



# Instructions for Form IT-2664

## Nonresident Cooperative Unit

### Estimated Income Tax Payment Form

**IT-2664-I**  
(12/11)

### Important information for same-sex married spouses

The *Marriage Equality Act*, which took effect on July 24, 2011, provides that all marriages, whether of same-sex couples or different-sex couples, will be treated equally under the laws of New York and have the same state tax benefits and requirements. Therefore, for tax years 2011 and after, you must recompute your federal income tax return, including any gain or loss on the sale or transfer of a cooperative unit, as if you had been able to use a married filing status (*federal as-if-married return*).

You must apply all the federal rules for married taxpayers (for example, IRC section 121 exclusion of gain from sale of principal residence rules) when recalculating your federal gain or loss on the sale or transfer of a cooperative unit. See our Web site for additional information.

**Note:** Any reference in these instructions to your *federal income tax return*, *federal amount*, etc., refers to your *federal as-if-married return*.

In addition, the term *spouse* should be read as gender-neutral and includes a person in a marriage with a same-sex spouse. The term *married* includes a marriage between same-sex spouses.

### General information

Effective November 18, 2004, nonresident individuals, estates, and trusts are required to estimate the personal income tax on the gain, if any, from certain sales, conveyances, or other dispositions (sales or transfers) of shares of stock in a cooperative housing corporation, in connection with the grant or transfer of a proprietary leasehold by the owner of the shares, where the cooperative unit represented by such shares is located in New York State.

Unless the sale or transfer of the cooperative unit is exempt as explained under *Exempt sales or transfers*, you must use Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*, to compute the gain (or loss) and pay the full amount of estimated tax due, if applicable. **Each grantor/transferor listed on Form TP-584, *Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax*, Schedule A (or an attachment to Form TP-584), must sign Form TP-584, Schedule D or attach a completed Form IT-2664 with full payment of any estimated personal income tax due. Use 2012 Form IT-2664 for sales or transfers of a cooperative unit after December 31, 2011, but before January 1, 2013.**

Form IT-2664, if required, must be filed with Form TP-584, and any estimated personal income tax due from the sale or transfer of a cooperative unit must be paid in full to the New York State Tax Department within 15 days of the delivery of the instrument effecting the sale or transfer. (See *Where and when to file* on page 2 of these instructions.)

Nonresident individuals, estates, and trusts should take into account the amount of estimated tax paid with Form IT-2664 when they file their 2012 New York State income tax returns. Any tax refund that is due can be claimed at that time. Estimated tax payments made with Form IT-2664 cannot be refunded prior to the filing of an income tax return.

The requirement for payment of estimated tax under Tax Law section 663 does not apply to individuals, estates, or trusts who are residents of New York State at the time of the sale or transfer of a cooperative unit. Additionally, the requirement may not apply to certain sales or transfers, even if the individual, estate, or trust is a nonresident at the time of the sale or transfer. See *Exempt sales or transfers*.

New York State Form TP-584, Schedule D, must be completed for sales or transfers of a cooperative unit by New York State residents and nonresidents claiming exemption from the payment of estimated personal income tax under Tax Law section 663. For more information, see Form TP-584 and the instructions for Form TP-584.

For sales or transfers of a fee simple interest in real property by a nonresident, do not use Form IT-2664. See Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, and the instructions for Form IT-2663.

For more information, see TSB-M-04(5), *New York Personal Income Tax Treatment and Estimated Tax Requirement for Sales, Conveyances, or Other Dispositions of Shares of Stock in a Cooperative Housing Corporation by Nonresidents*.

### Definitions

The following definitions apply to Form IT-2664 and these instructions.

*Transferor/seller* means the individual, estate, or trust making the sale, conveyance, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner of the shares, where the cooperative unit represented by such shares is located in New York State.

*Cooperative housing corporation* means a corporation that has only one class of stock, that entitles the shareholder to live in a house or an apartment (cooperative unit) in a building or on property owned or leased by the corporation. Housing cooperatives can be, but are not limited to, single-family homes, duplexes, townhouses, apartments, dormitories, land subdivisions with sites and utilities, mobile home parks, and marinas.

*Sale or transfer* means the sale, conveyance, or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold.

*Cooperative unit* means the physical space represented by shares of stock in a cooperative housing corporation in connection with a proprietary leasehold.

*Proprietary leasehold* means an agreement between a cooperative tenant-stockholder and the cooperative housing corporation that defines the rights and obligations of each party regarding use and occupancy of the cooperative unit.

*Principal residence* means your main home within the meaning of section 121 of the IRC for which you are allowed to exclude the gain for federal income tax purposes.

