



Employer's Guide to Unemployment Insurance, Wage Reporting and Withholding Tax

Effective January 1, 1999

This booklet contains general information, rules, requirements and quick reference charts for:

- New York State Unemployment Insurance
- New York State Wage Reporting Program
- New York State, city of New York, and city of Yonkers income tax withholding
- New York State New Hire Reporting Program

It also contains:

New York State Tax Department and New York State Department of Labor (Unemployment Insurance Division) addresses and telephone numbers for further assistance.

Overview of Information Contained in Your Employer's Guide

Your new Employer's Guide includes the following:

- ☐ Reporting and payment rules, definitions, and responsibilities for
 - unemployment insurance contributions (see Section I on page 1),
 - submitting wage reporting information (see Section II on page 15),
 - supplemental wage reporting for construction companies (see page 16),
 - income tax withholding (see Section III on page 17),
 - filing requirements (see Section IV on page 22), **and**
 - new hire reporting (see Section V on page 29).
- ☐ A comprehensive *Need Help* area with telephone numbers and addresses of the offices you can contact for assistance regarding your various employer responsibilities.
- ☐ Income Tax Withholding Tables, Charts, and Methods for New York State, the city of New York and the city of Yonkers.

Unemployment Insurance Reform

Unemployment Insurance Reform Legislation was recently enacted that will bring significant changes to the state's unemployment insurance program. Some of the changes affecting employers include the following:

Tax Rate Equity — Changes effected by this legislation will more equitably distribute unemployment insurance costs to employers by assigning tax rates that better reflect an employer's wages, reporting history and employee turnover.

- The tax rate table has been expanded, providing for normal tax rates ranging from 0% to 8.5% (.085).
- The taxable wage base increases from the first \$7,000 an individual earns in a calendar year to \$8,500.
- Experience rating provisions are expanded to increase the threshold for negative account balance write-offs.
- The subsidiary tax will now be based on the employer's individual unemployment insurance experience.
- The supplemental tax that was previously imposed when the size of the fund dropped below a certain level has been repealed.

Seasonal Industry Protection — The law takes into account the needs of seasonal employers with negative account balances by reducing the impact of the tax shift if certain levels of employment are maintained from year to year.

Re-employment Service Fund — The new legislation creates a Re-employment Service Fund which will be used to provide and support additional State Department of Labor resources to better assist unemployment insurance claimants statewide in finding work. Tax rated employers will pay an additional contribution of 0.075% (.00075) of their taxable wages to this fund.

The above provisions take effect January 1, 1999.

Use of wage reporting — New York was the only state in the nation that did not use a wage reporting system to determine unemployment insurance eligibility and benefits. Instead, wage information was requested from employers by the State Labor Department to verify information provided by former employees filing claims. Under the new wage reporting system, computerized wage information already available from the Department of Taxation and Finance will be used to verify wages, thereby ensuring accurate and more timely information without burdening employers.

Beginning April 1, 1999, wage reporting will be used to determine unemployment insurance benefit rates.

Effective April 1, 1999, the Unemployment Insurance Reform Legislation provides for additional changes involving claimant eligibility, unemployment insurance benefit rates, the base period for benefit claims and the benefit charging formula. Further information regarding these changes will be provided in separate publications.

Unemployment Insurance Reporting now Included with Tax Department's Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return (new Form NYS-45, formerly NYS-4)

Chapter 477 of the Laws of 1998 amended the Tax Law and the Administrative Code of the city of New York to consolidate quarterly employer unemployment insurance, withholding and wage reporting filing and payment responsibilities. Starting with the tax return

covering the first calendar quarter of 1999, due April 30, 1999, the majority of employers will have to complete only one report (Form NYS-45, and Form NYS-45-ATT, if applicable) for both the New York State Department of Labor and New York State Department of Taxation and Finance to report unemployment insurance, income tax withholding, and wage reporting information. In addition, only one check will be required to pay the combined amount of unemployment insurance contributions and withholding taxes due with the quarterly return.

Submission of Wage Reporting Information Unchanged

As was previously required, every employer who is liable under the provisions of the New York State Unemployment Insurance Law must file a quarterly wage report with the New York State Tax Department on Form NYS-45, Part C (or NYS-45-ATT, if applicable), showing the name, social security number and gross wages paid to each employee performing services in employment. Employer and employment have the same meaning for wage reporting purposes as they do for unemployment insurance purposes. The term gross wages has the same meaning for wage reporting purposes as remuneration does for unemployment insurance purposes.

Construction Companies have New Supplemental Wage Reporting Requirement Beginning 1st Quarter of 1999 - New Form NYS-45-CC

In addition to the employee specific wage reporting information required on Form NYS-45, Part C (or NYS-45-ATT if applicable), every employer defined as a construction company is required to submit employee wage reporting information not specific to individual employees on new Form NYS-45-CC, *Quarterly Supplemental Wage Reporting Return to be Filed by Construction Companies*.

Withholding Rates Reduced for City of New York Residents and Yonkers Residents

The withholding tax rates for city of New York residents have been decreased. The top marginal withholding rate has been reduced from 4.68% (.0468) to 4.25% (.0425). The top withholding tax rate for Yonkers residents has been decreased from 1.1025% (.011025) to .735% (.00735). The tables and exact calculation charts in this employer's guide have been updated to reflect these reductions. The income tax withholding tables and exact calculation charts for New York State, the city of New York and Yonkers are located in section VII, *Withholding Tax Tables and Methods*, beginning on page T-1 of your employer's guide.

The rate of withholding for payments of supplemental wages have been comparably reduced for city of New York and Yonkers residents. The supplemental rate of withholding is now 4.08% (.0408) for city of New York residents, and .735% (.00735) for city of Yonkers residents. For other supplemental rates or for more information about treating a payment as supplemental wages, see *Supplemental wage payments*, on page 20 of your employer's guide.

Reporting Newly Hired Employees

To facilitate the accurate and prompt determination of child support obligations, Chapter 81 of the Laws of 1995 requires that all employers report to the New York State Department of Taxation and Finance certain identifying information about each newly hired or rehired employee working in New York State. This information is required for employees hired on or after March 1, 1996.

For Answers to Your Questions and Further Assistance

If you have questions or need forms, publications, or addresses, please see our extensive *Need Help* area in section VI of your employer's guide, beginning on page 30. This area will provide you with a complete listing of forms, publications, telephone numbers and addresses (locations) for both the Department of Labor (Unemployment Insurance) and the Department of Taxation and Finance.

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I. Unemployment Insurance Program

A. Preface

The New York State Unemployment Insurance Program, which is administered by the State Labor Department, provides immediate, short-term financial protection for people who are out of work through no fault of their own. It is financed by employers through a tax on their payrolls. This section is designed to provide general information on the program and your role in ensuring that it functions efficiently. Here you will find information on:

- What constitutes employment under the Unemployment Insurance Law
- Who is an employer
- Record keeping requirements
- Reporting requirements
- Your right to a hearing on unemployment insurance determinations
- How unemployment insurance tax rates are computed
- Controlling unemployment insurance costs

Statements in this section are intended for general information and do not cover all provisions of the Unemployment Insurance Law, and do not have the effect of law or regulation. Please refer to the *Need Help?* Section on page 31 of this booklet for addresses, telephone, and fax numbers to contact for additional information.

You may review the New York State Unemployment Insurance Law (Article 18 of the New York State Labor Law) at our website (www.labor.state.ny.us) or at your local library.

B. Employment

The Unemployment Insurance Law defines employment as any service, unless specifically excluded, performed for compensation under a contract of hire whether the contract is expressed or implied, written or oral, and without regard to whether the service is performed on a part-time, full-time or casual basis.

Covered employment

Employees may perform services on or off the employer's premises or in their own homes. Homeworkers are considered employees under the State Labor Law.

Officers of all corporations, including professional, Subchapter S and other closely held corporations, who perform services for the corporation are employees of that corporation. Their compensation for these services is taxable. However, members of a Limited Liability Company (LLC), Limited Liability Investment Company (LLIC) or Limited Liability Trust Company (LLTC) are not considered employees and their earnings are not taxable.

Employment specifically covered under the Unemployment Insurance Law includes:

1. Agent or commission drivers engaged in distributing meat, vegetables, fruit or bakery products; beverages (other than milk); laundry or dry cleaning services.
2. Traveling or city salespersons who work full-time soliciting orders for merchandise for resale or use in the purchaser's business operations.
3. Professional musicians or persons otherwise engaged in the performing arts, who perform services as such for a television or radio station or network, a film production, a theater, hotel, restaurant, night club or similar establishment unless, by written contract, such musicians or persons are stipulated to be employees of another employer.

4. Professional models who perform modeling services for, or who consent in writing to transfer use of their name or likeness for purposes of advertising or trade to, a person or entity that dictates assignments, hours of work or performance location and that compensates them, in return for a waiver of their privacy rights, unless the services are performed under a written contract that states the model is an employee of another covered employer.

State of jurisdiction

Generally, employees who work entirely within New York are covered under New York's Unemployment Insurance Law, and all of their earnings must be reported to New York. However, in instances where only part of an employee's services are performed in New York, it is necessary to determine the state to which payments for services should be reported. In some cases, an employee may be covered by New York law even if no services are performed in New York, providing that the services are not covered under the law of any other state. Further information on determining the state to which wages should be reported is available in our pamphlet, *Jurisdiction of Employment*, IA 116.3.

Maritime service

Maritime service on vessels of American registry which operate in more than one jurisdiction, regardless of where the service is performed, is covered employment in New York, provided the vessels are normally managed and controlled from an office in this state.

Noncovered employment

The services of certain employees are not covered under the Unemployment Insurance Law. Their earnings are not taxable, and they do not accrue rights to unemployment benefits. Following is a listing of specific exclusions for various types of employers.

Exclusions applicable to all employers

- Independent contractors
- Students in regular attendance in the educational institution which employs them if their employment is incidental to their course of study.
- Student's spouse employed by student's educational institution if advised at time of hire that the employment is under a program of financial assistance to the student.
- Students enrolled in nonprofit or public educational institutions in certain work-study programs.
- Students enrolled full-time in an educational institution, who are employed at certain camps.
- Spouse or child (under 21) of sole proprietor.
- Persons whose employment is subject to the Federal Railroad Unemployment Insurance Act.
- Free-lance shorthand reporters under certain conditions.
- Licensed real estate brokers or sales associates under certain conditions.

Exclusions applicable to all employers except nonprofit organizations and governmental entities

- Daytime students in elementary or secondary schools. (However, taxes may be required on students' earnings; see *students* on page 2).
- Children under the age of 14.
- Babysitters under the age of 18 at the home of the employer.
- Golf caddies.

- Persons under the age of 21 performing casual services consisting of yard work and household chores about a residence.

Exclusions applicable only to nonprofit organizations

- Duly ordained ministers in the exercise of their ministry.
- Members of religious orders in the performance of their duties.
- Lay members elected or appointed to an office within the discipline of a bona fide church and engaged in religious functions.
- Persons employed at a place of religious worship as a caretaker or for the performance of duties of a religious nature.
- Persons receiving rehabilitative services in a facility conducted for such purposes.
- Persons given remunerative work in a facility conducted for the purpose of providing such work for persons of impaired physical or mental capacity.
- Inmates of a custodial or penal institution working for a nonprofit organization.
- Participants in Youth Service Programs under certain conditions.

Exclusions applicable only to governmental entities

- Elected officials.
- Members of legislative bodies or the judiciary.
- Individuals hired on a temporary basis in case of fire, snow, earthquake, flood or similar emergency.
- Inmates of custodial or penal institutions.
- Officials in major nontenured, policymaking or advisory positions.
- Individuals in policymaking or advisory positions whose official duties do not require more than 8 hours a week to perform.

Independent contractors

Independent contractors are excluded from unemployment insurance coverage. These are persons who are actually in business for themselves and hold themselves available to the general public to perform services.

While the statute does not define an independent contractor, unemployment insurance case law has held that common law

tests of master and servant must be applied in making a determination of whether services rendered by an individual are in the capacity of an employee or an independent contractor. Under these tests, all factors concerning the relationship between the two parties must be taken into consideration to determine if the party contracting for the services exercises, or has the right to exercise, supervision, direction or control over the party performing the services. If the circumstances demonstrate either the exercise of, or the right to exercise, such supervision, direction and control, it must be held that the services rendered are employment.

Since matters concerning the status of persons as employees or independent contractors are often complex, it is recommended that employers write to the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31) furnishing complete details of the relationship with the person engaged to render services and request a determination of their status. Failure to report and pay the tax due on the earnings of persons on the assumption that they are independent contractors may result in additional assessments and interest if their services are later determined to be employment.

Further information is available in our pamphlet, *Independent Contractors*, IA 318.14.

Students

Daytime students in elementary and secondary schools who perform services for employers other than nonprofit organizations and governmental entities are not covered for unemployment insurance, even if they work only during summer or other vacation periods or on weekends. However, their earnings are taxable if the employer is subject to the Federal Unemployment Tax Act. Such students who perform services for certain camps (see chart on page 4), including those operated by nonprofit organizations and governmental entities are not covered and their earnings are not taxable.

Services performed by college students are generally covered. Exceptions are noted in the list of exclusions, beginning on this page, see also chart on page 4.

Complete information on student coverage is available in our pamphlet, *Students and NYS and Federal Unemployment Insurance Tax Reporting*, IA 318.10.

Covered and excluded employment

The following chart may be used as a guide in determining whether a specific type of employment is taxable under the Unemployment Insurance Law. Questions concerning coverage of particular services should be directed to the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

Class of employment	Treatment under UI Law
Aliens	Covered employment if services are performed by an alien lawfully present in the United States for the purpose of performing such work or lawfully admitted for permanent residence in the United States. Although illegal aliens may not collect benefits, any remuneration paid to them is taxable.
Baby-sitters under age 18	Excluded unless performed for nonprofit organizations or governmental agencies
Casual laborers	Covered employment
Casual laborers under age 21	When services consist of yard work and household chores in and about a residence, and do not involve the use of power-driven machinery: 1. Covered employment if performed for nonprofit organizations and governmental entities. 2. Excluded employment if performed for employers other than nonprofit organizations and governmental entities.
Children under age 14	1. Covered employment if performed for nonprofit organizations and governmental entities. 2. Excluded employment if performed for employers other than nonprofit organizations and governmental entities.
Corporate officers	Covered if performed by officers for corporations, including professional, subchapter S and closely-held corporations.

Covered and excluded employment (continued)

Drivers - Agent or commission	Covered employment when engaged in distributing meat, vegetables, fruit or bakery products; beverages (other than milk); laundry or dry cleaning services.
Family employment - Minor children, under 21, of a sole proprietor Spouse of sole proprietor Child/spouse of partner Any family member employed by corporation	Excluded employment (includes stepchildren) Excluded employment Covered employment Covered employment
Employment outside NYS	Generally, services performed entirely outside NYS are excluded. However, if such services are not covered under the laws of any other state, they are covered under NYS law if performed: (1) outside the United States (except Canada and the Virgin Islands) by a citizen of the US for an American employer whose principal place of business is located in NYS; (2) within the United States, Canada or the Virgin Islands, if the place from which the services are directed and controlled is in New York State. If none of these conditions apply, and the services are performed by a NYS resident, an employer may elect to voluntarily cover the services.
Golf caddies	Excluded unless performed for nonprofit organizations or governmental entities.
Government employees	The following types of employment are excluded for governmental entities: <ul style="list-style-type: none"> • elected officials • members of legislative bodies or the judiciary • members of the NYS National Guard or Air National Guard, except a person who renders such services as a regular state employee • individuals hired on a temporary basis in case of fire, snow, earthquake, flood or similar emergency • inmates of custodial or penal institutions • officials in major, nontenured policy making or advisory positions • individuals in policy making or advisory positions whose official duties do not require more than 8 hours per week to perform.
Homeworkers	Covered employment
Independent contractors	Excluded
Individual proprietor	Earnings are not taxable under UI and services cannot be covered on a voluntary basis.
Inmates of a custodial or penal institution	Excluded if performed for nonprofit organizations and governmental entities.
Joint or shared employment	Taxes are required only on the first \$8,500 of the total annual earnings of a person jointly employed by two or more employers if the employers are financially related. However, employers who are not financially related and who share the services of a single employee are required to report and pay the tax on their own shares of the employee's earnings. Each is liable for taxes up to the annual taxable limit of \$8,500 on its share.
Limited Liability Company members	Excluded employment
Maritime employment	Covered employment. If a vessel operates in more than one jurisdiction: covered in New York State, provided the services are performed on vessels of American registry which are normally managed and controlled from an office in New York State.
Ministers, ordained	Excluded employment for nonprofit organizations. Also excluded for nonprofit organizations are members of religious orders in the performance of their duties, members elected or appointed to an office within the discipline of a bona fide church and engaged in religious functions, and persons employed at a place of religious worship as a caretaker or for performance of duties of a religious nature.
Models	Covered employment *
Musicians	Covered employment *
Partners (including Limited Liability Partnership)	Earnings are not taxable under UI Law and services cannot be covered on a voluntary basis.
Part time employment	Covered employment, unless specifically excluded.
Performing Artists	Covered employment *
Railroad Unemployment Insurance Act, employees subject to	Excluded employment
Rehabilitative services, persons receiving	Excluded employment for nonprofit organizations, for persons receiving rehabilitative services in a facility conducted for such purposes.
Remunerative work, persons given	Excluded employment for nonprofit organizations for persons given remunerative work in a facility conducted for the purpose of providing such work for persons of impaired physical or mental capacity.

Covered and excluded employment (continued)

Salespersons - Traveling or city	Traveling or city salespersons who work full time soliciting orders for merchandise for resale or use in the purchaser's business is covered employment, if substantially all of such work is to be personally performed and the person performing it has no substantial investment in the facilities used in performance of such services except the facilities for transportation.
Licensed Real Estate brokers or sales associates	Excluded employment if substantially all of the remuneration for the services performed is directly related to sales or other output, rather than to the number of hours worked, and the services are performed pursuant to a written contract containing certain provisions.
Seasonal employment	Covered employment unless specifically excluded*
Students - College and other students in school beyond high school Elementary and high school students	Covered employment unless specifically excluded* 1. Covered employment only if employed by nonprofit organizations and governmental entities 2. Excluded employment when in regular daytime attendance and employed by other than nonprofit organizations and governmental entities. However, if the employer is subject under FUTA, these earnings must be reported either quarterly or annually.
Students in regular attendance in the educational institution which employs them or their spouses	Excluded employment. The spouse's employment is excluded if advised at the time of hire that the employment is under a program of financial assistance to the student and will not be covered for unemployment insurance purposes.
Students enrolled in nonprofit or public educational institutions in certain work-study programs which combine academic instruction with work experience	Excluded employment.
Students enrolled full-time at a secondary or higher educational institution or, if between academic years or terms, there is a reasonable assurance that the student will be enrolled in the succeeding academic year or term.	Excluded if services performed for a camp as defined in Sections 1391.1, 1396.1 or 1399(b), of the Public Health Law if: 1. The camp does not operate for more than 7 months during a year and the preceding year, or, must have average gross receipts for any 6 months in the preceding calendar year which were not more than 33 1/3% of its average gross receipts for the other 6 months of that year. 2. The student works less than 13 weeks in a year.
Temporary employment	Covered employment unless specifically excluded
Youth services program participants	Excluded for nonprofit organizations under certain conditions.

