

GENERAL INFORMATION FOR SENIOR CITIZENS AND RETIRED PERSONS

For tax year 2011



The information presented is current as of this publication's print date. Visit our Web site at www.tax.ny.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. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

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Introduction

This publication provides general filing information, describes certain New York State tax benefits, and contains other tax information that may be of special interest to senior citizens and retired persons.

As 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 15).

See the *Need help?* section on the back cover of this publication or visit our Web site for information on how to get assistance. For federal income tax information, visit the Internal Revenue Service (IRS) Web site (www.irs.gov) or call 1 800 829-1040.

The Marriage Equality Act

The Marriage Equality Act (Act) was signed into law as Chapters 95 and 96 of the Laws of 2011, on June 24, 2011. One purpose of the Act is to provide that all marriages, whether of same-sex couples or different-sex couples, will be treated equally under all laws of the state. Accordingly, the Act applies to all taxes administered by the Tax Department as of July 24, 2011. For more information, visit our Web site.

For purposes of this publication, the term *spouse* should be read as gender-neutral and includes a person in a marriage with a same-sex spouse.

Estimated income tax requirements

New York State Tax Law requires you to pay income tax during the year, either through withholding or estimated tax.

You may have to pay estimated tax if:

- you are self-employed,
- you receive a taxable pension or annuity, or
- you receive any other income from which taxes are not withheld.

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 the personal income tax shown on your 2011 return; or
- 100% of the personal income tax shown on your 2010 return (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 for 2011, 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*.

Note: You can make estimated tax payments, check your balance, and reconcile your estimated income tax account online using our Web site or by writing us at:

NYS TAX DEPARTMENT
ESTIMATED TAX UNIT
WA HARRIMAN CAMPUS
ALBANY NY 12227

Request withholding from an annuity or pension

Payers of annuities and pensions are not required to withhold New York State, New York City, and/or Yonkers income tax from pension or annuity payments. However, if your pension or annuity must be included in your New York adjusted gross income and is payable over a period longer than one year, you may request that the payer withhold New York State, New York City, and/or Yonkers income taxes. For more information, see Form IT-2104-P, *Annuitant's Request for Income Tax Withholding*.

Which form should you file?

The New York State Tax Department has two 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, see the *Who must file* section in the instructions of either of the forms listed below.

Form IT-201, Resident Income Tax Return

Use Form IT-201 if you are a full-year New York State resident.

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.

**New York State
subtraction
modifications**

Certain tax benefits are provided to senior citizens and retired persons in the form of subtraction modifications. Subtraction modifications relate to certain items of income that are included in your federal adjusted gross income on your federal income tax return that may be subtracted out when computing your New York adjusted gross income.

The following sections describe certain 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-201-I, *Instructions for Form 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 (CUNY) Civil Service Forum Annuity Fund;
- Sergeants Benevolent Association of the City of New York 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, 2011, 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 attributable to compensation for personal services, but **not** payments derived from contributions made after you retired that are not attributable to compensation for personal services;
- 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 deferred compensation plans sponsored by state and local governments and tax-exempt organizations (under 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 2011, you may subtract from your 2011 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 2011 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.

- $\$350,000/\$500,000 = 70\%$
- $70\% \times \$20,000 = \$14,000$

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

- $\$150,000/\$500,000 = 30\%$
- $30\% \times \$20,000 = \$6,000$

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 2011 is \$4,240. 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 18).

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. 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 9.

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. Some 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 income tax credits, visit our Web site.

Note: Effective for tax years beginning on or after January 1, 2010, and before January 1, 2013, certain tax credits will be subject to a temporary deferral in any tax year that the total amount of those credits, that would otherwise be used to reduce your tax liability or be refunded or credited as an overpayment to estimated tax, is in excess of \$2 million. For more information, see TSB-M-10(5)C, (11)I, *Temporary Deferral of Certain Tax Credits*.

