



Publication 59
New York State
Tax Relief for
Victims of Terrorist Attacks

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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General

The information in this publication explains the tax relief provided under the New York State Tax Law for individuals who died as a result of the September 11, 2001, terrorist attacks on the World Trade Center, the Pentagon, and United Airlines flight 93 in Pennsylvania (September 11 attacks). The relief may impact you as the surviving spouse, other family member, or an executor of the estate of a victim of the terrorist attacks.

For tax year 2000 and after, New York State will forgive the New York State, New York City, and Yonkers income tax liabilities, as well as liabilities for the Metropolitan Commuter Transportation Mobility Tax (MCTMT), of decedents who died as a result of the September 11 attacks. Income tax is forgiven for these decedents whether they were killed in an attack, or died later as the result of an attack or by participating in rescue or recovery operations. Any forgiven tax liability owed but not paid will not have to be paid. Any forgiven tax liability that has already been paid may be refunded (see *Statute of limitations for filing a claim for refund* on page 6).

The law also provides estate tax relief for the estates of these victims (see *Estate tax relief* on page 11).

The personal income tax and estate tax relief provided under the Tax Law does not apply to any individual identified by the attorney general of the United States as a participant or conspirator in the terrorist attacks or a representative of such an individual.

The relief provided by New York is similar, but not identical, to the federal relief provided under the Federal Victims of Terrorism Tax Relief Act of 2001. For example, the state personal income tax relief does not contain a minimum benefit. Accordingly, only decedents who would have had a New York tax liability are eligible for the tax relief.

For federal tax relief, visit the Internal Revenue Service (IRS) Web site (www.irs.gov) or see federal [Publication 3920](#), *Tax Relief for Victims of Terrorist Attacks*.

Income tax forgiveness

The following sections explain the income tax forgiveness provisions and how to obtain the forgiveness.

Amount of tax to be forgiven

For those who have died as a result of the September 11 attacks, New York income tax is forgiven for tax year 2000 and all later tax years up to and including the year of death. On a joint return, only the decedent's part of the joint income tax liability is eligible for forgiveness.

To claim income tax forgiveness, you must complete [Form IT-59](#), *Tax Forgiveness for Victims of the September 11, 2001 Terrorist Attacks*, for all eligible tax years. Completing and filing this form will allow the Tax Department to compute the correct amount of tax to be forgiven for the decedent for all eligible tax years.

For specific instructions on claiming forgiveness, see *How to claim income tax forgiveness* on page 6.

Taxation of certain income and benefits

Income received after date of death. Generally, income of the decedent received after the date of death must be reported on [Form IT-205](#), *Fiduciary Income Tax Return*, if the estate is required to file a federal fiduciary return. Examples are the final paycheck or dividends on stock owned by the decedent. However, for victims of the September 11 attacks, this income is exempt from federal and state income tax and is not included on Form IT-205 if it is received:

- after the date of the decedent's death, and
- before the end of the decedent's tax year.

Any amount of income, gain or other amount determined by the United States Secretary of the Treasury to be taxable income pursuant to section 692(d)(3) of the Internal Revenue Code (IRC) is taxable for New York State income tax purposes (see *Nonqualifying income* below). The tax on this income does not qualify for forgiveness.

If the estate is required to file an original Form IT-205, and received income after the date of the decedent's death but before the end of the decedent's tax year, indicate on the return that this income is exempt from tax by writing *KITA-9/11* across the top of the return and enter **K2** in one of the special condition code boxes.

Nonqualifying income. The following income is not exempt from tax. The tax on it is not eligible for forgiveness.

- Deferred compensation that would have been payable if the death had occurred due to an event other than the September 11 attacks, and
- amounts that would not have been payable but for an action taken after September 11, 2001.

The following are examples of nonqualifying income:

- Amounts payable from a qualified retirement plan or IRA to the beneficiary or estate of the decedent.

- Amounts payable only as death or survivor's benefits from pre-existing arrangements that would have been paid if the death had occurred for another reason.
- Income received as a result of adjustments made by the decedent's employer to a plan or arrangement to accelerate the vesting of restricted property or the payment of nonqualified deferred compensation after the date of the attack.
- Interest on savings bonds cashed by the beneficiary of the decedent.

Note: Certain items of income that fall under the nonqualifying income definition provided under section 692(d)(3) of the IRC may qualify as a New York subtraction modification (e.g. the pension and annuity exclusion and the subtraction for United States bond interest). Therefore, if this income is eligible as a New York subtraction modification, it may be subtracted from the federal taxable income on [Form IT-205](#), *Fiduciary Income Tax Return*, to determine the fiduciary's New York taxable income. See the instructions for Form IT-205 for additional information.

Statute of limitations for filing a claim for refund

Generally, a claim for a credit or refund of an overpayment of income tax must be filed within the later of three years from the date the return was filed or two years from the date the tax was paid. If a return has not yet been filed, the claim for a credit or refund must be filed within the later of three years from the due date of the return or two years from the time the tax was paid.

