TAXES

ARTICLE IX

INCOME TAX SURCHARGE

§ 15-98. Title.

This article shall be known as the "City of Yonkers Income Tax Surcharge Act of 1984."

§ 15-99. Definitions.

For purposes of this article and chapter, the following words and phrases shall have the following meanings:

CITY NONRESIDENT ESTATE OR TRUST - An estate or trust which is not a resident of the City of Yonkers.

CITY NONRESIDENT INDIVIDUAL - An individual who is not a resident of the City of Yonkers.

CITY RESIDENT ESTATE OR TRUST:

A. The estate of a decedent who at his/her death was domiciled in the City of Yonkers.

B. A trust or a portion of a trust.

(1) A trust, or a portion of a trust consisting of property transferred by will of a decedent who at his/her death was domiciled in the City of Yonkers.

(2) A trust or a portion of a trust consisting of the property of:

(a) A person domiciled in the City of Yonkers at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable or if it was then revocable and has not subsequently become irrevocable; or

(b) A person domiciled in the City of Yonkers at the time such trust or portion of a trust became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

(3) For the purposes of the foregoing, a trust or a portion of a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes such trust or portion of a trust and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

CITY RESIDENT INDIVIDUAL - An individual:

A. Who is domiciled in the City of Yonkers unless he/she maintains no permanent place of abode in the City of Yonkers, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than 30 days of the taxable year in such other permanent place of abode, or within any period of 548 consecutive days he/she is present in a foreign country or countries for at least 450 days, and during such period of 548 consecutive days he/she is not present in the City of Yonkers for more than 90 days and does not maintain a permanent place of abode in such City at which his/her spouse (unless such spouse is legally separated) or minor children are present for more than 90 days, and during any period of less than 12 months, which would be treated as a separate taxable period pursuant to § 15-102 of this article and which period is contained within such period of 548 consecutive days, he/she is present in such City for a number of days which does not exceed an amount which bears the same ratio to 90 as the number of days contained in such period of less than 12 months bears to 548; or

B. Who is not domiciled in the City of Yonkers but maintains a permanent place of abode in the City of Yonkers and spends in the aggregate more than 183 days of the taxable year in the City of Yonkers, unless such individual is in active service in the armed forces of the United States.

§ 15-100. Persons subject to tax surcharge.

A. General. The City of Yonkers income tax surcharge imposed hereby shall be imposed for each taxable year on every City resident individual, estate and trust in every taxable year commencing after December 31, 1983 and ending on or before December 31, 2003. A taxpayer's taxable year for the purposes of the City of Yonkers income tax surcharge imposed pursuant to this article shall be the same as his/her taxable year under Article 22 of the New York State Tax Law.

B. Partners and partnerships. A partnership as such shall not be subject to the City of Yonkers income tax surcharge imposed pursuant to this article. Persons carrying on business as partners shall be liable for the City of Yonkers income tax surcharge only in their separate or individual capacities.

C. Associations taxable as corporations. An association, trust or other unincorporated organization which is taxable as a corporation for federal income tax purposes shall not be subject to the City of Yonkers income tax surcharge imposed pursuant to this article.

D. Exempt trustees and organizations. A trust or other unincorporated organization which, by reason of its purposes or activities, is exempt from federal income tax shall be exempt from any City of Yonkers income tax surcharge imposed pursuant to this article, regardless of whether it is subject to federal income tax on unrelated business taxable income.

§ 15-101. Net state tax.

The net state tax of a City of Yonkers resident individual, estate or trust shall mean the sum of all of the taxes imposed on such individual, estate or trust under Article 22 of the New York State Tax Law for the taxable year, less the applicable credits (other than the credit for tax withheld) allowed to such individual, estate or trust under said Article 22 for the taxable year.

§ 15-102. Filing of returns.

A. General. On or before the 15th day of the fourth month following the close of a taxable year, a City of Yonkers income tax surcharge return under the City of Yonkers income tax surcharge imposed pursuant to this article shall be made and filed by or for every City of Yonkers resident individual, estate or trust required to file a New York State personal income tax return for the taxable year.

B. Husband and wife.

(1) If the New York State personal income tax liabilities of husband and wife are determined on separate returns, their City of Yonkers income tax surcharge liabilities and returns shall be separate.

