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2022 New York State Tax Update for Businesses & Individuals

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New York Tax Climate Index

... State Tax Climate Index

2023 Tax Foundation Study

The 10 best states in the prior year (2022) Index:

- | | |
|-----------------|------------------|
| 1. Wyoming | 6. New Hampshire |
| 2. South Dakota | 7. Nevada |
| 3. Alaska | 8. Tennessee |
| 4. Florida | 9. Indiana |
| 5. Montana | 10. Utah |

The 10 worst states in the prior year (2022) Index :

- | | |
|---------------|-----------------|
| 41. Hawaii | 46. Maryland |
| 42. Louisiana | 47. Connecticut |
| 43. Vermont | 48. California |
| 44. Arkansas | 49. New York |
| 45. Minnesota | 50. New Jersey |

... State Tax Climate Index

2023 Tax Foundation Study

The 10 overall best states in the 2023 Index Study:

- | | |
|---------------------|----------------------|
| 1. Wyoming (0) | 6. New Hampshire (0) |
| 2. South Dakota (0) | 7. Nevada (0) |
| 3. Alaska (0) | 8. Utah (+2) |
| 4. Florida (0) | 9. Indiana (0) |
| 5. Montana (0) | 10. N. Carolina (+1) |

The 10 overall worst states in the 2023 Index Study:

- | | |
|-----------------------|---------------------|
| 41. Alabama (-2) | 46. Maryland (0) |
| 42. Rhode Island (-2) | 47. Connecticut (0) |
| 43. Hawaii (-2) | 48. California (0) |
| 44. Vermont (-1) | 49. New York (0) |
| 45. Minnesota (0) | 50. New Jersey (0) |

... State Tax Climate Index

2023 Tax Foundation Study

New York's Specific Index Ranks

	Overall	Corporate Tax	Individual Tax	Sales Tax	Property Tax	Unemploy. Insurance
2023 Index Study	49	24	50	43	49	40
2022 Index Study	49	24	50	42	47	36
Increase (Decrease)	0	0	0	(1)	(2)	(4)

Top Marginal 2022 New York Tax Rates

	<u>New York</u>	<u>New York & New York City</u>
Federal Tax Rate	37.00%	37.00%
Medicare Surtax ¹	3.80%	3.80%
New York Tax Rate	10.90%	10.90%
New York City Tax Rate		3.876%
Top Marginal Rate	<u>51.70%</u>	<u>55.576%</u>

¹ Applies to the net investment income of Taxpayers with modified adjusted gross income exceeding \$250,000 (MFJ)

Tax Rate Changes

... Personal Income Tax Rate Changes

- Accelerates to 2023 the phase-in of the middle-class income tax cuts originally scheduled to take effect in 2025:
 - For 2023, the tax rate for married filing joint taxpayers for income between \$27,900 and \$161,550 is 5.5%, and for income between \$161,551 and \$323,200, the rate is 6%.
 - Previously, the 2023 rates for those income ranges were 5.73% and 6.17%, respectively.

Personal Income Tax

Student Loan Forgiveness Modifications

... Student Loan Forgiveness Modifications

- Student Loan Forgiveness Modifications.
 - Beginning January 1, 2022, there is a subtraction modification from New York income for any amount of student loan forgiveness granted by the State that is otherwise included in Federal AGI.
 - The Internal Revenue Service (IRS) requires that any taxable amount of forgiven or discharged debt is treated as ordinary income, therefore making it subject to Federal and (if applicable) state income taxes.

... Student Loan Forgiveness Modifications

- The passage of the American Rescue Plan Act in 2021 modified this treatment for discharges in 2021 through 2025. In certain circumstances, this amount is excluded from gross income if the loan was one of the following:
 - A loan for postsecondary educational expenses.
 - A private education loan.
 - A loan from an educational organization described in Section 170(b)(1)(A)(ii).
 - A loan from an organization exempt from tax under Section 501(a) to refinance a student loan.

New York State Charitable Tax Credit Program

... New York State Charitable Tax Credit Program

- The State of New York has created a program that has the potential to provide a significant break for contributions as an individual, a partner (in a partnership), or a beneficiary (of an estate or trust).
- These are for contributions to the charitable gift trust fund comprised of the health and charitable account and the elementary and secondary education charitable account; or to one of the following:
 - Health Research, Inc.;
 - State University of New York Impact Foundation; or
 - Research Foundation of the City University of New York.