Note: Chapter 204 of the Laws of 2014 allows the statute of limitations for refunds to be suspended for a taxpayer that is unable to manage financial affairs due to disability. (Tax Law section 687(k)).

How to claim income tax forgiveness

Use the following procedures to claim income tax forgiveness.

Complete [Form IT-59](#), *Tax Forgiveness for Victims of the September 11, 2001 Terrorist Attacks*, for all eligible tax years as follows:

- All filers must complete *Part 1* of Form IT-59 for each eligible year for which tax forgiveness is being claimed.
- Complete *Part 2* of Form IT-59 for decedents who filed a joint return for a year for which tax forgiveness is being claimed.
- Complete *Part 3* of Form IT-59 if you are eligible to have the refund issued to you under the surrogate's court procedure act (SCPA) section 1310 (see *Survivor's affidavit* on page 8).

For specific instructions, see [Form IT-59-I](#), *Instructions for Form IT-59*.

If a final return for the decedent has not yet been filed:

Complete one Form IT-59 for all years that are eligible for forgiveness and submit it with the decedent's final return [Form IT-201](#), *Resident Income Tax Return*, or [Form IT-203](#), *Nonresident and Part-Year Resident Income Tax Return*, whichever is applicable. Complete the appropriate income tax return according to its instructions but do not reduce the decedent's tax liability by any taxes that will be forgiven. Write **KITA-9/11** across the top of the final return and enter **K2** in one of the special condition code boxes. Be sure to attach any federal Form W-2s and Schedule Cs as well as all required documentation (see *Required supporting documentation* on page 8). The Tax Department will calculate the amount of tax to be forgiven for all eligible years.

If you are claiming tax forgiveness on the decedent's final return for the city of Yonkers nonresident earnings tax, complete and attach [Form Y-203](#), *Yonkers Nonresident Earnings Tax Return*.

If you are claiming tax forgiveness on the decedent's final return for part-year city of New York resident tax, or part-year city of Yonkers resident income tax surcharge, complete and attach [Form IT-360.1](#), *Change of City Resident Status, New York City, Yonkers*.

If you are claiming tax forgiveness for the MCTMT, complete and attach [Form MTA-6](#), *Metropolitan Commuter Transportation Mobility Tax Return For Self-Employed Individuals (including partners)* for tax years prior to 2014. The MCTMT is included on Form IT-201 and Form IT-203 for tax years beginning on or after 2014.

If a final return for the decedent has been filed:

File Form IT-59 as soon as possible. Complete one Form IT-59 for all eligible years for which you are claiming tax forgiveness and submit it with all required documentation (see *Required supporting documentation* on page 8). The Tax Department will calculate the amount of tax to be forgiven.

If you need to obtain a copy of a previously filed return, you can:

- complete and mail Form [DTF-505](#), *Authorization for Release of Photocopies of Tax Returns and/or Tax Information*, or

- print a copy of an e-filed return through an *Online Services* account on the Tax Department Web site (www.tax.ny.gov).

An amended return, Form IT-201-X, *Amended Resident Income Tax Return*, or Form IT-203-X, *Amended Nonresident and Part-Year Resident Income Tax Return*, does not need to be filed in order to claim tax forgiveness for an eligible year for which an original return, Form IT-201 or Form IT-203, has already been filed. However, an amended return must be filed to correct any errors on an original return already filed or to report any federal changes made to the decedent's federal income tax return (see the instructions for Form IT-201-X or IT-203-X).

Survivor's affidavit
(SCPA section 1310)

New York State law allows certain relatives of a deceased person to collect money without filing any papers in court. The law also allows anyone that paid for the decedent's funeral expenses to get repaid from the decedent's funds, again without court intervention.

Upon the death of the decedent, the surviving spouse may collect up to \$30,000 in assets by presenting a *Survivor's affidavit* and a death certificate. The affidavit must state that the payment and all other payments received do not exceed \$30,000.

After 30 days have elapsed from the date of death, up to \$15,000 may be collected by the spouse, children, parents, siblings, and nieces or nephews (preference being given in the order named if the request for payment is made by more than one person) or a creditor who has paid funeral expenses at the request of the spouse or one of the decedent's relatives.

Anyone receiving payment is accountable to the fiduciary of the decedent (including a Public Administrator) if a fiduciary is later appointed for the decedent's estate.

Note: If the refund for tax forgiveness is over the above limits, the check will be issued in the name of the decedent.

Required supporting documentation

The following documentation is required to claim tax forgiveness:

- Completed Form IT-59, including **Part 3**, *Survivor's affidavit*, on pages 3 and 4.
- Proof of death. Submit a copy of the victim's death certificate. If the Department of Defense issued DD Form 1300, *Report of Casualty*, submit that form instead of the death certificate.