(2) If the New York State personal income tax liabilities of husband and wife (other than a husband and wife described in Subsection B(4) of this section) are determined on a joint return, they shall file a joint City of Yonkers income tax surcharge return, and their City of Yonkers income tax surcharge liabilities shall be joint and several, except as provided in Subdivision (b)(5) of § 651 of the New York State Tax Law and in Subdivision (e) of § 685 of the New York State Tax Law.

(3) If husband and wife file separate New York State personal income tax returns on a single form, they shall file separate City of Yonkers income tax surcharge returns on a single form, in which event their City of Yonkers income tax surcharge liabilities shall be separate, except as provided in Subsection B(5) of this section.

(4) If either husband or wife is a City of Yonkers resident and the other is a City of Yonkers nonresident and their New York State personal income tax liabilities are determined on a joint return:

(a) They may elect to file a joint City of Yonkers income tax surcharge return as if both were residents, in which case their City of Yonkers income tax surcharge liabilities shall be joint and several, except as provided in Subdivision (b)(5) of § 651 of the New York State Tax Law and in Subdivision (e) of § 685 of the New York State Tax Law; or

(b) The resident spouse may elect to file a separate City of Yonkers income tax surcharge return, in which case his/her city income tax surcharge liability shall be determined as if he/she were filing a separate New York State personal income tax return.

(5) If husband and wife file separate City of Yonkers income tax surcharge returns on a single form pursuant to Subsection B(3) of this subsection and if the sum of the payments by either spouse, including withheld and estimated City of Yonkers income tax surcharge payments, exceeds the amount of the City of Yonkers income tax surcharge for which such spouse is separately liable, the excess may be applied by the State Tax Commission to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated City of Yonkers income tax surcharge payments, is less than the amount of the City of Yonkers income tax surcharge for which such other spouse is separately liable; if the sum of the payments made by both spouses with respect to the City of Yonkers income tax surcharges for which they are separately liable, including withheld and estimated City of Yonkers income tax surcharge payments, exceeds the total of the City of Yonkers income tax surcharges due, refund of the excess may be made payable to both spouses or, if either is deceased, to the survivor; provided, however, that the provisions of this Subsection B(5) shall not apply if the return of either spouse includes a demand that any overpayment made by him or her shall be applied only on account of his or her separate liability. However, an overpayment by a spouse and interest thereon shall be credited against past-due support or the amount of a default in repayment of a guaranteed student loan or state university loan owed by the other spouse, of which the Tax Commission has been notified pursuant to § 171-c or 171-d or 171-e of the New York State Tax Law, as the case may be, unless the return of the spouse not liable for past-due support or a default in repayment of a guaranteed student loan or state university loan includes a demand that the overpayment and interest thereon attributable to such spouse not be credited against the past-due support or the default in repayment of a guaranteed student loan or state university loan owed by the other spouse.

(6) If a joint return has been made pursuant to Subsection B(2) or (4)(a) of this section for a taxable year and only one (1) spouse is liable for past-due support or an amount of a default in repayment of a guaranteed student loan or state university loan, of which the Tax Commission has been notified pursuant to § 171-c or 171-d or 171-e of the New York State Tax Law, as the case may be, then any overpayments

and interest thereon shall be credited against such past-due support or such amount of a default in repayments of a guaranteed student loan or state university loan, unless the spouse not liable for such past-due support or such amount of a default in repayment of a guaranteed student loan or state university loan demands, on a declaration made in accordance with regulations or instructions prescribed by the State Tax Commission, that the portion of the overpayment and interest attributable to such spouse not be credited against the past-due support or amount of a default in repayment of a guaranteed student loan or state university loan owed by the other spouse. Upon such demand, the State Tax Commission shall determine the amount of the overpayment attributable to each spouse in accordance with regulations prescribed by the State Tax Commission and credit only that portion of the overpayment and interest thereon attributable to the spouse liable for past-due support or amount of a default in repayment of a guaranteed student loan or state university loan against such past-due support or such amount of a default in repayment of a guaranteed student loan or state university loan.

C. Decedents. The return for any deceased individual shall be made and filed by his/her executor, administrator or other person charged with his/her property or the authority to file such a return. If a final return of a decedent is for a fractional part of a year, the due date of such return shall be the 15th day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of the year.

D. Individuals under a disability. The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his/her guardian, committee, fiduciary or other person charged with the care of his/her person or property (other than a receiver in possession of only a part of his/her property) or by his/her duly authorized agent.

