



# Instructions for Form NYS-1 Return of Tax Withheld

## General Information

Form NYS-1, *Return of Tax Withheld*, is used to remit to New York State the personal income taxes that you have withheld from your employees' wages or from certain other payments (e.g., pensions). Under the state and city laws, an employer must withhold taxes from wages paid to employees in accordance with prepared tax tables or other approved methods. See Form NYS-50, *Employer's Guide*, for more information. No unemployment insurance contributions can be remitted with Form NYS-1.

The employer is not relieved of the obligation to withhold even if an employee pays tax on wages directly with an estimated income tax payment voucher (or in any other manner).

## Obtaining Forms

You will be issued Forms NYS-1, *Return of Tax Withheld*, preprinted with your identification number and name. The use of preprinted coupons and returns facilitates accurate processing and crediting of your account.

If your preprinted return coupons have not been received, or have been lost or damaged, you should obtain official preprinted returns by calling our Business Tax Information Center at 1 800 972-1233. The call is toll free from anywhere in the U.S. and Canada. If you are unable to contact us at this number, use the general taxpayer assistance numbers 1 800 225-5829 or (518) 485-6800 (from outside the U.S. and outside Canada). The general taxpayer assistance numbers are available if you need information on any tax, including withholding tax.

Failure to obtain a return will not be deemed reasonable cause for failure to file and pay tax withheld.

## Filing Requirements

Every employer paying wages must file a return and pay the New York State, New York City and Yonkers taxes required to be withheld. The period covered by each return must correspond to each liability period as defined by your payroll schedule and amounts withheld.

If you are required to withhold \$700 or more during a calendar quarter, you must use Form NYS-1. If you are required to withhold less than \$700 during a calendar quarter, you need not file Form NYS-1; you should remit taxes required to be withheld with Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* (see the instructions for Form NYS-45).

## 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 a return 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 a return 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 a return 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 within five business days until notified otherwise by the Tax Department.

## Final Return

If you **permanently** discontinue your business or **permanently** cease paying wages, you must indicate on the last return you file that it is the **final return** by entering the date of the final payroll in item B. In addition, you must file a final Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, within 30 days of the date on which you **permanently ceased paying wages**. You must complete columns (a), (b), (c), (d) and (e) of Part C on your final Form NYS-45 or Form NYS-45-ATT (see the instructions for Form NYS-45).

## Change of Business Information

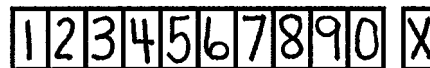
If there has been a change in your withholding tax mailing address, check the address change box on the front of Form NYS-1 and enter the new address in the space provided on the form. See *Check Box for Address Change or New Employer* on the back page of these instructions.

If there have been changes to other business information (e.g., business name, identification number, telephone number etc.), you must complete and submit Form DTF-95, *Change of Business Information*. Certain taxpayers must file other forms prior to Form DTF-95; see Form DTF-95 for these special reporting requirements. To get a copy of Form DTF-95, see *Obtaining Forms* above.

## Specific Instructions

Use preprinted forms, verifying your identification number and legal name; if you need additional preprinted forms, see *Obtaining Forms* above. However, if you are unable to obtain the authorized preprinted forms **timely**, and you use a form that is not preprinted, enter your federal employer identification number (EIN) (with NYS suffix, if any), your assigned check digit (the single digit that follows your identification number), and legal name in the spaces provided.

You may notice that Form NYS-1 is designed to let us use the latest scanning and image-processing equipment; please file an original form, not a photocopy. To facilitate accurate scanning of your return, please print or type in black ink all "X" marks and money amounts in the spaces provided. Please write your numbers like this:



### Item A

Enter the month, day and year (MMDDYY) of the last payroll being reported on this form. This should be the actual date on which the payroll was made to your employees.

### Item B

If you have **permanently ceased paying wages** (you no longer pay wages or the business no longer exists), enter the month, day and year (MMDDYY) of the last payroll from which tax was withheld. See *Final Return*, above.

### Item C

You may make additional payments with Form NYS-1, *Return of Tax Withheld*. If you determine that you have underreported and underpaid your tax liabilities, or only partially paid the tax on a Form NYS-1 filed for the current quarter, an additional payment should be made to avoid further

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accruing of interest and penalty charges. See the *Additional Payment* section below.

### Paid Preparer and Payroll Service

If your return is being completed by a paid preparer, the paid preparer information, including signature, must be entered on the back of your return.

If you are using a payroll service, the payroll service name and EIN must be entered on the back of your return.