* See *Covered employment*, page 1, for services specifically covered by law. Recent Appeal Board and court decisions have determined that models, musicians and performing artists may be independent contractors under certain circumstances. For further information, contact the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

C. Who is an employer?

Employer types

An employer is an individual owner, a partnership, a corporation, a Limited Liability Company or any other enterprise for whom employees perform services. Other than general business employers, the various types of employer entities are:

Nonprofit Employers A nonprofit organization is one that is organized and operated exclusively for religious, charitable, scientific, literary or educational purposes. Generally, this includes organizations that qualify for exemption under Section 501(c)(3) of the Internal Revenue Code.

Governmental Employers Governmental entities are defined by law as "the State of New York, municipal corporations, and other governmental subdivisions and any instrumentality of one or more of the foregoing."

Household Employers are those who employ persons in personal or domestic service in their home or homes within New York State. The *Householder's Guide for Unemployment*

Insurance, IA 318D, is available upon request from the Department of Labor, Registration Subsection (see *Need Help?*, page 31).

Agricultural Employers Agricultural employers are those who employ persons who perform services:

1. On a farm* in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals, and wildlife;
2. In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;
3. In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed in the employ of an operator of a farm (a) as an incident to farming operations or (b) in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not apply to

service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

*As used in defining agricultural employment, the term "farm" includes stock, dairy, poultry, fur-bearing animal, fruit, and truck farms; plantations; nurseries; greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

Employers who have questions regarding whether specific kinds of services constitute agricultural labor should contact the Department of Labor, Liability and Determination Section. Further

information is also available in our pamphlet, *Agricultural Employment*, IA 318.11.

Liable employers

An employer who begins business in New York State is required to notify the Department of Labor, Unemployment Insurance Division promptly so that the firm's tax status can be determined.

The conditions for liability under the Unemployment Insurance Law differ among nonprofit, governmental, household, agricultural and all other employers. The chart below illustrates those conditions.

Conditions for liability

Type of employer	New York State Unemployment Insurance Law	Federal Unemployment Tax Act (FUTA)
Agricultural employers	Liable (1) as of the first day of the calendar quarter in which they pay cash remuneration of \$20,000 or more to persons in agricultural labor, or (2) as of the first day of the calendar year in which they employ 10 or more persons in agricultural labor on at least one day in each of 20 different weeks during that year or the preceding calendar year, or (3) as of the first day of the calendar quarter in which they pay any remuneration in this state to persons in agricultural labor if they are also liable under FUTA, with respect to agricultural labor.	Liable for any calendar year in which they (1) pay cash remuneration of \$20,000 or more in any calendar quarter of that year or the preceding year to persons in agricultural labor, or (2) employ 10 or more persons in agricultural labor on at least one day in each of 20 different weeks during that year or the preceding calendar year.
Employers of domestic or household workers	Liable as of the first day of the calendar quarter in which they pay cash remuneration totaling \$500 or more to persons employed in personal or domestic service in the employer's home or homes within the state.	Liable for any calendar year in which they pay cash remuneration of \$1,000 or more in any quarter during that year or the preceding calendar year.
Governmental entities	Liable as of the first day of the calendar quarter in which they pay remuneration to persons in covered employment.	Not liable.
Nonprofit organizations	Liable (1) as of the first day of the calendar quarter in which they pay cash remuneration totaling \$1,000 or more, or (2) as of the first day of the calendar year in which they employ four or more persons on at least one day in each of 20 different weeks during that year or the preceding calendar year.	Not liable.
All other employers	Liable (1) as of the first day of the calendar quarter in which the employer pays remuneration totaling \$300 or more, or (2) as of the day the employer purchases the business of, or otherwise becomes successor to, a liable employer.	Liable for any calendar year in which they (1) pay wages of \$1,500 or more during any calendar quarter in that year or the preceding year or (2) employ at least one person on at least one day in each of 20 different weeks during the calendar year or the preceding calendar year.

Voluntary coverage

Employers who are not liable under the law because they do not pay the required amount of remuneration or employ the required number of persons may elect voluntary coverage for their employees in New York State.

Employers who elect voluntary coverage must cover all their employees whose services are in covered employment. Employees whose services are excluded from covered employment cannot be covered even on a voluntary basis (see *Noncovered Employment*, beginning on page 1).

However, regardless of whether they are liable under the law, nonprofit employers may elect to cover either persons excluded from coverage because they work at a place of religious worship as caretakers or those performing duties of a religious nature, or both. Nonprofit employers who are not liable may limit their election to such persons.

An employer who elects voluntary coverage may do so as of the first day of any calendar quarter by applying in writing not later

than the last day of any calendar quarter. A written request for voluntary coverage should be sent to the Department of Labor, Liability and Determination Section. Such coverage extends for at least the remainder of that year and the following year. At the end of this period an employer may terminate voluntary coverage by writing to the Liability and Determination Section (see *Need Help?*, page 31). Coverage will end as of the close of the quarter in which the written request is received.

Termination of liability

Employers who no longer have employees and do not expect to hire any must write to the Department of Labor, Liability and Determination Section to have their account closed.

An employer's liability will also be terminated the first day of the calendar quarter following the calendar quarter in which a written request is sent to the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31), providing the following conditions are met:

General Business Employers They have paid remuneration of less than \$300 in each of the four consecutive calendar quarters preceding the day on which liability is to terminate.

Nonprofit Employers (1) They have paid cash remuneration of less than \$1,000 in each of the four consecutive calendar quarters preceding the day on which liability is to terminate, and (2) have not employed four or more persons on at least one day in each of 20 different weeks during that calendar year or the preceding calendar year.

Agricultural Employers (1) They have paid cash remuneration of less than \$20,000 to agricultural employees in each of the eight consecutive calendar quarters preceding the day on which liability is to terminate, and (2) have not employed 10 or more persons in agricultural labor on at least one day in each of 20 different weeks during the current or preceding calendar year, and (3) are not liable under the Federal Unemployment Tax Act as agricultural employers.

Household Employers They have paid cash remuneration totaling less than \$500 in each of the four consecutive calendar quarters preceding the day on which liability is to terminate.

D. Rights and responsibilities of a liable employer

Employer registration number

Each liable employer is assigned an eight-digit employer registration number that identifies the employer with the Unemployment Insurance Division. Employers should use their registration number on all correspondence, forms and remittances submitted to the Unemployment Insurance Division. This registration number is in addition to the Federal Employer Identification Number (FEIN).

Display of poster

Upon registration, employers (except household employers) will receive a poster, *Notice to Employees*, IA 133, which informs their workers that their jobs are protected by unemployment insurance. It must be posted where it may easily be seen by employees. Additional copies may be obtained by contacting the nearest Unemployment Insurance Tax Services Office or the Department of Labor, Registration Section (see *Need Help?*, page 31).

Record-keeping requirements

All employers must maintain records for each person they employ. The records must show:

1. The employee's name and social security account number, and
2. For each payroll period:
 - the beginning and ending dates,
 - the days the employee worked and the earnings for each day,
 - all other payments made to the employee, including vacation pay, bonuses, dismissal pay, tips, the reasonable value of board and lodging and other forms of compensation.

Records must be retained for the current year and at least three preceding years and be available for inspection by the Department of Labor.

Reporting requirements

Liable employers are required to report their payroll and pay unemployment insurance tax each calendar quarter, using Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* and Form NYS-45-ATT, if applicable. This is true whether or not wages are subject to withholding of tax or payment of tax under the Personal Income

Tax Law. Reporting forms are mailed to registered employers before the quarter ends. **The form must be completed and returned even if the employer had no payroll in the quarter** (see *Seasonal Employers*, below, for exception). An employer who does not receive the tax forms should call the Tax Department Business Information Center at 1 (800) 972-1233. Failure to file tax reports on time can increase an employer's future tax rate. In addition, any late payments of tax result in interest assessments and may also increase an employer's tax rate in future years (See *Consequences of late or inaccurate reporting*, page 7).

Quarterly filing due dates

Calendar quarter	Due date
January-February-March	April 30
April-May-June	July 31
July-August-September	October 31
October-November-December	January 31

Note: When the due date falls on a Saturday, Sunday, or legal holiday, it advances to the next business day. Although the fourth quarter Unemployment Insurance report is due on January 31, the wage reporting and annual employee wage and withholding information may be filed on or before February 28. If you elect to file this information after the Form NYS-45 due date of January 31, you must report it on separate Form NYS-45 ATT or on magnetic media.

Checks in payment of taxes due should be made to NYS Employment Taxes. Entering the eight-digit Unemployment Insurance Employer Registration Number as well as the Federal Employer Identification Number on the remittance will ensure proper crediting to the employer account.

Seasonal employers

If, due to the seasonal nature of your business, there is at least one quarter of the calendar year in which you do not make any wage payments subject to both income tax withholding and unemployment insurance contributions, you are eligible for seasonal employer status. To obtain seasonal employer status, you must file a Form NYS-45 with the seasonal employer box checked. Thereafter, you are **not** required to file Form NYS-45 for quarters in which you paid no wages subject to unemployment insurance and withholding. However, you must check the seasonal employer box on every return you are required to file, or you will lose your seasonal employer status and be subject to penalties for not filing a return for a subsequent quarter in the same calendar year.

Taxable limit

Unemployment insurance tax is paid **only on the first \$8,500** of remuneration paid to each employee in a calendar year (prior to 1999, the tax was paid on the first \$7000 of remuneration paid to each employee in a calendar year). Remuneration includes every form of compensation paid to covered employees including salary, cash wages, commissions, bonuses, tips, vacation pay, the reasonable value of meals, rent and lodging, and other types of noncash compensation.

In determining the first \$8,500 of remuneration paid to an employee, an employer who has acquired all, or a segregable part, of another employer's business may consider the wages paid by the former employer. Also, in determining the first \$8,500 of remuneration paid to an employee, wages paid and reported to another state may be considered. This usually pertains to an employee who is transferred into New York State.

Employers who share the services of a single employee are required to report and pay the tax on their shares of the employee's earnings. Each is liable for taxes up to the annual taxable limit of \$8,500. However, taxes are required only on the first \$8,500 of the total annual earnings of a person jointly employed by two or more employers if the employers are financially related.

Reporting tips and meals

Tips employees receive in connection with services performed are taxable and must be reported. Employers are required to advise their employees that they have the right to certify to the amount of tips they receive. A certification is a signed and dated statement furnished by the employee to the employer not less than once each calendar quarter indicating the amount of tips received.

The reasonable cash value of board, rent, housing or lodging is taxable and must be reported. An employer may not report a lower cash value for meals and lodging than the value placed on them in complying with minimum wage orders.

Further information is available in our pamphlet, *Reporting Meals, Lodging, Tips and Other Forms of Remuneration*, IA 318.15.

Payments to employees not reportable

Remuneration does not include the following, which are not taxable and should not be reported:

1. Payments for reasonable or accountable business expenses incurred by employees.
2. Dismissal or severance payments. (See *Annual Reports*, below, for exceptions.)
3. Compensation paid to daytime elementary and secondary school students. (See *Annual Reports*, below, for exceptions.)
4. Payments made by an employer of an employee's share of social security taxes.
5. Payments to an employee, other than vacation or sick pay, after the month in which the employee attains the age of 65, if no services were performed for the employer in the period for which such payment was made.
6. Insurance or annuity payments to an employee for retirement.
7. Payments made by an employer to, or on behalf of, any employee or an employee's dependents under a retirement, sickness, accident, medical, hospital or death benefit plan covering all or a class of employees. (See *Annual Reports*, below, for exceptions.)
8. Any other sickness or accident disability payments made more than six calendar months following the last month in which the employee worked.

Annual reports

Due to the provisions of the Federal Unemployment Tax Act (FUTA), special rules apply to certain types of payments. All employers other than nonprofit organizations and governmental entities must report and pay tax on the following payments if they are liable under FUTA: (1) compensation paid to daytime elementary and secondary school students, unless the students work for certain camps (see chart on page 4), (2) dismissal or severance pay, (3) the first six months of sick pay including disability payments. (Note: Occupationally related worker's compensation payments are not considered sick pay.)

These payments may be reported either quarterly on the quarterly tax reports, Form NYS 45-ATT, or annually on an Annual Supplementary Contributions Report, either form IA 7 or

IA 7A. An IA 7 is used by employers with a tax rate (normal plus subsidiary) of 5.4% or less and an IA 7A is used by employers with a tax rate of more than 5.4%. Annual reports, available from the Department of Labor, Employer Account Adjustment Section (see *Need Help?*, page 31), are due on or before January 31 for wages paid during the prior calendar year.

Although nonprofit organizations and governmental agencies are not subject to the Federal Unemployment Tax, they are required to pay the state tax quarterly on all student earnings, unless the organization or agency operates a certain type of camp (see chart on page 4). However, these employers are not required to report dismissal payments (severance pay) or sick pay.

Payments for services performed by college students are generally taxable quarterly whether or not the employer is subject to the Federal Unemployment Tax. (In certain situations, work performed by college students is not covered employment and their earnings are not taxable (see chart on page 4).

If you aren't sure whether specific payments to employees are taxable, contact the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

Consequences of late or inaccurate reporting

Employers who do not pay unemployment insurance taxes when due are charged interest of one percent per month on the unpaid balance. This interest may not be waived or reduced.

Taxes paid more than 60 days after their due date are not credited to the employer's experience rating account. As a result, they are not considered in the computation of the employer's tax rate. This means that an employer is likely to be assigned a tax rate that is higher than if the taxes were paid on time. Failure to file all required reports by December 31 will result in the assignment of the maximum normal and subsidiary tax rates. If an employer is unable to submit a tax payment, or even if there is no payroll in a particular quarter, the filing of the report is still required in order to avoid the assignment of the delinquent tax rate (see *Seasonal employers*, page 6 for an exception).

If an employer fails to file a required quarterly report or files an inaccurate report, and then fails to comply with a written request for a corrected or sufficient report (within 20 days of the request), the Commissioner of Labor will determine the amount of the contributions due based on available information.

When an employer defaults on payment of any amount determined due under the Unemployment Insurance Law, the Department of Labor is authorized to file a tax warrant in the Office of the County Clerk to secure payment of the amount due. When filed, a warrant becomes a judgement and a lien upon all real property and chattels real. Further, the warrant becomes a matter of public record and may seriously affect the employer's credit rating.

Failure to file all quarterly reports completely and accurately may result in the assessment of additional penalties (see *Summary of Penalties*, page 22-23).

Tax offset

Chapter 55 of the Laws of 1992 granted additional collection powers to State agencies for the collection of past due debt. Under this authority, the Labor Department refers unemployment insurance contributions, Re-employment Service Fund amounts, interest and penalties to the NYS Department of Taxation and Finance for offset against tax refunds and/or contract vendor payments otherwise due the employer.

Additional assessment for fraud

If an employer's failure to comply with unemployment insurance reporting requirements is determined to be due to fraud with the intent to avoid payment, a penalty of 50 percent of the total amount of the deficiency may be assessed and collected in the same manner as if it were additional tax due. Criminal penalties may also be imposed.

Re-employment service fund

In accordance with the Unemployment Insurance Law, a special Re-employment Service Fund has been established to assist unemployment insurance claimants in finding work. The fund is used to provide unemployed workers with such services as job placement, resume preparation, and workshops to match job seekers with jobs. Liable employers, excluding nonprofit and governmental employers who have elected the benefit reimbursement option (see *Benefit reimbursement option* below), are required to pay a re-employment tax of 0.075% (.00075) on their taxable payroll in addition to regular unemployment insurance taxes. This tax is reportable and payable on Form NYS-45, Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return. Re-employment Service Fund contributions cannot be used as a credit against taxes due under the Federal Unemployment Tax Act (FUTA), nor will they be used in the computation of the employer's tax rate.

Deductions from an employee's pay

The law expressly prohibits an employer from making a deduction from the earnings of an employee to pay any portion of the unemployment insurance tax. An employer violating this prohibition is guilty of a misdemeanor.

Refunds and credits

If an employer reports wages and pays unemployment insurance tax to a state other than New York and later finds that the tax should have been paid to New York, correcting adjustments may be made. Conversely, similar adjustments may be made when taxes are reported to New York in error. An employer should contact the Department of Labor, Liability and Determination Section to request corrections.

Refund or credit for overpayment of unemployment insurance tax or for interest or penalty erroneously paid may be obtained on application if made on or before the later of the following dates: one year after the payment was made, or three years and one month after the calendar quarter during which remuneration was paid that formed the basis for the tax, interest or penalty assessment erroneously made.

Benefit reimbursement option

Rather than paying the quarterly tax on their payrolls, nonprofit organizations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes (those exempt under Section 501(c)(3) of the Internal Revenue Code) and governmental entities have the option of reimbursing benefits paid to their former employees and charged to their accounts.

A request to elect the reimbursement option must be submitted in writing to the Department of Labor before the beginning of the calendar year in which it is to apply or within 30 days after the calendar quarter in which the nonprofit organization or governmental entity became liable under the Unemployment Insurance Law. The request must be in writing and sent to the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31). Failure to submit a timely request can only be excused if an employer can show good cause for the delay.

Following the end of each calendar quarter, a nonprofit organization or governmental entity that has elected this benefit

reimbursement option is billed for the total benefits charged. They are also required to complete Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, and Form NYS-45-ATT, if applicable, to include: number of employees; total remuneration (Part A line 1); Parts B and C; signature.

Employers electing the benefit reimbursement option are not required to contribute to the Re-employment Service Fund.

For more details about the benefit reimbursement option, see our pamphlet *Benefit Reimbursement*, IA 318.13.

The relationship of New York State and federal unemployment insurance reporting

The annual total taxable New York State wages reportable for Federal Unemployment Tax Act (FUTA) purposes on Form 940 should be reconciled to the taxable wages reported to the Unemployment Insurance Division for the year on the Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return, Form NYS-45. Employers should take time to review these figures and resolve any discrepancies before submitting the federal reports that are due January 31 each year. This will help ensure that proper credit is applied to the FUTA tax due and may prevent future questions resulting from any apparent discrepancy between the amount of taxable wages reported to each agency for the year.

An employer subject to FUTA will obtain a 5.4 percent credit against the federal tax if the state tax is paid in full by January 31 following the close of the taxable year. If the state tax is paid after January 31, the credit is limited to 90 percent of the amount which would have been allowable as a credit had the state tax been paid on time. Moreover, unless the state tax is paid, no credit may be taken against the federal tax.

Note: Re-employment Service Fund taxes paid may not be used to claim a credit against FUTA taxes.

Further information on this subject may be found in our pamphlet, *Students and NYS and Federal Unemployment Insurance Tax Reporting*, IA 318.10.

Maintaining accurate business information

On our employer database, the Unemployment Insurance Division is able to maintain several business addresses for an employer, so that correspondence is directed to the proper address. If you request, we will send correspondence to your representative (accountant, power of attorney or other agent). We are able to provide better service and protect your unemployment insurance account when you assist in keeping information up to date. You should notify us promptly if you: sell or transfer all or part of your operations; permanently discontinue your payroll; change the business's legal entity; add or delete members of a partnership; change the corporate name; change the trade name; change the corporate officers or principal stock ownership; change the mailing address; change the payroll address; or lease employees through an employee leasing company or engage the services of a management company. These changes should be reported on form IA 15, *Change of Business Information*, to the Department of Labor, Registration Subsection (see *Need Help?*, page 31).

