New York State
Department of
Taxation and Finance

Publication 36
(12/07)

General Information for Senior Citizens and Retired Persons

For tax year 2007

The information presented is current as of this publication's print date. Visit our Web site at *www.nystax.gov* for up-to-date information.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

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Introduction

If you are a senior citizen or a retired person filing a New York State income tax return, you may qualify for special income tax benefits that can reduce your tax liability. These benefits include subtraction modifications that will reduce your New York State adjusted gross income and tax credits that may decrease your tax due or increase your refund. Even if you do not have to file a New York State income tax return, you may still be eligible to claim a refund of certain credits (see *New York tax credits* on page 22).

This publication contains general filing information and describes certain New York State tax benefits that may be of special interest to senior citizens and retired persons. See the *Need help?* section on the back cover of this publication for information on how to obtain New York State forms and how to get assistance when filing tax forms. For federal income tax information, access the Internal Revenue Service (IRS) Web site (*www.irs.gov*) or call 1 800 829-1040.

Which form should you file?

The New York State Tax Department has several different income tax forms available for individuals who must file New York State income tax returns. A brief description of each form follows. For more information on who must file, see the *Who must file* section in the instructions of any of the forms listed below.

Form IT-150, *Resident Income Tax Return* (short form)

Short Form IT-150 is a simple, two-page New York State income tax return for full-year resident taxpayers who file federal Form 1040A, *U.S. Individual Income Tax Return*, or Form 1040EZ, *Income Tax Return for Single and Joint Filers With No Dependents* (and certain taxpayers who file federal Form 1040, *U.S. Individual Income Tax Return*). Taxpayers using Form IT-150 can claim the most common income tax credits.

You may use Form IT-150 if:

- You were a New York State resident for the entire year.
- Your federal adjusted gross income for the year was $900,000 or less.
- You filed federal Form 1040EZ or 1040A (or could have, except your federal taxable income was over $100,000).
- You were **not** a part-year resident of New York City or Yonkers (however, you may report nonresident earnings tax for Yonkers on Form IT-150).

You can claim the following credits on Form IT-150:

- New York State household credit
- New York City household credit

- Empire State child credit
- New York State child and dependent care credit
- New York City child and dependent care credit
- New York State earned income credit
- New York State noncustodial parent earned income credit
- New York City earned income credit
- Real property tax credit
- College tuition credit
- New York City school tax credit

Form IT-201, *Resident Income Tax Return* (long form)

If you are a full-year New York State resident and you do not qualify to file Form IT-150, you must file Form IT-201.

You can claim the following income tax credits directly on Form IT-201:

- New York State household credit
- New York City household credit
- Empire State child credit
- New York State child and dependent care credit
- New York City child and dependent care credit
- New York State earned income credit
- New York State noncustodial parent earned income credit
- New York City earned income credit
- Real property tax credit
- College tuition credit
- New York City school tax credit
- Resident credit

To claim any credits other than those listed above, or to report other New York State or New York City taxes, you must complete Form IT-201-ATT, *Other Tax Credits and Taxes*, and attach it to your Form IT-201.

Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*

Use Form IT-203 if you are a nonresident or part-year resident of New York State and have New York source income. For the definitions of *resident, nonresident, part-year resident*, and *New York source income*, see the instructions for Form IT-203, or Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents – For tax year 2007.*

When to file

You should file your return as soon as you can after January 1, 2008, but not after April 15, 2008. If you file for a fiscal year, your return is due by the fifteenth day of the fourth month following the end of your fiscal year.

Extension of time to file

If you cannot meet the filing due date, you may request an extension of time by filing Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals.* The filing date for your income tax return will be automatically extended for six months if you file Form IT-370 on or before the due date and pay any income tax due with your Form IT-370. You must also pay any sales or use tax you owe at the time you request the extension.

An extension of time to file does not extend your time to pay; full payment must be made of any balance due with this automatic extension of time to file. You may pay by check, money order, electronic funds withdrawal, or credit card. If you want to make your payment by electronic funds withdrawal, which transfers funds directly from your bank account, you must use the Tax Department Web application or *e*-file your extension request.

You must estimate your New York State, New York City, and Yonkers income taxes due, but be as exact as you can with the information you have (see *Estimated income tax requirements* on page 11). If we later determine that your estimate was not reasonable, the extension will not be allowed, and you may be subject to penalty and interest.

If you expect to receive a refund or expect to owe no New York State, New York City or Yonkers income tax, or no sales or use tax as of the due date of the return, you can file a copy of federal Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*, instead of Form IT-370. When you file your New York State return, you must attach another copy of the federal extension to it.

To file your New York State extension electronically and learn about our payment options, access the *Online Tax Center* on the Tax Department Web site (*www.nystax.gov*).

Electronic tax filing (*e*-file)

You can file your income tax return electronically (*e*-file) using your personal computer and an approved, commercially available software package (see the Tax Department *e*-file Web site (*www.nystax.gov/elf*)), or you can choose to have a tax professional *e*-file for you.

E-filing is the fastest way to receive your refund. The speed and accuracy of computers allow electronic returns to be processed faster than paper returns, and using tax preparation software greatly reduces the possibility of errors and delays. To receive your refund even faster, you may choose to have it deposited directly into your savings or checking account (see *Direct deposit of refunds* on page 9).