### Signature

Your return must be signed and dated by the officer or employee responsible for the filing of withholding tax returns and payment of withholding tax. Print or type that person's name and telephone number in the entry area near the signature.

### Check Box for Address Change or New Employer

Check the box on the front of your return if you are changing your withholding tax address. Enter, on the back of your return, the new address to which you want your withholding tax returns and notices sent.

**New Employers:** If you are a new employer, enter the address to which you want your withholding tax returns and notices sent on the back of the first Form NYS-1 you file, and check the address change/new employer box located below the signature area on the front of the return.

### Lines 1 through 4

Enter the amount of taxes withheld on lines 1 through 3 and enter the total on line 4. If you withheld taxes on wages for New York State, New York City and/or Yonkers, you must enter the amounts withheld for the state and for each city separately on the appropriate lines. If you withheld tax from annuity, pension, retirement or individual retirement account payments or from certain gambling winnings, the amount withheld must be included in the amounts entered on lines 1 through 4. The amounts entered must equal the total amounts withheld from all payrolls being reported on your return.

### Line 5

If you are claiming a credit, enter the amount of credit being used on your return on line 5. A credit can be used only if it is established by an overpayment (line 20) credited to next quarter (line 20b checked) on Form NYS-45, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, filed for the preceding quarter, or if it is established by an overpayment on a Form NYS-1 filed for the current calendar quarter.

### Line 6

Subtract credit claimed on line 5 from the total withheld on line 4, and enter the result on line 6. Make your check or money order payable to **NYS Income Tax** for this amount.

### Additional Payment

Form NYS-1 may also be used to correct an underreported and/or underpaid condition **before** the filing of the quarterly combined return.

Corrections to the amounts on lines 1 through 3 that do not alter line 4 should not be made as an additional payment, but should be reflected on lines 12 through 14 of the Form NYS-45 filed for the quarter.

To correct liabilities that were both underreported and underpaid:

– Complete item A with the payroll information as it was reported on the originally filed Form NYS-1. Place an **X** in the **item C checkbox** to indicate that you are making an additional payment. Enter on lines 1 through 4 **only the additional amounts** you have determined to be due. For example, if you had originally reported \$100 in New York State tax withheld, \$20 in city of New York tax withheld and \$0 in city of Yonkers tax withheld, and have now determined that \$50 was actually withheld for the city of New York, enter \$30 (the amount underreported) on lines 2, 4, and 6. Do not make entries on lines 1, 3, and 5.

To correct liabilities that were underpaid:

– Complete item A with the payroll information as it was reported on the originally filed Form NYS-1. Place an **X** in the **item C checkbox** to indicate that you are making an additional payment. In this instance, there is no change in liability; therefore, lines 1 through 5 should be left blank. Enter the amount of additional payment on line 6.

If you have to make any corrections to amounts withheld or additional payments after the *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* for the quarter has been filed, you must file a Form NYS-45-X, *Amended Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return*, and an amended Form NYS-45-ATT, if required (see the instructions for the form or forms that you are amending).

### Avoid Common Errors

Please try to avoid the following common errors.

**1. Three or five business day due date** – Employers notified to file within three business days (including those who filed a Form PR-595, *Request for Filing Date Redetermination*) **must** continue to file within three business days until notified by the Tax Department of a redetermination.

**2. Last payroll date** – Enter in box A the date the payroll was actually paid to your employees, not the date of the last day of the payroll period.

**3. Permanently ceased paying wages date** – No entry should be made in box B unless you have **permanently** ceased paying wages (i.e., gone out of business or no longer have employees to whom you pay wages). Seasonal employers should not complete item B when they are temporarily ceasing wage payments due to the seasonal nature of their businesses.

**4. Total tax withheld** – Some employers have been erroneously entering their total tax withheld on line 3 (*City of Yonkers tax withheld*) instead of line 4 (*Total withheld*). The returns processing system adds lines 1 through 3 to determine total liability and these employers appear underpaid. Enter the amount of tax withheld for New York State, New York City and Yonkers on lines 1 through 3 and the total tax withheld on line 4.

### Private Delivery Services

The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance, will be treated as a postmark, and that date will be considered to be the date of delivery in determining whether your return was filed on time. (Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. If you use **any** private delivery service, address your return to: **The Chase Manhattan Bank, 12 Corporate Woods Blvd. 4th Floor, Albany, NY 12211.**

#### Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 22, 26, 26-A, 26-B, 30, 30-A, and 30-B of the Tax Law; Article 2-E of the General City Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.