... New York State Charitable Tax Credit Program

- The credit provides donors with the following tax benefits:
 - Federal – 15% of the qualified contribution can be a deduction.
 - NY State – 85% of the qualified contribution as a tax credit and 15% of the qualified contribution can be a deduction. A donor gets a benefit of both a deduction and credit on their NYS tax filing.

... New York State Charitable Tax Credit Program

- The recordkeeping requirements are very specific, and the taxpayer needs to obtain the proper documentation.

Example:

- *Gifts of between \$10,000 and \$100,000 are made to the SUNY Impact Foundation by November 30, 2022. These gifts can be made via cash, check, wire transfer, or via a donation of appreciated securities.*
- *Donors need to request to participate in the program, which begins on August 15th and ends on November 20th. This is done by completing a short form that the SUNY Impact Foundation would send you via email.*
- *The receipt(s) issued once the donation(s) is received will include a receipt number which must be used with NYS income tax filing.*

... New York State Charitable Tax Credit Program

- Example of Tax Savings and need for planning with a higher income earner:

	As Is		\$50,000		\$100,000
Federal Tax	\$190,502		\$188,650		\$186,025
NYS Tax	45,205		1,329		-
Tax Savings			\$ 45,728		\$ 49,682
% of Savings			91%		50%

Homeowner Tax Rebate Credit

... Homeowner Tax Rebate Credit

- A one-year program that provides direct property tax relief to about 2.5 million eligible homeowners in 2022.
- If you qualify, you do not need to do anything. They will automatically send you a check for the amount of your credit.
- If you are eligible and have not received a check, you can expect to receive it between the time that school tax bills are issued and when the school tax payments are due in your community.

... Homeowner Tax Rebate Credit

- To be eligible, you must have:
 - Qualified for a 2022 STAR credit or exemption;
 - Had income that was less than or equal to \$250,000 for the 2020 income tax year; and
 - A school tax liability for the 2022-2023 school year that is more than your 2022 STAR benefit.

... Homeowner Tax Rebate Credit

- New York State will calculate income for eligibility purposes and will issue credit based on that determination. The amount of rebate credit will depend on the following:
 - Where your home is located;
 - How much your income is; and
 - Whether you receive an Enhanced STAR or Basic STAR.

Additional New York State Child and Earned Income Tax Payments

Additional New York State Child and Earned Income Tax Payment

- Provides one-time checks to eligible taxpayers for two separate payments:
 - One based on the Empire State child credit; and
 - One based on the earned income credit (or noncustodial parent earned income credit).
- If you qualify for a payment for one or both credits, you don't need to do anything; NYS will automatically calculate and send you one check that will include the total amount you're entitled to.
- Checks to be mailed beginning September 2022.

Additional New York State Child and Earned Income Tax Payment

- You are entitled to a payment if, for tax year 2021, you received:
 - An Empire State child credit;
 - A New York State earned income credit (or noncustodial parent earned income credit) of at least \$100; or
 - Both.
- You must also have filed your New York State income tax return (Form IT-201) by April 18, 2022, or had a valid extension of time to file.

Additional New York State Child and Earned Income Tax Payment

- How much is the check?
 - The check may include amounts for one or both payments and can include only payments that are at least \$25.
- The payment for the Empire State child credit is anywhere from 25% to 100% of the amount of the credit you received for 2021. The percentage depends on your income.
- The payment for the earned income credit (or noncustodial parent earned income credit) is 25% of the amount of the credit you received for 2021.
- If you qualify to receive a check for:
 - Only one payment, your check is equal to that payment amount; or
 - Both payments, add together your payment amounts to determine your check amount.

Business Taxes

Small Business Subtraction Modification

... Small Business Subtraction Modification

- Effective January 1, 2022, the small business subtraction modification percentage for both NYS and NYC personal income taxes is increased from 5% to 15%.
- Previously available only to proprietorships with at least one employee and net business income or farm income of less than \$250,000.

... Small Business Subtraction Modification

- Those eligible for the subtraction were expanded to include:
 1. Sole proprietors with one or more employees and less than \$250,000 of net business income or net farm income;
 2. Partnerships, LLCs, and NYS S corporations with one or more employees and net farm income of less than \$250,000; and
 3. Partnerships, LLCs, and NYS S corporations with one or more employees and less than \$1.5 million of “New York gross business income” attributable to a non-farm business.