Notice to employees leaving the job

An employer must give written notice to any employee who is terminated from employment, regardless of the reason for separation or whether it is a temporary or permanent separation. This notice must be provided on a form furnished or approved by the Department of Labor and must include: (1) the employer's name, (2) the New York State Employer Registration Number, (3) the mailing address where payroll records are kept and (4) a statement instructing the employee to present the notice when

filing a claim for benefits. An employer may request a supply of the Department's form IA 12.3, *Record of Employment*, or request approval of an equivalent form from the Department of Labor, Liability and Determination Section.

Benefit payments

To qualify for unemployment benefits, claimants must be out of work through no fault of their own, must demonstrate recent substantial attachment to the labor market, must be ready, willing and able to work and must be actively seeking suitable employment. Claimants may also qualify for benefits while attending a training course approved by the Commissioner of Labor.

When an individual files a claim for benefits, a base period is established. A claimant's benefit rate and entitlement to benefits are based on the amount of earnings during the base period.

For claims filed prior to April 1, 1999, employers for whom a claimant worked during the base period will be sent a *Request for Employment and Wage Data*, form LO 12, which will be used to establish the claimant's eligibility and benefit rate.

Beginning April 1, 1999, benefit rates will primarily be determined based on wages reported by employers on quarterly reporting Forms NYS-45 and NYS-45-ATT. In some circumstances, employers may be requested to provide wage information for a specific claim.

Benefits paid to claimants are charged to the experience rating accounts (see *Experience Rating*, following) of employers for whom they worked prior to separation from employment. Every benefit payment charged to an employer's experience rating account may have the effect of increasing that employer's tax rate in future years. Employers are advised on form IA 96, *Notice of Experience Rating Charges*, about all benefit payments to former employees that are charged to their account. Employers should promptly contact the unemployment insurance office through which the claim was filed (indicated on the notice) if: work is available for the claimant; the claimant has declined an offer of re-employment; or they believe the claimant is currently working or otherwise not entitled to benefits. If the charges appear incorrect for any other reason, employers should contact the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31). This will protect the experience rating account and, at the same time, assist the Unemployment Insurance Division in paying only qualified claimants.

For additional information on unemployment insurance benefit issues (claimant eligibility, benefit rates, the base period, the benefit charging formula), request form IA 318.2, *Unemployment Insurance Benefits - An Employer's Guide* or contact the local Community Service Center.

Hearings and appeals

An employer who objects to a ruling concerning liability for unemployment taxes or the benefit status of a former employee has 30 days from the date of the ruling to ask for a hearing before an Administrative Law Judge.

Employers dissatisfied with an Administrative Law Judge's decision can appeal to the Unemployment Insurance Appeal Board within 20 days from the date of mailing of the decision, provided the employer appeared or was represented at the hearing. Instructions for filing an appeal to the Board are shown on the Administrative Law Judge's decision. There is no charge for making these appeals.

Decisions of the Appeal Board may be appealed to Appellate Division of the New York State Supreme Court, Third Department, within 30 days of the mailing of the Appeal Board decision.

E. How are tax rates computed?

The New York State unemployment insurance tax paid by a liable employer is comprised of a normal tax, and a subsidiary tax. In addition, all liable employers, with the exception of nonprofit and governmental employers who have elected the benefit reimbursement option, are required to contribute to a separate Re-employment Service Fund.

Normal tax

The normal tax rate is calculated annually and reflects the employer's individual experience in the unemployment insurance system. Normal tax rates range from 0% to 8.5%. Normal taxes paid timely are credited to the employer's experience rating account (see *Experience Rating* below). A table of normal tax rates appears on pages 12 and 13.

Subsidiary tax

Employers are required to pay an additional, or subsidiary tax, which varies depending on the balance in the General Account as well as the employer's individual experience rating history. Unlike normal taxes, subsidiary taxes paid are not credited to individual employer accounts but to the General Account. Some of the items that affect the General Account include interest earned on the Unemployment Insurance Fund, balances of employers' accounts that have lapsed, taxes paid late and negative account balances that exceed 21% of an employer's taxable payroll. The subsidiary tax rate ranges from 0% to .925%. A table of subsidiary tax rates appears on page 14.

Re-employment service fund

All employers liable for unemployment taxes (this excludes nonprofit and governmental employers who have elected the benefit reimbursement option) are required to make an additional contribution to the Re-employment Service Fund each calendar quarter in the amount of 0.075% (.00075) of their quarterly taxable payroll (see *Re-employment service fund* page 8).

Experience rating

New York State Unemployment Insurance Law provides for a system of experience rating under which employers' normal and subsidiary tax rates are determined annually based on various factors including taxable payroll and benefits paid to former employees. For every liable employer, an account is set up to record the employer's experience. All normal taxes received within 60 days of their due date are credited to the account, and all benefits paid to former employees and chargeable to the account are debited. A late payment of taxes due may result in an interest assessment and may also adversely affect an employer's future tax rate (see *Consequences of late or inaccurate reporting* page 7).

Each employer's account balance is calculated on December 31 of each year (the computation date). The account balance is used to determine the account percentage that, in turn, is used to determine the employer's normal and subsidiary tax rates.

Account balance

When the taxes paid and credited to an employer's account exceed the benefits charged, the employer has a positive account balance and tax rates are based on the employer's positive account percentage (see *Account percentage* following).

When benefits charged to an employer's account exceed the taxes paid and credited, the employer has a negative account balance and tax rates are based on the employer's negative account percentage. However, if on December 31, the negative account balance exceeds 21% of the taxable payroll for the preceding payroll year (October 1 through September 30), the balance in excess of 21% is transferred out of the employer's account and charged to the General Account. For the succeeding year, the employer is assigned a normal tax rate based on the employer's negative account percentage prior to the transfer and, for the three following years, will be assigned the maximum tax rate for that year's size of fund index (see *UI Normal Tax Rates* pages 12 and 13).

An employer with stable employment who has a negative account balance on December 31 will receive an improvement of four percentage points to their account percentage for the purpose of determining the next year's normal tax rate. An employer is considered to be stable if the total wages paid by the employer during the payroll year preceding the computation date is greater than or equal to 80% of the previous three years' average total wages. However, the normal tax rate resulting from this adjustment may not be less than 6.1%.

Account percentage

The account percentage is the balance (positive or negative) in the employer's account on December 31 of any year divided by the average taxable payroll for the preceding five payroll years (October through September). If an employer has been liable for twenty-one or fewer calendar quarters, the average taxable payroll will be computed from the initial date of liability to the end of the last payroll year.

If the employer has been liable for twenty-one or fewer consecutive completed calendar quarters and has a positive account percentage, that percentage is multiplied by a benefit equalization factor to establish an equalized account percentage which is used to determine the employer's tax rate. This is done in order to give new employers equal opportunity with established employers to earn rate reductions.

Benefit equalization factor table

Number of quarters of employer liability	Employer's benefit equalization factor
5	3.00
6	2.50
7	2.05
8	1.75
9	1.55
10	1.40
11	1.25
12	1.12
13	1.04
14 through 21	1.00

Note: The benefit equalization factor does not apply to an employer with a negative account percentage because it would adversely affect the rate. If an employer with less than 21 quarters of liability becomes a successor to an employer with more than 21 quarters, the benefit factor does not apply.

Size of fund index

To link the normal and subsidiary tax rates to the overall condition of the Unemployment Insurance Fund, the law establishes various series of rates for qualified employers. A size of fund index determines which of these series is to be used for a particular calendar year. This index is the ratio of the balance in the fund as of December 31 to whichever is the higher: (1)

total taxable payrolls for all employers in the last preceding payroll year, or (2) the average of total taxable payrolls for all employers for the five preceding payroll years. The size of fund index percentage is shown on the annual notice of tax rates sent to each employer. Size of fund index percentages for 1999 and prior years may be obtained by calling the Department of Labor, Employer Account Adjustment Section (see *Need Help?*, page 31).

Tax rate notification

Employers are notified of their tax rates in March of each year well before the April 30 due date for the first quarter report. Tax rates also appear on the reporting forms sent to employers quarterly.

Qualified employer

To be qualified for a normal tax rate based on experience, an employer or the employer and any predecessor (1) must have been in the system during the five calendar quarters ending on the computation date of any year and (2) must have filed all contribution reports due for all periods of liability in the five payroll years (the payroll year encompasses the four consecutive calendar quarters ending on September 30) preceding the computation date, and (3) must have paid some remuneration to employees in the payroll year ending September 30 preceding the computation date.

Transfer of experience

When a transfer of business occurs, the acquiring employer takes over the transferring employer's experience rating account. If only a portion is transferred or sold, then only a portion of the account is transferred in proportion to the payroll or number of employees assigned to the transferred organization. The account taken over remains chargeable for benefits paid that are based on employment in the business prior to the transfer. Employers are notified of any resulting change in tax rates.

A transfer of business occurs when an employer transfers or sells all or part of an organization, trade or business to another employer, and at least one of the following conditions exists:

1. The acquiring employer has assumed any of the transferring employer's obligations.
2. The acquiring employer has acquired any of the transferring employer's goodwill.
3. The acquiring employer has continued or resumed the business of the transferring employer either in the same establishment or elsewhere.
4. The acquiring employer has employed substantially the same employees as those the transferring employer had employed in connection with the organization, trade, business, or part thereof transferred.

In the event of any business transfer in whole or in part, employers must notify the Unemployment Insurance Division. Notice of the transfer can be entered on the quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return or sent directly to the Liability and Determination Section on form IA 15, *Change of Business Information*. Notice of the transfer must be given to the Division before the end of the year following the calendar year in which the transfer occurred if the transfer is to be recognized for experience rating purposes.

Newly liable employer

Newly liable employers (those who, together with the previous owners of the business, if any, have not been liable for taxes more than one full calendar year before January 1) are taxed at a set rate on wages paid during the calendar year. The new employer normal tax rate is calculated each year based on the

size of fund index and is equal to the rate for an employer with a positive account percentage of less than 1%, except that the rate will not exceed 3.4%. This rate is in addition to the subsidiary tax and the Re-employment Service Fund tax.

Nonpayment of remuneration

An employer who, together with previous owners of the business, paid remuneration in prior years but has paid no remuneration during the payroll year that ended before the computation date, is assigned the normal tax rate for an employer with a positive account percentage of less than 1%, except that the rate will not exceed 3.4%. This rate is in addition to the subsidiary tax and the Re-employment Service Fund tax.

Reporting delinquency

Employers who fail to file all required contribution reports by December 31 are assigned the maximum normal tax rate based on that year's size of fund index, in addition to the maximum subsidiary tax and the Re-employment Service Fund tax.

Voluntary contributions

An employer may make a voluntary payment in addition to the regular tax payments in order to reduce a tax rate. Such payment is not refundable. To be considered as of a computation date, the payment must be made no later than the following March 31. Questions regarding voluntary contributions should be directed to the Department of Labor, Employer Account Adjustment Section (see *Need Help?*, page 31).

Joint accounts

A joint account may be established on application by any two or more qualified employers who are in the same or related kinds of business, or who have a common financial interest. For experience rating purposes, a joint account is treated as though the account belonged to a single employer. This means that all firms in the joint account have the same tax rate. However, each employer must continue to file their own separate quarterly report.

Once approved, a joint account must be maintained for at least two calendar years after the year in which it is established. Thereafter, it may be dissolved upon application by one or more of the employers if prior notice has been given the remaining employers. The dissolution is effective as of December 31 of the year in which the application is filed.

Employers who wish to establish or dissolve a joint account should apply in writing to the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

Further information on the calculation of tax rates is available in our pamphlet, *Experience Rating*, IA 318.12.

Following are tables showing normal tax rates based on the size of fund index, and subsidiary tax rates based on the General Account balance .

New York State Department of Labor Unemployment Insurance Division
Normal Tax Rates

The following table establishes rates for employers with a **negative** account percentage. This table reflects normal tax rates **only**. Any subsidiary rates or Re-employment Service Fund rates, or both, are added to the normal rate.

Employer's negative account percentage	Size of Fund Index											
	Less than 0%	0% but less than 0.5%	0.5% but less than 1.0%	1.0% but less than 1.5%	1.5% but less than 2.0%	2.0% but less than 2.5%	2.5% but less than 3.0%	3.0% but less than 3.5%	3.5% but less than 4.0%	4.0% but less than 4.5%	4.5% but less than 5.0%	5.0% or more
21.0% or more	8.5	8.3	8.1	7.9	7.7	7.3	6.9	6.5	6.2	6.1	6.0	5.9
20.5% or more but less than 21.0	8.4	8.2	8.0	7.8	7.6	7.2	6.8	6.4	6.1	6.0	5.9	5.8
20.0% or more but less than 20.5%	8.3	8.1	7.9	7.7	7.5	7.1	6.7	6.3	6.0	5.9	5.8	5.7
19.5% or more but less than 20.0%	8.2	8.0	7.8	7.6	7.4	7.0	6.6	6.2	5.9	5.8	5.7	5.6
19.0% or more but less than 19.5%	8.1	7.9	7.7	7.5	7.3	6.9	6.5	6.1	5.8	5.7	5.6	5.5
18.5% or more but less than 19.0%	8.0	7.8	7.6	7.4	7.2	6.8	6.4	6.0	5.7	5.6	5.5	5.4
18.0% or more but less than 18.5%	7.9	7.7	7.5	7.3	7.1	6.7	6.3	5.9	5.6	5.5	5.4	5.3
17.5% or more but less than 18.0%	7.8	7.6	7.4	7.2	7.0	6.6	6.2	5.8	5.5	5.4	5.3	5.2
17.0% or more but less than 17.5%	7.7	7.5	7.3	7.1	6.9	6.5	6.1	5.7	5.4	5.3	5.2	5.1
16.5% or more but less than 17.0%	7.6	7.4	7.2	7.0	6.8	6.4	6.0	5.6	5.3	5.2	5.1	5.0
16.0% or more but less than 16.5%	7.5	7.3	7.1	6.9	6.7	6.3	5.9	5.5	5.2	5.1	5.0	4.9
15.5% or more but less than 16.0%	7.4	7.2	7.0	6.8	6.6	6.2	5.8	5.4	5.1	5.0	4.9	4.8
15.0% or more but less than 15.5%	7.3	7.1	6.9	6.7	6.5	6.1	5.7	5.3	5.0	4.9	4.8	4.7
14.5% or more but less than 15.0%	7.2	7.0	6.8	6.6	6.4	6.0	5.6	5.2	4.9	4.8	4.7	4.6
14.0% or more but less than 14.5%	7.1	6.9	6.7	6.5	6.3	5.9	5.5	5.1	4.8	4.7	4.6	4.5
13.5% or more but less than 14.0%	7.0	6.8	6.6	6.4	6.2	5.8	5.4	5.0	4.7	4.6	4.5	4.4
13.0% or more but less than 13.5%	6.9	6.7	6.5	6.3	6.1	5.7	5.3	4.9	4.6	4.5	4.4	4.3
12.5% or more but less than 13.0%	6.8	6.6	6.4	6.2	6.0	5.6	5.2	4.8	4.5	4.4	4.3	4.2
12.0% or more but less than 12.5%	6.7	6.5	6.3	6.1	5.9	5.5	5.1	4.7	4.4	4.3	4.2	4.1
11.5% or more but less than 12.0%	6.6	6.4	6.2	6.0	5.8	5.4	5.0	4.6	4.3	4.2	4.1	4.0
11.0% or more but less than 11.5%	6.5	6.3	6.1	5.9	5.7	5.3	4.9	4.5	4.2	4.1	4.0	3.9
10.5% or more but less than 11.0%	6.4	6.2	6.0	5.8	5.6	5.2	4.8	4.4	4.1	4.0	3.9	3.8
10.0% or more but less than 10.5%	6.3	6.1	5.9	5.7	5.5	5.1	4.7	4.3	4.0	3.9	3.8	3.7
9.5% or more but less than 10.0%	6.2	6.0	5.8	5.6	5.4	5.0	4.6	4.2	3.9	3.8	3.7	3.6
9.0% or more but less than 9.5%	6.1	5.9	5.7	5.5	5.3	4.9	4.5	4.1	3.8	3.7	3.6	3.5
8.5% or more but less than 9.0%	6.0	5.8	5.6	5.4	5.2	4.8	4.4	4.0	3.7	3.6	3.5	3.4
8.0% or more but less than 8.5%	5.9	5.7	5.5	5.3	5.1	4.7	4.3	3.9	3.6	3.5	3.4	3.3
7.0% or more but less than 8.0%	5.8	5.6	5.4	5.2	5.0	4.6	4.2	3.8	3.5	3.4	3.3	3.2
6.0% or more but less than 7.0%	5.7	5.5	5.3	5.1	4.9	4.5	4.1	3.7	3.4	3.3	3.2	3.1
5.0% or more but less than 6.0%	5.6	5.4	5.2	5.0	4.8	4.4	4.0	3.6	3.3	3.2	3.1	3.0
4.0% or more but less than 5.0%	5.5	5.3	5.1	4.9	4.7	4.3	3.9	3.5	3.2	3.1	3.0	2.9
3.0% or more but less than 4.0%	5.4	5.2	5.0	4.8	4.6	4.2	3.8	3.4	3.1	3.0	2.9	2.8
2.0% or more but less than 3.0%	5.3	5.1	4.9	4.7	4.5	4.1	3.7	3.3	3.0	2.9	2.8	2.7
1.0% or more but less than 2.0%	5.2	5.0	4.8	4.6	4.4	4.0	3.6	3.2	2.9	2.8	2.7	2.6
Less than 1.0%	5.0	4.8	4.6	4.4	4.2	3.8	3.4	3.0	2.7	2.6	2.5	2.4

New York State Department of Labor Unemployment Insurance Division
Normal Tax Rates

The following table establishes rates for employers with a positive account percentage. This table reflects normal tax rates only. Any subsidiary rates or Re-employment Service Fund rates, or both, are added to the normal rate.

