



# Instructions for Form IT-203-GR

## Group Return for Nonresident Partners

**IT-203-GR-I**

### General Information

A partnership, including a limited liability partnership, limited liability investment company, limited liability trust company or limited liability company that is treated as a partnership for federal income tax purposes, that has any income derived from or connected with New York sources, may be granted approval to file a *Group Return for Nonresident Partners*. A *Group Return for Nonresident Partners* may be filed only if the partnership has 35 or more qualified nonresident partners or members (see below) who elect to file on a group return for each year. Hereafter, partners and members will be collectively referred to as partners. All qualified partners who elect to participate in the group return must have the same accounting period.

A group return is considered a group of individual returns that meet the New York State, New York City and Yonkers tax return filing requirements. Accordingly, if a qualified partner elects to participate in the group return, the partner is not required to file an individual New York State, New York City or Yonkers personal income tax return or nonresident earnings tax return for the year.

### Approval to File a Group Return

A partnership that wishes to file a group return must request permission to do so by submitting an application on Form PR-99, *Application for Permission to File a Group Return for Nonresident Partners or Nonresident Athletic Team Members*. Form PR-99 must be submitted to:

**Registration and Data Services Bureau, New York State Department of Taxation and Finance, Building 8, Room 431, W A Harriman Campus, Albany NY 12227.** You must file Form PR-99 no later than the last day of the initial tax year for which you are requesting to file a group return.

After receipt of properly completed Form PR-99, the Tax Department will determine whether permission will be granted and will notify the partnership accordingly. If approval is granted, the partnership will be issued a special New York State identification number to be used only for filing the group return. The Tax Department's approval to file on a group basis is contingent upon the receipt of the final group return, and is subject to revocation upon audit. An approval to file on a group basis will remain in effect unless it is revoked. Annual approval is not required. (However, see **Reinstatement**.) However, the partnership must maintain at least 35 participating partners in order to continue filing on a group basis.

**Note: You must obtain prior approval to file a group return. If you file a group return without prior approval, the return will be rejected and the participating partners could be subject to late filing or late payment penalties.**

The approval to file a group return will not be retroactively revoked after the return has been filed simply because the partnership fails to maintain 35 qualified electing partners.

For example, if a partnership filed a group return for 37 qualified electing nonresident partners for tax year 1997, and it is subsequently determined that three of the partners did not qualify to be included on the group return, the approval to file the group return for 1997 will not be revoked. However, approval to continue filing any further group returns for future years will be revoked unless the partnership has 35 or more qualified electing partners for those years.

**Reinstatement:** If a partnership that has received approval to file a group return decides not to file a group return for a particular tax year, it must notify the Tax Department of its decision in writing at the previously stated address. The notice must show the name and address of the partnership and the special New York identification number. In addition, if the partnership wishes to file a group return for a subsequent year, it must request reinstatement of its approval to file a group return. A request for reinstatement must be submitted on Form PR-99. Form PR-99 must be submitted no later than the last day of the first tax year for which reinstatement is requested.

### Group Agent and Powers of Attorney

A partnership that requests approval to file a return must appoint one partner as the *group agent*. The group agent must have legal authority to act as an agent in matters relating to the group return, for all partners participating in the return. The group agent is required to sign the group return and any communications from the Department will be sent to the group agent. Any notices required by law, such as notices of deficiency and notice and demands, will be sent to the group agent as well as to the individual partner involved. In addition, the group agent will be liable for any penalties relating to making or signing an erroneous, false or fraudulent return, but only if the agent was responsible for the error, etc.

If the partnership changes group agents, it must notify the Tax Department immediately at the address shown above. In addition, if the partnership is required to submit powers of attorney as described below, the notice must be accompanied by new powers of attorney for all participating partners.

The following rules apply to the submission of powers of attorney. Unless the partnership is exempt (see *Exemption*), Form PR-99 must be accompanied by an individual power of attorney (however, see *Note* below) for each qualified nonresident partner who the group agent knows, at the time of application, will be participating in the group return. The power of attorney must authorize the group agent to represent the participating partner in the filing of the group return. If, subsequent to the application date, an additional partner elects to participate in the group return, a power of attorney for that partner must be attached to the first group return on which the partner is included.

**Note:** Other evidence that establishes the group agent's authority to act as an agent in making, executing or filing the group return for the qualified electing nonresident partners, if acceptable to the Department, may be submitted in lieu of individual powers of attorney. If you wish to submit other evidence, attach a statement to Form PR-99 describing the evidence you wish to submit. We will notify you whether or not the evidence is acceptable.

*Exemption:* If the partnership:

- requested permission to file a group return before December 31, 1996, **and**
- had 50 or more qualified electing partners at the time it requested permission to file,

then the partnership is exempt from the power of attorney submission requirements previously described. This exemption remains in effect as long as the partnership continues to file a group return each year. However, the group agent must still have legal authority to act as an agent for the participating partners in all matters related to the group return. If a partnership must request reinstatement of permission to file a group return because it failed to file a group return for the prior year(s), it will become subject to the power of attorney submission requirements at that time.