New York Secure Choice Savings Program

... New York Secure Choice Savings Program

- Mandatory for private-sector and not-for-profit companies with:
 - At least 10 employees that have been in business for at least two years; and
 - Have not previously offered employees a qualified retirement plan such as a 401(k) or 403(b) within the last 2 years.
- Employers may choose to provide an employer-sponsored retirement plan or facilitate access to the state-run program.
- Should be effective sometime in 2023.

New York State Seed Funding Grant Program

... New York State Seed Funding Grant Program

- Created to provide assistance to early-stage small businesses to succeed in a recovering New York State economy.
- Eligible Applicants must provide evidence, acceptable to New York State that the Eligible Applicant is operational and meets the Program requirements.
- Only one grant per business EIN or SSN is allowed.
- Due to a limited amount of funding and the high volume of requests expected, business type, geography, and industry may factor into the ability to receive a grant.

... New York State Seed Funding Grant Program

Eligibility:

- Be incorporated in New York State or licensed or registered to do business in New York State and must be resident in the State of New York;
- Be a currently viable micro-business, small business, or for-profit arts and cultural organization, including independent arts contractors that started business on September 1, 2018, or later and has been operational for at least six months before an application is submitted;
- Have between five thousand dollars (\$5,000) and one million dollars (\$1,000,000) in gross receipts per annum as reflected on their most recent Federal Business Tax Return (line 1a, IRS Form 1120 or 1065; line 1 IRS Form 1040 Schedule C); or be able to demonstrate five thousand dollars (\$5,000) in business expenses for businesses that have not yet filed a Federal Business Tax Return;
- Be in substantial compliance with applicable Federal, state, and local laws, regulations, codes, and requirements;
- Not owe any Federal, state, or local taxes, or have an approved repayment, deferral plan, or agreement with appropriate Federal, state, and local taxing authorities;

... New York State Seed Funding Grant Program

- Not qualify for business assistance grant programs under the Federal American Rescue Plan Act of 2021 or any other available Federal COVID-19 economic recovery or business assistance grant programs, including loans forgiven under the Federal Paycheck Protection Program, or are unable to obtain sufficient business assistance from such Federal programs.** Eligible Applicants may have received or been awarded the following Federal assistance:
 - Paycheck Protection Program loans totaling \$250,000 or less.
 - Economic Injury Disaster Loan (EIDL) for COVID-19 of any size.
 - COVID-19 EIDL Advance Grant of any size.
 - COVID-19 EIDL Supplemental Targeted Advance Grant of any size.
 - SBA Shuttered Venue Operators Grant of any size.
 - Restaurant Revitalization Fund Grant of any size.
- Did not qualify for business assistance under the New York State COVID-19 Pandemic Small Business Recovery Grant Program.

... New York State Seed Funding Grant Program

Ineligible Business:

1. All non-profits, churches, and other religious institutions;
2. Government-owned entities or elected official offices;
3. Businesses primarily engaged in political or lobbying activities; and
4. Landlords and passive real estate businesses.

... New York State Seed Funding Grant Program

Eligible Costs:

- The following costs incurred between September 1, 2018, and January 1, 2022, shall be considered eligible for the program. These include:
 - Payroll costs;
 - Commercial rent or mortgage payments for NYS-based property;
 - Payment of local property or school taxes associated with a small business location in NYS;
 - Insurance costs;
 - Utility costs;
 - Costs of personal protection equipment (PPE) necessary to protect worker and consumer health and safety;
 - Heating, ventilation, and air conditioning (HVAC) costs;
 - Other machinery or equipment costs;
 - Supplies and materials necessary for compliance with COVID-19 health and safety protocols; or
 - Other documented COVID-19 costs as approved by ESD.

New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

... New York State Health Care and Mental Hygiene Worker Bonus (HWPB) Program

- New Bonus Program.
 - Recently enacted as part of the 2022-2023 New York State Budget.
 - The submission period for Vesting Period 1 began August 3, 2022, and closed September 2, 2022.
 - There will be a “Grace Period” in which employers will be able to submit claims for Vesting Period 1 during Vesting Period 2.
 - Vesting Period 2 began October 1, 2022 and will close November 30, 2022.

