

§ 639. Accruals upon change of residence. (a) If an individual changes status from resident to nonresident he shall, regardless of his method of accounting, accrue to the period of residence any items of income, gain, loss, deduction, or ordinary income portion of a lump sum distribution accruing prior to the change of status, with the applicable modifications and adjustments to federal adjusted gross income and itemized deductions under sections six hundred twelve and six hundred fifteen, if not otherwise properly includible or allowable for New York income tax purposes for such period or a prior taxable year under his method of accounting.

(b) If an individual changes status from nonresident to resident he shall, regardless of his method of accounting, accrue to the period of nonresidence any items of income, gain, loss or deduction, or ordinary income portion of a lump sum distribution accruing prior to the change of status, with the applicable modifications and adjustments to federal adjusted gross income and itemized deductions under sections six hundred twelve and six hundred fifteen, other than items derived from or connected with New York sources, if not otherwise properly includible or allowable for New York income tax purposes for such period or for a prior taxable year under his method of accounting.

(c) No item of income, gain, loss, deduction, ordinary income portion of a lump sum distribution or modification or adjustment which is accrued under this section shall be taken into account in determining the tax under this article for any subsequent taxable year.

(d) The accruals under this section shall not be required if the individual files with the commissioner a bond or other security acceptable to the commissioner, on condition that the amounts accruable under this section are taken into account in determining the tax under this article for one or more subsequent taxable years as if the individual had not changed his resident status.

(e) The foregoing provisions of this section shall apply if an individual changes his or her status from a resident to nonresident or from a nonresident to resident during a taxable year, or at the beginning of a taxable year, as a result of a change of domicile or as a result of becoming a resident or nonresident based on the definition contained in subsection (b) of section six hundred five of this article.

(f) Except as hereinafter provided, where an individual who is a member of a partnership or a shareholder of an S corporation changes status from resident to nonresident, or from nonresident to resident, the portion of the distributive or pro rata share of income, gain and loss (less deductions attributable thereto) from a partnership or S corporation shall be allocated to the resident and nonresident periods of the partner or shareholder on a proportionate basis throughout the taxable year of the partnership or S corporation. In such event, the portion of the distributive or pro rata share allocated to the period of residency shall be determined based on the number of days of residency within the reporting period of the partnership or S corporation over the total number of days in the reporting period of the partnership or S corporation. Provided, however, that the commissioner may require, or the individual may elect, to accrue to the period of residence, and the period of nonresidence, the portion of the distributive or pro rata share of partnership or S corporation income, gain and loss (less deductions attributable thereto) accruing during the individual's respective resident and nonresident periods in a manner that reflects the date of accrual of said income, gain and loss by the partnership or S corporation.

(g) Except as hereinafter provided, where an individual who is beneficiary of an estate or trust changes status from resident to

nonresident, or from nonresident to resident, the portion of any estate or trust income credited, distributable, payable or required to be distributed to such beneficiary shall be allocated to the resident and nonresident periods of the beneficiary on a proportionate basis throughout the taxable year of the estate or trust. In such event, the portion of such estate or trust income allocated to the period of residency shall be determined based on the number of days of residency within the reporting period of the estate or trust. Provided, however, that the commissioner may require, or the beneficiary may elect, to accrue to the period of residence, and the period of nonresidence, the portion of such estate or trust income accruing during the beneficiary's respective resident and nonresident periods in a manner that reflects the date of accrual of said estate or trust income by the estate or trust.

(h) If a trust changes its status from resident to nonresident or from nonresident to resident, the provisions of subsections (a) through (f) of this section shall apply except that the term "individual" shall be read as "trust" and reference to "modifications" shall mean those modifications described in section six hundred eighteen.