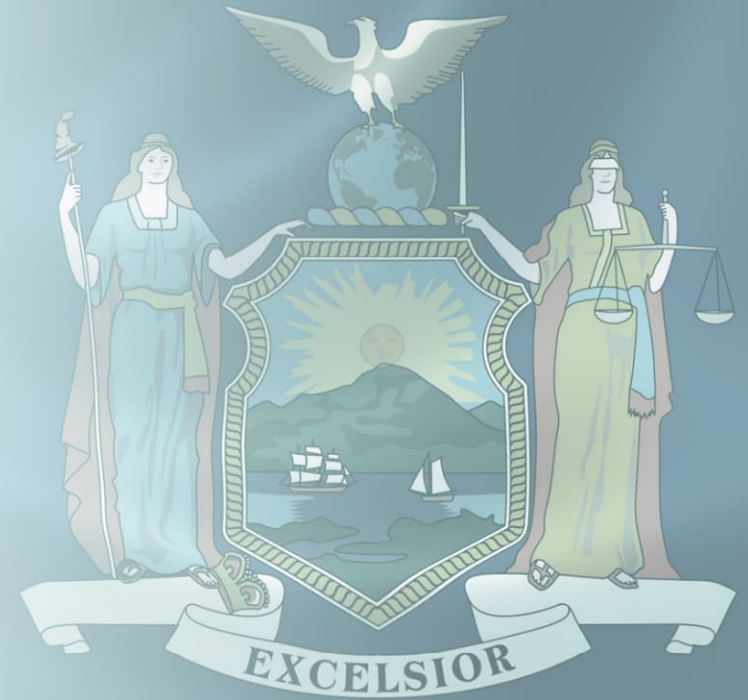




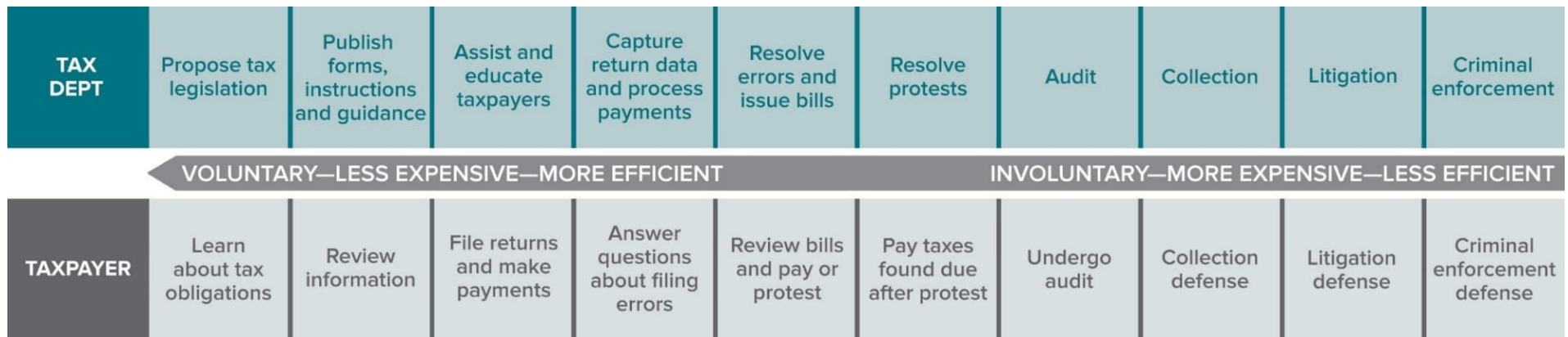
Department of
Taxation and Finance

Tax Updates and Messages

Tax Year 2023



Efficiency: Compliance Continuum



Our mission:

To efficiently collect tax revenues in support of state services and programs, while acting with integrity and fairness in the administration of the tax laws of New York State.

