

20 CRR-NY 154.10  
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
 TITLE 20. DEPARTMENT OF TAXATION AND FINANCE  
 CHAPTER II. INCOME TAXES AND ESTATE TAXES  
 SUBCHAPTER A. NEW YORK STATE PERSONAL INCOME TAX UNDER ARTICLE 22 OF THE TAX LAW  
 ARTICLE 4. NEW YORK STATE INCOME TAX RETURNS AND PAYMENT OF INCOME TAX  
 PART 154. CHANGE OF RESIDENT STATUS DURING YEAR  
 NEW YORK TAXABLE INCOME, NEW YORK PERSONAL SERVICE TAXABLE INCOME AND NEW YORK STATE  
 MINIMUM TAXABLE INCOME

20 CRR-NY 154.10

20 CRR-NY 154.10

### 154.10 Special accruals.

Tax Law, § 654(c)

(a) Where the resident status of an individual or of a trust changes from resident to nonresident, such individual or trust must, regardless of the method of accounting normally employed, accrue and include, on the New York State income tax return and any schedules required to be filed with such return for the portion of the year prior to the change of resident status, any items of income, gain, loss or deduction (and any New York items of tax preference) accruing prior to the change of residence, if not otherwise properly includible or allowable for New York State income tax purposes or New York State minimum income tax purposes for such portion of the taxable year or for a prior taxable year. That is, in computing New York taxable income, New York personal service taxable income and New York State minimum taxable income for the resident period, such individual or trust must include all items required to be included if a Federal income tax return were being filed for the same period on the accrual basis, together with any other accruals such as deferred gain on installment obligations which are not otherwise includible or deductible for Federal or New York State income tax purposes or for Federal or New York State minimum income tax purposes either for such resident period or for a prior taxable period. See sections 154.11 and 154.12 of this Part for relief from the accrual requirements of this section and for the special accruals relating to the ordinary income portion of lump sum distributions, respectively.

**(b)**

(1) For example, if an individual sells his business at a gain, under contract whereby the purchase price is to be paid in installments, and later changes his status from resident to nonresident, he must accrue, on the New York State personal income tax return for the resident period, the entire amount of the gain remaining unpaid from such installment obligations, regardless of the method of accounting he normally uses in reporting his transactions. Furthermore, any long-term capital gain which he realized as a result of the installment sale would also be required to be accrued and taken into consideration in determining the New York items of tax preference to be included in computing the New York State minimum income tax on the *New York State Minimum Income Tax Computation Schedule*, which is required to be filed for the New York State resident period if the New York items of tax preference exceed the allowable specific deduction. (See Part 122 of this Title.)

(2) If a trust sells its business or assets of the trust at a gain, under a contract whereby the purchase price is to be paid in installments, and the trust later changes its status from resident to nonresident, the fiduciary of the trust must accrue, on the New York State fiduciary return for the resident period, the entire amount of the gain remaining unpaid from such installment obligations, regardless of the method of accounting the trust normally uses in reporting such transactions. Where such gains from installment sales are long-term capital gains, a *New York State Minimum Income Tax Computation Schedule* must be filed by the trust for its resident period to include the accrued New York items of tax preference attributable to the trust if its New York items of tax preference exceed its allowable specific deduction. (See Part 122 of this Title.)

(3) Where a beneficiary of an estate or trust (including an individual or a trust) changes status during the taxable year from resident to nonresident, such individual or trust must accrue, on the New York State income tax return for the resident period, any estate or trust income credited, distributable, payable or required to be distributed to such beneficiary as of the date of such beneficiary's change of residence.

(c) However, a gain which is not recognized for Federal income tax purposes need not be accrued for New York State income tax purposes solely because of the change of residence. For instance, a gain realized on the sale of an individual's principal residence, if it is not recognized for Federal income tax purposes by virtue of the provisions of the Internal Revenue Code relating to the acquisition of a new residence, need not be accrued on the individual's New York State personal income tax return for the period prior to such individual's change of residence.

(d) The amounts of the accrued items of an individual to be reported on the New York State personal income tax return, and any schedules required to be filed with such return, for the period of New York State residence are determined with the applicable

modifications described in Parts 112, 115 and 122 of this Title as if such accrued items were includible or allowable for Federal income tax purposes. Similarly, the amounts of the accrued items of a trust to be reported on its New York State fiduciary return for its period of New York State residence are determined with the applicable modifications described in Parts 112, 115, 118 and 122 of this Title as if such accrued items were includible or allowable for Federal income tax purposes. See subdivision (g) of this section, where an individual or trust changes residence during the taxable year, for statements which must be attached to the New York State income tax returns required under this Part.

**Example:**

On September 10, 1985, A, a cash-basis calendar-year taxpayer residing in New York State, terminated his employment in New York State and moved to Florida. A's salary up to the date of termination amounted to \$8,000. On September 1, 1985 A's employer notified him that, under A's employment contract, A would receive on October 1, 1985 a bonus of \$1,000, subject to no contingencies.

Dividend income received before the change of residence amounted to \$550, and on August 15, 1985 the XYX Corporation declared a dividend of \$600, payable to A on September 20, 1985 as a stockholder of record on September 6, 1985. A also held State of California bonds on which interest in the amount of \$300 was received on the first day of each calendar quarter, viz: January 1, April 1, July 1, and October 1, 1985.

On January 2, 1985, A closed title with C on a tract of vacant land in Pennsylvania, taking back from C a purchase money mortgage which called for annual payments on July 1 of each year. By reason of A's Federal election of the installment method of accounting with respect to this transaction, A will realize a long-term capital gain of \$1,000 each year for five years, or \$5,000.