Employer's positive account percentage	Size of Fund Index															
	Less than 0%	0% but less than 0.5%	0.5% but less than 1.0%	1.0% but less than 1.5%	1.5% but less than 2.0%	2.0% but less than 2.5%	2.5% but less than 3.0%	3.0% but less than 3.5%	3.5% but less than 4.0%	4.0% but less than 4.5%	4.5% but less than 5.0%	5.0% or more				
Less than 1.0%	4.1	3.9	3.7	3.5	3.3	2.9	2.5	2.1	1.9	1.8	1.7	1.6				
1% or more but less than 2.0%	4.0	3.8	3.6	3.4	3.2	2.8	2.4	2.0	1.8	1.7	1.6	1.5				
2.0% or more but less than 3.0%	3.9	3.7	3.5	3.3	3.1	2.7	2.3	1.9	1.7	1.6	1.5	1.4				
3.0% or more but less than 4.0%	3.8	3.6	3.4	3.2	3.0	2.6	2.2	1.8	1.6	1.5	1.4	1.3				
4.0% or more but less than 5.0%	3.7	3.5	3.3	3.1	2.9	2.5	2.1	1.7	1.5	1.4	1.3	1.2				
5.0% or more but less than 5.5%	3.6	3.4	3.2	3.0	2.8	2.4	2.0	1.6	1.4	1.3	1.2	1.1				
5.5% or more but less than 5.75%	3.5	3.3	3.1	2.9	2.7	2.3	1.9	1.5	1.3	1.2	1.1	1.0				
5.75% or more but less than 6.0%	3.4	3.2	3.0	2.8	2.6	2.2	1.8	1.4	1.2	1.1	1.0	0.9				
6.0% or more but less than 6.25%	3.3	3.1	2.9	2.7	2.5	2.1	1.7	1.3	1.1	1.0	0.9	0.8				
6.25% or more but less than 6.5%	3.2	3.0	2.8	2.6	2.4	2.0	1.6	1.2	1.0	0.9	0.8	0.7				
6.5% or more but less than 6.75%	3.1	2.9	2.7	2.5	2.3	1.9	1.5	1.1	0.9	0.8	0.7	0.6				
6.75% or more but less than 7.0%	3.0	2.8	2.6	2.4	2.2	1.8	1.4	1.0	0.8	0.7	0.6	0.5				
7.0% or more but less than 7.25%	2.9	2.7	2.5	2.3	2.1	1.7	1.3	0.9	0.7	0.6	0.5	0.4				
7.25% or more but less than 7.5%	2.8	2.6	2.4	2.2	2.0	1.6	1.2	0.8	0.6	0.5	0.4	0.3				
7.5% or more but less than 7.75%	2.7	2.5	2.3	2.1	1.9	1.5	1.1	0.7	0.5	0.4	0.3	0.2				
7.75% or more but less than 8.0%	2.6	2.4	2.2	2.0	1.8	1.4	1.0	0.6	0.4	0.3	0.2	0.1				
8.0% or more but less than 8.25%	2.5	2.3	2.1	1.9	1.7	1.3	0.9	0.5	0.3	0.2	0.1	0.0				
8.25% or more but less than 8.5%	2.4	2.2	2.0	1.8	1.6	1.2	0.8	0.4	0.2	0.1	0.0	0.0				
8.5% or more but less than 8.75%	2.3	2.1	1.9	1.7	1.5	1.1	0.7	0.3	0.1	0.0	0.0	0.0				
8.75% or more but less than 9.0%	2.2	2.0	1.8	1.6	1.4	1.0	0.6	0.2	0.0	0.0	0.0	0.0				
9.0% or more but less than 9.25%	2.1	1.9	1.7	1.5	1.3	0.9	0.5	0.1	0.0	0.0	0.0	0.0				
9.25% or more but less than 9.5%	2.0	1.8	1.6	1.4	1.2	0.8	0.4	0.0	0.0	0.0	0.0	0.0				
9.5% or more but less than 9.75%	1.9	1.7	1.5	1.3	1.1	0.7	0.3	0.0	0.0	0.0	0.0	0.0				
9.75% or more but less than 10.0%	1.8	1.6	1.4	1.2	1.0	0.6	0.2	0.0	0.0	0.0	0.0	0.0				
10.0% or more but less than 10.25%	1.7	1.5	1.3	1.1	0.9	0.5	0.1	0.0	0.0	0.0	0.0	0.0				
10.25% or more but less than 10.5%	1.6	1.4	1.2	1.0	0.8	0.4	0.0	0.0	0.0	0.0	0.0	0.0				
10.5% or more but less than 10.75%	1.5	1.3	1.1	0.9	0.7	0.3	0.0	0.0	0.0	0.0	0.0	0.0				
10.75% or more but less than 11.0%	1.4	1.2	1.0	0.8	0.6	0.2	0.0	0.0	0.0	0.0	0.0	0.0				
11.0% or more but less than 11.25%	1.3	1.1	0.9	0.7	0.5	0.1	0.0	0.0	0.0	0.0	0.0	0.0				
11.25% or more but less than 11.5%	1.2	1.0	0.8	0.6	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
11.5% or more but less than 11.75%	1.1	0.9	0.7	0.5	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
11.75% or more but less than 12.0%	1.0	0.8	0.6	0.4	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
12.0% or more	0.9	0.7	0.5	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0				

New York State Department of Labor Unemployment Insurance Division Subsidiary Tax Rates

The following table establishes rates for employers with a positive or negative account percentage. This table reflects subsidiary tax rates only. Any normal rates or Re-employment Service Fund rates, or both, are added to the subsidiary rate.

Employer's account percentage	General Account Balance (in millions of dollars)										
	Less than \$0	\$0 or more but less than \$75	\$75 or more but less than \$150	\$150 or more but less than \$225	\$225 or more but less than \$300	\$300 or more but less than \$375	\$375 or more but less than \$450	\$450 or more but less than \$525	\$525 or more but less than \$600	\$600 or more but less than \$650	\$650 or more
Less than 0.0% (negative)	.925%	.825%	.725%	.625%	.525%	.425%	.325%	.225%	.125%	.025%	.000%
0.0% or more but less than 5.5%	.625%	.625%	.625%	.525%	.425%	.325%	.225%	.125%	.025%	.000%	.000%
5.5% or more but less than 7.5%	.625%	.625%	.525%	.425%	.325%	.225%	.125%	.025%	.000%	.000%	.000%
7.5% or more but less than 9.0%	.625%	.525%	.425%	.325%	.225%	.125%	.025%	.000%	.000%	.000%	.000%
9.0% or more	.525%	.425%	.325%	.225%	.125%	.025%	.000%	.000%	.000%	.000%	.000%

F. Controlling unemployment insurance costs Accurate and timely reporting and payment

It is important that employers file complete and accurate quarterly reports and pay taxes due on time. If taxes are not paid when due, interest is assessed at the rate of 12% per year. Taxes paid more than 60 days after their due date are not credited to the employer's account for the purpose of calculating tax rates. An increased tax rate may result. The failure to file all required reports by December 31 will result in the assignment of the maximum allowable normal tax rate.

Additional penalties may also be imposed for the failure to file accurate and timely reports (see *Summary of Penalties*, pages 22 and 23).

Wages reported quarterly on Form NYS-45 are used in the calculation of benefits for former employees. Inaccurate reporting can result in costly benefit overpayments.

Review of notice of experience rating charges

Unemployment insurance benefits paid to claimants are charged to the accounts of employers for whom they worked. Every benefit payment charged to an employer's experience rating account may have the effect of increasing that employer's tax rate in future years. Employers are advised on form IA 96, *Notice of Experience Rating Charges*, about all benefit payments to former employees that are charged to their accounts. This gives employers the opportunity to report any benefit payments they believe were incorrectly made. Employers should promptly contact the unemployment insurance office through which the claim was filed (indicated on the notice) if: work is available for the claimant; the claimant has declined an offer of re-employment; or, they believe the claimant is currently working or otherwise not entitled to benefits. If the charges appear incorrect for any other reason, employers should contact the

Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

Fraud control

Programs have been developed to detect and prevent benefit claim fraud and abuse. These include the Wage Reporting System, which compares the payroll information you submit each quarter with unemployment insurance benefits paid. Occasionally, you may be asked to provide detailed information for a specific claim to determine if it is properly paid. The success of this program and others relies heavily on your prompt assistance and cooperation. Unemployment insurance fraud increases the financial burden on employers who contribute to the system. Any suspected instances of fraud should be reported on our toll free Fraud Hotline at 1 (888)-598-2077, or to a Fraud Investigation Section Office (see page 35).

Shared work

Shared Work is a voluntary program providing an alternative to layoffs for employers who have five or more full-time employees and who are faced with a temporary decline in business. Rather than laying off a percentage of the work force to cut costs, an employer can reduce the hours and wages of all, or a particular group, of employees. The employees whose hours and wages are reduced can receive partial unemployment insurance benefits to supplement their lost wages. The Shared Work Program helps employers avoid some of the burdens that accompany a layoff situation. If employees are retained during a temporary slowdown, employers can quickly gear up when business conditions improve. Employers are then spared the expense of recruiting, hiring and training new employees; and employees are spared the hardships of full unemployment. More information appears in the pamphlet *Shared Work, SW 1*, which may be requested from the Department of Labor, Liability and Determination Section (see *Need Help?*, page 31).

II. Wage Reporting Information and Instructions

A. Purpose

This section explains the requirements for reporting gross wages to New York State on Part C of Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* or Form NYS-45-ATT, if applicable.

The Tax Department is required to collect wage reporting information based on definitions used by the Department of Labor in administering the unemployment insurance program. Every employer who is liable under the provisions of the New York State Unemployment Insurance Law is required to file a quarterly wage report with the Tax Department on Form NYS-45, Part C or Form NYS-45-ATT (whichever is applicable). This includes voluntary elections, and also nonprofit organizations and governmental entities who meet their unemployment insurance obligations through the reimbursement option (see *Liable Employer*, below). These employers must complete and file columns (a), (b) and (c), of Form NYS-45, Part C, or Form NYS-45-ATT showing the name, social security number and gross wages paid to each employee performing services in employment. This is the case, whether or not the wages of the employee are subject to withholding of tax or payments of tax under Article 22 of the Tax Law (Personal Income Tax Law). For more information on which form to file, see page 36.

B. Employer for wage reporting purposes

The term **employer** has the same meaning as it has for New York State unemployment insurance purposes and includes the following for whom an employee has performed services in employment (see part F for a definition of employment):

- any person, partnership, firm, association, public or private, domestic or foreign corporations, domestic or foreign limited liability company (LLC) or limited liability partnership (LLP), legal representatives of a deceased person, or receiver, trustee, or successor of any of these;
- a household (domestic) employer;
- a corporation, unincorporated association, community chest, fund, or foundation organized exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual (i.e., a nonprofit organization);
- an employer of agricultural labor (for information regarding the definition of "agricultural employer", see section I, page 4 and pamphlet IA 318.11, *Agricultural Employment*; and
- the State of New York, municipal corporations and other governmental subdivisions and any instrumentality of one or more of these (i.e., a governmental entity).

C. Liable employer

The conditions of employer liability vary among nonprofit, governmental, household (domestic), agricultural and all other employers. Only employers who are liable under the unemployment insurance rules (see *Liable employers*, page 5) are required to report employee wage information on Form NYS-45, Part C or Form NYS-45-ATT (whichever is applicable).

Voluntary Election — An employer who is not liable for unemployment insurance contributions may voluntarily elect to become liable by filing an application with and receiving approval

from the Department of Labor. An employer is deemed liable on the date the unemployment insurance coverage begins and must file Form NYS-45 and Form NYS-45-ATT, if applicable, reporting the necessary wage information for the calendar quarter in which the insurance coverage beginning date occurs.

An employer who is not (and did not elect to become) liable for unemployment insurance **is not required** to file Form NYS-45 (or Form NYS-45-ATT) **unless** they are required to withhold income tax from their employee(s). See section III, ***Withholding Information and Instructions***, on page 17.

D. Employers of domestic (household) help

Employers of domestic (household) employees may be subject to wage reporting requirements. Although withholding income tax from wages paid to a household employee is only voluntary and is not required, the wage reporting rules **do** require domestic employers who are liable under the New York State Unemployment Insurance Law to report quarterly, the household employee's name, social security number and wages paid on Form NYS-45, Part C. For more information on filing Form NYS-45, see Form NYS-45-I, *Instructions for Form NYS-45*. To order forms, see *Need Help?* on page 30 of this booklet.

E. Employees who must be included in wage reports

Every employer (as previously defined) must complete and file (columns (a), (b) and (c) of Form NYS-45, Part C, or NYS-45-ATT (whichever is applicable), showing the name, social security number and gross wages paid to each employee performing services in employment. This is the case, whether or not the wages of the employee are subject to withholding of tax or payments of tax under Article 22 of the Tax Law (Personal Income Tax Law).

F. Employment

Employment is the performance of services under any contract for hire (whether written or implied) for compensation. Unless specifically excluded by the Unemployment Insurance Law, all employment performed for a liable employer must be reported on Form NYS-45 or NYS-45-ATT, regardless of whether it is on a part-time, full-time, temporary, seasonal or casual basis. Officers of all corporations, including professional, subchapter S corporations, and other closely-held corporations, who perform services for the corporation, are employees of that corporation. A manager of a limited liability company (LLC) is an employee unless the manager is defined as a member. Compensation for services provided by an individual defined as an employee, whether paid or accrued, is required to be reported on Form NYS-45, Part C (or NYS-45-ATT, if applicable).

There are certain types of employees included in the definition of employment for all employers, as well as certain types of employees excluded depending on the type of employer.

For a detailed description of the types of employees specifically included and excluded from the definition of employment, see *Covered and Excluded Employment Chart* beginning on page 2.

G. State of jurisdiction

Generally, employees who work entirely within New York State are covered under New York State's Unemployment Insurance Law, and all of their earnings must be reported as gross wages for wage reporting purposes on Form NYS-45 (or Form NYS-45-ATT, if applicable). However, if an employee's services are performed both inside and outside New York State, it is necessary to determine whether the services are covered under New York State unemployment insurance and, as a result, reportable as gross wages on Form NYS-45 (or Form NYS-45-ATT, if applicable). In such instances, certain tests are used to determine if wages paid are reportable to New York. The tests considered involve (1) location, (2) the employee's base of operations, (3) place of direction and control, and (4) residence.

For more information on determining the state to which wages should be reported, please contact the Department of Labor, Liability and Determination section or request pamphlet IA 116.3, Jurisdiction of Employment (see *Need Help* on page 37.)

H. Gross wages for purposes of wage reporting

The term *gross wages* has the same meaning as the term *remuneration* for unemployment insurance purposes. Gross wages for purposes of wage reporting includes all remuneration before any allocation, apportionment, or deduction, and before considering any dollar limitation contained in any law that excludes from wages or compensation an amount paid in excess of a dollar limitation.

Remuneration — means every form of compensation paid by an employer to an employee for employment (whether paid directly or indirectly) and includes salaries, commissions, bonuses and the reasonable monetary value of board, rent, housing, lodging, or similar advantage received.

If gratuities are received by the employee in the course of employment from a person other than the employer, the value of the gratuities (as determined by the Department of Labor) must be included as part of the employee's remuneration paid by the employer.

Other wages for purposes of wage reporting — Due to the provisions of the Federal Unemployment Tax Act (FUTA), special rules apply to certain types of payments. Employers who are liable under FUTA must include on a separate Form NYS-45-ATT, payments of severance pay, and the first six months of sick pay and reimbursed moving expenses. The separate Form NYS-45-ATT should be identified by checking the *Other wages* box in the upper right-hand corner of the front of the return.

Nonprofit organizations, governmental entities and other employers not liable under FUTA are **not** required to report severance pay and the first six months of sick pay. All employers that pay wages to daytime students in elementary and secondary schools should report wage payments as regular gross wages on Form NYS-45, Part C, or Form NYS-45-ATT (whichever is applicable).

For information on whether specific types of income are reportable as gross wages on Forms NYS-45 or NYS-45-ATT, see the *Unemployment insurance, wage reporting and withholding tax requirements chart for certain items of income*, beginning on page 25.

I. Supplemental Wage Reporting Requirements For Construction Companies

Beginning with the first quarter of calendar year 1999, employers that are defined as construction companies (see filing requirements below) are required to submit additional wage reporting information not specific to individual employees. New Form NYS-45-CC, *Quarterly Supplemental Wage Reporting Return to be Submitted by Construction Companies*, must be completed and filed by construction companies in addition to Form NYS-45 (and NYS-45-ATT, if applicable). The form must include the total number of employees, the total number of employees hours worked, total gross wages paid to employees each week during the calendar quarter, and annual wages paid to employees that are subject to New York State income tax withholding.

The above employee information must be reported for employment in each of three general geographic areas. The three geographic areas are the New York State counties of:

- (A) Bronx, Kings, New York, Queens, and Richmond;
- (B) Dutchess, Nassau, Orange, Putnam, Rockland Suffolk and Westchester; **and**
- (C) All other New York State counties.

Filing Requirements — All contractors, owners and their agents providing covered services must file Form NYS-45-CC each quarter. However, covered services provided in the construction of one- and two-family houses are exempt from reporting. Covered services include excavating, erecting, demolishing, repairing, altering, painting, or cleaning of a building or structure.

Form NYS-45-CC must be filed each quarter along with the employer's Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, (and Form NYS-45-ATT, if applicable). See *Important unemployment insurance, withholding tax, and wage reporting dates* on page 24, for information about the filing deadlines for Form NYS-45 and NYS-45-ATT, if applicable.

Filing an Amended Form NYS-45-CC —To file an amended Form NYS-45-CC, simply use a Form NYS-45-CC and mark an "X" in the amended return box.

Remember, an amended return can only be filed after an original return for the quarter being amended has been filed. An amended Form NYS-45-CC is a complete replacement of the original Form NYS-45-CC filed for that particular quarter. All information, including the entries from the original return that are not being amended and the corrected entries, must be entered on the amended return.

III. Withholding Information and Instructions

A. Purpose

This section provides a summary of an employer's responsibilities for withholding New York State income tax, New York City resident tax, New York City nonresident earnings tax, Yonkers resident tax surcharge and Yonkers nonresident earnings tax. For specific information regarding filing requirements, due dates and completion of forms, see the instructions for the particular withholding form(s) needed.

For withholding tax purposes, New York State conforms to federal withholding tax concepts.

B. Employer for withholding purposes

An employer is any person or organization qualifying as an employer on the basis of the instructions contained in federal Circular E and maintaining an office or transacting business within New York State, whether or not a paying agency is maintained within the state.

Employers of domestic help should see section II, Part D, *Employers of Domestic (Household) Help*, for more information about their withholding responsibilities.

C. New York State Employer's Identification Number

For your convenience, the New York State, New York City and Yonkers identification number is the same as the federal employer identification number (EIN) if one has been assigned to you by the Internal Revenue Service.

Each employer must have only one federal identification number. If you have been assigned more than one federal identification number and have not been advised which one to use, notify the Internal Revenue Service of the numbers you have, the name and address to which each number was assigned, and the address of your principal place of business. The Internal Revenue Service will then advise you which number to use. You must also advise the New York State Tax Department of all identification numbers assigned to you and identify your correct number.

If you have been assigned a temporary New York State identification number and later get a federal number, notify the Tax Department of the federal number received by filing Form DTF-95 *Change of Business Information*, and use the federal number for all future withholding purposes.

If you become the new owner of an existing business, you cannot use the federal EIN of the former owner unless you acquired the business by a purchase of corporate stock. You must apply for and acquire your own new EIN. For application forms and more information about who needs an EIN, contact your local Internal Revenue Service office.

Employers that are assigned a New York State identification number (federal EIN plus two-digit suffix) for the purpose of reporting as separate entities must use the assigned New York State number(s).

Identification numbers on returns

You will be issued preprinted coupons and quarterly returns. If your preprinted forms have not been received, or have been lost or damaged, you should get official preprinted forms. See *Need Help?*, page 30 for information on how to get forms, instructions or assistance.

The use of preprinted coupons and quarterly returns facilitates accurate processing and crediting of your account. However, if you must use a form that is not preprinted, enter your federal employer identification number (EIN) with NYS suffix, if any, and the check digit (the single digit that follows your identification number on your preprinted forms), and legal name in the spaces provided. Failure to get preprinted returns will not be deemed reasonable cause for failure to file and pay over tax withheld.

You must list your identification number on the various forms mentioned in these instructions and in correspondence with the Tax Department.

D. Income subject to withholding

Compensation, including tips and supplemental unemployment compensation benefits, that is regarded as wages for federal income tax withholding purposes is generally regarded as wages for purposes of withholding New York State income tax, New York City resident tax, New York City nonresident earnings tax,

Yonkers resident tax surcharge and Yonkers nonresident earnings tax unless an allocation or exception is specifically required or provided for New York State, New York City or Yonkers purposes.