(continued)

## Exempt sales or transfers

A nonresident is not required to file Form IT-2664 if either of the following apply:

- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company. (Tax Law section 663(c)(3))
- The proprietary leasehold being transferred in connection with the sale, conveyance or other disposition of the shares of stock in a cooperative housing corporation is a principal residence of the seller or transferor within the meaning of section 121 of the Internal Revenue Code (IRC). (Tax Law section 663(c)(4))

Section 121 of the IRC relates to the federal exclusion of gain on the sale of a principal residence. If the cooperative unit does not qualify in total as the principal residence of the transferor/seller, see *Cooperative unit used in part as a principal residence*.

**Note:** A cooperative unit that qualifies in total as the principal residence of the transferor/seller qualifies for the exemption even if part of the gain is not excluded under IRC section 121 because the gain exceeds the amount of the exclusion provided for in that section.

To claim exemption from the payment of estimated personal income tax under section 663(c) of the Tax Law, see Form TP-584, Schedule D.

## Special rules

### Cooperative unit used in part as a principal residence

If a portion of the cooperative unit sold or transferred qualifies as your principal residence and a portion of the cooperative unit was used for any other purpose, the payment of estimated personal income tax is required on the gain allocable to the portion of the cooperative unit that does **not** qualify as your principal residence.

To exclude the gain on the portion of the cooperative unit used as your principal residence, you generally must have owned and lived in the cooperative unit as your main home for at least 2 years during the 5-year period ending on the date of the sale or transfer.

**Method of allocation** — For purposes of determining the amount of gain allocable to the portion of the cooperative unit used as your principal residence and the portion used for any other purpose, you must allocate the basis and the amount realized between the portions using the same method of allocation as used for federal personal income tax purposes (see Form IT-2664, page 2, *Worksheet for Part 2*, line 18).

### Installment sales

You are required to compute the total gain, if any, on the sale or transfer of the cooperative unit. However, you pay estimated personal income tax only on that portion of the gain that will be reported on your 2012 federal personal income tax return.

For payments of estimated personal income tax due on installment payments received in tax years after 2012, you must use either Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, or Form IT-2106, *Estimated Income Tax Payment Voucher for Fiduciaries*. For more information, see Form IT-2105 or Form IT-2106 and their instructions.

### Estates and trusts

Estates and trusts are required to estimate the personal income tax due on the entire gain, if any, on the sale or transfer of a

cooperative unit, without regard to any distributions of the gain to beneficiaries that may occur during the tax year of the sale.

Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. When fiduciaries file the estate's or trust's income tax return for the year, they must file Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries*, to show the allocation of any estimated tax payment among the beneficiaries. See the instructions for Form IT-205-T for information about how to file and when to file Form IT-205-T.

## Where and when to file

Complete Form IT-2664 and attach a check or money order made payable to **NYS Income Tax** for the full amount of any estimated tax due (see Form IT-2664, page 3). You must file Form IT-2664 together with your Form TP-584 and a separate check or money order for full payment of any real estate transfer tax due as shown on Form TP-584 (see Form TP-584, page 2).

Mail both forms, together with any required payments, to the NYS Tax Department at the address below within 15 days of the delivery of the instrument effecting the sale or transfer of the cooperative unit.

**NYS TAX DEPARTMENT  
RETT RETURN PROCESSING  
PO BOX 5045  
ALBANY NY 12205-5045**

If you use a delivery service other than the U.S. Postal Service, see *Private delivery services* on page 3 of Form IT-2664.

## Line instructions for Form IT-2664

A separate Form IT-2664 must be filed by a nonresident for each sale or transfer of a cooperative unit located in New York State, unless the nonresident transferor/seller is exempt from the requirement to pay estimated tax as provided for under Tax Law section 663(c) (see Form TP-584, Schedule D).

### Multiple transferor/sellers

If more than one transferor/seller (as listed on Form TP-584, Schedule A, or an attachment to Form TP-584) is required to file Form IT-2664, each transferor/seller must complete and submit a separate Form IT-2664. If a payment of estimated personal income tax is required, each Form IT-2664 must have a separate check or money order.

Married couples who are nonresident transferors/sellers and are required to file Form IT-2664 may file one Form IT-2664. If a payment of estimated personal income tax is due, you may use one check or money order.

### Item A

Mark an **X** in the applicable box to indicate whether the transferor/seller is an individual, estate, or trust. If the transferor/seller is a revocable living trust, or any other trust in which an individual is treated as the owner of the trust, mark an **X** in the box for *an individual*. For all other estates and trusts, mark an **X** in the box for *an estate or trust*.

### Item B

If you are reporting the sale or transfer of a cooperative unit as an installment sale for federal income tax purposes (you are using federal Form 6252, *Installment Sale Income*, to report the sale), mark an **X** in the Yes box on item B. Give the duration of the installment agreement in months if the duration of the agreement is for 12 months or less, or in years if the duration of the agreement is more than 12 months.

**Item C**

If only a portion of the cooperative unit being sold or transferred qualifies as your principal residence for federal income tax purposes, mark an **X** in this box.