E-filing is faster and more accurate than paper filing, and, if you qualify, it may be free. Several tax preparers and tax preparation software providers offer free or discounted *e*-filing. You may also be able to file your return yourself using the internet.

You may pay a balance due on an *e*-filed return by submitting a check or money order with Form IT-201-V, *Payment Voucher for E-Filed Income Tax Returns*; by using your credit card; or by authorizing the Tax Department to withdraw the payment from your bank account (electronic funds withdrawal). You must include authorization and account information for electronic funds withdrawal with your electronic return, and you cannot change it once it is transmitted. To avoid interest and penalties, your check or money order must be mailed, credit card payment authorized, or electronic funds withdrawal made, by the filing due date.

For more information about New York State *e*-file, visit our *e*-filing Web site at *www.nystax.gov/elf*.

Electronic signatures

If you *e*-file your 2007 New York State personal income tax return, you **must** sign your return using a self-selected personal identification number (PIN). You may select the same PIN that you use to sign your federal return, or you may select a different PIN for New York State. If you are married filing a joint return, you and your spouse will each need a PIN to enter as your electronic signatures. Your software package or tax professional will guide you through this process.

Payment options

If you have a balance due on your return, you may pay by check or money order. You may also pay a balance due by using your credit card or by electronic funds withdrawal. For specific information on payment options, see the instructions for the tax form or tax preparation software you are using.

Electronic funds withdrawal

If you file your New York State income tax return and you have a balance due, you may authorize the Tax Department to make an electronic funds withdrawal from your designated bank account. By choosing this option, you authorize the New York State Tax Department to transfer money from your account to the state's account.

Authorization and account information for electronic funds withdrawal must be included with your return and cannot be changed once it is filed. You must specify a payment date that is on or before April 15, 2008. If you file before the due date, money will not be withdrawn from your account before the date you specify. To avoid interest and penalties, you must authorize a withdrawal on or before the filing due date. If you designate a weekend or a bank holiday, the payment will be withdrawn the next business day.

For more information, see the instructions for the form or tax preparation software you are using, or access the *Online Tax Center* on the Tax Department Web site (*www.nystax.gov*).

Paying by credit card

You can use your American Express Card, Discover/Novus, Visa, or MasterCard to pay the amount you owe on your 2007 New York State personal income tax return (Form IT-150, IT-201, or IT-203) or to make 2008 quarterly estimated income tax payments. You will be charged a convenience fee, and terms and conditions may vary between the credit card service providers.

For more information on the credit card program, access the *Online Tax Center* on the Tax Department Web site (*www.nystax.gov)* or refer to the instructions of the tax form you are using.

Overpayments, refunds, and collection of debts

Direct deposit of refunds

You have the option to have your income tax refund deposited directly into your bank account. Payment by this method is more secure since there is no check to get lost or stolen. With direct deposit, you will receive your refund a day or two faster than if it were sent by mail. Direct deposit is more convenient since you do not have to go to the bank to make a deposit. For more information, refer to the instructions for the tax form or tax preparation software you are using.

Refund by mail

If you compute an overpayment on your income tax return, you may choose to have the overpayment refunded by check via US mail. The Tax Department will mail your refund check to the **mailing address** listed on the front of your income tax return. If you are using a peel-off name-and-address label, check the label for accuracy. If any information is wrong, cross it out and make the corrections directly on the label.

Estimated tax for 2008

You have the option of applying all or a portion of your overpayment to your 2008 estimated income tax account by completing the appropriate line(s) on your income tax return. If you choose to apply all or a portion of your overpayment to your 2008 estimated income tax, you generally cannot change that decision after April 15, 2008.

Collection of debts from your refund

We will keep all or part of your overpayment (refund) if you owe a New York State tax liability or a New York City or Yonkers personal income tax liability; if you owe past-due support or a past-due legally enforceable debt to the Internal Revenue Service (IRS) or a New York State agency, or to another state; if you defaulted on a guaranteed student, state university, or city university loan; or if you owe a New York City tax warrant judgment debt. We will refund any amount that exceeds your debt.

A *New York State agency* includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district.

If you have any questions about whether you owe a past-due legally enforceable debt to the IRS or to a state agency, contact the IRS or the state agency.

For New York State tax liabilities or New York City or Yonkers personal income tax liabilities, call 1 800 835-3554 (from areas outside the U.S. and outside Canada call (518) 485-6800) or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany, NY 12227.

For information relating to a New York City tax warrant judgment debt, call (212) 232-3550.

Privacy and confidentiality

The Tax Law contains strict secrecy provisions to protect the confidentiality of tax returns and tax return information. Consequently, you must give specific written authorization to a practitioner, paid preparer or other representative before he or she will be given access to your confidential records or be allowed to represent you before the Tax Department or the Division of Tax Appeals. There are various levels of authorization you can give, as described below.

Third-party designee

If you want to authorize a friend, family member, or any other person (third-party designee) you choose to discuss your 2007 tax return with the New York State Tax Department, check the ***Yes*** box in the *Third-party designee* area of your return and enter the information requested.