E. New York State resident employees

All wages paid to a resident of New York State are subject to withholding, even when earned outside New York State. See part S for an explanation of how to determine withholding.

If wages paid to New York State residents are also subject to withholding of income taxes of other states, their political subdivisions, or the District of Columbia, see part S for instructions on how to avoid double withholding.

F. City of New York resident employees

All wages paid to a New York City resident are subject to personal income tax withholding even though the services may have been performed outside New York City. See part S for an explanation of how to determine withholding.

G. City of Yonkers resident employees

All wages paid to a Yonkers resident are subject to personal income tax withholding even though the services may have been performed outside Yonkers.

The Yonkers resident tax is equal to 10% of the New York State tax. You may figure the Yonkers withholding amount by simply multiplying the New York State withholding amount by 10% (.10), rather than using the other methods explained in part S.

H. New York State nonresident employees

The instructions in this part apply only to state withholding on wages paid to nonresidents of New York State. See part L for withholding of New York City tax on city nonresidents and part M for withholding of Yonkers tax on city of Yonkers nonresidents.

New York State personal income tax must be deducted and withheld on wages paid to New York State nonresident employees for services performed in New York State. Accordingly, if a New York State nonresident employee performs all services in New York State, the tax must be withheld from all wages paid to the employee in accordance with the employee's withholding allowance certificate and the applicable withholding methods as shown in this booklet.

If a New York State nonresident employee performs services partly in the state, only wages for services inside the state are subject to withholding of New York State personal income tax. The amount of wages allocable to New York State is that part of the total compensation that the number of days worked in New York State bears to the total number of days worked both in and out of New York State, exclusive of nonworking days, normally considered to be Saturdays, Sundays, holidays, days of absence because of illness or personal injury, vacation or leave with or without pay. However, to figure the earnings of traveling salespersons or other employees whose compensation depends entirely on the volume of business transacted by them, the amount allocable to New York State is that part of the compensation received that the volume of business transacted by them in New York State bears to the total volume of business transacted by them both in and out of New York State. (See part U for the requirement to report total wages on Form W-2/IT-2102.)

The portion of wages allocable to New York State may be determined by you on the basis of the preceding year, except that you must make any necessary adjustments during the year to ensure that the required amount of New York State personal income tax is withheld for the current year.

If the employee reasonably expects that the preceding year's experience will not apply to the current year, the employee may furnish you with a statement on Form IT-2104.1, *New York State Certificate of Nonresidence and Allocation of Withholding Tax*, estimating the part of wages allocable to New York State, or you may make such an estimate and withhold on that basis. In either case, however, you are required to make the necessary adjustments during the year so that the proper amount of New York State personal income tax is withheld from the employee's salary for the current year.

You are required to withhold on all wages paid to a New York State nonresident who works partly inside and partly outside New York State unless Form IT-2104.1 is filed with you, or you maintain adequate current records to determine the correct amount of wages from New York State sources.

I. Seasonal employers

The category of *seasonal employer* was created to provide relief from the requirement that all employers file quarterly combined withholding, wage reporting and unemployment insurance returns whether or not they have any business activity to report. The Tax Department treats seasonal employers differently from other employers. Seasonal employers do not have to file returns for quarters for which they have no wage reporting, withholding and unemployment insurance obligations. However, a seasonal employer must file at least one quarterly return for each calendar year to maintain seasonal status.

There is a checkbox for seasonal employers on new Form NYS-45, *Quarterly Withholding, Wage Reporting and Unemployment Insurance Return*. To alert New York State that you will not have to file a return for one or more quarters during the year, you must check this box on each and every quarterly return (Form NYS-45) that you file. By checking this box, you are certifying that because of the seasonal nature of your business, there is at least one quarter of the calendar year in which you do not make any wage payments subject to both New York State income tax withholding and New York State unemployment insurance contributions. (Since wage reporting uses UI definitions, there would likewise be no wage reporting requirement if no UI liability was incurred). Remember, you must check the seasonal employer box on **every** quarterly return you file. Otherwise, the Tax Department will expect a return to be filed for each quarter. If you do not check this box on every return filed, you will lose your seasonal employer status and may be subject to penalties if a quarterly return is required but not filed for any subsequent calendar quarter.

If you will not employ anyone for the remainder of the calendar year **and you are reporting five or less employees**, you must 1) complete Form NYS-45, Part C, all columns, including (d) and (e) to report the employees' annual wages and withholding (as if it were the final quarter of the calendar year), **or** 2) report the employees' annual wage and withholding totals on the Form NYS-45 filed for the last quarter of the calendar year (due on or before February 28 of the next calendar year).

If you will not employ anyone for the remainder of the calendar year **and you are reporting more than five employees**, make no entries in Part C; you must 1) report all employees on Form NYS-45-ATT, all columns, including (d) and (e) to report the employees' annual wages and withholding (as if it were the final quarter of the calendar year), **or** 2) report all employees' annual wage and withholding totals on the Form NYS-45-ATT filed for the last quarter of the calendar year (due on or before February 28 of the next calendar year).

When you are filing your final return for the calendar year, be sure to provide the "year-end" information requested, including every column of employee information.

Overpayments/Overcollections — If a seasonal employer has correctly withheld from his or her employee but has made an overpayment of withholding to New York State, **or** has collected and paid over to New York State more than the amount required to be withheld from the employee's wages, the seasonal employer may only have the overpayment refunded. It may not be carried forward to a subsequent calendar quarter.

J. Correcting mistakes in withholding from the employee

Any mistakes that result in undercollections or overcollections that are not corrected by the time all of the Forms NYS-45 are filed for the calendar year, should be corrected when the **employee** files his or her New York State personal income tax return. However, the employer may still be responsible for any interest, penalties or additions to tax.

Undercollections — If less than the correct amount of New York State, New York City (if applicable) and Yonkers (if applicable) income tax is deducted from any wage payment to an employee, the employer is allowed to deduct the amount of the undercollection from later wage payments to the employee in the same calendar year.

However, the employer is responsible for any underpayment of New York State, New York City (if applicable) and Yonkers (if applicable) personal income tax. Reimbursement by the employee is a matter to be resolved between the employer and employee.

Even if the employee pays any tax due with his or her New York State personal income tax return filed for the same calendar year, the employer may still be subject to penalties, interest and additions to tax for failure to deduct and withhold.

If you discover an undercollection, you must make the appropriate correction indicated below.

— Undercollection discovered prior to filing Form NYS-45 for the same calendar quarter.

If you had previously filed Form(s) NYS-1 during the calendar quarter to pay income tax withheld and you have not yet filed Form NYS-45 for the quarter, you must correct the underpayment by making an additional payment with Form NYS-1 before the end of the calendar quarter (see NYS-1-I); **or**

If you did not file any Form(s) NYS-1 because you did not accumulate at least \$700 in withholding (New York State, city of New York and Yonkers) and you have not yet filed Form NYS-45 for the quarter, you must correct the undercollection by including the amount of the undercollection as income tax withheld on lines 9 through 12 of Form NYS-45 and remitting the total amount required to be withheld with the quarterly return.

— Undercollection discovered in a subsequent calendar quarter.

If you discover an undercollection after the calendar quarter in which it occurred, but prior to filing Form NYS-45 for the final quarter of the same calendar year, you must file an amended quarterly return on Form NYS-45-X-MN, *Amended Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, for the quarter in which the underpayment occurred. (For more information, see Form NYS-45-X-I, *Instructions for Form NYS-45-X-MN*).

Overcollections — If more than the correct amount of New York State, New York City (if applicable) and Yonkers (if applicable) income tax is deducted from any wage payment to an employee, the amount of the overcollection should be repaid to the employee in the same calendar year in which the overcollection occurred. The employer must get, and keep as a part of his or her records, a written receipt from the employee showing the date and the amount of the repayment.

Any overcollections not repaid to the employee within the same calendar year must be reported and paid to the Tax Department with Forms NYS-1 and/or Form NYS-45.

If you discover an overcollection, you must make the appropriate correction indicated below.

— Overcollection discovered prior to filing Form NYS-45 for the same calendar quarter.

If you have not yet filed Form NYS-45 for the quarter in which the overcollection occurred, you must correct the overpayment by entering the correct amount of the withholding tax liability on the applicable form and repaying the overcollection to the employee.

— Overcollection discovered in a subsequent calendar quarter.

If you discover an overcollection after the calendar quarter in which it occurred, but prior to filing Form NYS-45 for the final quarter of the same calendar year, you must file an amended return on Form NYS-45-X-MN, *Amended Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, for the quarter in which the overpayment occurred.

If the employer shows an overpayment or an overcollection discovered in a later quarter, and has repaid the overcollection to the employee, this overpayment may only be refunded. The employer may **not** elect to credit the overpayment to a later quarter.

K. Taxation of employees of interstate carriers as well as seamen engaged in all types of trade —

Interstate rail, motor, and motor private carriers

Because of the provisions of federal law, compensation paid by an interstate rail, motor or motor private carrier to an employee who performs regularly assigned duties in two or more states is subject to state and local income taxes only in the employee's state of residence.

Resident — An employer who is an interstate rail, motor or motor private carrier must withhold New York State (and New York City or Yonkers, if applicable) income tax on the entire amount of compensation paid to an employee who is a New York State resident.

Nonresident — If an employee of one of the above carriers is a nonresident for income tax purposes and is paid compensation for regularly assigned duties performed in New York State and one or more other states, the compensation is not considered to be income derived from New York State (and New York City or Yonkers, if applicable) sources and is not subject to state or city taxes, even though the employee performed services in New York State.

An employer who is an interstate rail, motor or motor private carrier should not withhold New York State, New York City or Yonkers taxes on compensation paid to employees who are New York State, New York City or Yonkers (if applicable) nonresidents who perform services in New York State and one or more other states.

Interstate air carriers

Resident — Compensation paid to a New York State resident who is an employee of an interstate air carrier is subject to New York State personal income tax. An employer who is an interstate air carrier must withhold New York State (and New York City or Yonkers, if applicable) income tax.

Nonresident — Compensation paid to a nonresident of New York State who is an employee of an interstate air carrier is subject to New York State personal income tax only if more than 50% of the employee's compensation is earned within New York State. An employer who is an interstate air carrier must withhold New York State (and New York City or Yonkers, if applicable) income tax on an employee's compensation if more than 50% is earned within New York State. Since an employee of an interstate air carrier who earns 50% or less of his or her compensation within New York State is not subject to New York State personal income tax, they are not subject to withholding.

More than 50% of the employee's compensation is considered earned in New York State (and New York City or Yonkers, if applicable) if the employee's scheduled flight time in New York for the calendar year is more than 50% of the employee's total scheduled flight time for the calendar year.

Withholding requirements for seamen

New York State, New York City and Yonkers income taxes may not be withheld from compensation paid to seamen engaged in foreign coastwise, intercoastal, interstate or noncontiguous trade.

L. City of New York nonresident employees

Services performed in New York City by a nonresident of the city

An employee who is not a resident of New York City but performs services for you in the city must complete and give you Form IT-2104.2, *City of New York Certificate of Nonresidence*, certifying New York City nonresidency. The New York City nonresident earnings tax is withheld on wages paid to city nonresident employees for services performed in New York City. If a city nonresident employee performs services entirely in New York City, the tax must be withheld from all wages in accordance with the tables that apply to city nonresidents.

Services performed partly in New York City

If a city nonresident employee performs services partly in New York City, only wages for services in the city are subject to withholding. The amount of wages allocable to New York City is that part of the total compensation that the total number of days worked in New York City bears to the total number of days worked both in and out of New York City, exclusive of nonworking days, normally considered to be Saturdays, Sundays, holidays, days of absence because of illness or personal injury, vacation or leave with or without pay. However, to figure the earnings of a traveling salesperson or other employee whose compensation depends entirely on the volume of business transacted, the amount allocable to New York City is that part of the compensation received that the volume of business transacted in New York City bears to the total volume of business transacted both in and out of New York City.

The portion of wages allocable to New York City may be determined by you on the basis of the preceding year except that you must make any necessary adjustments during the year to ensure that the required amount of city tax is withheld for the current year.

If the employee reasonably expects that the preceding year's experience will not apply to the current year, the employee may furnish you with Form IT-2104.2 estimating the wages allocable to New York City, or you may make such an estimate and withhold on that basis. In either case, however, you are required to make the necessary adjustments during the year so that the proper amount is withheld for the current year.

You are required to withhold on all wages paid to a city nonresident who works partly in New York City unless Form IT-2104.2 is completed by the employee, or you maintain adequate current records to determine the correct amount of wages from New York City sources.

Earnings within New York City of less than \$3,000

If a city nonresident employee will work only a short period within New York City, and it is reasonably expected that the total wages for services performed within New York City for the taxable year will not exceed \$3,000 (or \$3,000, prorated for taxable periods of less than one year), you need not withhold or deduct any amount from the employee's wages, and Form IT-2104.2 need not be filed by the employee.

M. City of Yonkers nonresident employees

Services performed in Yonkers by a nonresident of Yonkers

An employee who is not a Yonkers resident but performs services for you in the city of Yonkers must complete and give you Form IT-2104.5, *City of Yonkers Certificate of Nonresidence*, certifying Yonkers nonresidency.

The Yonkers nonresident earnings tax is withheld on wages paid to Yonkers nonresident employees for services performed in Yonkers. If a city nonresident employee performs services entirely in Yonkers, the tax must be withheld from all wages in accordance with the tables that apply to city of Yonkers nonresidents.

Services performed partly in Yonkers

If a city of Yonkers nonresident employee performs services partly in Yonkers, only wages for services inside the city of Yonkers are subject to withholding. The amount of wages allocable to Yonkers is that part of the total compensation that the total number of days worked in Yonkers bears to the total number of days worked both in and out of Yonkers, exclusive of nonworking days, normally considered to be Saturdays, Sundays, holidays, days of absence because of illness or personal injury, vacation or leave with or without pay. However, to figure the earnings of a traveling salesperson or other employee whose compensation depends entirely on the volume of business transacted, the amount allocable to Yonkers is that part of the compensation received that the volume of business transacted in Yonkers bears to the total volume of business transacted both in and out of Yonkers.

The portion of wages allocable to Yonkers may be determined by you on the basis of the preceding year except that you must make any necessary adjustments during the year to ensure that the required amount of city of Yonkers tax is withheld for the current year.

If the employee reasonably expects that the preceding year's experience will not apply to the current year, the employee may furnish you with Form IT-2104.5 estimating the wages allocable to the city of Yonkers, or you may make such an estimate and withhold on that basis. In either case, however, you are required to make the necessary adjustments during the year so that the proper amount is withheld for the current year.

You are required to withhold on all wages paid to a city of Yonkers nonresident who works partly in Yonkers unless Form IT-2104.5 is completed by the employee, or you maintain adequate current records to determine the correct amount of wages from Yonkers sources.

Earnings within Yonkers of less than \$3,000

If a city of Yonkers nonresident employee will work only a short period within Yonkers and it is reasonably expected that the total wages for services performed within Yonkers for the taxable year will not exceed \$3,000 (or \$3,000, prorated for taxable periods of less than one year), you need not withhold or deduct any amount from the employee's wages, and Form IT-2104.5 need not be filed by the employee.

N. Voluntary withholding agreements

An employee and employer may enter into an agreement to provide for withholding on payments for services not considered wages as defined in part D on page 17. The employer and employee must agree to the withholding, subject to termination on written notice by either party. The furnishing of Form IT-2104, *Employee's Withholding Allowance Certificate*, constitutes a request for withholding. If the employee is subject to withholding on the payment of wages by his or her employer, the employee may also enter into an agreement with his or her employer for withholding on payments for services not considered wages by furnishing the employer with a written request containing his or her name, address, social security number, statement that he or she desires withholding and the duration of the withholding.

O. Supplemental wage payments

If you pay supplemental wages (bonuses, commissions, overtime pay, sales awards, etc.) with regular wages but do not specify the amount of each, withhold income tax as if the total were a single payment for a regular payroll period.

If you pay supplemental wages separately (or combine them in a single payment and specify the amount of each), the income tax withholding method depends partly on whether or not you withhold income tax from your employee's regular wages:

- If you withhold income tax from an employee's regular wages, you can use one of the following methods for the supplemental wages:
 - a. Withhold at the following supplemental rates:

New York State	7.35% (.0735)
New York City Resident.....	4.08% (.0408)
New York City Nonresident.....	0.45% (.0045)
Yonkers Resident.....	.735% (.00735)
Yonkers Nonresident.....	0.5% (.005)
 - b. Add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholding as if the total were a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.
- If you did not withhold income tax from the employee's regular wages, use method **b**. (This would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages.)

Also see federal Circular E for a list of other payments that may be considered supplemental wages.

P. Employee's withholding allowance certificate

In determining the tax to be deducted and withheld, you may allow the same number of withholding allowances for New York State, New York City and Yonkers purposes as the number the employee claimed on federal Form W-4. However, allowances for the employee and his or her spouse permitted on federal Form W-4 are not allowed on Form IT-2104. Therefore, to ensure

greater accuracy in withholding amounts, all employees should complete and give you a New York State Form IT-2104, *Employee's Withholding Allowance Certificate*.

If an employee claims more than 14 allowances, see part R below.

If an employee has claimed one or more withholding allowances on federal Form W-4 that are based on federal tax credits, he or she must complete a New York Form IT-2104 omitting those allowances for federal tax credits. The employee may instead be entitled to claim additional withholding allowances for certain New York State tax credits and deductions (see Form IT-2104).

If an individual and his or her spouse both work, each spouse should file a separate Form IT-2104 with his or her employer. Each spouse should check the box *Married, but withhold at higher single rate* on the front of Form IT-2104, and divide the total number of allowances between the spouses. Their total withholding will better match their final tax if the higher-wage-earning spouse claims all of the couple's allowances and the lower-wage-earning spouse claims zero allowances.

If an employee has not filed federal Form W-4 or wishes to claim allowances other than those claimed for federal withholding tax purposes, the employee should complete and give Form IT-2104 to his or her employer.

If you receive notification from the Internal Revenue Service that a federal Form W-4 for an employee is defective, the number of exemptions allowed for New York withholding purposes is limited to the number of withholding exemptions specified in the Internal Revenue Service notice, less the number of withholding exemptions allowed for federal credits, plus the number of additional New York withholding allowances that the employee is entitled to (and that is claimed on a properly completed Form IT-2104).

If the federal change to federal Form W-4 affects the allowances claimed on a Form IT-2104 that is on file with the employer, the employee should complete and submit to his or her employer, a new Form IT-2104 reflecting the corrected number of allowable exemptions.

Q. Certificate of exemption from withholding

Exemption from withholding of New York State, New York City and Yonkers resident taxes is available for employees who meet the requirements of section 671(a)(3) of the Tax Law.

Tax Law section 671(a)(3) exempts employees under age 18 or over age 65, or **full-time** students under age 25, who had no New York income tax liability in their previous taxable year and expect none in the current year (see Form IT-2104-E, *Certificate of Exemption from Withholding*, for details).

If an employee qualifies for exemption from withholding, he or she must complete and give Form IT-2104-E to his or her employer, certifying the employee's exemption from tax under the provisions of section 671(a)(3) of the Tax Law.