Department Focus

- Taxpayer experience
- Tax modernization

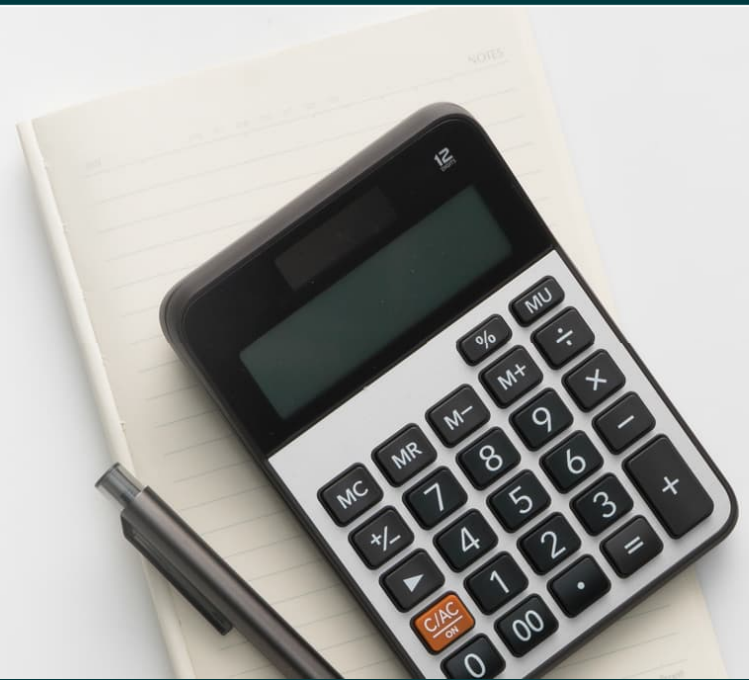


Summary of Tax Law Changes for 2023-2024



Department of
Taxation and Finance

Specific Provisions



Department of
Taxation and Finance

Tax Appeal Tribunal Decisions

- The Tax Department can appeal certain Tax Tribunal decisions by petitioning the Appellate Division, Third Department.
- The Tax Department can petition for the review of tribunal decisions premised on the interpretation of:
 - the state or federal constitution,
 - international law, federal law, the law of other states, or
 - other legal matters that are beyond the reach of the state legislature.

Tax Appeal Tribunal Decisions

- Interest and penalty will not accrue from the date the Tax Department appeals a tribunal decision until 15 days after a final decision is issued.
- This change applies to all decisions and orders issued by the tribunal and is effective on or after May 3, 2023.

Changes to the MCTMT Tax Rate

For purposes of calculating the Metropolitan Commuter Transportation Mobility Tax (MCTMT), the Metropolitan Commuter Transportation District (MCTD) is now divided into two zones:

- Zone 1 includes the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, and Richmond (Staten Island).
- Zone 2 includes the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

Changes to the MCTMT Tax Rate

- For tax quarters beginning on or after July 1, 2023, the MCTMT rate for employers who engage in business in Zone 1, with a quarterly payroll expense in excess of \$437,500, the top rate has increased from 0.34% to 0.60%.
- Rates for employers engaging in business in Zone 2 remain unchanged.

Changes to the MCTMT Tax Rate

- The tax rate for individuals with net earnings from self-employment attributable to the MCTD within Zone 1 has increased from 0.34% as follows:
 - for tax year 2023: 0.47%
 - for tax years 2024 and after: 0.60%
- The rate for individuals with net earnings from self-employment within Zone 2 has not changed.
- For more information, visit our webpage www.tax.ny.gov (search: MCTMT)

Treatment of Limited Partners for MCTMT

- The definition of *net earnings from self-employment* was amended to clarify the treatment of limited partners for purposes of the MCTMT.
- Specifically, the definition of *net earnings from self-employment* was amended to clarify that, when applying the federal exemption for limited partners found in IRC 1402(a)(13), the partner must truly be a limited partner.

Treatment of Limited Partners for MCTMT

An individual shall not be considered a limited partner if the individual, directly or indirectly takes part in the control, or participates in the management or operations of the partnership such that the individual is not a passive investor, regardless of the individual's title or characterization in a partnership or operating agreement.

Corporate Franchise Tax Filings



Department of
Taxation and Finance

Corporate Franchise Tax Rates

- The 7.25% business income base tax rate has been extended for taxpayers with a business income base of more than \$5 million for three years, through tax years beginning before January 1, 2027.
- For tax years beginning on or after January 1, 2027, the rate for these taxpayers reverts to the general 6.5% tax rate.

Corporate Franchise Tax Rates

- The 0.1875% capital base tax rate has been extended for three years, through tax years beginning before January 1, 2027, for taxpayers other than qualified New York manufacturers, qualified emerging technology companies, cooperative housing corporations and small businesses.
- For tax years beginning on or after January 1, 2027, the rate will be set to 0% for all taxpayers.

