



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 (for example, pensions). Under the state and city tax laws, an employer must withhold taxes from wages paid to employees in accordance with prepared tax tables or other approved methods. No unemployment insurance contributions can be remitted with Form NYS-1.

See Publications NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*; NYS-50-T-NYS, *New York State Withholding Tax Tables and Methods*; NYS-50-T-NYC, *New York City Withholding Tax Tables and Methods*; and NYS-50-T-Y, *Yonkers Withholding Tax Tables and Methods*, for more information.

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 can get Form NYS-1 from the Tax Department's Web site (at www.tax.ny.gov).

Failure to obtain Form NYS-1 will not be deemed reasonable cause for failure to file and pay tax withheld.

Filing methods

Web File – Instead of using paper forms, you have the option to Web File (electronically submit) Form NYS-1 information and make your payment via ACH debit through the Tax Department Web site. You must register to use our Online Services before you can Web File. Benefits of filing online include secure filing, immediate data transmittal and confirmation.

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.

Note: A payer of certain other payments (for example, pensions) will be subject to the same remitting and reporting requirements as employers if the payee has requested withholding for New York State, New York City, or Yonkers income tax by filing Form IT-2104-P, *Annuitant's Request for Income Tax Withholding*, with the payer.

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, remit this amount with your quarterly return, Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, instead of with Form NYS-1 (see the instructions for Form NYS-45).

If you withhold less than \$700 during a calendar quarter, do not file Form NYS-1. Remit the accumulated tax with your quarterly return, Form NYS-45.

Note: Employers are required to file Form NYS-45 each quarter regardless of the amount of tax withheld. (See the instructions for Form NYS-45 for exceptions.)

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 that year, you must file Form NYS-1 and remit the tax withheld within **five** business days.

If you are a higher education organization or a health care provider as defined in Tax Law section 9, you are eligible to file Form NYS-1 and remit the tax withheld within five business days of the payroll that caused the tax withheld to equal or exceed \$700, regardless of the amounts withheld in prior years.

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.

Specific instructions

Enter in the first box of the withholding identification number your 9-digit federal employer identification number (EIN); in the second box, your 2-digit NYS suffix, if any; and in the third box, your assigned check digit, if known. Also enter your legal name in the space provided.

To facilitate accurate processing of your Form NYS-1, please print or type in **black ink** all **X** marks and money amounts in the spaces provided. Entries made with pencil are **not** acceptable.

Item A – Enter the month, day, and year (mmdyy) of the last payroll for the time period being reported on this Form NYS-1. **This should be the actual date on which the payroll was made to your employees.**

Item B Final return – If you have **permanently ceased paying wages** (you no longer pay wages or the business no longer exists), enter the month, day, and year (mmdyy) of the last payroll from which tax was withheld.

In addition, you must file a final Form NYS-45 within 30 days of the date of the final payroll. You must complete columns a, b, c, d, and e of Part C on your final Form NYS-45 or Form NYS-45-ATT, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return - Attachment* (see the instructions for Form NYS-45).

Item C – You may make additional payments with Form NYS-1. 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, you should make an additional payment **before** the due date of the quarterly return, Form NYS-45, to avoid further accruing of interest and penalty charges.

To correct liabilities that were both underreported and underpaid, complete item A, and if applicable, item B, with the payroll information as it was reported on the originally filed Form NYS-1. Mark an **X** in the **item C box** 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 *New York City tax withheld*, and \$0 in *Yonkers tax withheld*, and have now determined that \$50 was actually withheld for New York City, 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 correctly reported but underpaid, complete item A and, if applicable, item B, with the payroll information as it was reported on the originally filed Form NYS-1. Mark an **X** in the **item C box** 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.

Use quarterly Form NYS-45, Part D, to report filing periods for which Form(s) NYS-1 were required but not filed and to correct overcollections reported on Form(s) NYS-1 originally filed for that quarter. If you have not corrected liabilities that were underpaid with Form(s) NYS-1 by the due date of the quarterly return, you may make the correction(s) using Form NYS-45, Part D. However, additional interest and penalty charges may accrue.