Employees must file Form IT-2104-E annually if they wish to continue the exemption.

Under certain circumstances, the exemption from withholding is required to be revoked by the employer or employee. These conditions are listed on Form IT-2104-E.

If an employee who claims exemption on Form IT-2104-E usually earns more than \$200 per week, you must send to the Tax Department a copy of the IT-2104-E certificate along with a copy of any written statement received from the employee that supports the claims made on the certificate. See part R below.

R. Submitting certificates to the tax department

If an employee claims more than 14 allowances, you are required to send a copy of that employee's Form IT-2104 to the Tax Department. Also, if an employee who claims exemption from withholding on Form IT-2104-E, *Certificate of Exemption from Withholding*, usually earns more than \$200 per week, you must send in a copy of that employee's Form IT-2104-E. Send a copy of the employee's Form IT-2104 or Form IT-2104-E to:

NYS TAX DEPARTMENT
INCOME TAX AUDIT ADMINISTRATOR
WITHHOLDING CERTIFICATE COORDINATOR
BUILDING 9 W A HARRIMAN CAMPUS
ALBANY NY 12227-0125

The Tax Department will review these certificates and notify you of any adjustments that must be made. The number of allowances verified by the Tax Department must be used as the basis for withholding and cannot be changed unless the

employee submits a new Form IT-2104 with a statement explaining why the new allowances should be accepted. You must send this new Form IT-2104 and statement to the Tax Department at the above address. The Tax Department will determine whether to accept the new certificate.

Due dates for sending new certificates received from employees claiming more than 14 allowances, or claiming exemption from withholding where earnings are more than \$200 per week, are as follows:

Quarter	Due Date
January - March	April 30
April - June	July 31
July - September	October 31
October - December	January 31

S. Determining withholding tax

The New York State income tax, New York City resident tax, New York City nonresident earnings tax, Yonkers resident tax surcharge and Yonkers nonresident earnings tax to be withheld by you must be determined using the approved withholding tables or other methods based on the withholding allowances of the employee. (In special situations, you may apply to the Tax Department for permission to use another method.) A written agreement may be made between you and your employee to have additional amounts of tax withheld (see *Additional withholding requested on Form IT-2104*, below for details). For more information on the computation of withholding tax for New York State, city of New York or city of Yonkers, see page 17.

Additional withholding requested on Form IT-2104

An additional withholding amount may be requested for New York State, New York City, or Yonkers (or any combination of these), by an employee/payee trying to avoid underwithholding. The employee/payee makes the request by entering a specific dollar amount on lines 4, 5 and/or 6 of his or her Form IT-2104. If you agree to withhold an additional amount, figure the amount that you would have withheld based on the number of exemptions claimed, then add the additional amount requested to this figure. Withhold the total amount from wages.

Income tax withholding from annuities — If an annuitant files Form IT-2104-P, *Annuitant's Request for Income Tax Withholding*, the payer must withhold the amount specified, provided that the New York State tax withheld is not less than \$5 per month, and if applicable, New York City or Yonkers tax withheld is not less than \$5 per month, and does not reduce the annuity payment to less than \$10.

To qualify for withholding, the annuity or pension payment must be income to the recipient that would be includable in his or her New York adjusted gross income. The annuity or pension must also be payable over a period longer than one year. The request for withholding will remain in effect until terminated in writing by the payee.

T. Payment of New York State, City of New York and Yonkers taxes withheld

Filing Requirements

Every employer paying wages subject to income tax withholding must file a return and pay the New York State, New York City and Yonkers taxes required to be withheld.

If you are required to withhold \$700 or more during a calendar quarter, you must use Form NYS-1, *Return of Tax Withheld*, to remit the accumulated tax withheld of \$700 or more to the Tax Department. If you are required to withhold less than \$700 during a calendar quarter, you should remit the total tax withheld with your Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, filed with the Tax Department for that calendar quarter. For more detailed information, see the instructions for Forms NYS-1 and NYS-45.

Payment Filing Frequency

You must file Form NYS-1 and remit the total tax withheld after each payroll that causes the total accumulated tax required to be withheld to equal or exceed \$700. **If you have more than one payroll within a week (Sunday through Saturday), you are not required to file until after the last payroll in the week.** However, when a calendar quarter ends between payrolls paid within a week, any accumulated tax required to be withheld of at least \$700 must be remitted with Form NYS-1 after the last payroll in the quarter.

If you have filed at least once during the calendar quarter, and have an unremitted balance of tax withheld that is less than \$700 after the last payroll of the quarter, you may remit this amount with your quarterly return (Form NYS-45) instead of with a Form NYS-1 (see the instructions for Form NYS-45).

When Returns Are Due

Filing due dates are based on amounts withheld in prior years. If you were required to withhold \$15,000 or more for the calendar year that precedes the previous calendar year, you must file Form NYS-1 and remit the tax you withheld within three business days following the payroll that caused the total accumulated tax withheld to equal or exceed \$700. If you were required to withhold less than \$15,000 during such year, you must file Form NYS-1 and remit the tax withheld within five business days.

If you are a higher education organization (according to 20 NYCRR 2396.2(f)) or a health care provider (according to 20 NYCRR 2396.2(j)), you are eligible to file Form NYS-1 and remit the tax withheld within five business days of the payroll in which the tax withheld equals or exceeds \$700, regardless of the previous amounts withheld.

The Tax Department will notify you of any change to your filing due date (three or five business days after the payroll) based on our record of your total tax withheld.

New employers will be permitted to file and make payment of taxes withheld within five business days until notified otherwise by the Tax Department.

U. Statements for employees and annuitants

Form W-2/IT-2102 — You must furnish two copies of federal Form W-2 or New York Form IT-2102, *Wage and Tax Statement*, to each employee from whom any amount of New York State income tax, New York City resident tax or nonresident earnings tax and Yonkers resident tax surcharge or nonresident earnings tax was withheld or would have been withheld under the approved tables and other methods in this booklet if the employee had claimed no more than one withholding allowance or, in the case of New York City or Yonkers nonresident earnings tax, if any amount would have been required to be withheld under the approved tables and other methods. Even if you have reduced the amount of New York State (and, if applicable, New York City and Yonkers) withholding from an employee's wages because you are required to deduct taxes of other states, their political subdivisions or the District of Columbia, you must furnish two copies of Form W-2/IT-2102 to that employee.

If the filing of Form W-2/IT-2102 is required for an employee, whether a resident, nonresident or part-year resident of New York State, New York City or Yonkers, the employee's total wages, tips and other compensation for services both in and out of New York State are to be reported. Compensation not subject to income tax withholding, but that must be reported under the Internal Revenue Code and Regulations as other compensation on federal Form W-2, must also be reported on Form W-2/IT-2102 in the space provided for that purpose. You must furnish two copies of Form W-2/IT-2102 to the individual receiving such compensation.

Employers do not submit a copy of Form W-2/IT-2102 to New York State. Instead, employers must report annual wage and withholding information on the final quarterly combined withholding, wage reporting and unemployment insurance return filed for the year. Certain employers are required to submit wage and withholding information using magnetic media. See part W for more information on magnetic media filing requirements.

Supplemental unemployment compensation benefits subject to income tax withholding — Furnish two copies of Form W-2/IT-2102 to each payee as if wages had been paid.

Annuities subject to income tax withholding — If you are a payer of annuities and you withheld New York State income tax, New York City resident tax or Yonkers resident tax surcharge from annuity payments, you must give each annuitant from whom you withheld New York State or city tax two copies of Form

1099-R/IT-2102-P (instead of a Form W-2/IT-2102) showing the gross amount of annuity payments and showing separately the amounts of New York State income tax and city resident tax withheld during the year.

You do not submit a copy of Form 1099-R/IT-2102-P to New York State. Instead, payers of annuities must report annuity and withholding information in columns (d) and (e) of part C on the Form NYS-45 or NYS-45-ATT (whichever is applicable) of the final employer quarterly withholding, wage reporting and unemployment insurance return filed for the year. See Form NYS-45-I, *Instructions for Form NYS-45*, for more information.

Statements for employees and annuitants — Wage and tax statements on Form W-2/IT-2102 and Form 1099-R/IT-2102-P for a calendar year and any corrected statements made for that year must be furnished to employees not later than February 15 following the close of the calendar year. However, if an employee leaves your service before the close of the calendar year and is not expected to return to work within the calendar year, the statement must be furnished to the employee not later than 30 days after the last payment of wages is made to the employee.

Undeliverable forms

Generally, any copies of Forms W-2/IT-2102 and Form 1099-R/IT-2102-P that cannot be delivered (after reasonable effort), must be transmitted to New York State with your Forms NYS-45 and NYS-45-ATT covering the second calendar quarter of the next year, along with a letter stating that the Form(s) W-2/IT-2102 and/or 1099-R/IT-2102-P are undeliverable.

V. Records to be kept

Refer to federal Circular E (Publication 15) for a description of the records to be kept.

In addition, a record of the withholding allocation used for New York State nonresident employees performing services partly in New York State and the allocation used for New York City and Yonkers nonresident employees performing services partly in New York City and Yonkers must be kept.

Every employer or withholding agent required to withhold state and city taxes, and every person required to file information returns must keep all records of these taxes and information returns available for review by the department. Keep these records for four years after the due date of the tax for the return period to which the records relate, or the date the tax is paid, whichever is later. Records for information returns must be kept for four years after the due date of the information return.

W. Magnetic media filing

Employers that have been required to report 250 or more employees in four consecutive quarters are required by New York State to report employee wage and withholding information on magnetic media. Other employers may elect to file using magnetic media. The specifications for filing are detailed in Publication 69, *Magnetic Media Reporting of Quarterly Combined Wage and Withholding Tax Information*. The Tax Department will contact employers who become required to file using magnetic media. To get more information and a copy of Publication 69, see *Need Help?* on page 30.

X. PromptTax program

The largest withholding tax filers must file and remit taxes through an electronic filing and funds transfer program (PromptTax). Employers required to participate in PromptTax are notified by the department of their responsibilities and any program changes.

IV. Filing Requirements and Related Information

Summary of Penalties

The following is a summary of penalties that may be imposed for failure to perform certain acts relating to the filing of the quarterly combined withholding, wage reporting and unemployment insurance return, Form NYS-45 (and Form NYS-45-ATT, if applicable). These penalties are provided for under section 685 (v) of the Tax Law. Unless otherwise stated in the individual penalty descriptions, these penalties may be imposed in addition to any other penalty or addition to tax provided by law.

Failure to file Form NYS-45 (including Form NYS-45-ATT, if required)

For failure to file a required Form NYS-45 (including Form NYS-45-ATT, if required) *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* or any required part of such form, by the prescribed due date, the penalty imposed is equal to the greater of \$1,000 or \$50 multiplied by the number of employees shown on the last Form NYS-45 or NYS-45-ATT filed by the employer. The maximum penalty that may be imposed is \$10,000 for any one calendar quarter (section 685(v)(1) of the Tax Law).

Late filed Form NYS-45 or NYS-45-ATT

Within 30 days of notification — If an employer filed Form NYS-45 (or any omitted part of such form) or Form NYS-45-ATT, if required, within 30 days after the date the Department notifies the employer of such failure by certified mail, the penalty will be abated. In addition, the employer will not be liable for the late filing penalty imposed under section 685(a)(1) of the Tax Law.

However, the employer is still liable for any penalties imposed for failure to pay the tax shown on the return under section 685(a)(2) or failure to pay the tax required to be shown on the return under section 685(a)(3) of the Tax Law.

Special rule: If an employer is awarded the relief provided above for filing within 30 days of notification, the employer will **not** be granted the same relief for failure to file for four successive calendar quarters. If the employer fails to file Form NYS-45 or

Form NYS-45-ATT by the prescribed due date for any of the four successive quarters, but files within 30 days of notification from the Department, the employer will be subject to a penalty equal to the lesser of \$50 multiplied by the number of employees actually shown on the employer's late filed Form NYS-45 or Form NYS-45-ATT (but not less than \$1,000 or more than \$10,000), or the late filing penalty imposed under Tax Law section 685(a)(1).

After 30 days of notification — If an employer files Form NYS-45 (or any omitted part of such form) or Form NYS-45-ATT, if required, more than 30 days after the date the Department notifies the employer by certified mail of the employer's failure to file, the employer will be subject to a penalty equal to the greater of \$50 multiplied by the number of employees actually shown on the employer's late filed Form NYS-45 or NYS-45-ATT (but not less than \$1,000 or more than \$10,000), **or** the late filing penalty imposed under Tax Law section 685(a)(1).

Late filing Form NYS-45 prior to notification — If an employer files Form NYS-45 (or any omitted part of such form) or NYS-45-ATT after the prescribed due date for filing but prior to the Department notifying the employer by certified mail of the failure to file, then the late filing penalties provided for under sections 685(a)(1) and (v)(1) of the Tax Law will not be imposed.

Special rule: If an employer is awarded the relief provided above for late filing prior to notification, the employer will **not** be granted the same relief for failure to file for four successive quarters. If the employer fails to file Form NYS-45 or Form NYS-45-ATT by the prescribed due date for any of the four successive calendar quarters, but files prior to notification from the Department, the employer will be subject to a penalty equal to the lesser of \$50 multiplied by the number of employees actually shown on the employer's late filed Form NYS-45 or Form NYS-45-ATT (but not less than \$1,000 or more than \$10,000), **or** late filing penalty imposed under Tax Law section 685(a)(1).

Audit intervention for failure to file — If an employer fails to file Form NYS-45 (or any part of such form) or NYS-45-ATT and an audit is subsequently initiated by the Tax Department, the Department of Labor, or both, the employer will be subject to the

penalty shown above for *Failure to File Form NYS-45*. In addition, the employer may be subject to a penalty of 5% per month (maximum of 25%) for late filing imposed under section 685(a)(1) of the Personal Income Tax Law.

Failure to provide complete and correct employee withholding reconciliation information

If an employer fails to provide complete and correct **annual** withholding information relating to individual employees in columns (d) and (e) of Form NYS-45, *Part C - Quarterly employee/payee wage reporting information* (or columns (d) and (e) of the Form NYS-45-ATT, if applicable), covering the last calendar quarter of the year, the employer may be subject to a penalty of \$50 multiplied by the number of employees for whom such information is incomplete or incorrect. If the number of employees cannot be determined from the Form NYS-45 (or NYS-45-ATT, if applicable), the Tax Department may estimate the number of employees/payees using any information in its possession. The maximum penalty that may be imposed for this failure is \$10,000 for any one calendar year.

Failure to provide complete and correct quarterly withholding information unrelated to individual employees

If an employer fails to provide complete and correct **quarterly** withholding information in *Part B - Withholding Tax (WT) Information* of Form NYS-45, the employer may be subject to a penalty of 5% of the quarterly withholding tax liability required to be shown in Part B of Form NYS-45. If the withholding tax liability cannot be determined, the Tax Department may estimate the withholding tax liability for purposes of computing this penalty using any information in its possession. The maximum penalty that may be imposed for this failure is \$10,000 for any one calendar quarter.

Complete and correct information provided within 30 days of notification — If the employer submits the complete and correct quarterly withholding information, which was **not** previously reported in Part B of Form NYS-45, within 30 days after being notified by the department by certified mail, the penalty imposed for failure to provide complete and correct quarterly withholding information unrelated to individual employees will be abated.

Failure to file using prescribed format (reporting media)

If an employer who is required to file its quarterly combined withholding, wage reporting and unemployment insurance return using magnetic media or other machine readable form, fails to do so using the prescribed format, the employer may be subject to a penalty of \$50 multiplied by the number of employees required to be shown on such return. The maximum penalty that may be imposed for this failure is \$10,000 for any one calendar quarter.

Filing using prescribed format within 30 days of notification

— If within 30 days after notification from the department by certified mail, the employer files their quarterly combined withholding, wage reporting and unemployment insurance return using the prescribed format, the penalty imposed for failure to file using the prescribed format will be abated.

Other penalties that may apply include, but are not limited to:

Late filing penalty

The penalty under section 685(a)(1) for late filing is 5% of the unpaid tax for each month (or part of a month) the return is late. This penalty cannot exceed 25% of the tax paid late unless the return is more than 60 days late, in which case the penalty will not be less than the lesser of \$100 or 100% of the amount required to be shown as tax on the return.

Late payment penalty

The penalty under section 685(a)(2) is $\frac{1}{2}$ of 1% of the unpaid tax for each month (or part of a month) the payment is late. This penalty cannot exceed 25% of the tax paid late.

Interaction of late filing and late payment penalties — The late filing penalty will be reduced by $\frac{1}{2}\%$ (to $4\frac{1}{2}\%$) for each month in which **both** the late filing and late payment penalties are imposed.

Withholding Tax Fraud

The penalty is 50% of the deficiency of tax, plus 50% of the interest charge on that part of the deficiency that was attributable to fraud.

Willful failure to collect and pay over tax

Any person required to collect and pay over withholding tax who willfully fails to do so shall be liable for a penalty equal to the total amount of the tax not collected or paid over.

Individual penalties: A penalty of \$1,000 is imposed on persons who for a fee, compensation, or as an employee, aid or assist in the giving of fraudulent returns, reports, statements or other documents. A penalty of \$500 per statement is imposed on an individual who makes a statement that decreases income tax withholding without an reasonable basis (i.e., a taxpayer claims excessive withholding allowances resulting in underwithholding of tax for the year). This penalty will be waived if the individual's tax liability is equal to or less than the taxpayer's credits (including the credits for tax withheld and estimated tax).

Criminal penalties: Any person who, with the intent to evade payment, fails to make, render, sign, certify or file a return or fails to supply information within the required time or who supplies false or fraudulent information shall be guilty of a misdemeanor. Any person who willfully fails to collect withholding tax will be guilty of a misdemeanor, in addition to other penalties. The maximum fine that may be imposed for a Class A misdemeanor is \$10,000 (\$20,000 for a corporate employer). A person who willfully fails to pay over any withholding tax will be prosecuted under the Penal Law, possibly for a felony.

Additional assessments under the Unemployment Insurance Law

Unemployment Insurance Tax Rate Based on Reporting Delinquency

Employers who fail to file all required unemployment insurance contribution reports by December 31 are not qualified employers under section 581 of the Labor Law and their tax rates cannot be based on their unemployment insurance experience (see Experience Rating, page 9). Such employers are assigned the maximum normal tax rate based on that year's size of fund index in addition to the maximum subsidiary tax rate in effect.

Unemployment Insurance Fraud

If an employer's failure to comply with unemployment insurance reporting requirements is determined to be due to fraud with the intent to avoid payment, fifty percent of the total amount of the deficiency may be assessed and collected in the same manner as if it were additional tax due. Criminal penalties may also be imposed.