If you check the ***Yes*** box, you (and your spouse, if filing a joint return) are authorizing the Tax Department to discuss with your designee any questions that arise during the processing of your return. You are authorizing the designee to:

- give the Tax Department any information that is missing from your return;
- call the Tax Department for information about the processing of your return or the status of your refund or payment(s); and
- respond to certain Tax Department notices that you share with the designee about math errors, offsets, and return preparation. The Tax Department will **not** send notices to the designee.

You are not authorizing the designee to receive any refund check, bind you to anything (including additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file Form POA-1, *Power of Attorney*.

The authorization for your 2007 tax return(s) will end automatically on the due date (without regard to extensions) for filing your 2008 tax return (for most taxpayers this will be April 15, 2009).

Power of attorney

A power of attorney is evidence that a practitioner or other person may act on your behalf. The power of attorney must contain explicit authorization for your representative to act for you, and must be properly completed and signed.

The Tax Department prefers that practitioners use Form POA-1, *Power of Attorney*, or Form ET-14, *Estate Tax Power of Attorney*, but will accept other forms if they contain all the necessary elements. Form POA-1 may be used for New York State tax matters, New York City tax matters, or both.

Estimated income tax requirements

New York State Tax Law requires you to pay income tax during the year, either through withholding or estimated tax. If you are self-employed, receive a taxable pension or annuity, or receive any other income from which taxes are not withheld, you may have to pay estimated tax. If you have substantially underpaid your taxes during the year (either through insufficient estimated tax payments or insufficient withholding tax, or a combination of the two), you will probably have to pay a penalty in addition to your tax.

Generally, you must pay estimated income tax if you expect to owe, after subtracting your tax withheld and credits, at least $300 of either New York State, New York City, or Yonkers tax, and you expect your withholding and credits to be less than the smaller of:

- 90% of your income tax liability for this year; or

- 100% of your income tax liability from the previous year (110% of that amount if you are not a farmer or fisherman and the New York adjusted gross income on that return is more than $150,000 or, if married filing separately, more than $75,000), based upon a return covering 12 months.

Additionally, nonresident individuals, estates, and trusts are required to pay estimated personal income tax on the gain, if any, from:

- the sale or transfer of certain real property located in New York State (see Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*); and

- certain sales, conveyances, or other dispositions of shares of stock in a cooperative housing corporation, in connection with the grant or transfer of a proprietary leasehold by the owner of the shares, where the cooperative unit represented by these shares is located in New York State (see Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*).

You do not have to include in your estimate any amount of sales or use tax you expect to owe on your personal income tax return.

If you are married, each spouse should maintain a separate estimated income tax account. If you and your spouse each maintain an estimated tax account and file a joint New York State income tax return, the balances of both accounts will be credited to your joint income tax return.

For more information see Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, and Form IT-2105-I, *Instructions for Form IT-2105;* or see Publication 94, *Should You Be Paying Estimated Tax in 2008?*

Note: You can make estimated tax payments, check your balance and reconcile your estimated income tax account by accessing the *Online Tax Center* on the Tax Department Web site (*www.nystax.gov*) or by writing us at:

NYS Tax Department
Estimated Tax Unit
WA Harriman Campus
Albany, NY 12227

Sales or use tax

You must report any unpaid sales or use tax owed for 2007 on your personal income tax return for 2007. However, if you or your business is registered, or required to be registered, for sales tax purposes, all sales and use taxes owed with respect to business purchases must be reported and paid with the appropriate sales tax return(s).

If you are not filing an income tax return but owe sales or use tax for 2007, you must pay any unpaid sales or use tax by filing Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*, by April 15, 2008. Alternatively, you may file Form ST-141, *Individual Purchaser's Periodic Report of Sales and Use Tax*, periodically to report sales or use tax liability on other than an annual basis.

For additional information, see the instructions for Form IT-150 or Form IT-201 and Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department*.

When do you owe sales or use tax?

When you make a purchase of taxable property or services from a seller (vendor) located in New York State and take delivery in New York State, the vendor should collect state and local sales or use tax and forward it to the Tax Department. However, you are responsible for paying the tax directly to the Tax Department under the following three circumstances:

1. **Deliveries into New York State —** You owe state or local sales or use tax if you purchase property or a service which is delivered to you in New York State without payment of New York State and local tax to the seller, such as through the Internet, by catalog, from television shopping channels, or on an Indian reservation.

2. **Purchases outside New York State with subsequent use in New York State —** You may also owe state and local sales or use tax if you are a *resident* of New York State (see *Who is a New York State resident for sales and use tax purposes?* on page 14) at the time you purchase any of the following *outside* the state:

   - property you bring into New York State for use in New York State;

   - a service performed on property outside New York State and you bring that property into New York State for use here; or

   - a service (such as an information service) you bring into New York State for use here.

   However, you are not required to pay state or local sales or use tax on any property or service that you bring into New York State which you purchased outside of the state before you became a resident of New York State.