If you have to make any corrections to amounts withheld or additional payments after you have filed Form NYS-45 for the quarter, you must file Form NYS-45-X, *Amended Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, and an amended Form NYS-45-ATT, if required (see Form NYS-45-X-1, *Instructions for Form NYS-45-X*).

Lines 1 through 4 – If you withheld tax from wages, annuity, pension, retirement or individual retirement account payments, or from certain gambling winnings, the amount withheld must be included in the amounts

NYS-1-I (1/13) (back)

entered on lines 1 through 4. The amounts entered must equal the total amounts withheld from all payrolls being reported on your return.

Line 1 – Enter the amount of New York State tax withheld. **Do not include** tax withheld for New York City or Yonkers.

Lines 2 and 3 – Enter the amount withheld for New York City or Yonkers separately on the appropriate line(s). If you have not withheld tax for either New York City or Yonkers, leave the appropriate line(s) blank.

No matter how you file, if you are required to withhold New York City or Yonkers tax, do not enter all tax withheld on line 1, *New York State tax withheld*. Enter the amount actually withheld for each jurisdiction on the appropriate lines of Form NYS-1. The Tax Department is required to distribute to the proper jurisdiction monies withheld and received with Form NYS-1 prior to the receipt of the quarterly return.

Line 5 – If you are claiming a credit, enter the amount of credit being used on line 5. A credit can be used only if you had an overpayment on Form NYS-45, line 20, filed for the preceding quarter and credited it to the current quarter (line 20b), or if you had an overpayment on a Form NYS-1 filed for the current calendar quarter.

Line 6 – Subtract any 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 in U.S. funds to **NYS Income Tax** for this amount. Write your identification number (as it appears on your Form NYS-1) on your check or money order.

Fee for payments returned by banks – The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

Signature

Your Form NYS-1 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 boxes to the right of the signature.

Indicate new employer or address change

New employers: On the back of the first Form NYS-1 you file, enter the address to which you want your withholding tax and unemployment insurance notices sent, and mark an **X** in the *New employer or address change* box located below the signature area on the front of Form NYS-1.

Address change: If you need to update your **mailing or physical address** for withholding tax, unemployment insurance (if applicable), and MCTMT (if applicable) you can do so online. Visit our Web site at www.tax.ny.gov and select the option to change your address. Otherwise, enter your new mailing address for withholding tax, unemployment insurance (if applicable), and MCTMT (if applicable) in the appropriate area on the back of Form NYS-1, and mark an **X** in the *New employer or address change* check box on the front page. Do not mark an **X** in this box if your address is new since your last filing but was already updated.

If there have been changes to other business information (for example, business name, identification number, telephone number, etc.), you must complete and submit Form DTF-95, *Business Tax Account Update*. You may also report a change to your physical and mailing address or paid preparer address by filing Form DTF-96, *Report of Address Change for Business Tax Accounts*, or Form DTF-95.

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 Form NYS-1. A person who prepares your Form NYS-1 and does not charge you should not sign the paid preparer's area.

Note to paid preparers - When signing an employer's Form NYS-1, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. Also, you must enter your federal preparer tax identification number (PTIN), if you have one. If you do not have a PTIN, use your social security number.

If you are using a payroll service, the payroll service name and EIN must be entered on the back of your Form NYS-1.

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 TR-595, *Request for Withholding Tax 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 item 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** – Do not make an entry in item B unless you have **permanently** ceased paying wages (that is, 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 erroneously enter their total tax withheld on line 3 (*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.
- 5. New York City or Yonkers tax withheld** – If you are required to withhold New York City or Yonkers tax, do not enter all tax withheld on line 1, *New York State tax withheld*. Enter the amount withheld for each jurisdiction on the appropriate lines of Form NYS-1.


Where to mail and private delivery services

Use the address on the back of Form NYS-1 when mailing with the U.S. Postal Service. If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: JPMorgan Chase, NYS Tax Processing – NYS-1, 33 Lewis Road, Binghamton NY 13905-1040.

Need help?

 Visit our Web site at www.tax.ny.gov
(for information, forms, and online services)

 **Withholding Tax Information Center:** (518) 485-6654
To order forms and publications: (518) 457-5431

 **Text Telephone (TTY) Hotline**
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.