Important unemployment insurance, withholding tax, and wage reporting dates*

January 31, 1999	The quarterly contribution form for the Department of Labor's Unemployment Insurance Division, Form IA 5, <i>Employer's Report of Contributions</i> , is due for the October 1 - December 31, 1998 calendar quarter.
February 15, 1999	Forms W-2/IT-2102 and 1099-R/IT-2102-P must be issued to employees/payees by this date.
February 28, 1999**	Form NYS-4 (and NYS-4-ATT, if applicable), <i>Quarterly Combined Withholding and Wage Reporting Return</i> , are due for the October 1 - December 31, 1998 calendar quarter (final quarter of the previous year). In addition to quarterly employee/payee wage reporting information (columns (a), (b) and (c)), the fourth quarter Form NYS-4 or Form NYS-4-ATT, if applicable, must also contain the annual wage and withholding amounts and totals (columns (d) and (e)).
April 30, 1999**	Forms NYS-45 and NYS-45-ATT, if applicable, (columns (a), (b) and (c)), are due for the January 1 - March 31 calendar quarter. Form NYS-45 replaces Form NYS-4 and now includes unemployment insurance quarterly reporting along with withholding and wage reporting.
July 31, 1999**	Forms NYS-45 and NYS-45-ATT, if applicable, (columns (a), (b) and (c)), are due for the April 1 - June 30 calendar quarter.
October 31, 1999**	Forms NYS-45 and NYS-45-ATT, if applicable, (columns (a), (b) and (c)), are due for the July 1 - September 30 calendar quarter.
January 31, 2000	Form NYS-45, Parts A and B must be filed on or before January 31 for the October 1 - December 31 calendar quarter (final quarter of the previous year). Employee wage and tax information is not required to be filed until February 28 (see <i>February 28</i> below). For convenience, however, the employer may opt to file employee wage and tax information on Part C of the NYS-45 (or NYS-45-ATT, if applicable) filed on or before January 31.
February 15, 2000	Forms W-2/IT-2102 and 1099-R/IT-2102-P must be issued to employees/payees by this date.
February 28, 2000**	Form NYS-45, Part C (or Form NYS-45-ATT, if applicable) for the October 1 - December 31 calendar quarter (final quarter of the previous year) is required to be filed on or before February 28. In addition to quarterly employee wage information (columns (a), (b) and (c)), the last Form NYS-45 or Form NYS-45-ATT filed for the calendar year must also contain annual employee wage and tax information (columns (d) and (e)). Employers opting to file employee wage and tax information separately from the Form NYS-45 due January 31 must do so on separate Form(s) NYS-45-ATT.

* New York Tax Law permits you to file on the next business day when the actual due date falls on a Saturday, Sunday or the following legal holidays:
New Year's Day, Martin Luther King's birthday, Washington's birthday, Memorial Day, Independence Day (4th of July), Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

** Employers with businesses of a seasonal nature should see section III, Part I on page 18 for their filing requirements.

Unemployment insurance, wage reporting, and withholding tax requirements chart for certain items of income

Income item		Unemployment insurance and wage reporting requirement	Withholding tax requirement
1	Cash salary	Yes	Yes, unless Form IT-2104-E, IT-2104-IND or IT-2104-MS is filed by the employee claiming exemption from New York State, city of New York and city of Yonkers income tax withholding.
2	Salary paid in form other than cash	Yes	Yes, based on the fair market value of property given as payment.
3	Bonuses	Yes	Yes, if paid as compensation for services performed by the employee for his/her employer.
4	Commissions	Yes	Yes, if paid as compensation for services performed by the employee for his/her employer.
5	Overtime pay	Yes	Yes
6	Lump-sum accumulated sick leave pay	Yes	Yes
7	Dismissal and severance pay	<p>*Yes, if liable under FUTA for such payments.</p> <p>For UI purposes: These payments may be reported quarterly or annually (see <i>Annual Reports</i> beginning on page 7). Nonprofit organizations and government entities are not required to report these payments. These payments are not used in computing a claimant's benefit rate, and should not be reported on <i>Requests for Employment and Wage Data</i>.</p>	Yes
8	Back pay	Yes	Yes, unless made solely by a labor organization if the individual's employer is not a party to the back-pay award order.
9	Retroactive pay increases	Yes	Yes
10	Vacation, overtime, and holiday pay	<p>Yes</p> <p>For UI purposes: Vacation and Holiday pay affect entitlement.</p>	Yes
11	Prizes and awards to employees	Yes	Yes, unless it is not subject to federal income tax withholding because it is reasonably believed to be excludable as an employee achievement award, qualified scholarship, or fringe benefit.
12	Moving expense reimbursement	* Yes, if liable under FUTA for such payments.	No, unless federal income tax withholding is required.
13 (a) (b)	Tips (cash) - if \$20.00 or more in a month - if less than \$20.00 in a month	Yes Yes	Yes No
14 (a) (b)	Sick pay - paid by employer - paid by third party	<p>Whether paid by employer or third party:</p> <p>* Yes, for first 6 months of payments (including sickness, accident or disability), if liable under FUTA.</p> <p>For UI purposes: These payments may be reported quarterly or annually (see <i>Annual Reports</i> on page 7). Occupational related workers' compensation payments are not considered sick pay and are neither reportable nor taxable. No, for amounts paid after the first 6 months of payments.</p>	Yes No

* Reportable as *Other wages* on Form NYS-45-ATT (see section II, Part H on page 16)

Unemployment insurance, wage reporting, and withholding tax requirements chart for certain items of income

Income item		Unemployment insurance and wage reporting requirement	Withholding tax requirement
15	Fringe benefits (that are not allowed as a deduction from the employee's federal gross income)		
(a)	Cars provided (personal use)	Yes	Yes, unless the employer elects not to withhold federal income tax and (1) gives the employee advance written notice of the election, and (2) includes the taxable amount of the benefit as income on the employee's wage and tax statement.
(b)	Flights on aircraft furnished by employer	Yes	Yes
(c)	Free or discounted commercial flights	Yes	Yes
(d)	Discounts on property or services	Yes	Yes
(e)	Memberships in social clubs/country clubs	Yes	Yes
(f)	Tickets to entertainment or sports events	Yes	Yes
(g)	Outplacement services	Yes - (The reasonable value of any meals, rent and lodging provided to employers)	Yes
(h)	Supper money		
(i)	Reimbursement of employment agency fee		
(j)	Meals and lodging		
16	Nontaxable fringes		
(a)	No additional cost services	Yes	No
(b)	Qualified employee discounts	Yes	No
(c)	Working condition fringes	Yes	No
(d)	Minimal value fringes	Yes	No
(e)	Qualified transportation fringes	Yes	No
(f)	Meals provided on employer's premises for employer's convenience	Yes	No
17	Cafeteria plans/flexible spending accounts (contributions under IRC 125(a))	Yes, regardless of whether the employee chooses cash or a qualified benefit.	No, if the employee chooses a qualified benefit and it is not subject to federal income tax withholding. Yes, if the employee chooses cash.
18	Educational assistance	Yes	No, unless federal income tax withholding is required.
19	Dependent care assistance (limited to \$5,000; \$2,500 if married filing separately)	Yes	No, unless federal income tax withholding is required.
20	Group-term life insurance	No	No
21	Unemployment compensation	No	No
22	Supplemental unemployment compensation	No	Yes, to extent includable in the employee's New York adjusted gross income or New York source income.
23	Disability payments	* Yes, for first 6 months of payments, if liable under FUTA. No, for amounts paid after the first 6 months of payments.	Yes
24	Worker's compensation payments	No	No
25	Military (payments of wages made to)		
(a)	- residents	(a) Yes, for persons who render services for State, National Guard, Air National Guard as regular state employees.	(a) Yes, unless the individual filed Form IT-2104-MS with the employer because he or she meets the conditions for nonresident status.
(b)	- nonresidents	(b) Yes, for persons who render services for State, National Guard, Air National Guard as regular state employees.	(b) No, unless income is received from civilian job in New York during off-duty hours.

* Reportable as *Other wages* on Form NYS-45-ATT (see section II, Part H on page 16)

Unemployment insurance, wage reporting, and withholding tax requirements chart for certain items of income

Income Item		Unemployment insurance and wage reporting requirement	Withholding tax requirement
26	Social security benefits	No	No
27	Gambling winnings	No	Yes, if the winnings are from the NYS Lottery and are paid to an individual who was a resident of NYS at the time the prize was won, and the proceeds from such wager exceed \$5,000. No, if the winnings are from a wagering transaction in a parimutuel pool for horse races, regardless of the proceeds realized from such wager.
28	Employers and/or employee elective contributions to pensions and other retirement benefits (a) 401(k) plan (b) 403(b) plan (NYS organization or public school) (c) SEP plan (d) Simple retirement account provided under IRC 408(p) (employee salary reduction or contribution to) (e) 457 plan (state and local governments, and tax-exempt organizations) (f) Qualified annuity (403(a)) plan (g) Public employee 414(h) retirement contributions (Tier III or Tier IV members of the New York State and Local Retirement Systems [including the New York State Employees' Retirement Systems and the New York State Policemen's Retirement System], New York State Teachers' Retirement System, or an Employee of the State or City University of New York who belongs to the TIAA/CREF Optional Retirement System or any Tier member of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, Manhattan and Bronx Surface Transit Operating Authority, the New York City Police Pension Fund or the New York City Fire Department Pension Fund) (h) New York City IRC 125 flexible benefits program (established by the City of New York and certain other New York City public employers [City University of New York, New York City Health and Hospitals Corporation, New York City Transit Authority, New York City Housing Authority, New York City Off-Track Betting Corporation, New York City Rehabilitation Mortgage Insurance Corporation, New York City Board of Education, New York City School Construction Authority, Manhattan and Bronx Surface Transit Operating Authority or the Staten Island Rapid Transit Authority], on the employees' behalf) (i) Nonqualified plans	Yes Yes Yes Yes Yes Yes Yes Yes	No, unless subject to federal income tax withholding. No, unless subject to federal income tax withholding. No, unless subject to federal income tax withholding. No No No Yes Yes
29	IRA contributions	No, unless a salary reduction plan.	No, regardless of whether the contributions to the plan are deductible or nondeductible from the employee's federal adjusted gross income.

Unemployment insurance, wage reporting, and withholding tax requirements chart for certain items of income

Income item		Unemployment insurance and wage reporting requirement	Withholding tax requirement
30 (a) (b) (c) (d) (e) (f) (g) (h)	Employees' distributions from pensions and other retirement plans 401(k) plan 403(b) plan (NYS organization or public school) SEP plan 457 plan (state and local governments, and tax exempt organizations) Qualified annuity (403(a)) plan Public employee 414(h) retirement distribution New York City IRC 125 flexible benefits program Nonqualified plans	No No No No No No No No	No* No* No* Yes No* No No No*
31	IRA distributions (deductible or nondeductible)	No	No,* if the contributions to the plan were deductible or nondeductible, or if it is a qualified rollover. No, if it is a lump-sum payment.
32 (a) (b) (c) (d)	Fees Speaker's Notary public Jury or witness Election official	No, unless for services as an employee. No No No, unless for services as an employee	No No No No
33	Income in respect of a decedent (regardless of whether paid in year of death or year after death)	Yes	No
34	Cancellation of indebtedness	Yes, if for services.	No
35	Barter income	Yes, if paid as an employee for service in the course of the employee's business.	No
36	Scholarship and fellowship grants	No	Yes, if federal income tax withholding is required.
37	Welfare payments	No	No
38	Insurance proceeds (life insurance, endowment contracts)	No	No
39	Interest-free and below market rate loans (paid by employer)	Yes	Yes
40	Interest and dividends	Yes, if for services.	No
41	Agricultural wages - cash payments - non cash payments	Yes Yes	Yes, if wages paid are subject to federal income tax withholding (see federal Circular A). No
42	Fishing related activities	Yes	Yes, if subject to federal income tax withheld because it is paid in cash. No, if exempt from federal income tax withholding because the income is derived by Native Americans exercising fishing rights.
43	Domestic service (Household help) - employee compensation Payments (Employer's payment of employee's share)	Yes No	No, unless voluntary agreement to withhold New York State, city of New York or city of Yonkers tax between employer and employee is in effect. See New York State Publication 27 for more information on domestic help. No

* However, New York State, city of New York and city of Yonkers income tax withholding is required if the payee requests it using Form IT-2104-P.

V. New Hire Reporting Requirements

All employers must report to the New York State Department of Taxation and Finance certain identifying information about each newly hired or rehired employee working in New York State.

- An *employer* for new hire purposes is defined the same as for federal income tax withholding purposes (Section 3401(d) of the Internal Revenue Code of 1996). This includes employers of domestic help, labor organizations (including hiring halls), and governmental entities (except for federal agencies, which report directly to the National Directory of New Hires).
- Employers have **20 calendar days** from the hiring date to report newly hired or rehired employees who will be employed in New York State. If an employer reports by magnetic media (magnetically) or electronically, the employer must report using two monthly submissions (if needed) not less than 12 nor more than 16 days apart.
- Employers may consider the hiring date to be any of the following:
 - the date the employee signed federal Form W-4, *Employee's Withholding Allowance Certificate*; **or**
 - the date the employee is appointed to a position; **or**
 - the first day of work; **or**
 - the date of first payment for service (latest acceptable date).

Employers do not have to indicate which option they choose and may switch to an alternate acceptable date at any time. In no instance, however, may the hiring date be later than the date of the first payment for services.

- The following information must be provided for each employee:
 - employee name (first, middle initial, last)
 - employee address (street, city, state, and ZIP code)
 - employee social security number
 - employer name
 - employer address (street, city, state, and ZIP code)
 - employer identification number (assigned by the Internal Revenue Service).
- The required information can be reported by submitting a completed and legible copy of the employee's federal Form W-4, *Employee's Withholding Allowance Certificate*, or an equivalent form as developed by the employer. Since employees complete the W-4 form, employers must review the form to ensure the information is complete and legible, including boxes 8 and 10 regarding the employer's name, address, and identification number. Reports may be furnished by first class mail, by private delivery services, magnetically, or electronically. (Only copies of W-4s for newly hired or rehired employees must be filed; copies of W-4s for existing employees who change deduction amounts or other information are not required to be submitted).
- Employers who have employees in more than one state and who report magnetically or electronically may designate one state (in which he or she has employees) to report newly hired employees. Those multistate employers electing one state must notify the federal Department of Health and Human Services as to which state has been selected for reporting. Mail the multistate notification to: Department of Health and Human Services, Multistate Employer Registration, Office of Child Support Enforcement, Box 509, Randallstown MD 21133.

- Employers who are required to report to New York State (and multistate employers who designate New York as their reporting state) should submit the new hire information to:

New York State Department of Taxation and Finance
New Hire Notification
PO Box 15119
Albany NY 12212-5119

or by fax to (518) 438-3715

Magnetic media filers may obtain updated specifications by contacting Employer Outreach at (518) 438-3152.

- The penalty for failure to timely report newly hired employees or for failure to file a report showing the required information is \$20, multiplied by the number of employees not reported or the number of false or incomplete reports filed. However, if the failure is a result of a conspiracy between the employer and employee, the penalty will be \$450, multiplied by the number of employees not reported or the number of false or incomplete reports filed.

Rules for specific types of employment

Seasonal Employees and Employees Recalled From Layoffs

When seasonal employees or employees recalled from layoffs return to work, if the break in service is 60 calendar days or less, then the employee does not have to be reported. If the break in service is more than 60 calendar days, the employee must be reported. New hire information must be submitted on another report, or if the employee completes a new W-4, a copy of the New W-4 may be submitted.

Temporary employees

Employers paying temporary employees directly must report them under this program. However, employers who purchase the employee services from a temporary service agency do not have to report these employees if they remain employed by the agency. They must be reported by the temporary service agency within 20 days from the hiring date, and are not required to be reported each time they are assigned to an employer-client. This also applies to employee leasing firms. These employees must be reported as new hires at the beginning of their engagement with the temporary agency, and again only if they were terminated by the agency or removed from its payroll records and then rehired.

Placement agencies

A placement agency is not responsible for reporting its individual clients because the clients are not employees of the agency. When the client obtains employment through the service of the placement agency, the employer is then responsible for reporting the newly hired employee.

Teachers and professional athletes

Teachers and other employees of educational institutions who are paid an annual salary are not considered to be rehired when they return to school in September. This is true even if they are not required to report to school for more than a 60-day period.

The above policy also applies to professional athletes and employees of professional teams who are paid an annual salary and work less than a full calendar year.

VI. Need Help?

NYS Tax Department

Information

For information regarding wage reporting, withholding forms, and new hire notification, please call the Business Tax Information Center at toll free 1 800 972-1233. For general 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 outside Canada, call (518) 485-6800. Telephone assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. To make sure that Tax Department employees give courteous responses and correct information to taxpayers, a Tax Department supervisor sometimes monitors telephone calls.

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. 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.

NYS Department of Labor Unemployment Insurance Division

See pages 31 through 35 for addresses, telephone and fax numbers to contact regarding unemployment insurance issues. A list of available informational pamphlets covering a variety of unemployment insurance topics can be found on page 37.

Internet Access — <http://www.labor.state.ny.us>

State Insurance Fund

Workers Compensation and Disability Benefits

For information call (518) 485-8800.

Internet Access — <http://www.nysif.com>

Internal Revenue Service

For information call toll free 1 800 829-1040. For forms and publications call toll free 1 800 829-3676.

Internet Access — <http://www.irs.ustreas.gov>

U.S. Immigration and Naturalization Service

For information call toll free 1 800 375-5283.

Internet Access — <http://www.ins.usdoj.gov>

Unemployment Insurance Issues - Where do I call?

The following table provides addresses, telephone, and Fax numbers to contact if you have questions regarding specific unemployment insurance issues.