Child and dependent care credit

If you qualify to claim the federal child and dependent care credit, you can claim the New York State child and dependent care credit (whether or not you actually claimed the federal credit). The New York State credit is based on a percentage of the federal credit.

Full-year and part-year New York City residents may also qualify for the New York City child and dependent care credit (see the instructions for Form IT-216, *Claim for Child and Dependent Care Credit*).

If you did not file a claim for the federal child and dependent care credit, you can still claim the New York State child and dependent care credit if **all four** of the following apply:

1. Your filing status is *Single, Head of household, Qualifying Widow(er) with dependent child, or Married filing joint return*. However, see the special rule for *Married persons filing separate federal and New York State returns* in the instructions for Form IT-216.
2. The care was provided so you (and your spouse, if you were married) could work or look for work. However, if you did not find a job and have no earned income for the year, you cannot take the credit. If your spouse was a student or disabled, see the instructions for Form IT-216.

3. Your child (or other qualifying person(s) for whom the care was provided) lived in the same home with you for more than half the year.
4. The person who provided the care was not your spouse, the parent of your qualifying child under age 13, or a person whom you can claim as a dependent. If your child provided the care, he or she must have been age 19 or older by the end of 2011.

A qualifying person is:

- A child under age 13 whom you can claim as a dependent (see also *Special rule for children of divorced or separated parents* in the instructions for Form IT-216). If the child turned age 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.
- Your spouse who is disabled and not able to care for himself or herself.
- Any person who is disabled and not able to care for himself or herself whom you can claim as a dependent (or could claim as a dependent except that the person had gross income of \$3,700 or more or filed a joint return).
- Any person who is disabled and not able to care for himself or herself whom you could claim as a dependent except that you (or your spouse, if filing a joint return), could be claimed as a dependent on someone else's 2011 return.

Caution: To be a qualifying person, the person must have lived with you for more than half of 2011.

To claim this credit, you must complete Form IT-216, *Claim for Child and Dependent Care Credit*, and attach it to your Form IT-201 or IT-203.

For more information on the qualifications to claim the federal child and dependent care credit, see federal Publication 503, *Child and Dependent Care Expenses*. This federal publication is available on the Internal Revenue Service (IRS) Web site at www.irs.gov.

Earned income credit (EIC)

The New York State earned income credit (EIC) is a special income tax credit for certain people who earn income from work. If you claimed the federal EIC and file a New York State income tax return, you qualify to claim the New York State EIC.

New York City full-year residents and New York City part-year residents who claimed the federal EIC may claim a New York City EIC. You must file a New York income tax return to claim the New York City EIC. This credit is in addition to the New York State EIC or noncustodial parent New York State EIC (see the instructions for Form IT-215, *Claim for Earned Income Credit*).

For tax year 2011, the New York State EIC is equal to 30% of your allowable federal EIC. However, the New York State EIC will be reduced by the amount of any New York State household credit you are allowed.

New York State residents and part-year residents qualify for refunds of any EIC in excess of their New York State tax liabilities. Nonresidents do not qualify for refunds of the New York State EIC.

To claim this credit, you must complete Form IT-215, *Claim for Earned Income Credit*, and attach it to your Form IT-201 or IT-203. For more information, visit our Web site.

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-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, 2012.

For more information, visit our Web site or see the instructions for Form IT-214.

Credit for purchase of an automated external defibrillator

This credit is available to taxpayers who purchase a qualified automated external defibrillator. 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.

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. (Note that section 7702B relates to policies for which a federal itemized deduction is allowed.)

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

- be guaranteed renewable;
- not provide for cash surrender value or other money that can be paid, assigned, pledged, or borrowed;
- 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**
- 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 2011). 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 or

among 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 2011 (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 2011) 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 2012 bill was actually paid in December 2011, the amount of the assessment passed through for January would be included on the 2011 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 \$125. All other taxpayers with income of \$250,000 or less are entitled to a credit of \$62.50. There is no credit allowed for taxpayers with income of more than \$250,000.

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 must 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-201 or IT-203 can claim this credit directly on their tax returns. 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.