MTA Surcharge

- The MTA surcharge rate is 30% for tax years beginning on or after January 1, 2023, and will now be set at this rate for tax years beginning on or after January 1, 2024 as well.
- This rate only applies to Article 9-A taxpayers.
- The MTA surcharge continues to be applied to tax liability before credits apportioned to the MTA.

Business Corporation Franchise Tax Regulations

- The Tax Department has formally proposed corporate tax reform regulations under the State Administrative Procedure Act (SAPA).
- The proposal also includes changes to the insurance tax regulations that are needed for rules covering tax credits and combined reporting.

Credit Changes



Department of
Taxation and Finance

Credit Extensions

- **Empire State commercial production credit:** extended five years to tax years beginning for January 1, 2029
- **Rehabilitation of historic properties credit:** extended five years to tax years beginning before January 1, 2030
- **Grade number 6 heating oil conversion credit:** extended six months to cover conversion costs paid before January 1, 2024

Credit Extensions

- **Empire State film production credit:** extended to tax years beginning before January 1, 2035
- **Empire State film post-production credit:** extended to tax years beginning before January 1, 2035
- **New York City musical and theatrical production tax credit:** extended to tax years beginning before January 1, 2026.

Empire State Child Tax Credit Expansion

- The definition of qualifying child was amended to include those under the age of 4.
- The state credit was previously limited to children ages 4 through 16.
- See Form IT-213-I for more information.

Empire State Film Credits

- The credit rate has increased from 25% to 30% for qualified production and post-production costs.
- The credit rate has increased from 30% to 35% for the post-production credit for qualified post-production facilities located outside the Metropolitan Commuter Transportation District (MCTD).

NYC Musical and Theatrical Production Credit

- The credit was amended to add Level 1 and Level 2 qualified New York City production facilities.
- The amount of the credit per qualified New York City musical and theatrical production cannot exceed \$3M in a Level 1 facility, or \$350K in a Level 2 facility.
- The application and credit periods are extended to 6/30/25 and 9/30/25, respectively.
- The aggregate cap for the credit increased to \$300M.

Brownfield Redevelopment Tax Credit

For sites issued a Certificate of Completion (COC) on or after January 1, 2017, and prior to December 31, 2017, located in a city with a population greater than 205,000 and less than 215K within a county with a population greater than 1M but less than 1.01M per the latest federal decennial census:

- site preparation costs include all costs paid or incurred within 180 months after the last day of the tax year in which the COC was issued;
- the tangible property component is allowed for up to 180 months after the last day of the tax year in which the COC was issued; and
- the site preparation component is allowed for up to 15 taxable years after the last day of the tax year in which the COC was issued.

Brownfield Redevelopment Tax Credit

- Site preparation costs for a site issued a COC on or after July 1, 2015, but on or before June 24, 2021, include all costs paid or incurred within 84 months after the last day of the tax year in which the COC was issued.
- See TSB-M-23(1)C,(1)I, *Amendments to the Brownfield Redevelopment Tax Credit*, for more information.

Investment Tax Credit for Farmers

- For tax years 2023 through 2027, this credit will be fully refundable for eligible farmers.
- The refundability only applies to credit claimed for property placed in service on or after January 1, 2023, and before January 1, 2028.
- Eligible farmers can continue to carry over existing non-refundable credits for property placed in service prior to January 1, 2023
- Eligible farmer is defined in accordance with the agricultural property tax credit.

Alcoholic Beverage Production Credit

- The amount of credit per tax year for the first 500K gallons of wine and liquor produced in New York State has increased to:
 - 30 cents per gallon of wine;
 - \$2.54 per gallon of liquor with more than 2% but not more than 24% alcohol by volume (ABV); and
 - \$6.44 per gallon of liquor with more than 24% ABV.
- See Forms CT or IT-636 for more information.

New Credits



Department of
Taxation and Finance

Childcare Creation and Expansion Tax Credit Program

- This new refundable tax credit under Articles 9-A, 22, and 33 of the Tax Law is for eligible businesses that create and expand childcare seats for their employees.
- This program is administered by the Office of Children and Family Services (OCFS) and is capped at \$25 million annually for two years from April 1, 2023 to January 1, 2025.
- To participate, a business entity must submit a complete application to OCFS by January 31st after the end of each service year.
- Eligible taxpayers will receive a certificate of credit from OCFS.