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- Allows for the payment of bonuses to “recruit, retain, and reward health care and mental hygiene workers.”
- The bonus payments are not subject to New York State personal income tax.
- Note, that Federal and other state taxes are not exempt from the bonus payment.
- Employers will receive reimbursements for FICA and payroll taxes on the bonus payments.

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- Bonus Amounts.
 - The bonus amount paid is based on the number of hours worked during the Vesting Period.
 - Qualified employees who work at least 20 hours, but no more than 30 hours per week are eligible for a bonus of \$500.
 - Qualified employees who work at least 30 hours per week, but no more than 35 hours per week are eligible for a bonus of \$1,000.
 - Qualified employees who work at least 35 hours per week are eligible for a bonus of \$1,500.

... New York State Health Care and Mental Hygiene Worker Bonus (HWPB) Program

- A qualified employee is eligible for up to two Vesting Periods per employer.
 - The maximum any employee may receive is \$3,000.

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- Employer Eligibility.
 - There are two separate definitions for qualified employers, both of which are subject to the requirements of the HWB Program.
 - SOS §367-w(2)(b).
 - SOS §367-w(2)(c).

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- Under SOS §367-w(2)(b), all four of the following criteria must be met:
 - A Medicaid enrolled provider;
 - Bill for Medicaid services;
 - Employ at least one eligible employee; and
 - Are included in the list of provider and facility types in this statute.
 - Subject to a Certificate of Need (CON) process; or
 - The employer serves at least 20% Medicaid enrollees.

... New York State Health Care and Mental Hygiene Worker Bonus (HWPB) Program

- Under SOS §367-w(2)(c):
 - The provider must receive payments from the Statewide Financial System (SFS).
 - Employ at least one eligible employee.
 - Be included in the list of provider and facility types in this statute (i.e., OMH, OCFS, OASAS, OPWDD, other municipalities, etc.)

... New York State Health Care and Mental Hygiene Worker Bonus (HWPB) Program

- Employees Eligibility.
 - An employee must be employed during the entire Vesting Period to be eligible for the bonus.
 - They must have a title included on the list of eligible worker titles.
 - Earnings must not exceed an annualized base salary (excluding any bonuses or overtime pay) of \$125,000, as evidenced by an Employee Attestation, which they must complete and return to their employer.
 - They can be full-time, part-time, or temporary employees as well as independent contractors.
 - If they do not work at a patient care building, they are **not** eligible as they work in a setting where patient care is not provided.

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- For additional details including the Vesting schedules, eligible work titles, and the Employee and Employer Attestation, visit the program website at:

[*https://health.ny.gov/health_care/medicaid/providers/hwb_program/*](https://health.ny.gov/health_care/medicaid/providers/hwb_program/)

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- Employers Responsibility.
 - Qualified employers are required to submit the claim on behalf of their qualified employees.
 - You must fill out the Employer Attestation form to claim submission.
 - You must send the qualified employees an Employees Attestation form and request it to be returned prior to the claims due date.
 - Submission for employers will be made through the HWB Program Portal: <https://nysworkerbonus.health.ny.gov/#/>.
 - Employers must pay the bonuses within 30 days after receiving the bonus amount.

... New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program

- A qualified employer who fails to identify, claim, and/or pay any bonus for more than 10% of bonus eligible workers, may be subject to penalties of up to \$1,000 per violation of the HWB Program.

COVID-19 Capital Costs Credit

... COVID-19 Capital Costs Credit

- Permitted for a qualifying business for costs related to qualified COVID-19 “capital costs” incurred from January 1, 2021, through December 31, 2022, for businesses located within the state.
- The credit is equal to 50% of qualified COVID-19 capital costs.
 - Minimum of at least \$2,000 of qualifying expenses or \$1,000 credit.
 - Up to a maximum of \$25,000 in tax credits based on qualifying expenses of \$50,000.