Sales or use tax

You must report any unpaid sales or use tax owed for 2011 on your personal income tax return for 2011. You owe sales or compensating use tax if you:

- purchased an item or service subject to tax that is delivered to you in New York State without payment of New York State and local tax to the seller; or
- purchased an item or service outside New York State that is subject to sales tax in New York State (and you were a resident of New York State at the time of the purchase) and subsequently used the item or service in New York State.

Note: You may be entitled to a credit for sales tax paid to another state. See the exact calculation method for sales tax in the instructions for Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*.

For sales and use tax purposes, a resident includes persons who have a permanent place of abode in the state. Accordingly, you may be a resident for sales tax purposes even though you may not be a resident for income tax purposes. See the instructions for Form ST-140 for more information.

You may not use your personal income tax return to report:

- Any sales and use tax on business purchases if the business is registered for sales and use tax purposes. You must report this tax on the business's sales tax return.
- Any unpaid sales and use tax on motor vehicles, trailers, all-terrain vehicles, vessels, or snowmobiles. This tax is paid directly to the New York State Department of Motor Vehicles. However, if you will not be registering or titling your motor vehicle, trailer, all-terrain vehicle, vessel, or snowmobile at the DMV, you should remit the tax

directly to the Tax Department using Form ST-130, *Business Purchaser's Report of Sales and Use Tax*, or Form ST-140.

An unpaid sales or use tax liability commonly arises if you made purchases through the Internet, by catalog, from television shopping channels, or on an Indian reservation, or if you purchased items or services subject to tax in another state and brought them back to New York for use here.

Example 1: *You purchased a computer over the Internet that was delivered to your house in Monroe County, New York, from an out-of-state company and did not pay sales tax to that company.*

Example 2: *You purchased a book on a trip to New Hampshire that you brought back to your residence in Nassau County, New York, for use there.*

You may also owe an additional **local** tax if you made a purchase in a locality in New York State and brought the item into or subsequently used the service in another New York State locality where you were a resident and that locality had a higher tax rate than where you made the purchase.

If you are not filing an income tax return but owe sales or use tax for 2011, you must pay any unpaid sales or use tax liability by filing Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*, by April 17, 2012. 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-201 and/or Tax Bulletin TB-ST-913, *Use Tax for Individuals (including Estates and Trusts)*.

When to file

You should file your income tax return as soon as you can after January 1, 2012, but not after April 17, 2012. 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.

When a due date falls on a Saturday, Sunday, or legal holiday, you are permitted to file and pay on the next business day.

Automatic six-month extension of time to file

If you cannot meet the filing due date, you may request an extension of time by:

- using our Web site to Web file your extension request for free;

- using tax preparation software (check your software package to see if you have the option to e-file your request for an extension);
- filing Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals*; or
- using a paid tax preparer to file an extension for you. (If the paid tax preparer will also be preparing your personal income tax return and he or she is required to e-file that return, the preparer must e-file your extension request.)

An automatic six-month extension of time to file does not extend your time to pay any tax due. 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 4). 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.

The filing due date for your income tax return will be automatically extended for six months if you file your request for an extension on or before the due date of your return and pay any income tax due and/or local sales or use tax you owe with your request. Depending on the filing method you choose, you may pay by check, money order, electronic funds withdrawal, or credit card. For more information on your payment options, visit our Web site.

Automatic extension for death of a spouse

If your spouse dies within 30 days prior to the due date for filing your personal income tax return or paying the tax due on that return, the department will grant you an automatic extension of 90 days to file your income tax return and to pay the tax due on the return. No penalties or interest for late filing or late payment will be imposed during this 90-day extension period.

- If you file a paper return, you must enter the decedent's date of death in the space provided and you must enter **D9** in the special condition code box provided on the front page of the New York State personal income tax return.
- If you e-file your return, you must enter the decedent's date of death in the space provided and must enter **D9** in the special condition code box. If the tax preparation software does not support a special condition code, the return should be filed on paper following the instructions for filing a paper return.