3. **Additional local tax** — You may owe an additional **local** tax if you are a resident of a locality (county or city) at the time of purchase and you:

   - bring property into that locality which you purchased in another locality in New York State that has a lower tax rate;

   - bring property into that locality on which you had a taxable service performed in another locality in New York State that has a lower tax rate; or

   - bring a service (such as an information service) into that locality which you purchased in another locality in New York State that has a lower tax rate.

   However, you are not required to pay any additional local tax on any property or service that you bring into a locality in New York State that you purchased outside that locality before you became a resident of that locality.

To look up sales and local use tax rates by jurisdiction online, visit the Tax Department Web site (*www.nystax.gov*) and access the *Online Tax Center*.

Note: You may be eligible for a credit for sales or use tax paid to another state or to another locality in New York State. For more information, see Publication 39, *A Guide to New York State Reciprocal Credits for Sales Tax Paid to Other States*.

Who is a New York State resident for sales and use tax purposes?

For sales and use tax purposes, the definition of *resident* includes persons who may not be considered residents for personal income tax purposes. For example, persons maintaining a permanent place of abode in New York who do not spend more than 183 days a year in the state, college students, and military personnel may all be residents for sales and use tax purposes even if they are not residents for income tax purposes. For sales and use tax purposes, an individual is a resident of the state and of any locality in which he or she maintains a permanent place of abode.

For sales and use tax purposes, a *permanent place of abode* is a dwelling place maintained by a person, or by another for that person to use, whether or not owned by such person, on other than a temporary or transient basis. The dwelling may be a home, apartment or flat; a room including a room at a hotel, motel, boarding house or club; a room at a residence hall operated by an educational, charitable or other institution; housing provided by the armed forces of the United States, whether the housing is located on or off a military base or reservation; or a trailer, mobile home, houseboat or any other premises. This includes second homes. Therefore, you can be a resident of more than one locality and state for sales and use tax purposes.

An individual doing business in New York State is a resident for sales and use tax purposes of the state and of any county or city in which the individual is doing business, with respect to purchases of taxable property or services used in the business. Therefore, if an individual is engaged in business in New York State but has no permanent place of abode in New York State, the individual will owe use tax only on taxable purchases made with respect to the business operated in New York.

New York State subtraction modifications

Certain tax benefits are provided to senior citizens and retired persons in the form of subtraction modifications. These modifications reduce federal adjusted gross income. The following is a list of New York subtraction modifications that may be of special interest to senior citizens and retired persons. For a complete list of New York subtraction modifications, see Form IT-150/IT-201-I, *Combined Instructions for Forms IT-150 and IT-201*.

Social security and equivalent railroad retirement benefits

Social security benefits and Tier 1 railroad retirement benefits that are included in federal adjusted gross income are exempt from state and local income taxes and may be subtracted from your federal adjusted gross income when computing your New York adjusted gross income.

Railroad retirement benefits

If you included in your federal adjusted gross income either:

- supplemental annuity or Tier 2 benefits received under the Railroad Retirement Act of 1974; or
- benefits received under the Railroad Unemployment Insurance Act; and

if those benefits are exempt from state income taxes under Title 45 of the United States Code, you may subtract the amount of those benefits from your federal adjusted gross income when computing your New York adjusted gross income.

Pensions of New York State, local governments, and the federal government

Qualified pension benefits or distributions received by officers and employees of the United States, New York State, and local governments within New York State, are exempt from New York State, New York City, and Yonkers income taxes. This subtraction modification is allowed regardless of the age of the taxpayer or of the form the payment(s) take.

This subtraction modification is allowed for a pension or distribution amount (to the extent the pension or other distribution was included in your federal adjusted gross income) from a pension plan which represents a return of contribution in a year prior to retirement, as an officer, employee, or beneficiary of an officer or an employee of:

- New York State including State and City University of New York and the New York State Education Department who belong to the Optional Retirement Program.

Optional Retirement Program members may only subtract that portion attributable to employment with the State or City University of New York or the New York State Education Department.

- Certain public authorities, including: the Metropolitan Transportation Authority (MTA) Police 20-Year Retirement Program; the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA); and the Long Island Railroad Company (LIRR).

- Local governments within the state, including:
  - New York State (NYS) Teachers' Retirement System;
  - New York City (NYC) Teachers' Retirement System;
  - NYC Teachers' Retirement IRC 403(b) plan;
  - International Union of Operating Engineers Local 891 Annuity Fund (Department of Education of the NYC School District)
  - NYC Superior Officers' Council Annuity Trust Fund;
  - NYC Correction Captains' Association Annuity Fund;
  - NYC Detectives' Endowment Association Annuity Fund;
  - City University of New York Civil Service Forum Annuity Fund; and
  - NYC variable supplemental funds (VSF), including:
    - Transit Police Officers' VSF,
    - Transit Police Superior Officers' VSF,
    - Housing Police Officers' VSF,
    - Housing Police Superior Officers' VSF,
    - Police Officers' VSF,
    - Police Superior Officers' VSF,
    - Firefighters' VSF,
    - Fire Officers' VSF,
    - Corrections Officers' VSF,
    - Corrections Captain and Above VSF.

- The United States, its territories, possessions (or political subdivisions thereof), or any agency, instrumentality of the United States (including the military), or the District of Columbia.