Issue	Write	Call
<ul style="list-style-type: none"> • Am I liable for Unemployment Insurance Taxes? • Should this employee be covered for Unemployment Insurance? • I want to voluntarily cover the services of an employee • The charge to my experience rating account is wrong • I have questions regarding my right to request a hearing on any determination of liability made by the Department of Labor. • I have questions about the Shared Work Program (Shared Work offers an alternative to laying off employees during temporary declines in business). 	NYS Department of Labor Liability & Determination Section Gov. W. Averell Harriman State Office Bldg. Campus Albany NY 12240-0322	Telephone: (518) 457-5806 457-5807 Fax: (518) 485-6172
<ul style="list-style-type: none"> • I need form IA 12.3, Record of Employment, to give employees being separated. • I need a form to register and set up an Unemployment Insurance account. • I need additional forms or informational brochures. • I need to report change of business information. 	NYS Department of Labor Registration Subsection Gov. W. Averell Harriman State Office Bldg. Campus Albany NY 12240-0339	Telephone: (518) 485-8589 457-1096 Fax: (518) 485-8010
<ul style="list-style-type: none"> • I do not understand my tax rate. • How do voluntary tax payments affect my account? • When do I file my tax reports? • I received a notice of underpayment (or overpayment) with which I disagree. 	NYS Department of Labor Employer Account Adjustment Section Gov. W. Averell Harriman State Office Bldg. Campus Albany NY 12240-0415	Telephone: (518) 457-2169 Fax: (518) 485-8602
<ul style="list-style-type: none"> • I do not believe my former employee should be eligible for Unemployment Insurance benefits. • I want to offer re-employment to one of my former employees who is receiving Unemployment Insurance benefits. 	Write or call the office where the claimant filed the claim for benefits . The office number is shown on the monthly notices of experience rating charges. A directory of addresses and telephone numbers of offices providing unemployment insurance services is found on page 33 and 34 of this guide.	
<ul style="list-style-type: none"> • I think one of my former employees is fraudulently receiving Unemployment Insurance benefits. • I would like to report a possible incident of Unemployment Insurance fraud involving an individual or an employer. 	Write or call the office where the claimant filed the claim for benefits, or an Investigation Section Office. The office number is shown on the monthly notices of experience rating charges. A directory of addresses and telephone numbers of offices providing unemployment insurance services and Investigation Section Offices is found on pages 33 through 35 of this guide. -or- Contact NYS Department of Labor, Liability & Determination Section, Fraud Control Unit, Gov. W. Averell Harriman State Office Building Campus, Albany NY 12240-0322 Telephone (518) 485-2144. -or- Call our confidential 24 hour toll free fraud number: 1-888-598-2077	

Unemployment Insurance Issues Where do I call? (continued)

<ul style="list-style-type: none"> ● I have questions on enforcement actions taken to collect monies due including: <ul style="list-style-type: none"> ● Filing a tax warrant ● Bankruptcy proceedings ● I have questions about Tax Offset. (A tax offset intercepts a state income tax refund or payment to vendors for state contracted services to pay for past due unemployment insurance debts.) 	NYS Department of Labor Central Assignment & Collection Section Gov. W. Averell Harriman State Office Bldg. Campus Albany NY 12240-0350	Telephone: (518) 457-5789 Fax: (518) 457-8215 Bankruptcy Telephone: (518) 485-6160
<ul style="list-style-type: none"> ● I have a job opening I want to fill. 	To place a job order or obtain labor exchange information, write or call the Community Service Center nearest you. They are listed on pages 33 and 34.	
<ul style="list-style-type: none"> ● I have questions regarding minimum wage, hours of work, overtime rates, etc. 	NYS Department of Labor Division of Labor Standards Consult the nearest office listed under New York State Government in metropolitan area telephone directories.	
<ul style="list-style-type: none"> ● I have questions about New York State Wage Reporting Requirements: <ul style="list-style-type: none"> ● What do I have to report? ● I need forms or publications. 	NYS Department of Labor Liability & Determination Section (address and telephone numbers shown on previous page) NYS Department of Taxation & Finance Taxpayer Assistance Bureau WA Harriman Campus Albany NY 12227	Telephone: 1-800-972-1233 Outside NYS (518) 438-1073
<ul style="list-style-type: none"> ● I do not understand my liability under the Federal Unemployment Tax Act. ● I need to get a Federal Employer Identification Number (FEIN). 	Consult the nearest office of the Internal Revenue Service listed under United States Government in the telephone directory.	
<ul style="list-style-type: none"> ● I have some inquiries of a general nature on unemployment insurance issues which do not fall into any of the above categories. (The offices shown in the opposite column can give you general information and refer you to the proper office to handle your specific problem.) 	NYS Department of Labor Gov. W. Averell Harriman State Office Building Campus Albany NY 12240 Or NYS Department of Labor New York Employer Services 345 Hudson Street PO Box 694 New York NY 10014	Telephone: (518) 457-9000 Telephone: (212) 352-6366 352-6374
<ul style="list-style-type: none"> ● What is the New York State Department of Labor's Web Site Address? 	http://www.labor.state.ny.us	

Community Service Centers

The New York State Department of Labor, through its statewide network of Community Service Centers, provides a variety of free services to both employers and job seeking customers. These services include job placement/recruitment, referral to training, and unemployment insurance benefits. In addition to basic labor exchange services, employers can receive information about labor market conditions and government programs such as tax credits and Affirmative Action hiring. To place a job order or obtain information, please contact the Community Service Center nearest you. Following is a list of Community Service Centers.

NYS Department of Labor offices providing unemployment insurance services

Greater Capital District region

Office no.	Address	Telephone
*1	Albany - 115 Ontario Street 12206-2490	(518) 465-0797
3	Queensbury - Northway Plaza, Suite 13C 12804-1717	(518) 792-5811
4	Saratoga Springs - 3035 Rt 50, Saratoga Mall 12866-2980	(518) 587-1592
*5	Schenectady - 600 Franklin Street 12305-2104	(518) 382-0291
*7	Troy - Troy Atrium, 49 4th Street, Ste 212 12180-3245	(518) 402-0773
9	Hudson - 98 Green Street 12534-2343	(518) 828-4654
25	Malone - 231 West Main Street 12953-9501	(518) 483-2260
26	Plattsburgh - 185 Margaret Street 12901-1890	(518) 561-0430
27	Saranac Lake - 11 St. Bernard Street 12983-1892	(518) 891-0440
34	Gloversville - 199 South Main Street 12078-4290	(518) 725-6473
*35	Amsterdam - Amsterdam Mall 12010-4686	(518) 842-2240
**801, 802	Troy Telephone Center - PO Box 15130, Albany NY 12212-1530	(518) 402-1700

Central New York region

Office no.	Address	Telephone
21	Ogdensburg - 103 Ford Street 13669-1409	(315) 393-4600
23	Massena - 35 Glenn Street 13662-2091	(315) 769-3596
24	Watertown - 317 Washington Street 13601-3798	(315) 785-2220
30	Rome - 252 Liberty Plaza 13440	(315) 793-7300
31	Utica - 207 Genesee St., State Office Bldg., Rm. 203 13501-2868	(315) 793-2326
32	Herkimer - 419 North Main Street 13350-1925	(315) 866-3240
38	Oneida - 595 Main Street 13421-2495	(315) 363-4450
40	N. Syracuse - 109 North Plaza 13212-3897	(315) 455-5786
41	Syracuse - 450 South Salina Street 13202-2402	(315) 479-3261
45	Auburn - 1100 Corporate Drive 13021-1633	(315) 255-2228
46	Cortland - 99 Main Street 13045-3606	(607) 756-7585
47	Oswego - 73 West Second Street 13126-1517	(315) 342-3905
*90	Endicott - Glendale Technology Park, Bldg. 16 13760	(607) 7414471
91	Ithaca - Center Ithaca Bldg., 171 E. State Street 14850-5576	(607) 272-7570
92	Norwich - One O'Hara Drive 13815-2047	(607) 334-2201
93	Oneonta - 12 Dietz Street 13820-1890	(607) 432-4800
94	Corning - 20 Denison Parkway West 14830-2607	(607) 962-2486
*95	Hornell - 107 Broadway 14843-1580	(607) 324-8388
*96	Elmira - 200 Baldwin Street 14901-3088	(607) 733-7131
321	Gouverneur - mail to office 21 in Ogdensburg	
324	Lowville - mail to office 24 in Watertown	
326	Mineville - mail to office 26 in Plattsburgh	
**831	Glendale Telephone Center - PO Box 15130, Albany NY 12212-1530	(607) 741-6201

Hudson Valley region

Office no.	Address	Telephone
*80	Peekskill - 201 South James Street 10566-2825	(914) 737-3490
*81	White Plains - 5 Prospect Avenue 10607-1697	(914) 997-9587
*82	Kingston - 30-32 O'Neil Street 12401-3546	(914) 338-4696
*83	Yonkers - 20 S. Broadway, Ste 1215 01701	(914) 965-9500
85	Newburgh - 116 Lake Street Ste 21 12550-5247	(914) 563-7000
*86	Poughkeepsie - 235 Main Street 12601-3195	(914) 473-9000
*87	Spring Valley - 235 N. Main Street, Ste 4 10977-4023	(914) 426-2700
88	Middletown - 130 Dolson Avenue 10940-6540	(914) 341-1411
*89	Monticello - 50 North Street 12701-1711	(914) 794-3340

NYS Department of Labor offices providing unemployment insurance services (cont'd)

Western New York region

Office no.	Address	Telephone
50	Rochester - 276 Waring Road 14609-2598	(716) 266-7760
52	Rochester - 140 West Main Street 14614-1190	(716) 258-8800
53	Newark - 105 North Main Street - mail to PO Box 151 14513-0151	(315) 331-2981
54	Batavia - 8 Court Street Plaza 14020-3197	(716) 343-2121
55	Warsaw - 448 North Main Street 14659-1021	(716) 786-3145
56	Geneva - 70 East Washington Street - mail to PO Box 1186 14456-8186	(315) 789-1771
57	Albion - 458 West Ave., Suite 3 14411-1598	(716) 589-5335
59	Geneseo - One Megan Drive 14454-1167	(716) 243-1427
71	Buffalo - 284 Main Street 14202-4081	(716) 851-2600
*72	Buffalo - 950 Broadway 14212-1296	(716) 854-5353
73	Niagara Falls - Trott Access Center, 1001 11th St., Ste E. 14301	(716) 278-8258
74	Lockport - 81 Walnut Street 14094-3671	(716) 433-6766
75	Tonawanda - 34 Seymour Street 14150-2194	(716) 695-3730
76	Blasdell - 3448 McKinley Parkway 14219-2199	(716) 825-3916
77	Williamsville - 4175 Transit Road 14221-7205	(716) 634-9081
*78	Dunkirk - 200 Lake Shore Drive West 14048-1496	(716) 366-0130
*79	Jamestown - 25 Harrison Street 14701-6693	(716) 664-2041
*179	Olean - 175 N. Union Street, Suite 4 14760-2796	(716) 373-1880

New York City region

Office no.	Address	Telephone
511	New York City - 50 Park Place 10007-2493	(212) 266-5346
514	New York City - 55 West 125th Street 10027-4492	(212) 961-8127
517	New York City - 247 West 54th Street 10019-5589	(212) 621-0860
521	Bronx - 390 Morris Park Avenue 10460-2591	(718) 409-7565
522	Bronx - 358 East 149th Street 10455-3994	(718) 960-7904
523	Bronx - 815 Burke Avenue 10467-6698	(718) 519-5101
531	Brooklyn - 35 Fourth Avenue 11217-1929	(718) 398-5741
533	Brooklyn - 250 Schermerhorn Street 11201-5891	(718) 780-9333
534	Brooklyn - Bay Station CSC, 1717 Avenue Z 11235	(718) 368-7931
536	Brooklyn - 115 Lawrence Street 11201-3890	(718) 243-6941
541	Flushing - 13860 Barclay Avenue 11355	(718) 321-6307
544	Jamaica - 16846 91st Avenue, 2nd Floor 11432-5229	(718) 523-4312
546	Long Island City - 25-01 Queens Plaza North 11101-4006	(718) 706-5569
550	Staten Island - 1139-1141 Hylan Blvd. 10305-2082	(718) 390-8328

Long Island region

Office no.	Address	Telephone
60	Hicksville - 301 W. Old Country Road 11801-4114	(516) 560-6122
62	Hauppauge - State Office Bldg., Veterans Memorial Hwy. - mail to PO Box 985 Smithtown 11787-0985	(516) 758-7702
63	Riverhead - 134 East Main Street 11901-2489	(516) 758-7702
64	Freeport - 84 North Main Street 11520-2292	(516) 560-6122
67	Patchogue - 55 Medford Avenue 11772-1200	(516) 758-7700
68	Hempstead - 344 Fulton Avenue 11550-3972	(516) 560-6122

Other

Office no.	Address	Telephone
799	Shared Work Unit - PO Box 621, Albany NY 12201-0621	(518) 402-0220
901	Claims Service Subsection - PO Box 270, Albany NY 12201-0270	(518) 402-0182
999	Out-of-State Resident Office - PO Box 1559, Albany NY 12201-1559	(518) 402-0200

* Office does not accept new claims for unemployment insurance benefits.

** Telephone Claims Centers provide only services related to unemployment insurance benefit claims.

Unemployment Insurance Fraud Investigation Offices

Help stop unemployment insurance fraud. Please report possible incidents of UI fraud by dialing our 24-hour, toll-free number: 1 888 598-2077. You may also contact the nearest Investigation Section Office:

Investigation office	Address	Telephone
ALBANY	State Campus Building 12 Room 371, 12240	(518) 457-2527
BUFFALO	730 Fillmore Street 14212	(716) 856-3887
ENDICOTT	2001 Perimeter Road East Suite 3, 13760	(607) 741-4479
NEW YORK CITY	PO Box 672, 10014-0672	(212) 352-6632
ROCHESTER	155 West Main Street, 14614	(716) 258-4560
SYRACUSE	450 South Salina Street, 13202	(315) 479-3354
UTICA	State Office Building 207 Genesee Street Room 601, 13501	(315) 793-2300

Unemployment Insurance Tax Services Offices

Unemployment Insurance Tax Services offices provide a variety of services to employers, including general information on employer liability. Following is a list of Unemployment Insurance Tax Services Offices.

Location	Address	Telephone
ALBANY	Building 12 Suite 2001 State Office Campus, 12240	(518) 402-0208
BRONX	Room 104 3040 East Tremont Avenue 10461	(718) 597-6414
BROOKLYN	Fourth Floor 250 Schermerhorn Street, 11201	(718) 780-9301
BUFFALO	290 Main Street, 14202	(716) 851-2771
ENDICOTT	2001 Perimeter Road East, 13760	(607) 741-4471
HAUPPAUGE	Veterans Memorial Highway State Office Building, 11788	(516) 952-6506
HICKSVILLE	2 West Avenue, 11801	(516) 934-8570
LONG ISLAND CITY	25-15 Queens Plaza North 11101	(718) 706-5548
NEW YORK CITY	52 West 20th Street, 10011	(212) 337-8641 337-8676
PLATTSBURGH	185 Margaret Street, 12901	(518) 561-0431
POUGHKEEPSIE	Second Floor 235 Main Street, 12601	(914) 473-2460
ROCHESTER	155 West Main Street, 14614	(716) 258-4510
SYRACUSE	450 S. Salina Street, 13202	(315) 479-3382
UTICA	207 Genesee Street, 13501	(315) 793-2304
WHITE PLAINS	55 Church Street, 10601	(914) 997-9574

New York State Withholding Tax, Wage Reporting and Unemployment Insurance Forms *

Instructional Forms		
Form:	Form Title:	Purpose:
NYS-50	Employer's Guide	General information instructions, filing requirements for unemployment insurance, wage reporting and withholding tax, and withholding tax tables for New York State, the city of New York and the city of Yonkers
	PromptTax Manual	Instructions for electronic filing and funds transfer program for withholding tax. PromptTax filers should call 1 800 EFT-0054 for information and assistance.
Pub. 27	What You Need to Know if You Hire Domestic Help	Describes various responsibilities and filing requirements for employers of household help
Pub. 69	Magnetic Media Reporting of Quarterly Combined Wage and Withholding Tax Information	Detailed listing of requirements and specifications for magnetic media filing
Pub. 83	Specifications for Reproduction of New York State Withholding Tax Forms	Guidelines for reproducing and submitting substitute forms for approval
Employer Completed Forms to be sent to New York State		
Form:	Form Title:	Purpose:
NYS-100	New York State Employer Registration for Unemployment Insurance, Withholding and Wage Reporting	To register as a new employer for New York State unemployment insurance, withholding tax or wage reporting purposes.
NYS-1	Return of Tax Withheld	Filed with remittance of taxes withheld
NYS-45	Quarterly Withholding, Wage Reporting and Unemployment Insurance Return	To submit quarterly reporting of unemployment insurance contributions, withholding reconciliation information, wage reporting information and annual employee/payee wage and withholding totals.
NYS-45-ATT	Attachment to Quarterly Withholding, Wage Reporting and Unemployment Insurance Return	Attachment to Form NYS-45 to submit wage reporting and annual information for more than five employees/payees.
NYS-45-X-MN	Amended Quarterly Withholding, Wage Reporting and Unemployment Insurance Return	To make corrections to quarterly reporting of unemployment insurance contributions, withholding information, wage reporting information and annual reporting of employee/payee wage and withholding totals
NYS-45-CC	Quarterly Supplemental Wage Reporting Return to be Submitted by Construction Companies	Attachment to Form NYS-45 to be filed by certain construction companies for reporting supplemental employee wage information.
PR-202	Transmittal Form for Withholding Tax Magnetic Media	Transmittal for quarterly employee/payee records reported on magnetic media
PR-204	Request for Waiver From Filing Information Returns on Magnetic Media	Request for waiver
DTF-95 or DTF-95.1	Change of Business Information	To report change in business name, identification number, mailing or business address, telephone number, or owner/officer/responsible person information
Employer Completed Forms to be given to Employees/Payees (Do not submit these to New York State)		
Form:	Form Title:	Purpose:
IT-2102	Wage and Tax Statement	Reporting of amounts withheld, wages, tips, other compensation, social security tips, fringe benefits, and public employee retirement contributions for employees
IT-2102-G	Report of Certain Gambling Winnings	Reporting of lottery winnings and taxes withheld
IT-2102-P	Statement for Recipients of Annuities, Pensions, Retired Pay or IRA Payments	Reporting of taxes withheld, gross annuity, pensions and taxable amounts for payees
Employee/Payee Completed Forms		
Form:	Form Title:	Purpose:
IT-2102.6	Certificate of Income Tax Withheld	To be filed as a substitute for Form IT-2102 or W-2 only if every effort to get a Form IT-2102 or W-2 from the employer has failed
IT-2104	Employee's Withholding Allowance Certificate (and Instructions)	Completed by employees to claim the number of withholding allowances for New York State, the city of New York and the city of Yonkers
IT-2104.1	New York State Certificate of Nonresidence and Allocation of Withholding Tax	Completed by nonresident employees performing services within NYS to certify nonresidence and the percentage of services performed in NYS
IT-2104.2	City of New York Certificate of Nonresidence	Completed by nonresidents of NYC performing services within NYC to certify nonresidence and the percentage of services performed in NYC
IT-2104.5	City of Yonkers Certificate of Nonresidence	Completed by nonresidents of Yonkers performing services in Yonkers to certify nonresidence and the percentage of services performed in Yonkers
IT-2104-E	Certificate of Exemption from Withholding	Completed by employees who are claiming exemption from withholding
IT-2104-IND	New York State Certificate of Exemption from Withholding for Indians	Completed by qualifying members of a tribe or nation to claim exemption from withholding
IT-2104-MS	New York State Withholding Exemption Certificate for Military Service Personnel	Completed by qualifying members of the armed forces to claim exemption from withholding
IT-2104-P	Annuitant's Request for Income Tax Withholding	Completed by recipients of annuities or pension payments to request withholding for New York State, the city of New York or the city of Yonkers

To request withholding forms, call toll free 1 800 972-1233; or call (518) 485-6800 from outside the U.S. and Canada.

* For a listing of UI publications that are available for you to order, see *Unemployment Insurance Publications* on the next page.

Unemployment Insurance Publications

More complete information on the unemployment insurance program is contained in the *Unemployment Insurance Benefits - an Employer's Guide*, form IA 318.2, which may be requested from the Department of Labor, Registration Subsection. A number of informational pamphlets on various unemployment insurance topics are also available on request. To send for pamphlets, use the order form below and address it to:

NYS Department of Labor
Registration Subsection
W A Harriman Campus
Albany NY 12240

Or telephone: (518) 485-8589

IA 15	Change of Business Information
IA 116.3	Jurisdiction of Employment
IA 318 D	Householder's Guide for Unemployment Insurance
IA 318.2	Unemployment Insurance Benefits - an Employer's Guide
IA 318.10	Students and NYS and Federal Unemployment Insurance Tax Reporting
IA 318.11	Agricultural Employment
IA 318.12	Experience Rating
IA 318.13	Benefit Reimbursement
IA 318.14	Independent Contractors
IA 318.15	Reporting Meals, Lodging, Tips and Other Forms of Remuneration
IA 318.17	Performing Artists Guidelines
SW 1	Shared Work

.....
(Detach At This Line)

Pamphlet order form

Pamphlet no.	Title	Quantity

- List form number, title, and quantity requested in boxes above
- Enter business name and address information in space provided below

Employer registration no. _____ FEIN _____

Name of business _____

Address _____

City _____ State _____ ZIP Code _____