Farm Employer Overtime Credit

- This is a new credit for Article 9-A and Article 22 taxpayers for eligible farmers who pay overtime wages after January 1, 2024, based on the phase in of an OT threshold.
- The credit is equal to 118% of the overtime differential paid to eligible farm employees between the OT threshold and 60 hours per week.

Farm Employer Overtime Credit

- Eligible farmers may request an advanced payment for qualified OT paid between January 1 and July 31 of the applicable year by requesting an advance payment certificate from the Department of Agriculture and Markets by September 30th and requesting the payment from the Tax Department by November 1 of the applicable year of the advance payment amount.
- See Forms CT or IT-661 for more information

Updated Programs



Department of
Taxation and Finance

Pass-through Entity Tax (PTET)

The definition of pass-through entity taxable income and city pass-through entity taxable income was amended to fix an unintentional circular math error and clarify that PTE taxable income now includes the add back of PTET, or substantially similar taxes paid to other jurisdictions that were deducted in the taxable year for federal income tax purposes.

Pass-through Entity Tax (PTET)

- New York City resident trusts and estates can now receive a New York City PTET credit if they are shareholders or partners in an entity participating in New York City PTET.
- Taxpayers can revoke the PTET election at any time up until the due date of the first estimated payment, through the entity's Business Online Services account.
- See the Tax Department's webpage *Frequently asked questions about the pass-through entity tax (PTET)* for more information.

PTET Filing Reminders

- A PTET election is made each year online through the entity's Business Online Services account.
- An eligible entity may opt in on or after January 1, but no later than March 15.

Other Provisions



Department of
Taxation and Finance

Real Estate Investment Trusts (REITs)

- The reduced real estate transfer tax rate for conveyances of real property to real estate investment trusts (REIT) was extended to September 1, 2026.
- To understand which REIT transfers qualify for the reduced rate, see Form TP-584-REIT, *Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate for Real Estate Investment Trust Transfers*.

Adult-use Cannabis Enforcement

Changes were made to the tax on adult-use cannabis products that include:

- expansion of the definition of *adult-use cannabis product*,
- clarification on when the Tax Department may refuse or revoke an adult-use cannabis certificate of registration, and
- a penalty for unregistered distributors and an increase in civil penalties for illicit cannabis.

Adult-use Cannabis Enforcement

- The Tax Department is authorized to conduct regulatory inspections during normal business hours of any business where adult-use cannabis is distributed, stored or offered for sale, including business vehicles.
- The definition of a “tax fraud act” was amended to include knowingly failing to collect or remit the adult use-cannabis products tax, or knowingly possessing for sale any adult-use cannabis product on which the tax required to be paid has not been paid.

Congestion Surcharge Registration

- Effective May 3, 2023, the registration requirement for the congestion surcharge was eliminated.
- As of this date, those subject to the congestion surcharge do not need to obtain or renew a *Congestion Surcharge Certificate of Registration*.
- Any registration fees paid before May 3, 2023, will not be refunded.