On September 1, 1985, A entered into a contract with B to sell A's beach property in New York State, subject to B's investigation of title and obtaining a stipulated mortgage. The property to be sold was not A's principal residence and was not used for rental purposes. The closing of title for this property was held on October 20, 1985. A realized a long-term capital gain of \$20,000 which was included in determining the gain from the sale or exchange of property reported on A's 1985 Federal income tax return.

For 1985, A filed two New York State personal income tax returns, one as a resident and one as a nonresident. On A's 1985 New York State personal income tax return for the portion of the year during which A was a resident, A included in New York adjusted gross income the following items:

Regular salary	\$8,000
Bonus-not forfeitable	\$1,000
Dividends received (after exclusion)	\$ 450
Dividends accrued as of record date	\$ 600
Gain on sale of Pennsylvania property (\$1,000 a/c 1985 payment \$4,000 accrued, less 6%; long-term capital gain deduction)	\$2,000
Modification under section 112.2(a) of this Title for California bond interest (\$900 received on January 1, April 1 and July 1, plus \$233 accrued	\$1,133

on account of  
interest  
payable  
October 1)

Based on the foregoing, A's New York items of tax preference, applicable to the period of New York State residence, did not exceed the allowable specific deduction (see Part 122 of this Title). Therefore, A was not required to file a *New York State Minimum Income Tax Computation Schedule* (form IT-220) for the period of New York State residence. (See also section 54.5(a)(4) and (5) of this Part.)

On A's 1985 New York State nonresident personal income tax return, A included in New York adjusted gross income the following items derived from or connected with New York State sources:

Long-term capital gain on the sale of New York State beach property, less 60% long-term capital gain deduction	\$8,000
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The gain from the sale of the New York State beach property was not accruable for the portion of the year when A was a resident because of the conditions stated in the contract of sale.

Because A reported the bonus payment on his New York State personal income tax return for the resident portion of 1985, A was not required to take it into account on his New York State nonresident personal income tax return as an item of income derived from New York State sources even though A actually received this item of income when A was a nonresident. See subdivision (f) of this section.

Since A's New York items of tax preference, applicable to the period of New York State nonresidence, exceeded the allowable specific deduction (see Part 141 of this Title), A was required to complete a *New York State Minimum Income Tax Computation Schedule* for the period of New York State nonresidence. (See also section 154.5(a)(4) of this Part.)

(e) Where the resident status of an individual or of a trust changes from nonresident to resident, such individual or trust must, regardless of the method of accounting normally employed, accrue, for the portion of the year prior to such change, any items of income, gain, loss or deduction accruing prior to the change of resident status, other than those items of income, gain, loss or deduction which are derived from or connected with New York State sources, if not otherwise properly includible (whether or not because of an election to report on an installment basis) or allowable for Federal income tax purposes for such portion of the taxable year or for a prior taxable year. The amounts of such accrued items of an individual are determined, with the applicable modifications described in Parts 112, 115 and 122 of this Title, as if such accrued items were includible or allowable for Federal income tax purposes. Similarly, the amounts of such accrued items of a trust are determined, with the applicable modifications described in Parts 112, 115, 118 and 122 of this Title, as if such accrued items were includible or allowable for Federal income tax purposes. See subdivision (g) of this section, where an individual or trust changes residence during the taxable year, for statements which must be attached to the New York State personal income tax returns required under this Part. Also see section 154.12 of this Part for special accruals relating to ordinary income portion of lump sum distributions.

(f) No items of income, gain, loss or deduction, accrued under this section for the portion of the taxable year prior to a change of resident status, are to be taken into account in determining the New York adjusted gross income, the New York itemized deduction, the New York personal service taxable income and the New York State minimum taxable income of an individual, or the New York taxable income, the New York personal service taxable income and the New York State minimum taxable income of a trust, for any subsequent taxable period.

#### Example:

B, a cash-basis calendar-year taxpayer residing in California, performed services as an employee in California in July 1979, for which he was to be paid \$10,000 in September 1979. B also owned New York State real estate which he leased for \$500 per month. The rent was paid for the first four months of 1979 but no rent was paid from May 1, 1979 to December 31, 1979, when all arrears were paid up. The taxpayer, away from home on business in July, had travel expenses of \$1,000 which were billed on August 1, 1979.

On August 10, 1979, B moved to New York State where, on September 1, 1979, he received the \$10,000 payable for his services performed in California and paid the travel expense bill. He had no other income or deduction of the year 1979.

B was required to file two New York State personal income tax returns for 1979, one as a nonresident and one as a resident. The \$10,000 compensation for his services in California and the \$1,000 travel expenses were accrued as of the change of residency,

and were not included in B's New York adjusted gross income because he was a nonresident prior to the change of residence and these amounts were not derived from or connected with New York State sources. The rental from New York State real estate remaining unpaid as of the change of residence was not accrued because it was derived from New York State sources; see subdivision (e) of this section. Accordingly, on his New York State personal income tax return for the nonresident portion of the year, B was required to include the \$2,000 rent from the New York State real estate actually received during this period. On his New York State personal income tax return for the resident portion of the year, he was required to include the balance of the rent (\$4,000) received after his change of residence but nothing was required to be included on account of the amount received for his services in California or the related travel expenses incurred, which were accrued as of his change of residence.

(g) When an individual changes his resident status during the taxable year, he must complete schedule form IT-360 and attach it to the New York State personal income tax returns required to be filed under this Part. When a trust changes its resident status during the taxable year, a statement must be attached to the New York State fiduciary returns required under this Part showing the computation of Federal taxable income of such trust for the entire taxable year and the computation of its New York taxable income for the respective periods of residence and nonresidence covered by the New York State fiduciary returns.

20 CRR-NY 154.10

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