



Instructions for Form NYS-45

Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return

Obtaining forms

Beginning with the second quarter of 2010, the Tax Department has stopped mailing preprinted withholding tax forms to taxpayers. Current withholding tax forms are available for download on the Tax Department Web site (at www.nystax.gov).

Web file

Employers can now electronically submit Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, as well as submit payment via ACH debit on our Web site (at www.nystax.gov). Benefits of this approach include secure online filing, immediate data transmittal and confirmation, and an online history of your filings.

Web upload

Employers required (or who elect) to file wage reporting using magnetic media **must** submit wage reporting files on our Web site (at www.nystax.gov). This can be done by uploading the wage reporting information in an acceptable magnetic media format, or by entering the wage reporting information, for up to 250 employees, into the Web NYS-45.

For more details on how to register to begin uploading electronic files, visit our Web site (at www.nystax.gov).

Filing requirements

Employers who are subject to **both** unemployment insurance contributions and withholding tax must file Form NYS-45, completing Parts A, B, and C each quarter. Employers subject **only** to **unemployment insurance** contributions must complete Part A and Part C, columns a, b, and c. Employers subject **only** to **withholding tax** must complete Part B for each quarter and Part C, columns a, b, d, and e, on the final quarterly return filed for the calendar year.

Form NYS-45 is due the last day of the month following the end of the quarter as follows:

Quarter	Due date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

When the due date falls on a Saturday, Sunday, or legal holiday, you are permitted to file on the next business day.

The fourth quarter wage reporting and annual employee wage and withholding information (Part C, columns d and e) must be submitted by the Form NYS-45 January 31 due date.

Federal audit changes — If the Internal Revenue Service (IRS) makes a change to an amount an employer is required to report as wages or deduct and withhold from wages for federal income tax purposes, the employer must report this change to the New York State Tax Department within 90 days after the final federal determination of the change.

If you have federal audit changes to report and you **did not previously file** a Form NYS-45 for the period(s) covered by the federal audit, report the federal audit changes on Form NYS-45 (and Form(s) NYS-45-ATT, if applicable).

If you are reporting federal audit changes to correct withholding tax or wage reporting information **previously reported** on Form NYS-45 or NYS-45-X, *Amended Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return* (and Form(s) NYS-45-ATT, if applicable), **do not use Form NYS-45**. Report the federal audit changes on Form NYS-45-X (and Form(s) NYS-45-ATT, if applicable).

You must attach a copy of the final federal determination to your Form NYS-45 or NYS-45-X.

Late filing

Returns filed and withholding tax/UI contributions paid after the due date are subject to interest and penalties. Unemployment insurance contributions received more than 60 days after the quarterly due date cannot be credited to your account for experience rating purposes. In future years, this may adversely affect both your tax rate and credit you may be entitled to against the annual federal unemployment tax. Failure to file or late filing of all required parts of Form NYS-45 and/or Form NYS-45-ATT may subject you to a penalty which can increase the later the return is filed.

Completing Form NYS-45

This return and related forms are designed to be read by information processing equipment. To assist, please be sure to send us original forms (not photocopies). When entering information, please print with a black pen or type in the number(s) 0-9 or letter(s) A-Z. Do not enter dollar signs, commas, decimal points, or any other punctuation or symbols (minus signs, parentheses, etc.).

Leave blank any box or space that does not apply to you.

Amending Form NYS-45 information

To amend a previously Web- or paper-filed Form NYS-45, complete Form NYS-45-X. See Form NYS-45-X-I, *Instructions for Form NYS-45-X*, for more information.

Specific instructions

Enter your unemployment insurance employer registration number (if applicable) and withholding tax identification number (including check digits, if known), and enter your legal name. Mark an **X** in the box for the quarter and enter the last two digits of the tax year of the period for which you are filing. If you do not know your unemployment insurance (UI) registration number, contact the New York State Department of Labor, Unemployment Insurance Division (see *Need help?* on page 4 of these instructions).

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 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, and mark an **X** in the *seasonal employer* box. Thereafter, you are not required to file Form NYS-45 for subsequent quarters during the calendar year in which you paid no wages subject to unemployment insurance and withholding. However, you must mark an **X** in the box on **every** return you are required to file or you will lose your seasonal status and be subject to penalties for not filing a return for a subsequent quarter in the same calendar year.