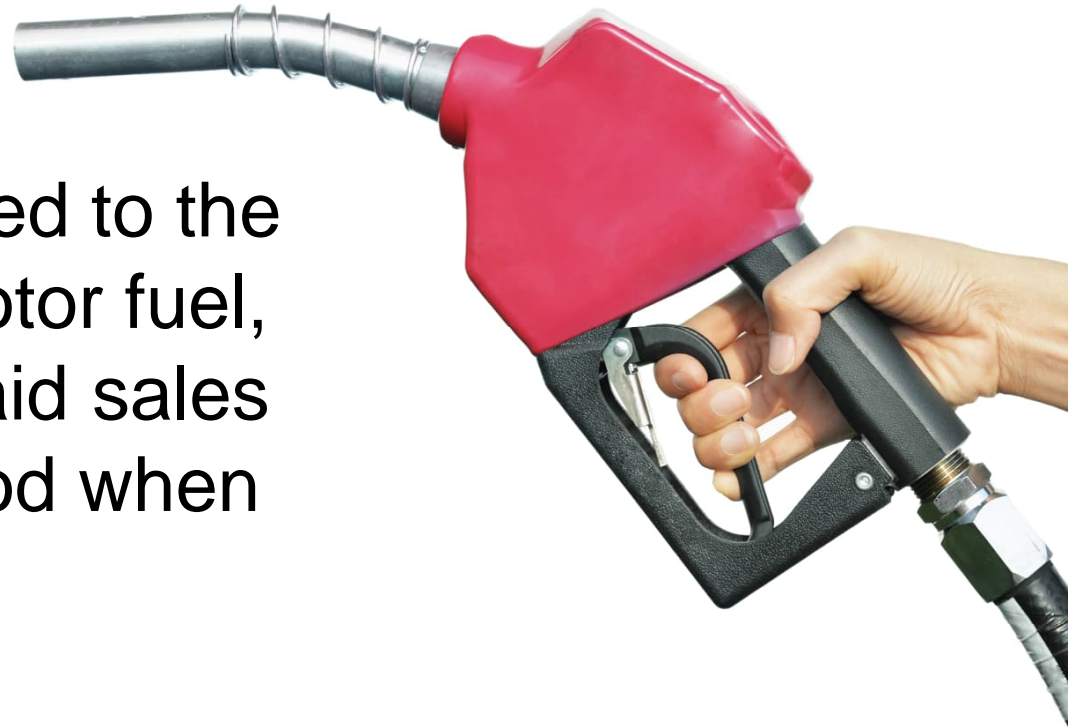
Motor Fuel and Diesel Fuel Requirements

Effective for sales of motor fuel and diesel motor fuel on or after September 1, 2023, distributors must pay any of the following taxes that have not already been assumed or paid on any quantity of these fuels for any reason, including, but not limited to, the expansion of fuel due to temperature fluctuation:

- motor fuel excise tax,
- petroleum business tax, and
- prepaid sales tax

Motor Fuel and Diesel Fuel Requirements

These taxes must be remitted to the Tax Department with the motor fuel, diesel motor fuel, and prepaid sales tax returns filed for the period when the sale was made.



Vending Machine Sales Tax Exemption

- The existing sales tax exemption for certain food and drink purchased from a vending machine has been extended through May 31, 2024.
- Currently, candy, fruit drinks, soft drinks and bottled water are exempt if:
 - sold for \$1.50 or less from vending machines that accept cash and/or coins only, or
 - sold for \$2.00 or less from vending machines that accept forms of payment other than cash and/or coins, whether or not it also accepts cash and/or coins.
- For more information, see Tax Bulletin TB-ST-280, *Food Sold from Vending Machines*.

State Excise Tax on Cigarettes and Little Cigars

- The state excise tax on cigarettes and little cigars increased by one dollar per pack of 20, from \$4.35 to \$5.35.
 - If you are a retail dealer, wholesale dealer or a cigarette stamping agent, you must pay the increase in tax on all stamped packs of cigarettes and unaffixed tax stamps in your possession as of the close of business on August 31, 2023.
- The existing use tax rate on cigarettes and little cigars increased by the same amount.
- This change was effective September 1, 2023.
- For more information, see N-23-2 and N-23-3.

Filing Reminders



Department of
Taxation and Finance

New York City or Yonkers Residents

- Taxpayers must report New York City income tax or Yonkers resident income tax surcharge on their state return if they:
 - were a New York City or Yonkers resident for the tax year, and
 - have to file a New York State return.
- New York City includes the counties of: Bronx, Kings (Brooklyn), New York (Manhattan), Queens, and Richmond (Staten Island).

Part-Year Residents and Nonresidents

- Taxpayers who changed their New York City or Yonkers resident status during the year must complete Form IT-360.1, *Change of City Resident Status*.
- Form IT-360.1 must be included with:
 - IT-201: to report applicable New York State tax and part-year New York City resident tax, or part-year Yonkers resident income tax surcharge (or both), or
 - Form IT-203: to report part-year New York State resident tax and part-year New York City resident tax or part-year Yonkers resident income tax surcharge.

Reminder on Resources for Tax Professionals



Department of
Taxation and Finance

Tax Department Website (*www.tax.ny.gov*)

Department of Taxation and Finance

Online services ▾ Individuals ▾ Businesses ▾ **Tax professionals ▾** Real property ▾ Forms and guidance ▾ Tax data ▾ About ▾



Tax professionals

Welcome to our home for tax professionals. Here, you'll find everything you need to successfully assist your clients, including resources for:

- accessing and protecting your client's information online, and
- managing your client's filings, bills, and notices.

