§ 615. New York itemized deduction of a resident individual. (a) General. If federal taxable income of a resident individual is determined by itemizing deductions or claiming the federal standard deduction from his or her federal adjusted gross income, he or she may elect to deduct his or her New York itemized deduction or claim his or her New York standard deduction. The New York itemized deduction of a resident individual means the total amount of his or her deductions from federal adjusted gross income allowed, other than federal deductions for personal exemptions, as provided in the laws of the United States for the taxable year, as such deductions existed immediately prior to the enactment of Public Law 115-97 with the modifications specified in this section, except as provided for under subsections (f) and (g) of this section.

(b) Husband and wife.

(1) A husband and wife, both of whom are required to file returns under this article, shall be allowed New York itemized deductions only if both elect to take New York itemized deductions.

(2) The total of the New York itemized deductions of a husband and wife whose federal taxable income is determined on a joint return, but whose New York taxable incomes are required to be determined separately, shall be divided between them as if their federal taxable incomes had been determined separately.

(c) Modifications reducing federal itemized deductions. The total amount of deductions from federal adjusted gross income shall be reduced by the amount of such federal deductions for:

(1) state and local general sales taxes as defined in subsection (b) of section one hundred sixty-four of the internal revenue code, to the extent included in federal itemized deductions or income taxes imposed by this state or any other taxing jurisdiction, except city earnings taxes on nonresidents that are imposed upon and paid by taxpayers for taxable years beginning after December thirty-first, nineteen hundred seventy and before January first, two thousand, pursuant to the authority of former section twenty-five-m of the general city law, to the extent that the amount of such tax exceeds the tax computed as if the rates were one-fourth of one percent of wages subject to tax and three-eighths of one percent of net earnings from self-employment subject to tax;

(2) interest on indebtedness incurred or continued to purchase or carry obligations or securities the interest on which is exempt from tax under this article; and

(3) ordinary and necessary expenses paid or incurred during the taxable year for (i) the production or collection of income which is exempt from tax under this article, or (ii) the management, conservation or maintenance of property held for the production of such income, and the amortizable bond premium for the taxable year on any bond the interest on which is exempt from tax under this article, to the extent that such expenses and premiums are deductible in determining federal taxable income.

(4) premiums paid for long-term care insurance to the extent that such premiums are deductible in determining federal taxable income.

* (5) real property taxes imposed by this state or any other taxing jurisdiction on renters pursuant to section nine hundred twenty-six-a of the real property tax law.

* NB (Effective pending ruling by Commissioner of Internal Revenue)

(6) in the case of a shareholder of an S corporation

(A) where the election provided for in subsection (a) of section six hundred sixty has not been made, S corporation items of deduction included in federal itemized deductions, and

(B) in the case of a New York S termination year, the portion of such items assigned to the period beginning on the day the election ceases to be effective, as determined under subsection (s) of section six hundred twelve.

(8) The amount of any federal deduction for taxes imposed under article twenty-three of this chapter.

(9) with respect to a taxpayer who has claimed the farm donations to food pantries credit pursuant to subsection (n-2) of section six hundred six of this article, the taxpayer's New York itemized deductions shall be reduced by any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code with respect to such donations.

(d) Modifications increasing federal itemized deductions. The total amount of deductions from federal adjusted gross income shall be increased by:

(1) an amount, not exceeding one hundred and fifty dollars in the

aggregate, for net premiums paid or incurred by a taxpayer during the taxable year with respect to any life insurance or endowment policy upon his life; provided, however, for taxable years beginning on or after January first, nineteen hundred seventy-one, such amount shall not exceed one hundred dollars in the aggregate; and for taxable years beginning on or after January first, nineteen hundred seventy-two, such amount shall not exceed fifty dollars in the aggregate; and for taxable years beginning on or after January first, nineteen hundred seventy-three, no such increase in the amount of deductions from federal adjusted gross income shall be allowed;

(2) interest on indebtedness incurred or continued to purchase or carry obligations or securities the interest on which is subject to tax under this article but exempt from federal income tax, to the extent that such interest on indebtedness is not deductible for federal income tax purposes and is not subtracted from federal adjusted gross income pursuant to paragraph (9) of subsection (c) of section six hundred twelve; and

(3) ordinary and necessary expenses paid or incurred during the taxable year for (i) the production or collection of income which is subject to tax under this article but exempt from federal income tax, or (ii) the management, conservation or maintenance of property held for the production of such income, and the amortizable bond premium for the taxable year on any bond the interest on which is subject to tax under this article but exempt from federal income tax, to the extent that such expenses and premiums are not deductible in determining federal adjusted gross income and are not subtracted from federal adjusted gross income pursuant to paragraph (10) of subsection (c) of section six hundred twelve.