Number of employees

For **each** of the three months of the calendar quarter being reported, enter the number of full-time and part-time workers in covered employment who worked during or received pay for the pay period that includes the 12th day of the month. (Unless specifically excluded, all employment performed for a liable employer is covered, with employee wages subject to UI contributions.) The employment entries should not reflect the number of paychecks issued nor should the entries be a cumulative sum of all workers employed during the month. If there is no employment in the payroll period, enter **0**.

Part A - Unemployment insurance (UI) information

Part A is used to report quarterly unemployment insurance information and UI amounts due.

Multi-locations of employment — An employer who operates more than one establishment in New York State may be requested to submit Form BLS 3020, *Multiple Worksite Report*, listing payroll

data by industry and place of employment. If you are a multi-location employer with 10 or more employees in secondary locations and you have not received Form BLS 3020, request it from the New York State Department of Labor, Division of Research & Statistics, Room 408, W A Harriman Campus, Albany NY 12240.

Nonprofit, governmental, and Indian tribe employers who have elected the option of reimbursement of benefits paid to former employees, rather than paying quarterly UI contributions, must complete Form NYS-45 to include these items: *Number of employees*; Part A, line 1; Parts B and C; and signature. Please do not enter any number or mark in Part A on lines 2, 3, 4, or 5. These lines are used by employers who pay quarterly UI contributions. If you have questions about the reimbursement option, call (518) 457-2635.

Remuneration includes salaries, cash wages, tips, commissions, bonuses, and the reasonable value of board, rent, housing, lodging or similar advantage. Payments to corporate officers for services rendered are remuneration regardless of their stock ownership and regardless of how the payments are treated under subchapter S of the Internal Revenue Code (IRC) or any other tax law. Remuneration is considered paid on the date the payment is made.

The following payments are **excluded** from remuneration:

1. Payments made by a sole proprietorship to the sole proprietor, to his or her spouse or minor (under 21) child, and payments made by a partnership to the partners.
- * 2. Any payment made under a plan or system providing for retirement, sickness or accident disability, or medical or hospital expenses for an employee or an employee's dependents, including amounts paid for insurance, annuities, or into a fund to provide for the payments.
3. Payments made by an employer, without payroll deductions, of taxes required from employees under the Social Security Act.
4. Insurance or annuity payments to an employee for retirement.
5. Payments made to an employee on account of sickness or accident disability after six complete calendar months following the month in which the employee last worked.
6. Payments from or to a trust described in IRC section 401(a) that is exempt from tax under IRC section 501(a).
7. Payments made to an employee, except vacation or sick pay, beginning with the month following the 65th birthday, for any period in which the employee did not actually work.
- * 8. Dismissal payments (does not apply to earned vacation payments).
- * 9. Compensation paid to daytime students in elementary and secondary schools who work for **other** than nonprofit organizations or governmental or Indian tribal entities. This includes payments for working during vacation periods and holidays.
10. For household employers - payments to babysitters under 18 years of age.
11. Payments by certain organized camps for services of a student who is enrolled full-time in an educational institution.

***Note:** Some payments listed above as exclusions are **taxable** under the Federal Unemployment Tax Act (FUTA) and must be reported to New York if you are subject to FUTA. Employers liable for taxes under FUTA are required to report to New York student wages, dismissal payments, and the first six months of sick or accident payments (excluding occupationally related payments made under a State's Workers' Compensation Law). If the rate shown on line 4 is 5.4% or less, these payments may be reported under *Total remuneration paid this quarter* on line 1 each quarter or annually on Form IA7. If the rate shown on line 4 is higher than 5.4%, it would be to your advantage to report these payments annually on Form IA7A. These forms must be filed by January 31 following the calendar year in which the payments are made. If these forms are not received, you may obtain either form from the Department of Labor's Liability and Determination Section. See the instructions for Part C, column c, on page 3 for quarterly wage reporting requirements relating to these payments.

Nonprofit organizations and governmental and Indian tribal entities are not subject to FUTA and are not required to

file Form IA7 or IA7A. However, they must include student wages on the quarterly Form NYS-45 in Part A.

Line 1 – Enter the total of all remuneration paid to all employees during this quarter (full or part-time, permanent or casual) including amounts in excess of \$8,500 per year. If no remuneration was paid this quarter, enter **0** on line 1 and in Part C, column c.