... COVID-19 Capital Costs Credit

- COVID-19 Capital Costs Credit.
 - Provides financial assistance to small businesses with 100 employees or less and gross receipts of less than \$2.5 million that are burdened with a range of operational costs stemming from the COVID-19 pandemic, from structural changes and building upgrades to health-related supplies and materials.
 - Qualifying expenses include costs incurred for the following categories of items:
 - Supplies to disinfect and/or protect against COVID-19 transmission;
 - Restocking of perishable goods to replace those lost during the COVID-19 pandemic;

... COVID-19 Capital Costs Credit

- Physical barriers and sneeze guards;
- Hand sanitizer stations;
- Respiratory devices such as air purifier systems installed at the business entity's location;
- Signage related to the COVID-19 pandemic including, but not limited to, signage detailing vaccine and masking requirements, and social distancing;
- Materials needed to block off certain seats to allow for social distancing;

... COVID-19 Capital Costs Credit

- Certain point of sale payment equipment to allow for contactless payment;
- Equipment and/or materials and supplies for new product lines in response to the COVID-19 pandemic;
- Software for online payment platforms to enable delivery or contactless purchases;
- Building construction and retrofits to accommodate social distancing and installation of air purifying equipment but not for costs for non-COVID-19 pandemic related capital renovations or general “closed for renovations” upgrades;
- Machinery and equipment to accommodate contactless sales;

... COVID-19 Capital Costs Credit

- Materials to accommodate increased outdoor activity such as heat lamps, outdoor lighting, and materials related to outdoor space expansions; and
 - Other costs as determined by the Department to be eligible under this section, provided.
- Note, “qualified COVID-19 capital costs” do not include any cost paid for with other COVID-19 grant funds as determined by the Commissioner.

... COVID-19 Capital Costs Credit

- Application.
 - Visit New York State's required eligibility screening tool to see if your business qualifies for the program.
 - If so, you will then be emailed a link to the application for completing and submitting along with documentation to show proof of expenses.

Job Incentive Credits

... Hire a Veteran Credit

- **Will be Extended.**
- Entitled to this nonrefundable credit if you or your business:
 - Hires a qualified veteran who begins employment on or after January 1, 2014, but before January 1, 2022; and
 - Employs the qualified veteran in New York State for one year or more for at least 35 hours each week.
 - You may claim the credit in the tax year in which the qualified veteran completes one year of employment with you. The credit may be claimed for tax years beginning on or after January 1, 2015, but before January 1, 2023.

... Hire a Veteran Credit

If the qualified veteran is-	Amount of credit is equal to-
Disabled	15% of the total wages paid to the veteran during the veteran's first full year of employment, but the credit cannot be more than \$15,000 per veteran.
Not disabled	10% of the total wages paid to the veteran during the veteran's first full year of employment, but the credit cannot be more than \$5,000 per veteran.

To claim the credit, the employer must have the veteran certify that the veteran meets the requirements of a qualified veteran on Form DTF-75.

... Empire State Apprenticeship Tax Credit

- Entitled to this nonrefundable credit if you or your business:
 - Is a qualified employer certified by the New York State Department of Labor (DOL) in the Empire State Apprenticeship Tax Credit (ESATC) Program; and
 - Received a Final Certificate of Tax Credit from the New York State DOL.
- The ESATC Program provides a tax credit to certified New York State Registered Apprenticeship (RA) program sponsors for employing qualified apprentices.
- You must submit a completed application to DOL, which administers the program, by December 31st each year to participate in the program.

... Empire State Apprenticeship Tax Credit

The base credit is equal to:

Year of apprenticeship	Credit amount per apprentice	Credit amount per disadvantaged youth apprentice
1st year	\$2,000	\$5,000
2nd year	\$3,000	\$6,000
3rd year	\$4,000	\$7,000
4th year	\$5,000	\$7,000
5th year	\$6,000	\$7,000

If an apprentice has been trained in their trade by a mentor for the entirety of the calendar year, the base credit amounts in the above table will be increased by \$500.

... New York Youth Jobs Program Tax Credit

- Entitled to this nonrefundable credit if you or your business:
 - Is certified by the New York State Department of Labor (DOL) to participate in the New York Youth Jobs Program;
 - Hires qualified employees between the ages of 16 to 24. The qualified employees must start work between January 1st and December 31st of the program year in which you are participating; and
 - Received an annual final certificate from DOL.

... New York Youth Jobs Tax Credit

If the qualified employee is hired for a	the maximum credit is	and is allowed as follows
full-time position (35 hours or more per week)	\$7,500	<ul style="list-style-type: none"> • \$750 per month, for a maximum of six months (\$4,500 maximum); and • an additional \$1,500 if the youth is employed for an additional six consecutive months. • An additional \$1,500 if the youth is employed for at least an additional year after the completion of the first two time periods and all the employment conditions were met for those time periods.
part-time position at least 20 hours per week (or 10 hours per week if enrolled in high school full-time)	\$3,750	<ul style="list-style-type: none"> • \$375 per month, for a maximum of six months (\$2,250 maximum); and • an additional \$750 if the youth is employed for an additional six consecutive months. • An additional \$750 if the youth is employed for at least an additional year after the completion of the first two time periods and all the employment conditions were met for those time periods.

