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## **New York Source Income - Sole Proprietorships and Partnerships**

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### **Introduction**

If you are a nonresident individual, estate, or trust, you are subject to tax on your New York source income. New York source income includes income derived from or connected with a business, trade, profession, or occupation carried on in New York State. If you are a partner in a partnership, New York source income also includes those items of income, gain, loss, and deduction included in your distributive share of partnership income that is derived from or connected with business carried on by the partnership in New York State.

For purposes of this bulletin, the term *business* includes sole proprietorships and partnerships (including limited liability companies (LLCs) and limited liability partnerships (LLPs) that are treated as partnerships for federal income tax purposes).

### **New York source income - Sole proprietorships and partnerships**

As a sole proprietor or partnership, your New York source income includes:

- income attributable to a business, trade, profession, or occupation carried on in New York State;
- income attributable to the ownership of any interest in real property (including all or a portion of the gain or loss from the sale or exchange of an interest in certain entities that own real property in New York State, see [TSB-M-09\(5\)I](#));
- income attributable to tangible personal property located in New York State, and intangible personal property to the extent that it is used in a business, trade, profession, or occupation carried on in New York State; and
- any gain from the sale, transfer, or other disposition of shares of stock in a cooperative housing corporation when the real property comprising the units of the cooperative housing corporation is located in New York State, whether or not connected with a business.

### **Business activities**

As a nonresident sole proprietor or partnership, you carry on a business, trade, profession, or occupation within New York State if you (or your business):

- occupy, have, maintain, or operate an office, shop, store, warehouse, factory, agency, or other place in New York State where the affairs of the business are systematically and regularly carried on; or
- perform a series of acts or transactions in New York State with regularity and continuity for livelihood or profit, as distinguished from isolated or incidental transactions.

## Business carried on wholly in New York State

If your business, trade, profession, or occupation is carried on wholly within New York State, all of the items of income, gain, loss, and deduction derived from or connected with the business, trade, profession, or occupation are included in New York source income.

This is the case even if you, your employees, or representatives travel outside New York State to buy, sell, finance, or perform any duties in connection with the business, and even though you may make sales or perform services on behalf of customers or clients located outside New York State.

## Business carried on partly within and partly outside New York State

Your business, trade, profession, or occupation is carried on partly within and partly outside New York State when any of the business activities described on page 1 are systematically and regularly carried on within New York State, and any of those activities are systematically and regularly carried on outside of New York State, or any of those activities are systematically carried on both within and outside New York State.

If your business, trade, profession, or occupation is carried on both in and out of New York State, items of income, gain, loss, and deduction included in New York source income must be apportioned and allocated to New York on a fair and equitable basis in accordance with approved methods of accounting.

You are not permitted to allocate any business income outside New York State if:

- your business only has occasional or isolated transactions outside the state, or
- you have no regular place of business outside the state.

## Which form to file

If you have New York source income, you may be required to file a New York State income tax return.

- Nonresident or part-year resident individuals, see [Form IT-203](#), *Nonresident and Part-Year Resident Income Tax Return* and [Form IT-203-A](#), *Nonresident Business Allocation Schedule*.
- Estates and trusts, see [Form IT-205](#), *Fiduciary Income Tax Return*.
- Partnerships see [Form IT-204](#), *Partnership Return*.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

**References and other useful information**

**Tax Law:** Sections 631, 632, 633, and 638

**Regulations:** Sections 132.2 through 132.16, 132.21, and 138.6

**Memoranda:**

[TSB-M-09\(5\)](#), *Amendment to the Definition of New York Source Income of a Nonresident Individual*

[TSB-M-10\(9\)](#), *Income Received by a Nonresident Related to a Business, Trade, Profession, or Occupation Previously Carried on Within New York State*

**Bulletins:**

[New York Source Income of Nonresident Individuals, Estates, and Trusts and Part-Year Resident Individuals and Trusts \(TB-IT-615\)](#)