Line 2 – For each employee who received remuneration of more than \$8,500 from the beginning of the year through the end of the quarter being reported, determine the amount of excess remuneration paid during this quarter. Add all the excess amounts and enter the total here. In no case may the figure exceed the amount entered on line 1. If you acquired a business, you should consider remuneration paid to employees by the predecessor in arriving at the \$8,500 excess amount. Also consider in the excess, remuneration paid to an employee that was reported to another state (concerning an employee transfer into New York from another state).

Taxable wage base means the first \$8,500 of remuneration paid to each employee by each employer during the calendar year.

To compute the amount of excess wages for each individual employee, use the following worksheet:

- A. Taxable wage base..... A. \$8,500
- B. Enter total wages paid to employee in prior quarter(s) of this same calendar year. If this is the first quarter of the year or if the employee never received wages in prior quarter(s), enter **0**..... B.
- C. Subtract line B from line A; enter the difference. If the difference is zero or less, all wages paid to this employee this quarter are excess wages and must be included in the total excess wages entered on Form NYS-45, line 2. If the difference is greater than zero, continue to line D of this worksheet..... C.
- D. Enter wages paid to employee this quarter D.
- E. Subtract line C from line D; enter the difference. If the difference is zero or less, no wages paid to this employee this quarter are excess wages and none should be included in the total excess wages entered on Form NYS-45, line 2. If the difference is greater than zero, include the difference in the total excess wages entered on Form NYS-45, line 2. Ensure that the differences for all employees are included in the total on Form NYS-45, line 2..... E.

Line 3 – Subtract line 2 from line 1 and enter the difference.

Line 4 – Multiply the wages on line 3 by your tax rate to calculate UI contributions due. **No part of these UI contributions may be deducted from an employee's remuneration.** If your tax rate is not shown and you do not know it, **the rate may be obtained online at www.labor.ny.gov by following the links to the UI Employer Home Page** or by calling the Unemployment Insurance Division at 1 888 899-8810. Please have your eight-digit UI employer registration number available when calling.

Line 5 – Multiply the wages on line 3 by .00075 to calculate the re-employment service fund contributions due and enter the resulting amount. Each employer liable for UI contributions must also make a quarterly contribution to this fund. It is a New York State fund and amounts paid into it **cannot** be used as a credit for FUTA.

Line 6 – An amount printed here shows an underpayment (including interest) as of the date noted. If payment has been made or additional amounts are due (including interest), substitute the correct underpaid amount, if any.

Line 7 – Add the amounts on lines 4, 5, and 6 and enter the sum.

Line 8 – If you have previously overpaid your unemployment insurance, enter the amount overpaid.

Line 9 – If line 7 is greater than line 8, enter the difference on line 9; this is the balance due for unemployment insurance.

Line 10 – If line 8 is greater than line 7, enter the difference on line 10. This is the balance of your unemployment insurance overpayment, which will be applied first to any outstanding unemployment insurance liabilities. Mark an **X** in box 11 to obtain a refund of any remaining overpaid balance. **An overpayment of unemployment insurance cannot be applied to withholding tax amounts due.**

Part B – Withholding tax (WT) information

Part B is used to reconcile your withholding tax payments for the quarter.

Line 12 – Enter the total New York State tax withheld for the entire quarter.

Line 13 – Enter the total New York City tax withheld for the entire quarter.

Line 14 – Enter the total Yonkers tax withheld for the entire quarter.

Line 15 – Add lines 12, 13, and 14; this is the total of the taxes withheld for the entire quarter.

Line 16 – If in the previous calendar quarter you had a withholding overpayment and you marked box 20b on last quarter's Form NYS-45, enter the overpayment amount here.

Line 17 – Enter the sum of all payments remitted with Forms NYS-1, *Return of Tax Withheld*, for payrolls during the quarter.

Line 18 – Enter the sum of lines 16 and 17.

Line 19 – If line 15 is more than line 18, enter the difference on line 19; this is the total withholding tax amount due for this quarter.

Line 20 – If line 18 is more than line 15, enter the difference on line 20; this is the total withholding tax overpaid for this quarter. To request a refund of this overpayment, mark an **X** in box 20a (if you have outstanding liabilities, amounts to be refunded will first be applied to these liabilities and any balance refunded to you). To request a credit to next quarter's withholding tax, mark an **X** in box 20b.

If a withholding tax overpayment is the result of reduced Form NYS-1 liabilities, you must also complete Part D. An overpayment of withholding tax cannot be applied to unemployment insurance amounts due.