You'll also find information about your responsibilities as a tax preparer, such as the e-file mandate and your continuing education requirements.

 **Subscribe**

Subscribe to our *Tax professionals* email list.


SUBMIT



Department of
Taxation and Finance


Tax Professional Web Page

TAX PROFESSIONAL
Resources




Assist your client online

- ▶ [Log in to Online Services](#)
- ▶ [Create an account](#)
- ▶ [Request an installment payment agreement](#)
- ▶ [Respond to a bill or notice](#)
- ▶ [Request penalty abatement for your client](#)
- ▶ [Apply for an extension of time to file](#)
- ▶ [Check an estimated tax](#)




Access your client's information

- ▶ [Protect your client's data](#)
- ▶ [E-ZRep Form TR-2000, Tax Information Access and Transaction Authorization](#)
- ▶ [File Form POA-1, Power of Attorney, online](#)
- ▶ [General information about powers of attorney and authorization forms](#)
- ▶ [Viewing client notices](#)



Learn about your responsibilities

- ▶ [Tax preparer registration](#)
- ▶ [Search FAQs about tax preparer registration](#)
- ▶ [Continuing education requirements](#)
- ▶ [E-file mandate](#)
- ▶ [Consumer bill of rights](#)
- ▶ [Office of Professional Responsibility](#)
- ▶ [Protect your clients](#)



Find what you're looking for

- ▶ [E-file guides for tax professionals](#)
- ▶ [Newsletters](#)
- ▶ [Driver license requirement](#)
- ▶ [Nonresident Audit Guidelines](#)
- ▶ [Ask us a question](#)



New for 2023

New for 2023

A summary of 2023 legislative changes is provided below.



Personal Income tax *Coming soon*



Corporation taxes *Coming soon*



Sales tax

- [Extension of the vending machine exemption for candy, fruit drinks, soft drinks and bottled water \(Article 28\)](#)
- [Extends various commercial property and sales tax incentives in Lower Manhattan for four years \(Article 28\)](#)
- [Amendment to motor fuel and diesel motor fuel requirements \(Articles 12-A, 13-A, and 28\)](#)
- [Waste tire management fee \(Environmental Conservation Law Article 27; Tax Law Article 28\)](#)
- [Allow the Tax Department to appeal certain Tax Appeals Tribunal decisions \(Article 40\)](#)



Other tax types

Adult-use cannabis

- [Amendments to tax on adult-use cannabis products \(Article 20-C\)](#)

Cigarette and tobacco products tax

- [Increase in the excise tax rate on cigarettes and little cigars, and floor tax return requirement \(Article 20\)](#)
- [Increased civil penalty for refusal to comply with cigarette and tobacco products inspections \(Article 20\)](#)



Sales Tax Guidance

Guidance for specific industries

[A](#) \ [B](#) \ [C](#) \ [D](#) \ [E](#) \ [F](#) \ [G](#) \ [H](#) \ [I](#) \ [J](#) \ [K](#) \ [L](#) \ [M](#) \ [N](#) \ [O](#) \ [P](#) \ [Q](#) \ [R](#) \ [S](#) \

A

- [Advertising agencies and similar businesses](#)
- [Amusement parks](#)
- [Alcoholic beverage producers](#)
- [Auto repair and body shops](#)
- [Automobile dealers](#)

B

- [Barber shops](#)
- [Bars and taverns](#)
- [Beauty salons](#)
- [Broadcasting industry](#)



Tax Filing Calendar

☰ Department of Taxation and Finance

[Home](#) » [Help](#) » Tax filing calendar

Tax filing calendar

These calendars include the due dates for:

- Corporation franchise tax
- Pass-through entity tax (PTET) and NYC PTET
- Personal income tax
- Sales tax
- Withholding tax
- Metropolitan commuter transportation mobility tax (MCTMT)

Tax Department Website (www.tax.ny.gov)

Department of Taxation and Finance

Get help

Contact us
Help resources
Freedom of Information Law (FOIL)
Taxpayer Rights Advocate
Report fraud
Feedback

Website

Site map
Privacy
Security
Disclaimer


About us

About us
Employment opportunities
Press
Email policy
Accessibility

Language assistance

Language access	Free interpretation
Español	Kreyòl ayisyen
中文	Italiano
Русский	عربي
עברית	Polski
বাংলা	Français
한국어	اردو

CONNECT WITH US

 SUBSCRIBE

 FACEBOOK

 TWITTER

 YOUTUBE

REGISTER TO VOTE

Sign up online or download and mail in your application.