(4) allowable college tuition expenses, as defined in paragraph two of subsection (t) of section six hundred six of this article, multiplied by the applicable percentage. Such applicable percentage shall be twenty-five percent for taxable years beginning in two thousand one, fifty percent for taxable years beginning in two thousand two, seventy-five percent for taxable years beginning in two thousand three and one hundred percent for taxable years beginning after two thousand three. Provided, however, no deduction shall be allowed under this paragraph to a taxpayer who claims the credit provided under subsection

(t) of section six hundred six of this article.

(5) the full amount of union dues paid during the taxable year if the taxpayer was not allowed federal miscellaneous itemized deductions by operation of section 67 of the internal revenue code. If any amount of union dues representing federal miscellaneous itemized deductions was allowed, then the amount allowed as a New York itemized deduction for union dues paid shall be a percentage of the union dues disallowed by the operation of section 67 of the internal revenue code computed as follows. The amount allowed as a New York itemized deduction shall be computed by multiplying the total union dues paid by the taxpayer during the taxable year by a percentage determined by subtracting from one, a fraction where the numerator is the amount of federal miscellaneous deductions allowed and the denominator is the aggregate federal miscellaneous itemized deductions before application of the two-percent floor under section 67 of the internal revenue code. For the purposes of this paragraph, union dues are those amounts that are deductible as union dues and agency shop fees under section 162 of the internal revenue code.

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations which are not New York C corporations. The amounts of modifications under subsection (c) or under paragraph (2) or (3) of subsection (d) required to be made by a partner or by a shareholder of an S corporation (other than an S corporation which is a New York C corporation), with respect to items of deduction of a partnership or S corporation shall be determined under section six hundred seventeen.

(2) Shareholders of S corporations which are New York C corporations. In the case of a shareholder of an S corporation which is a New York C corporation, the modifications under this section which relate to the corporation's items of deduction shall not apply, except for the modification provided under paragraph six of subsection (c).

(3) New York S termination year. In the case of a New York S termination year, the amounts of the modifications required under this section which relate to the S corporation's items of deduction shall be adjusted in the same manner that the S corporation's items are adjusted under subsection (s) of section six hundred twelve.

(f) Except as provided under subsection (g) of this section, the New

York itemized deduction otherwise allowable under this section shall be reduced by the sum of the amounts determined under paragraphs one and two of this subsection.

(1) An amount equal to the New York itemized deduction otherwise allowable under subsection (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction,

(A) in the case of an unmarried individual or married individual filing a separate return, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over one hundred thousand dollars and the denominator of which is fifty thousand dollars;

(B) in the case of a married individual filing a joint return or a surviving spouse, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over two hundred thousand dollars and the denominator of which is fifty thousand dollars;

(C) in the case of a head of household, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over one hundred fifty thousand dollars and the denominator of which is fifty thousand dollars.

(2) An amount equal to the New York itemized deduction of an individual otherwise allowable under subsection (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over four hundred seventy-five thousand dollars and the denominator of which is fifty thousand dollars.

(g) Notwithstanding subsection (a) of this section, the New York itemized deduction for charitable contributions shall be the amount allowed under section one hundred seventy of the internal revenue code or the amount allowable pursuant to paragraph three of this subsection,

as modified by paragraph nine of subsection (c) of this section and as limited by this subsection. (1) With respect to an individual whose New York adjusted gross income is over one million dollars and no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code or allowable pursuant to paragraph three of this subsection for taxable years beginning after two thousand nine and before two thousand twenty-five. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code or allowable pursuant to paragraph three of this subsection for taxable years beginning in two thousand nine or after two thousand twenty-four.

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code or allowable pursuant to paragraph three of this subsection for taxable years beginning after two thousand nine and ending before two thousand thirty.

(3) Contributions to an organization that meets the definition of an exempt organization under paragraph four of subdivision (a) of section eleven hundred sixteen of this chapter or to organizations that have applied for, and were approved for tax-exempt status under subsection (c) of section five hundred one of the internal revenue code by the internal revenue service before January first, two thousand twenty-five, will continue to qualify as charitable contributions allowable as a New York itemized deduction under this subsection, to the extent otherwise allowable under section one hundred seventy of the internal revenue code, even if the internal revenue service revokes such organization's tax-exempt status, so long as the organization establishes that the revocation was unrelated to the organization's charitable mission and that it continues to meet the statutory requirements of paragraph three of subsection (c) of section five hundred one of the internal revenue code and the regulations and authorities promulgated thereunder.