Electronic tax filing (e-file)

New electronic filing mandate for individuals. Effective for tax returns filed on or after January 1, 2012, if you prepare your personal income tax return using tax software, you are generally required to file electronically (e-file). A taxpayer who is required to e-file and fails to do so will be subject to a penalty and will not be eligible to receive interest on any overpayment until the return is filed electronically. For additional information, visit our Web site.

You can e-file your income tax return using your personal computer and an approved, commercially available software package, or you can choose to have a tax professional e-file for you.

If you choose to use a tax professional, ask the preparer if he or she is authorized to e-file your income tax return. Any tax professional who can e-file federal tax returns is authorized to e-file New York tax returns, as long as he or she is using software that has been approved for the New York e-file program. You can access the IRS interactive e-file provider site (www.irs.gov) to help you find a tax professional or tax preparation business near 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 25).

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 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 your money order must be mailed, your credit card payment authorized, or your electronic funds withdrawal made, by the filing due date.

For more information on e-file, and a complete list of forms that can be e-filed, visit our Web site.

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 selecting a payment option, see the instructions for the tax form or tax preparation software you are using.

Note: The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department will not charge the fee.

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 17, 2012. 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 visit our Web site.

Paying by credit card

You can use your American Express Card, Discover/Novus, Visa, or MasterCard to pay the amount you owe on your 2011 New York State personal income tax return (Form IT-201 or IT-203) or to make 2012 quarterly estimated income tax payments. You will be charged a convenience fee, and terms and conditions may vary among the credit card service providers.

For more information on paying by credit card, visit our Web site or see 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 or debit card to get lost or stolen. With direct deposit, you will receive your refund faster than if it were sent by mail. Direct deposit is the

fastest and easiest way to get your refund. For more information, refer to the instructions for the tax form or tax preparation software you are using.

Debit card by mail

You may choose to have your overpayment refunded by debit card. Debit cards are secure, easy to use, and flexible. If you filed a joint claim, separate debit cards will be sent in one envelope to you and your spouse. One or both of you can activate your card(s). Once activated, either card can access the entire amount of the refund. The department will mail your debit card to the **mailing address** listed on your income tax return.

In most instances, there's no charge to you for using the card. You can:

- Get cash from a bank. You do not need an account, but will need to show ID. There is no fee for the first withdrawal, which can be for the entire refund amount. There is a \$1 fee for each withdrawal after that.
- Deposit it into your bank account (but consider direct deposit instead).
- Make purchases.
- Make ATM withdrawals.
- Pay bills online.

Note: There may be a fee for using an ATM that is not in the issuer's network and for certain other activities. (More information will be provided with the card, or you can visit www.bankofamerica.com/nyrefund for details).

Paper check by mail

You may choose to have your overpayment refunded by paper check. Paper checks for joint filers will be issued with both names and must be signed by both spouses. The department will mail your check to the **mailing address** listed on your income tax return.

Paper checks take weeks to be processed, printed, and mailed. If you don't have a bank account, you will likely be charged a fee to cash your check. You may want to consider a debit card refund instead (see *Debit card by mail* above).

Estimated tax for 2012

You have the option of applying all or a portion of your overpayment to your 2012 estimated income tax account by completing the appropriate line(s) on your income tax return.

**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;
- 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;
- defaulted on a governmental education loan, 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 (518) 457-5434 or write to:

NYS TAX DEPARTMENT
COLLECTIONS AND CIVIL ENFORCEMENT DIVISION
WA 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 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 a power of attorney with the department.

The authorization will end automatically one year after the later of the return due date (including any extension) or the date you filed your return.

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 one of the department's power of attorney forms:

- Form POA-1, *Power of Attorney*, or
- Form ET-14, *Estate Tax Power of Attorney*.

The department will accept other forms if they contain all the necessary elements as required on the Tax Department forms.

Tax Department power of attorney forms may be used for New York State tax matters, New York City tax matters, or both.