Line 21 – Add lines 9 and 19 to calculate your *Total payment due*. Make one remittance (check or money order) payable to **NYS Employment Taxes** for the total payment due. Write your withholding ID number on your remittance.

Part C – Employee wage and withholding information

Part C is used to report quarterly employee wage reporting information and employee/payee annual wage and withholding totals. Every employer liable for New York State unemployment insurance contributions or for payments in lieu of these contributions (reimbursement of benefits paid to former employees) must report the total gross wages (defined as remuneration in the UI law) paid to each employee each quarter. Employers paying wages or other payments subject to New York State withholding must report the annual total federal gross wages subject to withholding and the total New York State, New York City, and Yonkers tax withheld for each person employed during the year on the last quarterly return filed for the calendar year.

Use Part C only if you are reporting wages for five or fewer employees. If you are reporting more than five employees, make

no entries in Part C; all employees must be reported on Form NYS-45-ATT. If you were required to report 250 or more employees for the previous four consecutive quarters, you must use an electronic method and submit wage reporting files on our Web site (at www.nystax.gov). You cannot file Form NYS-45-ATT to report this information. All employers, however, are encouraged to report using an electronic method. (See Publication 69, *Electronic Reporting of Quarterly Combined Wage and Withholding Tax Information*.)

If you are reporting other wages, you must report the other wages on a separate Form NYS-45-ATT with the item B box marked (*Other wages only reported on this page*). *Other wages* include earnings such as

dismissal or severance payments and the first six months of sick pay benefits. *Other wages* also include pension and annuity distributions (reported on federal Form 1099-R) if you withheld New York State, New York City, or Yonkers income tax. For more information on other wages, see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*.

Important: Do not use negative (credit) amounts on Forms NYS-45 and NYS-45-ATT. Do not use minus signs, parentheses, or any other symbols in columns c, d, and e. To amend wage or withholding information for a previous quarter you must file Form NYS-45-X and/or Form NYS-45-ATT. See the instructions for Form NYS-45-X for more information.

Quarterly employee wage reporting information – You are required to report quarterly remuneration paid to each employee.

Column a – Enter the number shown on the employee's/payee's social security card. Enter the nine numerals without any dashes or slash marks. If the employee/payee does not have a card, he or she should apply for one by completing federal Form SS-5, *Application for a Social Security Card*.

If the employee/payee had applied for a card but the number was not received in time for filing, enter **Applied for** in column a on paper Form NYS-45 or Form NYS-45-ATT. Enter nine zeros if you are filing Form NYS-45 or Form NYS-45-ATT electronically.

Ask the employee/payee to inform you of the number and name as they are shown on the social security card when it is received. Then correct your previous report by filing Form NYS-45-X or Form NYS-45-ATT showing the employee's/payee's SSN. See the instructions for Form NYS-45-X for more information.

Column b – Enter the name of each employee/payee, listing the last name followed by a comma, a space, the first name, a space, and the middle initial.

Column c – Enter the UI total remuneration/gross wages paid to each employee this quarter. Include all wages paid this quarter prior to any deductions and without regard to the \$8,500 UI taxable wage base. You may report dollars and cents or round to whole dollars; however, you must be consistent for all employees. Calculate and enter the total in the boxes at the bottom of the column. The grand total must equal Part A, line 1, *Total remuneration paid this quarter* (except IA7/IA7A annual report filers). Due to the provisions of 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. Identify the separate Form NYS-45-ATT by marking an **X** in box B, *Other wages only reported on this page*, in the top portion of the form.

Nonprofit organizations, governmental entities, Indian tribes, 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 the wage payments as regular gross wages on Form NYS-45-ATT.

Annual wage and withholding totals – You are required to report the annual total federal gross wages subject to withholding and the annual total amount of New York State, New York City, and Yonkers tax withheld for every employee you had during the year on the last quarterly return filed for the calendar year. This is usually the fourth quarter return, but may be an earlier quarter if you permanently ceased paying wages subject to withholding or you are a seasonal employer who does not file a fourth quarter return.

Payers of annuities who withheld New York State, New York City, or Yonkers income tax must also complete columns a, b, d, and e.

If both *wages* and *other wages* are paid to the same employee during the year, the sum of *wages* and *other wages* and the total withheld from both must be reported on the page (either Form NYS-45 or NYS-45-ATT) used for reporting *wages* only (not on the Form NYS-45-ATT used for reporting *other wages*).