- Proof that the death was caused by wounds or injury sustained in the September 11 attacks or the rescue or recovery operation, or by an illness or disease arising from wounds or injury sustained during the attack or from the rescue or recovery operations. You may show the cause of death from the death certificate (if stated), or by submitting a letter from the treating physician, medical examiner, or hospital, that explains the cause of death.

The failure to attach the above required documentation may result in a delay in the processing of your claim.

Where to File

If you are filing Form IT-59 with a New York State income tax return, send them to the mailing address for the return. Submit your completed Form IT-59 and all required documentation with the return (see *Required supporting documentation* page 8).

If you are filing Form IT-59 by itself, send your completed Form IT-59 and all required documentation (see *Required supporting documentation* page 8) to:

NYS TAX DEPARTMENT
KITA RETURNS UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0853

Private delivery services – For information on the use of private delivery services, see [Publication 55](#), *Designated Private Delivery Services*.

Tax treatment of payments to survivors

The following sections provide general information on the New York tax treatment of certain payments received by survivors of the September 11 attacks and survivors of people who died as a result of the attacks. New York follows the federal income tax treatment to exclude these items from income.

Note: For nonresidents and part-year residents of New York State, the items listed in this part are excluded when computing their New York adjusted gross income and New York State tax as if a resident for the entire year, and also when computing their New York source income (the *New York State amount* column on Form IT-203).

September 11th Victim Compensation Fund of 2001. Payments made to survivors from the September 11th Victim Compensation Fund of 2001, established pursuant to Title IV of the federal Air Transportation and System Stabilization Act, are not included in New York adjusted gross income.

New York State World Trade Center Relief Fund. Payments made from the New York State World Trade Center Relief Fund are not included in New York adjusted gross income.

Qualified disaster relief payments. Qualified disaster relief payments, to the extent excludable from federal adjusted gross income, are excluded from New York adjusted gross income. In addition, the payments are not subject to New York State, New York City, or Yonkers withholding. Qualified disaster relief payments include payments received after September 10, 2001, for the following expenses:

- Reasonable and necessary personal, family, living, or funeral expenses incurred as a result of the attacks.
- Reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence due to the attacks. (A personal residence can be a rented residence or one you own.)
- Reasonable and necessary expenses incurred for the repair or replacement of the contents of a personal residence due to the attacks.
- Payments made by common carriers (for example, American Airlines and United Airlines regarding the September 11 attacks) because of death or physical injury incurred as a result of the attacks.
- Amounts paid by a federal, state, or local government in connection with a terrorist attack to those affected by the attacks.

Qualified disaster relief payments **do not** include insurance or other reimbursements for expenses, or income replacement payments, such as payments of lost wages, lost business income, or unemployment compensation. These items must be included in New York adjusted gross income to the extent included in federal adjusted gross income.

Disability payments. Disability payments for injuries incurred as a direct result of the attacks, to the extent excluded from federal adjusted gross income, are excluded from New York adjusted gross income.

Death benefits. Payments received by an individual or the estate of a decedent from the employer of an employee who died as a result of the attacks, to the extent excluded from federal adjusted gross income, are excluded from New York adjusted gross income.

Payments to survivors of public safety officers. If you are a survivor of a public safety officer who died in the line of duty, the following

amounts are excluded from New York adjusted gross income to the extent excluded from federal adjusted gross income:

- amounts you receive as a death benefit paid to you by the Bureau of Justice Assistance as a surviving dependent of a public safety officer (law enforcement officer or firefighter), or
- amounts you receive as a survivor annuity as the child or spouse (or former spouse) of a public safety officer who was killed in the line of duty (including police and law enforcement officers, firefighters, and rescue squad and ambulance crews)

Estate tax relief

Estates of victims who died as a result of the September 11 attacks are exempt from New York estate tax. The death of a victim must be a result of the wounds or injuries received in the attack or by participation in the rescue or recovery operations.

An estate is required to file a New York State estate tax return if it meets any of the filing requirements below.

Filing requirements

New York State residents. The estate of a victim of the September 11 attacks who was a resident of New York State at the time of death must file a New York State estate tax return if the estate is required to file a federal estate tax return.

New York State nonresidents. The estate of a victim of the September 11 attacks who was a nonresident of New York State at the time of death must file a New York State estate tax return if the estate is required to file a federal estate tax return and the estate includes real or tangible personal property having an actual situs in New York State.

Federal filing requirements. See the instructions for federal Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, applicable to the year of the date of death.

Completing the estate tax return

For information on how the estate of a victim of the attacks should complete a New York State estate tax return, see the instructions for the Form ET-706, *New York State Estate Tax Return*, applicable to the year of the date of death.

New York State Tax Department

Online Services

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

- make payments
- file certain returns and other tax forms
- view your account and filing information
- change your address
- receive email notifications
- respond to bills and notices

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



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.



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



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.