Consumer Bill of Rights Regarding Tax Preparers

Taxpayers who use the services of paid tax preparers are entitled to protection from unfair treatment. While most tax preparers act within the law and treat their clients fairly, there are some that do not.

All tax preparers are subject to certain requirements concerning refund anticipation loans (RALs) and refund anticipation checks (RACs). Tax preparers are prohibited from advertising RALs as refunds (for example, advertising a RAL as an *instant refund*). Additionally, any advertisement by a tax preparer that mentions RALs must state conspicuously that a RAL is in fact a loan and that a fee or interest will be charged by the lending institution. The lending institution must be identified in the advertisement. In addition, **before** a taxpayer enters into a RAL or an agreement for a RAC, the tax preparer facilitating the loan must provide a disclosure statement to the taxpayer in writing.

The Tax Department produces and makes available an informational flier providing certain information for consumers about their rights regarding tax preparers. The flier is Publication 135, *Consumer Bill of Rights Regarding Tax Preparers*, and it is available on our Web site.

Note: Tax preparers (except those listed as *Exempt preparers* below and tax preparers who prepare tax returns within New York City) are required under the General Business Law (Article 24-C) to provide you with contact information and a copy of Publication 135, *Consumer Bill of Rights Regarding Tax Preparers*.

Requirement to provide contact information

Tax preparers are required to provide each of their customers with a receipt containing an address and phone number at which the preparer can be contacted throughout the year. If the actual person who prepared the return is an employee, partner, or shareholder of an entity (business), the general address and phone number of the business should be on the receipt.

Exempt preparers

The following tax preparers are exempt from the requirements to provide you with contact information and a copy of Publication 135:

- an employee or officer of a business enterprise who is preparing the tax returns of that business enterprise;
- a fiduciary, and the employees of the fiduciary, who advise or assist in the preparation of income tax returns on behalf of the fiduciary estate, the testator, trustee, grantor, or beneficiaries;
- an attorney who advises or assists in the preparation of tax returns in the practice of law, and his or her employees;

- a certified public accountant (CPA) licensed under the New York State education law or licensed by one or more of the states or jurisdictions of the United States, and his or her employees;
- a public accountant licensed under the New York State education law and his or her employees;
- an employee of a governmental unit, agency, or instrumentality who advises or assists in the preparation of income tax returns in the performance of his or her duties; and
- an agent enrolled to practice before the Internal Revenue Service (IRS).

New York City tax preparers

Tax preparers operating within New York City are not subject to the provisions of Article 24-C of the General Business Law for tax returns actually prepared within the city. Instead, Subchapter 8 of Chapter 4 of Title 20 of the Administrative Code of the City of New York provides rules that apply specifically to tax preparers operating in New York City.

For more information on New York City's consumer bill of rights regarding tax preparers, visit the New York City Department of Consumer Affairs Web site (www.nyc.gov/consumers) or dial 311 (212-NEW-YORK if you are outside New York City).

Metropolitan Commuter Transportation Mobility Tax (MCTMT)

The MCTMT applies to certain employers. It also applies to individuals (including partners in partnerships, and partners and members of limited liability partnerships (LLPs) and limited liability companies (LLCs) that are treated as partnerships for federal income tax purposes) who have net earnings from self-employment and who are engaging in business within the metropolitan commuter transportation district (MCTD).

The *Metropolitan Commuter Transportation District (MCTD)* is defined under section 1262 of the Public Authorities Law. The MCTD includes New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, and Richmond (Staten Island)), and the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

For more information, visit our Web site or call the MCTMT Information Center at (518) 485-2392.

New York State Tax Department

Online Services

**Create an Online Services
account and log in to:**

- make payments,
- file certain returns,
- view account information,
and more.

Access is available 24 hours a day, 7 days
a week (except for scheduled maintenance).

www.tax.ny.gov

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Automated income tax refund status: (518) 457-5149

Personal Income Tax Information Center: (518) 457-5181

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, 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, call the information center.