E. Estates and trusts. The return for an estate or trust shall be made and filed by the fiduciary.

F. Joint fiduciaries. If two (2) or more fiduciaries are acting jointly, the return may be made by any one (1) of them.

§ 15-103. Change of residency status.

A. General. If an individual changes his/her status during his/her taxable year from City of Yonkers resident to City of Yonkers nonresident, or from City of Yonkers nonresident to City of Yonkers resident, he/she shall file one (1) return as a City of Yonkers resident for the portion of the year during which he/she is a City of Yonkers resident and a return under Article X of this chapter for the portion of the year during which he/she is a City of Yonkers nonresident, subject to such exceptions as the State Tax Commission may prescribe by resolution.

B. Computation for resident individuals. If an individual's period of City of Yonkers residence is not the same as his/her period of state residence, his/her net state tax for the portion of the year during which such individual is a City of Yonkers resident shall be determined as if his/her state period of residence was the same as his/her city period of residence.

C. Trusts. If the status of a trust changes during its taxable year from City of Yonkers resident to City of Yonkers nonresident, or from City of Yonkers nonresident to City of Yonkers resident, the fiduciary shall file one (1) return as a City of Yonkers resident trust for the portion of the year during which the trust is a City of Yonkers resident trust and a return under Article X of this chapter for the portion of the year during which the trust is a City of Yonkers nonresident trust, subject to such exceptions as the State Tax Commission may prescribe by regulations.

D. Computation for resident trusts. If a trust's period of City of Yonkers residence is not the same as its period of state residence, its net state tax for the portion of the year during which such trust is a City of Yonkers resident trust shall be determined as if its state period of residence was the same as its City of Yonkers period of residence.

§ 15-104. Estimated tax.

Every city resident individual required to make payments of New York State estimated tax under Article 22 of the New York State Tax Law shall make payments of Yonkers estimated tax in an amount equal to fifteen percent (15%) of his New York State estimated tax payments in the same manner and subject to the same requirements, to the greatest extent possible as provided in §§ 655 and 656 of the New York State Tax Law. No payment of estimated tax shall be required for taxable years beginning in 1984.

§ 15-105. Withholding tax from wages.

Withholding of the City of Yonkers income tax surcharge from the wages of City of Yonkers residents shall commence January 1, 1985. With respect to payment of such wages made after December 31, 1984, a City of Yonkers income tax surcharge shall be withheld from all wages of City of Yonkers residents in the same manner and subject to the same requirements, to the greatest extent possible, as is provided in § 671 through and including § 678 of the New York State Tax Law, except that the term "aggregate amount" contained in § 674(a)(1), (2), (3) and (4) of the New York State Tax Law shall mean the aggregate of the aggregate amounts of New York State personal income tax, city personal income tax on residents authorized pursuant to Article 30 of the New York State Tax Law, City of Yonkers income tax surcharge on residents pursuant to this article, city earnings tax on nonresidents authorized pursuant to Article 2-E of the General City Law and City of Yonkers earnings tax on nonresidents pursuant to Article X of this chapter to be deducted and withheld.

§ 15-106. Credit for tax withheld.

The City of Yonkers income tax surcharge withheld shall not reduce net state tax for purposes of computing the City of Yonkers income tax surcharge, but any amount of tax actually deducted and withheld pursuant to this article in any calendar year shall be deemed to have been paid to the State Tax Commission on behalf of the person from whom withheld, and such person shall be credited with having paid the amount of tax for the taxable year beginning in such calendar year. For a taxable year of less than twelve (12) months, the credit shall be made under regulations of the State Tax Commission.

§ 15-107. Enforcement with other taxes.

A. Joint assessments. If there is assessed a tax under a city income tax surcharge imposed pursuant to this article and there is also assessed a tax against the same taxpayer pursuant to Article 22 of the New York State Tax Law or under a local law enacted pursuant to the authority of Article 30 or 30-B of the New York State Tax Law or Article 2-E of the General City Law and payment of a single amount is required under the provisions of this article, such payment shall be deemed to have been made with respect to the taxes so assessed in proportion to the amounts of such taxes due, including tax penalties, interest and additions to tax.

B. Joint action. If the State Tax Commission takes action under such Article 22 or under a local law enacted pursuant to the authority of Article 30 or 30-B of the New York State Tax Law or Article 2-E of the General City Law with respect to the enforcement and collection of the tax or taxes assessed under such articles, the State Tax Commission shall, wherever possible, accompany such action with a similar action under similar enforcement and collection provisions of the City of Yonkers income tax surcharge.