Column d – Enter the total of federal gross wages (or other payments) subject to withholding, prior to any allocation, paid to every individual

employed at any time during the year. Except for governmental employees, this is generally the same amount of federal wages required to be reported in box 1, *Wages, tips, other compensation*, on federal Form W-2, *Wage and Tax Statement*. For governmental employees, also include in column d any taxable 414(h) retirement contributions and any IRC 125 amounts from a New York City flexible benefits program. In the case of an annuity, enter the total gross distribution. You may report dollars and cents or round to whole dollars; however, you must be consistent for all employees.

Column e – Enter the total amount of New York State, New York City, and Yonkers tax withheld for every individual employed at any time during the year. In the case of an annuity, enter the total amount of New York State, New York City, and Yonkers tax withheld from the distribution. You may report dollars and cents or round to whole dollars; however, you must be consistent for all employees.

Part D – Form NYS-1 corrections/additions

Part D is used to correct withholding information reported on NYS-1 forms originally filed for this quarter and to report filing periods for which Forms NYS-1 were required but not filed.

If you are correcting a Form NYS-1 filed for this quarter, enter the last payroll date and the total withheld as reported on the original Form NYS-1 in the *Original* columns a and b and the correct last payroll date and total withheld in the *Correct* columns c and d. This information will generally be needed to support a request for refund or credit.

If you are reporting a filing period for which Form NYS-1 was required but not filed, enter the last payroll date and total withheld in the **Correct** columns only (columns c and d).

Part E – Change of business information

Part E is used to report certain changes of business information.

Line 23 – If you have permanently ceased paying wages, you must indicate that this is the final return by entering the date of the final payroll on line 23. A final Form NYS-45 must be filed within 30 days of the date on which you permanently ceased paying wages. If applicable, you must also complete line 24.

Line 24 – Report a business sale or transfer on line 24.

Report other changes using the appropriate change of business information form(s). If you change your business name, employer identification number, mailing or physical location address, telephone number, owner/officer information, etc., use Form DTF-95, *Business Tax Account Update*. If you are reporting only address changes, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*. To report changes that affect your unemployment insurance account, call the Department of Labor at (518) 485-8589 or 1 888 899-8810.

Signature

After your Form NYS-45 return has been completed, you must sign in the area provided on the bottom of the **front** of the return.

This return must be signed by: the individual if the employer is an individual owner; the president, treasurer, or other principal officer if the employer is a corporation; a responsible and duly authorized member having knowledge of a firm's affairs if the employer is a partnership or other unincorporated organization; or a responsible and duly authorized governmental official, where appropriate. The signature certifies that the information contained in this return is true and correct, and that the remuneration reported represents all remuneration paid during this calendar quarter for employment covered by the law.

If you use a payroll service or a paid preparer, the section on the bottom of the **back** of the return must be completed by the payroll service or preparer.

Note to paid preparers — When preparing an employer's New York State *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, you must use your federal preparer tax identification number (PTIN), if you have one. If you do not have a PTIN, use your social security number.

Form NYS-45-ATT contact information — Please provide the name and daytime telephone number of a contact person. This voluntary entry will authorize the contact person to give the Tax Department information to correct minor errors or omissions by telephone. It will not authorize the contact person to receive any refund check, bind the employer to any agreement (including any additional tax liability), or otherwise represent the employer before the Tax Department.

Mail your return to:

**NYS Employment Taxes
PO Box 4119
Binghamton NY 13902-4119.**

Private delivery services — 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?* below 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-45, 33 Lewis Road, Binghamton NY 13905-1040.

Need help?

New York State Tax Department



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: 1 800 748-3676



Withholding Tax Information Center: (518) 485-6654
In-state callers without free long distance: 1 877 698-2910
To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): 1 800 634-2110

New York State Department of Labor, Unemployment Insurance (UI) Division

Telephone assistance is available 8:30 A.M. to 4:25 P.M. (eastern time), Monday through Friday.

For information on UI tax rates or registration: 1 888 899-8810.

To confidentially report employer fraud call toll free: 1 866 435-1499.

For additional UI phone/fax numbers and addresses, see Publication NYS-50, Section 6, *Need help?* or visit the Labor Department's Web site at www.labor.state.ny.us

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.