Distributions received from a New York State or local pension plan or from a federal government pension plan as a **nonemployee spouse** in accordance with a court-issued qualified domestic relations order (QDRO) that meets the criteria of Internal Revenue Code (IRC) section 414(p)(1)(A) or in accordance with a domestic relations order (DRO) issued by a New York court retain their character as pension income. Therefore, if you receive distributions from a New York State or local pension plan or a federal government pension plan as the result of a DRO or QDRO, you are allowed the subtraction modification to the extent that the distributions are included in your federal adjusted gross income.

If you received pension and annuity income as the **beneficiary** of a deceased officer or employee of the United States, New York State, or local government within New York State, you may also make this subtraction to the extent that the distributions are included in your federal adjusted gross income.

Pension and annuity income exclusion

If you were age 59½ or older before January 1, 2007, you may exclude up to $20,000 of your qualified pension and annuity income from your federal adjusted gross income for purposes of determining your New York adjusted gross income. If you became age 59½ during the tax year, the exclusion is allowed only for the amount of pension and annuity income received on or after you became 59½, but not more than $20,000. Qualified pension and annuity income includes:

- periodic payments for services you performed as an employee before you retired;
- periodic and lump-sum payments from an IRA, but **not** payments derived from contributions made after you retired;
- periodic distributions from an annuity contract (IRC section 403(b)) purchased by an employer for an employee and the employer is a corporation, community chest fund, foundation or public school;
- periodic payments from an HR-10 (Keogh) plan, but **not** payments derived from contributions made after you retired;
- lump-sum payments from an HR-10 (Keogh) plan, but only if federal Form 4972, *Tax on Lump Sum Distributions*, is not used. Do **not** include that part of your payment that was derived from contributions made after you retired;
- periodic distributions from government sponsored deferred compensation plans (government IRC, section 457), for tax years beginning on or after January 1, 2002; and
- periodic distributions of benefits from a cafeteria plan (IRC section 125) or a qualified cash or deferred profit-sharing or stock bonus plan (IRC section 401(k)), but **not** distributions derived from contributions made after you retired.

The exclusion also applies to pension and annuity income received by an estate or trust if the income meets the requirements as described above.

Qualified pension and annuity income does **not** include:

- distributions received from a nongovernment pension plan as a **nonemployee spouse** in accordance with a court-issued qualified domestic relations order (QDRO) or in accordance with a domestic relations order (DRO) issued by a New York court.

- distributions received as a result of an **annuity contract** purchased with your own funds from an insurance company or other financial institution. The payments are attributable to premium payments made by you, from your own funds, and are not attributable to personal services performed.

Married taxpayers who both receive pension income are each entitled to a maximum pension and annuity income exclusion of $20,000 whether they file jointly or separately. However, you cannot claim any unused portion of your spouse's exclusion. If you receive your own pension income and your deceased spouse's pension income, you are entitled to a maximum pension and annuity exclusion of $20,000 each year.

If you receive pension and annuity income of a deceased individual, you may take this subtraction (to the extent the distributions are included in your federal adjusted gross income), regardless of your age, if the deceased would have been entitled to it had the deceased continued to live. If the deceased individual would have become 59½ during 2007, you may subtract from your 2007 federal adjusted gross income the amount of pension and annuity income received on or after the date that the deceased individual would have become 59½, but not more than $20,000. In addition, the amount of pension and annuity income exclusion attributable to the deceased individual that you are eligible to claim as a beneficiary must first be reduced by the amount subtracted on the deceased individual's 2007 New York State income tax return, if any.

If the deceased individual has more than one beneficiary, the $20,000 maximum amount of the pension and annuity exclusion must be allocated among the beneficiaries. Each beneficiary's share of the $20,000 exclusion is determined by multiplying $20,000 by a fraction whose numerator is the value of the pensions and annuities inherited by the beneficiary, and whose denominator is the total value inherited by all beneficiaries of the deceased individual's pensions and annuities. The total exclusion of the deceased individual and all beneficiaries cannot exceed $20,000 annually.

Example: *Two beneficiaries receive an inheritance of a decedent's IRA and pension. At the time of inheritance, the value of the IRA and the pension is $100,000 and $400,000 respectively. Beneficiary A inherited 50% of the decedent's IRA ($50,000) and 75% of the pension account ($300,000) for a total of $350,000. Beneficiary B inherited 50% of the decedent's IRA ($50,000) and 25% of the pension account ($100,000) for a total of $150,000.*

The decedent would have been allowed the pension exclusion allowed under Tax Law section 612(c)(3-a) if the decedent had continued to live. However, the decedent had not taken any distributions from the IRA or pension at the time of death. Regardless of the amount of the distribution each beneficiary takes each year, if any, the beneficiaries must allocate the maximum exclusion in the same ratio as the total original inheritance is shared so that the total exclusion of all beneficiaries does not exceed $20,000.

Beneficiary A's maximum pension exclusion attributable to the decedent's IRA and pension is limited to $14,000 annually.

- *$350,000/$500,000 = 70%*
- *70% X $20,000 = $14,000*

Beneficiary B's maximum pension exclusion attributable to the decedent's IRA and pension is limited to $6,000 annually.