### Qualified Nonresident Partner

A *qualified nonresident partner* is a partner who meets all of the following conditions:

- the partner is a nonresident of **New York State** for the entire tax year;
- the partner did not maintain a permanent place of abode in New York State at any time during the tax year;
- the partner or the partner's spouse has no income derived from New York sources other than the partner's distributive share of partnership income with New York additions and subtractions allocated to New York;
- the partner or the partner's spouse is not subject to the New York State minimum income tax or the New York State separate tax on the ordinary income portion of a lump-sum distribution; and
- the partner waives the right to claim the New York standard deduction or itemized deduction, the New York dependent exemption, any New York State credits and any carryback or carryover of a New York State net operating loss or capital loss.

**Note:** If both a husband and wife are partners in the same partnership, both spouses may be included in the group return if they both meet the qualifications described above and both spouses elect to participate. Unless **both** spouses elect to participate, **neither** may participate in the group return.

### Electing to Participate in the Group Return

A qualified nonresident partner elects to participate in the group return by informing the group agent that he or she wishes to participate. The election must be made by the fifteenth day of the fourth month following the close of the tax year for which the election is being made. The partner's inclusion in the group return constitutes notice to the Tax Department that the partner is electing to participate in the group return.

A partner who elects to be included in the group return may not change that election after the fifteenth day of the fourth month after the close of the tax year. However, if it is subsequently determined that a partner included in the group return did not meet the definition of a qualified nonresident partner for the tax year, the partner would be required to file an amended return on an individual basis.

A partnership filing a group return must attach to its Form IT-204, *New York State Partnership Return*, a list showing the name (in either alphabetical or social security number order) and social security number of each partner who will be included on the group return.

### City of New York and City of Yonkers Nonresident Earnings Taxes

If a partnership files a group New York State return **and** the partnership has income derived from New York City or City of Yonkers sources, the partnership **must** also file a group New York City or Yonkers nonresident earnings tax return. The group city return must include all qualified nonresident partners who participate in the group state return. If a partner does not participate in the group state return, the partner may not participate in the group city return.

However, a partnership may file a group New York City or Yonkers return even if the partnership is not filing a group New York State return. To be eligible to file a separate group city return, the partnership must have 35 or more qualified nonresident partners for city purposes who elect to participate in the city group return.

A *qualified nonresident partner* for New York City or Yonkers purposes is a partner who meets all of the following conditions:

- the partner must be a nonresident of **New York State** for the entire tax year;
- the partner did not maintain a permanent place of abode in New York State at any time during the tax year; and
- the partner must have no income derived from New York City or Yonkers sources other than the partner's share of the partnership's net earnings from self employment allocated to New York City or Yonkers.

A partnership that elects to file only a city group nonresident return must make application to the Tax Department, appoint a group agent and submit any required powers of attorney in the same manner that applies for New York State purposes.

If the separate city election is made, each of the participating nonresident partners will file an individual New York State nonresident income tax return and omit the New York City or Yonkers entries on the return. The partner must attach a statement to the return that the New York City or Yonkers nonresident earnings tax is being reported separately on a group return filed by the partnership. The statement must also contain the special New York identification number assigned to the partnership.

### Estimated Tax Payments

A partnership that has received approval to file a group nonresident return may also elect to file group estimated tax installments.

The group installments are filed on Form IT-2105, *Estimated Tax for Individuals*. The form must show the name and address of the partnership and the special New York identification number assigned to the partnership. Enter on Form IT-2105 the total state and city estimated tax paid on behalf of the group. However, the group agent must maintain records to show that portion of the total that is paid on behalf of each participating partner.

If a qualified nonresident partner who was included in the group estimated tax decides not to participate in the group return, or if the partnership subsequently decides not to file a group return for the year, the group agent should notify the Tax Department no later than February 15 of the following year. This notification must contain the following information:

- the name and address of the partnership;
- the special New York identification number assigned to the partnership;
- partner's name, address, and social security number;
- the amount of state and, if applicable, city estimated tax paid on the partner's behalf; and
- a request that the payment or payments be transferred to an individual estimated tax account in the partner's name.

If more than one partner included on the group estimated tax will not be participating, the above partner information should be provided for each partner. The notification must be mailed to: New York State Tax Department, Estimated Tax Unit, W A Harriman Campus, Albany NY 12227-0125.

This transfer of estimated tax payments could take two to three weeks to become effective. If the partner files an individual personal income tax return before the transfer becomes effective, the partner will not get credit for these payments when the return is processed and a tax due notice will be issued to the partner. Therefore, this time period should be taken into account when filing the partner's individual tax return.

If a partner who was included in the group estimated tax notifies the agent after February 15, 1998, but before April 15, 1998, the group agent should notify the Department immediately, using the procedure described above. In these situations, the individual partner may wish to request an extension of time to file to insure that the estimated tax payment will be properly credited to the individual account.

## Amended Return or Federal Change

An amended group return must be filed if an amended federal return is filed by the partnership, or if a federal audit of the partnership changes any of the partnership items of income, gain, loss or deduction reported on the original group return. An amended group return must be filed within 90 days of the date the federal amended partnership return is filed, or, in the case of a federal audit, within 90 days after the final determination of the change. Attach a copy of the federal report of examination changes and a signed statement by the group agent indicating that the partnership concedes the federal audit changes. If the partnership does **not** concede the federal audit changes, attach a signed statement explaining why.

