

Important Notice

February 2005

Form IT-203 Filers

Revised Instructions for Line 11, *Rental real estate, royalties, partnerships, S corporations, trusts, etc.*

On November 16, 2004, Governor George E. Pataki signed into law Chapter 712 of the Laws of 2004. This new law changes the method to be used to determine the amount of partnership, S corporation, or estate or trust income to include in the *New York State amount* column of Form IT-203 in the case of part-year residents who are partners, S corporation shareholders, or beneficiaries of estates and trusts. The change applies to tax years 2004 and after.

Under the new law, a part-year resident who is a partner, shareholder or beneficiary must prorate his/her partnership, S corporation, or estate or trust income between his/her resident and nonresident periods based upon the number of days he/she was a resident and the number of days he/she was a nonresident during the **entity's tax year** which ends during his/her tax year. Under prior law, the proration rule was applied only to partners and shareholders, and was based upon the number of days the partner or shareholder was a resident and the number of days the partner or shareholder was a nonresident during **his/her tax year**. In addition, the new law provides that in lieu of using the proration method, a partner, shareholder, or beneficiary may elect to determine the actual amount of his/her distributive share of partnership income, pro rata share of S corporation income, or share of estate or trust income attributable to the period he/she was a resident and the period he/she was a nonresident during the entity's tax year ending within his/her tax year using a direct accounting method. (Note: A partner, shareholder, or beneficiary of more than one entity, may apply either the proration method or direct accounting method separately to each entity. However, the partner, shareholder, or beneficiary is not required to use the same method for all entities.)

Since this legislation was pending at the time the 2004 personal income tax forms and instructions were printed, the instructions for Form IT-203, line 11, do not reflect the changes made by this legislation. Printed below and on the following pages are the entire revised instructions for Form IT-203, line 11. The areas that have been revised are shaded.

Form IT-203-I

Line 11(revised instructions)

Rental real estate, royalties, partnerships, S corporations, trusts, etc.

Federal amount column – Enter the amount reported on your federal return and attach a copy of federal Schedule E.

New York State amount column – Enter that part of the *Federal amount* column that was derived from or connected with New York State sources as a nonresident. See the instructions below relating to each type of income received from these sources.

If you were a part-year resident, you must also add the part of the *Federal amount* column that was received from these sources while you were a resident.

- **Rent and royalty income** – As a nonresident, report in the *New York State amount* column rents and royalties from (1) real property located in New York State, whether or not used in connection with a business; (2) tangible personal property not used in a business if such property is located in New York State; and (3) tangible and intangible personal property used in or connected with a business, trade, profession or occupation carried on in New York State.

If a business is carried on both in and out of New York State, apply the business allocation percentage (from Form IT-203-A) or alternate method to items included in item (3) in the preceding paragraph to determine the income from New York State sources. However, do not allocate income from real property. That income must be entirely included if the real property is located in New York State and entirely excluded if the real property is located outside New York State.

Also report in the *New York State amount* column your share of any rental or royalty income from a partnership of which you are a member (from Form IT-204) or an estate or trust of which you are a beneficiary (from Form IT-205 or Form IT-205-A).

• **Partnership income** –

As a nonresident, enter in the *New York State amount* column your distributive share of partnership income obtained from Form IT-204. If your distributive share includes any other items of partnership income taxable to a nonresident, those items must be included elsewhere in the *New York State amount* column on the appropriate lines. For example, your share of a partnership's New York capital gain would be included in determining the amount to be reported on line 7.

• **S corporation income** –

As a nonresident, enter in the *New York State amount* column your pro rata share of an electing New York S corporation's items of income, gain, loss and deduction. This information should be provided to you by the S corporation. If your share includes any other items of income, such as dividends or capital gains, those items must be included elsewhere in the New York State amount column on the appropriate lines. If the corporation carried on business both in and out of New York State, the corporation's business allocation percentage and investment allocation percentage determined under Article 9-A, or the entire net income allocation percentage determined under Article 32, must be used to figure the amount of your income or loss that was derived from or connected with New York State sources.

• **Estate and trust income** –

As a nonresident, enter in the *New York State amount* column your share of estate or trust income from New York State sources obtained from information provided by the fiduciary from Form IT-205 and Form IT-205-A. If your share includes any items of taxable estate or trust income from New York State

sources not reported on line 11, those items should be included elsewhere in the *New York State amount* column on the appropriate lines describing that income.

Part-year residents

Except as provided below, if you were a part-year resident and a partner of a partnership, shareholder of an S corporation, or beneficiary of an estate or trust, you must determine the portion of your distributive share of partnership income, your pro rata share of S corporation income, or your share of estate or trust income to be reported in the *New York State amount* column, based on the number of days you were a resident and the number of days you were a nonresident during the partnership's, S corporation's, or estate's or trust's tax year which ends during your tax year. The portion attributable to your nonresident period is limited to the percentage of the distributive share of partnership income, the pro rata share of S corporation income, or share of estate or trust income derived from or connected with New York State sources. (This percentage must be obtained from your partnership, S corporation, or estate or trust.)