- *$150,000/$500,000 = 30%*
- *30% X $20,000 = $6,000*

The **maximum exclusion** allowable, from the total of all sources that qualify for the exclusion, may not exceed $20,000.

If you have **disability income** that qualifies for the disability income exclusion and pension and annuity income that also qualifies for the exclusion, the total exclusion combined cannot exceed $20,000. (See Form IT-221, *Disability Income Exclusion*, for more information.)

Long-term residential care deduction

If you are a resident in a qualified continuing care retirement community, you may be allowed a subtraction from federal adjusted gross income when computing your New York adjusted gross income for the portion of fees paid during the year that is attributable to the cost of providing long-term benefits under a continuing care contract. The amount of the subtraction is determined based on the fees paid for long-term benefits and your age. The maximum subtraction allowed for tax year 2007 is $3,680. If you are married, file a joint return, and you and your spouse both qualify, you may each claim the subtraction. However, you may not claim any unused part of your spouse's subtraction.

A continuing care retirement community is **qualified** if it has been issued a certificate of authority by the New York State Department of Health to operate as a continuing care community.

In addition, a long-term care insurance credit is also available (see *Long-term care insurance credit*, on page 23).

Nonresident recipients of pension income

Income from pension plans described in section 114 of Title 4 of the U.S. code received while a nonresident of New York State is not New York source income and should not be included in the *New York State amount* column on Form IT-203, *Nonresident and Part-Year Resident Income Tax Return.*

The plans described in section 114 of Title 4 of the U.S. Code are as follows:

- A qualified trust under section 401(a) of the Internal Revenue Code (IRC) that is exempt from taxation under section 501(a) of the IRC. These qualified plans are the regular type of plans maintained by employers to provide retirement benefits to employees. They include both defined contribution and defined benefit plans. In addition to regular employee plans, also included in this category are Keogh (HR-10) plans for self-employed persons and section 401(k) deferred compensation plans.

- A simplified employee pension (SEP) defined in section 408(k) of the IRC. These are plans under which employers, including self-employed individuals, contribute to Individual Retirement Accounts on behalf of their employees.

- An annuity plan described in section 403(a) of the IRC. These plans are basically the equivalent of *qualified plans*, but they are funded by annuity contracts.

- An annuity contract described in section 403(b) of the IRC. These are tax sheltered annuities which utilize insurance contracts to fund a special type of pension arrangement available only to employees of public educational organizations (such as public schools) and certain other tax-exempt organizations.

- An individual retirement plan described in section 7701(a)(37) of the IRC. These plans are Individual Retirement Accounts (IRAs), including Roth IRAs.

- An eligible deferred compensation plan as defined in section 457 of the IRC. These are plans set up by state and local governments and any other tax exempt organizations which permit employees, subject to certain limits, to contribute pre-tax dollars to the plans.

- A governmental plan as defined in section 414(d) of the IRC. These are plans established for its employees by the government of the United States, or a state or political subdivision of a state, or any agency or instrumentality of the United States or any state.

- A trust described in section 501(c)(18) of the IRC. These are trusts created before June 25, 1959, that are part of a pension plan meeting special requirements and funded only by contributions of employees.

- Any plan, program, or arrangement described in section 3121(v)(2)(C) of the IRC or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner and that is in effect immediately before retirement begins, provided payments under the plan are part of a series of substantially equal periodic payments (which may include income described in the plans above) made for:

  (a) the life or life expectancy of the recipient (or for the joint lives or joint expectancies of the recipient and the designated beneficiary of the recipient); or

  (b) a period of not less than 10 years.

  However, a plan described above that is created solely to provide retirement benefits to employees that would exceed the benefits that could be provided to employees under a *qualified plan* (commonly referred to as *excess benefit plans*) is not subject to the periodic payment requirements set forth in (a) and (b) previously. These plans will qualify as covered plans regardless of the payout period or the method (lump-sum, etc.) in which the payments are made.

  This provision relates to nonqualified deferred compensation arrangements. They are plans that are not recognized as *qualified* under the IRC. These are unlimited, flexible arrangements without contribution limits, funding requirements, or limits on payment provisions. These plans are often unfunded.

  The fact that payments may be adjusted from time to time pursuant to such plan, program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic payments provided under such plan, program or arrangement to fail the *substantially equal periodic payments* test.

  For purposes of this section, the term *retired partner* is an individual who is described as a partner in section 7701(a)(2) of the IRC of 1986 and who is retired under such individual's partnership agreement.

- Any retirement or retainer pay of a member or former member of a uniformed service computed under Chapter 71 (Computation of Retired Pay) of Title 10 (Armed Forces) of the United States Code. *Uniformed forces* means the armed forces (Army, Navy, Air Force, Marine Corp, and Coast Guard), the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service.

If you are a nonresident of New York and receive pension income that is not included in one of the plans previously described, that income must be included in the *New York State amount* column of Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*. However, you are entitled to the pension and annuity income exclusion of up to $20,000 if you meet the conditions described in this publication under *Pension and annuity income exclusion* on page 17.

