall be computed at the rate of 1/12 of 14% per month unless such rate of interest changes before the tax or balance thereof is paid, paid over or refunded. Should the rate of interest change to less than 12% per annum then the rate of interest on taxes paid or paid over shall be 1% per month.

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Future changes in the rate of interest with regard to New York City Personal Income Tax on Residents, Earnings Tax on Non-Residents, New York State Personal Income Tax, Unincorporated Business Income Tax, Gift Tax, and Sales and Use Taxes shall be based on the Average of the One-Year Constant Maturity Yield Index for United States Treasury Securities. Future changes in the rate of interest with regard to Underpayment of Withholding Taxes, Corporate, and Certain Other Taxes Administered by Corporation Tax shall be based on the Average Prime Rates Charged by Banks.

The Commissioner of Taxation and Finance must determine the new rates of interest each year by using the figures from the quarter-year ended December 31 of the preceding year. Such rates will be in effect from March 1 of the current year through February 28 of the following year unless such rates as determined for the quarter-year ended June 30 differ by more than 2 percentage points. The rates in effect August 13, 1981 will remain in effect through February 28, 1982.

For taxes not covered by this memorandum, consult the instructions for the particular tax return.