Based on these rules, the amount of your distributive or pro rata share of partnership or New York S corporation income, or share of estate or trust income to be included in the *New York State amount* column is computed using the following formula:

Step 1 (resident period) – To determine your *New York State amount* while a resident, multiply your distributive or pro rata share of income, or share of estate or trust income for federal income tax purposes by a fraction whose numerator is the number of days you were a resident during the partnership's, S corporation's, or estate's or trust's tax year ending

during your tax year, and whose denominator is the total number of days in the partnership's, S corporation's, or estate's or trust's tax year.

Step 2 (nonresident period) – To determine your *New York State amount* while a nonresident, first multiply your distributive or pro rata share of income, or share of estate or trust income for federal income tax purposes by a fraction whose numerator is the number of days you were a nonresident during the partnership's, S corporation's, or estate's or trust's tax year ending during your tax year, and whose denominator is the total number of days in the partnership's, S corporation's, or estate's or trust's tax year. Then, if you are a partner or shareholder, multiply this result by the partnership's or New York S corporation's New York allocation percentage for the year. If you are a beneficiary of an estate or trust, determine the portion of this result that is derived from New York sources from information provided by the fiduciary from Form IT-205 and IT-205-A.

Step 3 – Add the amounts computed in Steps 1 and 2. This is the amount to include in the *New York State amount* column.

Example 1: *Sam Smith was a partner in partnership Q during 2004. Partnership Q's tax year ends on December 31, 2004. Partnership Q carried on business both within and outside New York State and has determined that the partnership's New York allocation percentage is 65%. For tax year, 2004, the distributive share of income from partnership Q included in Sam's Federal amount column on Form IT-203 was \$40,000. Sam changed residence from New York State to New Jersey on September 30, 2004. Using Steps 1 through 3, the amount of partnership income that Sam Smith*

must include in New York source income (the New York State amount column) on his 2004 Form IT-203, is computed as follows:

Step 1 (resident period)

$$\frac{274 \text{ (number of days from 1/1/2004 through 9/30/2004)}}{366} \times \$40,000 = \$29,945.35$$

Step 2 (nonresident period)

$$\frac{92 \text{ (number of days from 10/1/2004 through 12/31/2004)}}{366} \times \$40,000 = \$10,054.64$$

$$\times .65 = \$ 6,535.52$$

Step 3

Total amount to include in New York State amount column = \$36,480.87

Example 2: Tim Jones was a partner in partnership R during 2004. Partnership R's tax year began on November 1, 2003, and ended on October 31, 2004. Partnership R carried on business both within and outside New York State and has determined the partnership's New York allocation percentage is 60%. For tax year 2004, the distributive share of income from partnership R included in Tim's Federal amount column on Form IT-203 was \$65,000. Tim changed residence from New York State to Vermont on May 31, 2004. Using steps 1 through 3, the amount of partnership income that Tim Jones must include in New York source income (the New York State amount column) on his 2004 Form IT-203, is computed as follows:

Step 1 (resident period)

$$\frac{213 \text{ (number of days from 11/1/2004 through 5/31/2004)}}{366} \times \$65,000 = \$37,827.87$$

Step 2 (nonresident period)

$$\frac{153 \text{ (number of days from 6/1/2004 through 10/31/2004)}}{366} \times \$65,000 = \$27,172.13$$

$$\times .60 = \$16,303.28$$

Step 3

Total amount to include in New York State amount column = \$54,131.15

Exception: As a part-year resident who is a partner of a partnership, shareholder of an S corporation, or beneficiary of an estate or trust, you may elect to determine the actual amount of your distributive share of partnership income, or pro rata share of S corporation income, or share of estate or trust income to be reported in your New York State amount column, using a direct accounting method rather than using the proration method shown in Steps 1 through 3 above. The direct accounting method requires you to determine the actual amount of your share of income attributable to the period you were a resident and nonresident during the partnership's, S corporation's, or estate's or trust's tax year ending within your tax year. If you elect to use the direct accounting method, the partnership's, S corporation's, or estate's or trust's method of accounting for federal income tax purposes must be used to determine the amount attributable to each period. In addition, you must use the method for all items of income, gain, loss and deduction that are included in your distributive share of partnership income, your pro rata share of S corporation income, or your share of estate or trust income.

Note: If you are a partner, shareholder, or beneficiary of more than one entity,

apply either method (proration method or direct accounting method) shown above separately to each entity. However, you are not required to use the same method for all entities.

• Passive activity loss –

If you have a loss from passive activity, you must complete Form IT-182, Passive Activity Loss Limitations for Nonresidents and Part-year Residents, to report your passive activity losses from New York sources. Attach this form to your Form IT-203.

Limitations – Any deduction for passive activity losses for a nonresident must be recomputed to determine the amounts that would be allowed if the federal adjusted gross income took into account only items of income, gain, loss, or deduction derived from or connected with New York sources.

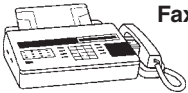
If you were a part-year resident, you must recalculate your passive activity loss limitations as if separate federal returns were filed for your resident and nonresident periods.

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.