New York tax credits

You may be able to reduce your income tax liability by claiming certain tax credits. If you are not required to file a New York State income tax return, you may still qualify to claim a refund of the real property tax credit and the New York City school tax credit. Five of the available income tax credits that may be of special interest to senior citizens and retired persons are identified below. For information on other New York State and New York City tax credits, see Publication 99-IND, *General Information on New York State and New York City Income Tax Credits for Individuals – For tax year 2007*.

Real property tax credit

You may qualify for the real property tax credit if you are a New York State resident, your household gross income for the tax year was $18,000 or less, and you paid either real property taxes or rent for your residence. If all qualified members of the household are under age 65, the credit can be as much as $75. If at least one qualified member of the household is age 65 or older, the credit can be as much as $375.

New York State residents qualify for a refund of any real property tax credit in excess of their New York State tax liabilities. Residents who are not required to file New York State returns may qualify for a refund of the full amount of the credit. Part-year residents and nonresidents of New York State do not qualify for this credit.

If you are required to file a New York State income tax return, you should file Form IT-150 or IT-201 and attach Form IT-214, *Claim for Real Property Tax Credit for Homeowners and Renters*. If you are not required to file a New York State income tax return, you can file Form IT-214 by itself. You should file this form as soon as possible after January 1, 2008.

For more information, see Publication 22, *FAQs: General Information on New York State's Real Property Tax Credit for Homeowners and Renters.*

Credit for purchase of an automated external defibrillator

This credit is available to taxpayers who purchase a qualified automated external defibrillator(s). The credit is equal to the lesser of the purchase cost of the unit, or $500. There is no limit on the number of units purchased during the tax year for which the credit may be taken. However, the credit cannot exceed $500 for **each** unit purchased.

An *automated external defibrillator*, as defined under section 3000-b of the Public Health Law, is a medical device approved by the United States Food and Drug Administration, that:

- is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia;
- is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient;
- upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and
- then, upon action by an operator, delivers an appropriate electrical impulse to the patient's heart to perform defibrillation.

The credit is not refundable, and you may not carry any unused credit forward to future years.

To claim this credit, complete Form IT-250, *Claim for Credit for Purchase of an Automated External Defibrillator,* and attach it to your Form IT-201 or IT-203.

Long-term care insurance credit

The long-term care insurance credit is equal to 20% of the premiums you paid during the tax year for the purchase of, or for continuing coverage under a qualifying long-term care insurance policy. Any unused credit may be carried over to future tax years.

The long-term care insurance credit is limited for part-year and nonresident individuals, estates, and trusts to the amount determined by multiplying the total credit by your income percentage.

A *qualifying long-term care insurance policy* is one that

- is approved by the New York State Superintendent of Insurance under Insurance Law section 1117(g); **and**
- is a qualified long-term care insurance contract under Internal Revenue Code (IRC) section 7702B.

or

- is a group contract delivered or issued for delivery outside New York State; **and**

- the group contract is a qualified long-term care insurance contract under IRC section 7702B. The premiums paid for this insurance qualify for the credit even if the policy is not approved by the New York State Superintendent of Insurance.

A *qualified long-term care insurance contract* under IRC section 7702B is an insurance contract that provides only coverage of qualified long-term care services. The contract must

1. be guaranteed renewable;

2. not provide for cash surrender value or other money that can be paid, assigned, pledged, or borrowed;

3. provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract must be used only to reduce future premiums or increase future benefits; **and**

4. generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or contract makes per diem or other periodic payments without regard to expenses.

The credit is not refundable. However, any amount of credit or carryover of credit not deductible in the current tax year may be carried over to be deducted for the following year or years.

For more information, see Form IT-249, *Claim for Long-Term Care Insurance Credit*, and the instructions for Form IT-249.

Nursing home assessment credit

New York State allows a personal income tax credit for the portion of the assessment imposed on a residential health care facility (nursing home) pursuant to Public Health Law section 2807-d(2)(b) that is passed through to a private-pay resident of the nursing home. The amount of the credit is equal to the total portion of the assessment that is passed through and directly paid by an individual during the year (e.g., the total portion paid during 2007). The portion must be separately stated and accounted for on the billing statements or other statements provided to a resident of a nursing home, and must be paid directly by the individual claiming the credit. If an individual other than the resident of the home is actually paying the portion, the individual who paid the portion, not the resident, is entitled to claim the credit. If more than one individual is directly paying the total nursing home bill, the total portion of the assessment paid must be divided between them according to the percentage of the total nursing home expenses paid by each individual.

An individual may claim the full credit even though the resident may be receiving benefits from a long-term care insurance policy. If a resident assigns his or her long-term care insurance benefits to a nursing home, the resident is treated as having paid that amount towards the total nursing home bill. The credit cannot be claimed for any portion of the assessment that is paid directly to the nursing home by a health insurance policy, with public funds (e.g., Medicaid or Medicare), or that is paid by a trust or other entity.