... New York Credit for Employment of Persons With Disabilities

- Entitled to this nonrefundable credit if you or your business employed a qualified employee who is certified by:
 - The New York State Education Department's Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR); or
 - The State of New York Office of Children and Family Services' Commission for the Blind and Visually Handicapped (CBVH).
- As a person with a disability that constitutes or results in a substantial handicap to employment and who has completed or is receiving services under an individualized written rehabilitation plan approved by ACCES-VR or CBVH.
- The New York State Department of Labor (DOL) administers the certification of the program in cooperation with ACCES-VR and CBVH.

... New York Credit for Employment of Persons With Disabilities

- The credit amount is 35% of the first \$6,000 of qualified first-year wages or qualified second-year wages. A credit of up to \$2,100 per employee is available.

Energy/Environmental Related Credits

... Solar Energy System Equipment Credit

- You are entitled to claim this credit if you:
 - Purchased solar energy system equipment;
 - Entered into a written agreement for the lease of solar energy system equipment; or
 - Entered into a written agreement that spans at least ten years for the purchase of power generated by solar energy system equipment not owned by you.
- The solar energy system must use solar radiation to produce energy for heating, cooling, hot water, or electricity for residential use. The system must also be installed and used at your principal residence in New York State.

... Solar Energy System Equipment Credit

- The credit is equal to 25% of your qualified solar energy system equipment expenditures and is limited to \$5,000.
- The solar energy system equipment credit is not refundable. However, any credit amount in excess of the tax due can be carried over for up to five years.
- Note: There is also the Federal Solar Investment Tax Credit (ITC) that is 30% of the cost of the solar panel system (credit falls to 26% at the end of 2032). In addition to NYS solar rebates, loans, sales tax exemptions, and property tax exemptions.

... Heating Oil Conversion Credit

- A refundable tax credit for the costs incurred by taxpayers to convert from grade no. 6 heating oil usage to biodiesel fuel or a geothermal system.
- The credit, which is allowed for 50% of the conversion costs, applies to costs paid on or after January 1, 2022, and before July 1, 2023. The credit cannot exceed \$500,000 per facility.

... Geothermal Energy Systems Credit

- The new geothermal tax credit is available for any system installed after January 1, 2022. The credit equals 25% of qualified geothermal energy system expenditures, not to exceed \$5,000. and homeowners can carry the tax credit forward for five years if their New York income tax liability is less than \$5,000.
- Note that this can be coupled with the Federal tax credit.

... Clean Heating Fuel Credit

- A credit is allowed against the corporate franchise and personal income taxes for bioheating fuel that is used for space heating or hot water production for residential purposes within New York and that is purchased on or after July 1, 2006, and before July 1, 2007, and on or after January 1, 2008, and before January 1, 2026.
- The credit amount equals \$0.01 per percent of biodiesel per gallon of bioheating fuel, not to exceed 20 cents per gallon, purchased by the taxpayer. The credit sunsets December 31, 2025.

Alternative Fuels and Electric Vehicle Recharging Property Credit

- **Extended through 2025.**
- Available for businesses who install EV charging infrastructure, and it applies for Level-2 and DC fast chargers. When installing these technologies, businesses can claim a tax deduction of \$5,000 or 50% of charging station costs, whichever is less.
- Important conditions:
 - The EV charger must be installed in a NY state property.
 - At least 50% of EV charging operations must correspond to business activity carried on within NY state.
- If your EV charger qualifies for any grants or incentives, you must deduct those benefits first and calculate the tax credit based on net costs. The incentive is also available for alternative refueling systems that dispense fuels where at least 85% of the volume is natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen.

Additional Credits

Video Game Production Credit

... Empire State Digital Gaming Media Production Credit

- A new empire state digital gaming media production credit is available for qualified taxpayers from January 1, 2023, through December 31, 2027.
- Qualified digital gaming media production costs incurred and paid in New York may be eligible for a credit of up to 25% of their production costs.

... Additional New York State Tax Credits and Incentives

- New York City Pass Through Entity Tax (PTET).
- Farm Employee Overtime Credit.
- Farm Workforce Retention Credit – expansion.
- Investment Credit for Farmers – expansion.
- Cannabis Subtraction Modification.
- Restaurant Return to Work Credit – expansion.
- And more...