VACCINATE NY

Get the facts about the COVID-19 vaccine.

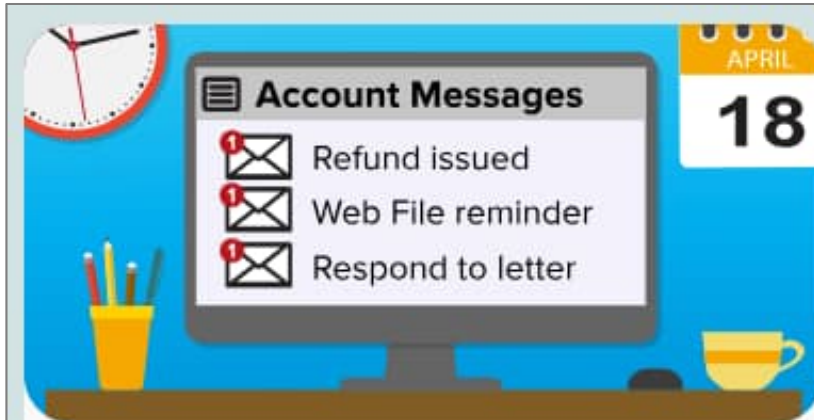
DONATE LIFE

Become an organ donor today!



Department of
Taxation and Finance

Subscription Services - Signing Up



Request electronic communications about your tax account



Subscribe to tax tips, news, and updates

[SIGN UP FOR ALERTS](#)

[SUBSCRIBE](#)

Subscription Services

Receive emails announcing newly posted:

- publications and guidance
- tax law and regulation changes
- filing updates and reminders
- press releases and upcoming events
- tax professional newsletter

Subscription topics

Tax Type Information

- Alcoholic beverages tax and beverage container deposits
- Cigarette, tobacco, and vapor products taxes
- Congestion surcharge
- Corporation tax
- Employer Compensation Expense Program
- Medical cannabis and opioid taxes
- Metropolitan commuter transportation mobility tax (MCTMT)
- Miscellaneous tax
- Personal income tax
- Real estate transfer tax and mortgage recording tax
- Sales tax
- Sales tax exempt organizations
- Wireless communications surcharges [?](#)
- Withholding tax
- Partnerships
- Pass-through entity tax (PTET)
- Adult-use cannabis
- Highway use tax (HUT)



Prepare to File Using Online Services

A Tax Professional Account lets you view a client's:

- returns filed;
- payments (return and extension payments, or estimated tax payments);
- payment status (scheduled, posted, or dishonored);
- notices received from the Tax Department; and
- open bills.

Benefits of Online Services

- Get access to client information whenever you need it.
- File returns and make payments.
- Resolve issues faster (respond to department notices with supporting documentation).
- Get instant confirmation and an electronic postmark when timing is most important.
- Eliminate phone calls and hold time.

Tax Professional Hotline

518-457-5451

- Limited or no wait time
- Experienced staff to answer more technical questions

Taxpayer Rights Advocate

Office of the Taxpayer Rights Advocate

Language: | [English](#) | [Español](#) | [中文](#) | [Русский](#) | [Italiano](#) | [Kreyòl ayisyen](#) | [한국어](#) |
[Free interpretation](#)

How we can help you

If you have trouble resolving a tax issue with the Department of Taxation and Finance and have exhausted all other administrative remedies, the Taxpayer Rights Advocate may be able to help.

We respond to all requests for help. We listen to your problem, examine your situation, check department records, and discuss your complaint with you. If you need a person to assist you, or if the department is being unresponsive, we can step in to help. Sometimes the help might be simply connecting you with the right person in the appropriate division of the department.



OTRA Webpage - www.tax.ny.gov

(search: advocate)



Department of Taxation and Finance

Efficiency • Integrity • Fairness