**Part 1 — Sale or transfer information**

For individuals, print your full name, social security number (SSN), and address. If you are married and filing one Form IT-2664, print your spouse's name and SSN in the spaces provided.

For estates and trusts, print the name of the estate or trust and enter the employer identification number (EIN). Enter the name of the fiduciary on the second name line.

If your mailing address is a PO box, you must also include your street address.

**Foreign address** — Enter the information in the following order: city, province or state, and then country (all in the *City* box). Follow the country's practice for entering the postal code. **Do not abbreviate the country name.**

**Location and description of the cooperative unit**

Enter the address (including the unit number, if applicable, and county), a description of the cooperative unit (such as apartment or townhouse), and the tax map number of the building or property if known.

**Date of conveyance**

Enter the date of the conveyance from Form TP-584, Schedule A.

**Part 2 — Estimated tax information**

**Note:** If the transferor/seller is not required to recognize any gain or loss with respect to the transfer under provisions of the Internal Revenue Code (IRC) (except for section 121), do not complete Part 2, *Estimated tax information*, or *Worksheet for Part 2*. Continue with Part 3.

**You must complete the *Worksheet for Part 2* on page 2 of Form IT-2664 before completing this part.**  
**Line 1**

Enter the amount from *Worksheet for Part 2*, line 15.

**Line 2**

Enter the amount from *Worksheet for Part 2*, line 17. If the amount on line 17 is greater than zero, enter the **total** amount of gain on the sale or transfer of the cooperative unit. If the sale or transfer of the cooperative unit does not result in a gain or results in a loss, enter **0**.

**Line 3**

Enter the amount of estimated tax due from *Worksheet for Part 2*, line 20. Also enter this amount on Form IT-2664-V, on page 3 of Form IT-2664. You **must** remit this amount to the New York State Tax Department with Form IT-2664. If there is no payment of estimated tax due, enter **0** on line 3, and on Form IT-2664-V. In addition you must complete Part 3.

**Part 3 — Nonpayment of estimated tax by a nonresident upon the sale or transfer of a cooperative unit**

If you complete *Worksheet for Part 2* on Form IT-2664, page 2, and line 17 of the worksheet results in a loss (less than or equal to zero), mark an **X** in box 4A and continue with these instructions.

If you are not required to recognize any gain or loss with respect to the sale or transfer of a cooperative unit, mark an **X** in box 4B, complete the *Brief summary of the transfer* section, and continue with these instructions.

You **must** complete Form IT-2664-V on page 3 of Form IT-2664.

**Note:** Although the payment of estimated tax may not be required upon the sale or transfer of a cooperative unit, the transferor/seller may still be required to file a New York State income tax return to report the sale or transfer.

For more information on filing requirements for nonresidents, see our Web site.

**Part 4 — Signature**

Form IT-2664 must be signed by the nonresident transferor/seller (an individual, a trustee, an executor, or other fiduciary of an estate or trust). If you are married and filing one Form IT-2664, both spouses must sign in the spaces provided. In addition, Form IT-2664 may be signed by an authorized agent with a power of attorney.

**Instructions for Form IT-2664-V**

**Do not detach Form IT-2664-V from Form IT-2664.**

**Note:** This voucher must be completed by the transferor/seller even if there is no payment of estimated tax due.

For individuals, enter your SSN and mark an **X** in the *Individual* box. Enter your full name, your spouse's name and SSN if you are married and file a joint return, and your address.

For estates and trusts, enter the EIN of the estate or trust and mark an **X** in the *Estate/trust* box. Enter the name and title of the fiduciary on the second name line.

Make sure that your name or the name of the estate or trust is spelled correctly. An individual should enter the first name, middle initial, then last name (for example, John O. Smith). Your name or the name of the estate or trust **must** agree with the name on your New York State income tax return.

**Foreign addresses** — Enter the information in the following order: city, province or state, and then country (all in the *City, village, or post office* box). Follow the country's practice for entering the postal code. **Do not abbreviate the country name.**

Enter the date of conveyance from Form IT-2664, Part 1.

Enter the amount of estimated tax due from Form IT-2664, Part 2, line 3. If zero, enter **0**.

**Payment information**

Print your name, SSN or EIN, and **2012 IT-2664-V** on your payment. You must remit the full payment of estimated income tax as shown on Form IT-2664, line 3 without regard to any prior credits or payments of estimated tax for the tax year. Make your check or money order payable to **NYS Income Tax**, and attach it where indicated on page 3 of Form IT-2664. Do not detach this voucher from the rest of the form. Do not combine this payment with payment of any other tax or fee; it must be a separate 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.

**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.

## Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



### Telephone assistance

Automated income tax refund status: (518) 457-5149

**Personal Income Tax** Information Center: (518) 457-5181

To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.