Where a nursing home does not separately state the portion of the assessment passed through to a resident on the resident's billing statements, the nursing home should provide the resident (or the person to whom the resident's billing statements are sent) with a summary statement that indicates the total portion of the assessment paid by or on behalf of the resident during 2007 (or any succeeding year). There is no particular form for this statement. However, the statement must contain the name of the residential health care facility, the name of the resident of the facility, the period covered by the statement (e.g., calendar year 2007) and the amount of the assessment that was passed through and actually paid (not the billed amount) by or on behalf of the resident during the calendar year. For example, if the resident's January 2008 bill was actually paid in December 2007, the amount of the assessment passed through for January would be included on the 2007 summary statement provided by the nursing home.

You may claim a refund of any nursing home assessment credit which exceeds your New York State income tax liability.

To claim the credit, you must complete Form IT-258, *Claim for Nursing Home Assessment Credit*, and attach it to your Form IT-201 or Form IT-203.

New York City school tax credit

The New York City school tax credit is available to a New York City resident or part-year resident who cannot be claimed as a dependent on another taxpayer's federal return.

Married persons filing a joint return and surviving spouses with income of $250,000 or less are entitled to a credit of up to $290. All other taxpayers with income of $250,000 or less are entitled to a credit of up to $145.

The amount of the refundable tax credit for married taxpayers filing joint returns and surviving spouses with income of more than $250,000 is limited to $230. The amount of the refundable tax credit for an unmarried taxpayer, a head of household, or a married taxpayer filing a separate return with income of more than $250,000 is limited to $115.

If you are a New York City resident or part-year resident, you may qualify for a refund of any school tax credit in excess of your New York City resident tax due. The credit is required to be prorated if the taxpayer changes his or her New York City resident status during the tax year.

Taxpayers filing New York State returns on Form IT-150, IT-201, or IT-203 can claim this credit directly on their tax return. See the instructions for these forms for more information.

You can claim the New York City school tax credit even if you are not required to file a New York State income tax return. See Form NYC-210, *Claim for New York City School Tax Credit,* and the instructions for Form NYC-210.

New York State tax forms and publications

A complete list of New York State forms and publications can be accessed on the Tax Department Web site (*www.nystax.gov*). In addition, the Tax Department provides an automated forms ordering system. If you have access to a fax machine, you may order many forms and other documents from a touch-tone telephone, 24 hours a day, 7 days a week by calling toll free 1 800 748-3676. You may also request most of these documents listed below by calling toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

New York State tax forms

The following is a list of New York State tax forms referred to in this publication:

- Form IT-150, *Resident Income Tax Return* (short form)
- Form IT-201, *Resident Income Tax Return* (long form)
- Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*
- Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals*
- Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*
- Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*
- Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*
- Form IT-221, *Disability Income Exclusion*
- Form IT-214, *Claim for Real Property Tax Credit for Homeowners and Renters*

- Form IT-250, *Claim for Credit for Purchase of an Automated External Defibrillator*
- Form IT-249, *Claim for Long-Term Care Insurance Credit*
- Form IT-258, *Claim for Nursing Home Assessment Credit*
- Form NYC-210, *Claim for City of New York School Tax Credit*
- Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*
- Form ST-141, *Individual Purchaser's Periodic Report of Sales and Use Tax*

New York State tax publications

The following is a list of New York State tax publications referred to in this publication:

- Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents – For tax year 2007*
- Publication 94, *Should You Be Paying Estimated Tax in 2008?*
- Publication 22, *FAQs: General Information on New York State's Real Property Tax Credit for Homeowners and Renters*
- Publication 99-IND, *General Information on New York State and New York City Income Tax Credits for Individuals – For tax year 2007*
- Publication 39, *A Guide to New York State Reciprocal Credits for Sales Taxes Paid to Other States*
- Publication 774, *Purchaser's Obligations to Pay Sales and Use Tax Directly to the Tax Department*

Notes

New York State Department of Taxation and Finance

Online Tax Center

The place for **all** electronic services!

The *Online Tax Center* offers individuals, businesses, and tax professionals secure and convenient access to a variety of tax services. Access is available 24 hours a day, 7 days a week.* Use it at your convenience! For more information, visit us on the Web at *www.nystax.gov* and click on the *Online Tax Center* link.

* excluding scheduled maintenance

After you register, you can:

- pay any amount due on an income tax extension of time to file
- view and reconcile your estimated income tax account or make a payment
- view and pay tax bills (individuals and businesses)
- file a sales tax no-tax-due return

Without registering you can:

- visit our *Taxpayer Answer Center* for answers to frequently asked questions (FAQs)
- determine which income tax form to file
- apply for an automatic six-month extension of time to file your income tax return
- New York State e-file www.nystax.gov get information on e-file and learn how to e-file your income tax return
- find out if you are eligible for **free** e-filing with **FreeFile**
- learn about your electronic payment options, including credit card and electronic funds withdrawal
- check the status of your current-year income tax refund
- use the penalty and interest calculator
- sign up for free e-mail notifications through our subscription service
- look up sales tax jurisdiction and rate information
- and more!

www.nystax.gov

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Need help?

Internet access: *www.nystax.gov*
Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.

Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status:	1 800 443-3200
(Automated service for refund status is available 24 hours a day, 7 days a week.)	
To order forms and publications:	1 800 462-8100
Personal Income Tax Information Center:	1 800 225-5829
From areas outside the U.S. and outside Canada:	(518) 485-6800

Hotline for the hearing and speech impaired: If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.