New York Residency & Tax Audits

... New York Residency & Tax Audits

Common Questions

- What do I have to do in order to change residency to another state (for example - Florida)?
- If my residency becomes Florida (or another state), do I still have to pay any New York taxes?
- What are the chances of being audited when changing residency out of New York State?

... New York Residency & Tax Audits

- New York Tax Law Section 605(b) – Defines a “resident individual” of New York State as either:
 - 1) An individual who is domiciled in this state; or
 - 2) An individual who maintains a permanent place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state.

... New York Residency & Tax Audits

Domicile in New York (Test #1)

- Defined in 20 NYCRR §105.20(d):
- “Domicile, in general, is the place which an individual intends to be such individual’s permanent home – the place to which such individual intends to return whenever such individual may be absent.”

... New York Residency & Tax Audits

Domicile – Factors to be Considered

- **Primary Factors (5):**
 - Home;
 - Active Business Involvement;
 - Time;
 - Items “Near and Dear;” and
 - Family Connections.

... New York Residency & Tax Audits

Domicile – Factors to be Considered

- **“Other” Factors:**
 - Address at which bank statements, bills, etc. are received;
 - Physical location of safe-deposit boxes;
 - Location of auto, boat registrations, and driver’s license;
 - Voter registration and where taxpayer voted; and
 - Legal documents including wills, divorce documents, etc.

... New York Residency & Tax Audits

Primary Domicile Factors

- **Home:**
 - Where home(s) are maintained (NY and other);
 - Is former NY residence sold or is it retained?;
 - Size and value of the residence (NY and other); and
 - Nature of use.

... New York Residency & Tax Audits

Primary Domicile Factors

- **Active Business Involvement:**
 - Location(s) of the business;
 - Degree of active involvement;
 - Extent of control and supervision; and
 - Involvement in non-NY business activities.

... New York Residency & Tax Audits

Primary Domicile Factors

- **Time:**
 - Where taxpayer spends the majority of their time;
 - Pattern of location before and after the change of domicile date; and
 - It is important to note that any part of a day spent in New York is considered a day inside New York for this analysis.

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Primary Domicile Factors

- **Items “Near and Dear:”**
 - Location of pets, personal items, or other sentimental possessions (i.e., items of value, family photo albums); and
 - Insurance riders are reviewed for valuable items (location).

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Primary Domicile Factors

- **Family Connections:**
 - Location of immediate family (spouse and minor children);
 - Location of minor child's school (NY vs. other); and
 - Location of other family members (siblings, parents).

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Primary Domicile Factors

- The burden of proof is on the party claiming the change in domicile to provide “clear and convincing” evidence to support the claim.
- New York Tax Department will look for a change, in fact, pattern, to show a change in lifestyle has occurred to support the change in domicile.

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The “Other” Domicile Factors

- Other factors, such as driver’s license, voter registration, etc. is often not used in making the domicile determination.
- Failure for the taxpayer to do the other domicile factors does not necessarily help or hurt the taxpayer’s case but can be supporting of a primary factor.

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New York Statutory Resident (Test #2)

- Defined in Tax Law Section 605(b)(1)(B), a statutory resident is an individual:

“Who maintains a permanent place of abode in this state and spends in the aggregate more than one hundred eighty-three days of the taxable year in this state, whether or not domiciled in this state for any portion of the taxable year, unless such individual is in active service in the Armed Forces of the United States.”

Commonly referred to as the “183-day rule.”

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Statutory Resident – Permanent Place of Abode (“PPA”)

- Defined in NY Tax Regulation Section 105.20(e), a permanent place of abode is a:
 - “Dwelling place of a permanent nature maintained by the taxpayer, whether or not owned by him, and will generally include a dwelling place owned or leased by his or her spouse.”

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Statutory Resident – Permanent Place of Abode (“PPA”)

- **Physical attributes:**
 - Suitable for year-round use:
 - No heat for winter months.
 - No access to road during winter months.
 - Must contain facilities ordinarily found in a dwelling (cooking and bathing facilities).