## Specific Instructions Forms IT-203-GR

### Name and Address Box

Enter in the spaces at the top of the return the name, trade name, address and employer identification number of the partnership exactly as these items will appear on its New York State partnership return, Form IT-204. In addition, enter the special New York identification number in the box indicated.

### Line 12

If you owe more than one dollar, attach your payment to the front of this return. Make your check payable to **New York State Income Tax** and write your special New York identification number and **1997 IT-203-GR** on it. Do not send cash.

### Line 13

The amount overpaid will automatically be applied to your 1998 estimated tax. This amount **cannot** be refunded to you.

### Signature

This form must be signed by the group agent on behalf of the participating partners. A paid preparer must also sign the return and fill in the other information required.

### When to File

You may file Form IT-203-GR at any time after January 1, 1998, but not later than the filing deadline of April 15, 1998. If you file late, you may have to pay penalties and interest.

**Extension of time to file** — If you cannot meet the filing deadline, the partnership may request an extension to file the group return using Form IT-370. Form IT-370 must show the special identification number assigned to the partnership. The partnership must also attach to Form IT-370 a list showing each participating partner's name (in either alphabetical or social security number order), address and social security number.

If the partnership needs additional time to file the group return, it may request an additional extension of time using Form IT-372, *Application for Additional Extension of Time to File for Individuals*. Form IT-372 must show the special New York identification number assigned to the partnership and must be signed by the group agent. A list of the participating partners is not required to be attached to Form IT-372.

### Where to File

The group return must be filed with: **NEW YORK STATE INCOME TAX, W A HARRIMAN CAMPUS, ALBANY NY 12227.**

## Forms IT-203-GR-ATT-A, ATT-B, and ATT-C Schedules A, B, and C

If you are filing a group New York State return you must complete Schedule A. You must also complete Schedule B and/or Schedule C if the partnership has income derived from New York City or Yonkers.

If you are filing a group New York City or Yonkers return only, do not complete Schedule A. However, you must complete Schedule B and/or Schedule C.

Use as many schedules as you need. Enter the column totals for all pages on the last page of each set of schedules.

Note: You may computer generate Schedules A, B, and C provided they conform substantially to the official schedules.

### Schedule A

**Column C** — Enter the total of the amounts shown on lines 1-7 (except lines 4e(1) and 6a) of the partner's federal Schedule K-1.

**Column D** — Use the instructions for Schedule B, Part III in Form IT-204-I, *Instructions for Form IT-204, Partnership Return*, to determine the amounts to be entered in column D.

**Column E** — Enter the amounts shown on lines 9 and 11 of federal Schedule K-1 that represent deductions not allowed in computing the amount shown in Column C. These include amounts paid on the partner's behalf for medical insurance, and contributions to IRA, Keogh and SEP plans. Do not include in this column any deductions that are required to be treated as itemized deductions on the partner's federal income tax return. Also, do not include the partner's federal deduction for one-half of self-employment tax, since this deduction is not treated as a partnership deduction for federal purposes.

**Column F** — The amount in column E is allocated to New York in the same manner as its related federal item of income, gain or loss was allocated. If a deduction item included in column E does not relate to a particular federal item, it is allocated to New York based upon the percentage of total federal partnership income, gain or loss that was allocated to New York.

**Column G** — Determine the portion of each New York addition and subtraction shown on lines 9-13 of Form IT-204 that is allocated to New York. An addition or subtraction is allocated to New York in the same manner as the federal items of income, gain or loss to which it relates. Enter the total amount of the additions and subtractions allocated to New York as a net addition or subtraction.

### Schedule B

**Column D** — Use the instructions for Form IT-204-NYC, *New York City Nonresident Partner Allocation*, to determine the amount of column C to be entered in column D.

**Column E** — Use the *Exclusion Table* below to determine the amount to be entered in column E.

### Schedule C

**Column D** — Use the instructions for Form Y-204, *City of Yonkers Nonresident Partner Allocation*, to determine the amount of column C to be entered in column D.

**Column E** — Use the *Exclusion Table* below to determine the amount to be entered in column E.

Exclusion Table

If the amount in column D is:		Exclusion
Over	But not over	
\$ 0	\$10,000	\$3,000
10,000	20,000	2,000
20,000	30,000	1,000
30,000		None

### Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 22, 26, 26-A, 26-B, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and Canada, call (518) 485-6800.

### Need Help?

**Telephone Assistance** is available from 8:30 a.m. to 4:25 p.m., Monday through Friday. **For tax information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and Canada**, call (518) 485-6800.

**Fax-on-Demand Forms Ordering System** - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

**Internet Access** - <http://www.tax.state.ny.us> Access our website for forms, publications, and information.

**Hotline for the Hearing and Speech Impaired** - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m., Monday through Friday. 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 the information numbers listed above.

**Mailing Address** - If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany, NY 12227.