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Statutory Resident – Permanent Place of Abode (“PPA”)

- **Substantial Part of the Year:**
 - PPA must be maintained for “substantially all of the taxable year.”
 - Prior to 2022, this was defined to mean a period exceeding 11 months.
 - In 2022, definition was changed to mean a period exceeding 10 months.
 - Note: This rule applies in the year of acquisition or disposition of a residence.

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Statutory Resident – A Day Spent in New York

- **What counts as a day spent in New York?**
 - NY Regulation Section 105.20 states that “presence within New York State for any part of a calendar day constitutes a day spent within New York.”
 - Very literally, this means if you are in New York State for any period of time (with few exceptions), it will count as a whole day towards the 183-day rule.

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Statutory Resident – A Day Spent in New York

- **What does not count as a day spent in New York?**
 - Travel: Presence is disregarded if solely traveling through New York State to another destination.
 - For example, driving from Massachusetts to Pennsylvania (through NY) would not count as a day.
 - Medical: Treatment for a serious illness in a New York medical facility is disregarded as a day spent in New York.

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Tax Reporting Issues – Nonresidents

- Nonresidents with New York sourced income (required to file a New York tax return) have a disclosure requirement.
- Disclosure is required if the taxpayer or spouse maintained living quarters within New York at any time during the tax year.

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Department of Taxation and Finance

Nonresident and Part-Year Resident Income Tax Return

New York State • New York City • Yonkers • MCTMT

For the year January 1, 2021, through December 31, 2021, or fiscal year beginning
and ending

IT-203

21

A Filing status (mark an X in one box):

- ① ☐ Single
- ② ☐ Married filing joint return
(enter both spouses' Social Security numbers above)
- ③ ☐ Married filing separate return
(enter both spouses' Social Security numbers above)
- ④ ☐ Head of household (with qualifying person)
- ⑤ ☐ Qualifying widow(er)

B Did you itemize your deductions on your 2021 federal income tax return? Yes ☐ No ☐

C Can you be claimed as a dependent on another taxpayer's federal return? Yes ☐ No ☐

D1 Did you have a financial account located in a foreign country? (see page 13) Yes ☐ No ☐

D2 Were you required to report any nonqualified deferred compensation, as required by IRC § 457A, on your 2021 federal return? (see page 13) Yes ☐ No ☐

E New York City part-year residents only (see page 13)

(1) Number of months you lived in NY City in 2021

(2) Number of months your spouse lived in NY City in 2021

F Enter your 2-character special condition code(s) if applicable (see page 13)

G New York State part-year residents (see page 14)

Enter the date you moved into or out of NYS (mmddyyyy)

On the last day of the tax year (mark an X in one box):

1) Lived in NYS ☐

2) Lived outside NYS; received income from NYS sources during nonresident period ☐

3) Lived outside NYS; received no income from NYS sources during nonresident period ☐

H New York State nonresidents (see page 14)

Did you or your spouse maintain living quarters in NYS in 2021? Yes ☐ No ☐

(If Yes, complete Form IT-203-B)

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Department of Taxation and Finance

Nonresident and Part-Year Resident Income Allocation And College Tuition Itemized Deduction Worksheet

IT-203-B

Schedule B – Living quarters maintained in New York State by a nonresident

Mark an **X** in the box if NYS living quarters were maintained for you or by you for the entire tax year ☐

If you or your spouse maintained living quarters in NYS during any part of the year, give address(es) below. Submit additional sheets if necessary. For column **E**, mark an **X** in the box if the living quarters are still maintained for or by you.

A – Street address	B – City, village, or post office	C	D – ZIP code	E
		NY		<input type="checkbox"/>
		NY		<input type="checkbox"/>
		NY		<input type="checkbox"/>
		NY		<input type="checkbox"/>

Enter the number of days spent in New York State in this tax year

Any part of a day spent in New York State is

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New York Residency Audit

- What is involved with a residency audit?
 - The audit process can be a very invasive process concerning your personal and financial data.
 - New York agents will review data to build a case to examine patterns and lifestyle changes before and after the change in residency.

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New York Residency Audit

- What types of information will be requested?
 - Nonresident Audit Questionnaire.
 - Cell phone records/bills.
 - Credit card statements.
 - Flight records.
 - EZ-Pass statements.
 - Calendars and appointment logs.

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Back to the Common Questions

- What do I have to do in order to change residency to another state (for example - Florida)?
- If my residency becomes Florida (or another state), do I still have to pay any New York taxes?
- What are the chances of being audited when changing residency out of New York State?

Questions





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