C. Apportionment of moneys collected by joint action. Any moneys collected as a result of such joint action shall be deemed to have been collected in proportion to the amounts due, including tax, penalties, interest and additions to tax, under Article 22 of the New York State Tax Law or under a local law enacted pursuant to the authority of Article 30 or 30-B of the New York State Tax Law or Article 2-E of the General City Law and the City of Yonkers Income Tax Surcharge Law.

D. Joint deficiency action. Whenever the State Tax Commission takes any action with respect to a deficiency of income tax under Article 22 of the New York State Tax Law or under a local law enacted pursuant to the authority of Article 30 or 30-B of the New York State Tax Law or Article 2-E of the General City Law, other than the action set forth in Subsection A of this section, it may, in its discretion, accompany such action with a similar action under the City of Yonkers City Income Tax Surcharge Law.

§ 15-108. Administration, collection and review.

A. General. Except as otherwise provided in this article, the City of Yonkers city income tax surcharge shall be administered and collected by the State Tax Commission in the same manner as the tax imposed by Article 22 of the New York State Tax Law is administered and collected by such Commission. All of the provisions of Article 22 of the New York State Tax Law relating to or applicable to payment of estimated tax, returns, payment of tax, withholding of tax from wages, employer's statements and returns, employer's liability for taxes required to be withheld and all other provisions of Article 22 relating to or applicable to the administration, collection, liability for and review of the tax imposed by Article 22, including §§ 652 through 659, 661, 671, 672, 674 through 678 and 681 through 697 of the New York State Tax Law, inclusive, shall apply to the City of Yonkers income tax surcharge imposed pursuant to this Article IX of this chapter with the same force and effect as if those provisions had been incorporated in full into that article, and had expressly referred to the City of Yonkers income tax surcharge imposed pursuant to said Article IX, except where inconsistent with a provision of said article. Whenever there is joint collection of state personal income tax, city personal income tax, City of New York nonresident's earnings tax, City of Yonkers income tax surcharge of City of Yonkers nonresident earnings tax, it shall be deemed that such collection shall represent proportionately the applicable state personal income tax, city personal income tax, City of New York nonresident's earnings tax, City of Yonkers income tax surcharge or City of Yonkers nonresident earnings tax in determining the amount to be remitted to the City of Yonkers.

B. Payment to designated depositories. The State Tax Commission, in its discretion, may require or permit any or all persons liable for any City of Yonkers income tax surcharges imposed pursuant to this Article IX, to make payments on account of estimated City of Yonkers income tax surcharge and payment of any City of Yonkers income tax surcharge, penalty or interest to such banks, banking houses or trust companies designated by the State Tax Commission and to file returns with such banks, banking houses or trust companies, as agent of the State Tax Commission, in lieu of paying a City of Yonkers income tax surcharge imposed pursuant to this Article IX directly to the State Tax Commission. However, the State Tax Commission shall designate only such banks, banking houses or trust companies which are designated by the Comptroller as depositories of the state.

§ 15-109. Combined filings.

A. Notwithstanding anything to the contrary herein contained, the New York State Tax Commission, with respect to the City of Yonkers income tax surcharge, may require the filing of any or all of the following:

(1) A combined return which, in addition to the return provided for in § 15-102, may also include any of the returns required to be filed by a resident individual of New York State pursuant to the provisions of § 651 of the New York State Tax Law and which may be required to be filed by such individual pursuant to Article X of this chapter imposing a nonresidents' earnings tax, any local law enacted pursuant to Article 2-E of the General City Law or Article 30 of the New York State Tax Law.

(2) A combined employer's return which, in addition to the employer's return provided for by said Article X of this chapter, may also include any of the employer's returns required to be filed by the same employer

pursuant to the provisions of § 674 of the New York State Tax Law and required to be filed by such employer pursuant to Article X of this chapter imposing a nonresident earning tax, or any local law enacted pursuant to Article 2-E of the General City Law, or Article 30 of the New York State Tax Law.

B. Where a combined return or employer's return is required, the State Tax Commission may also require the payment to it of a single amount which shall equal the total of the amounts (total taxes less any credits or refunds) which would have been required to be paid with the returns or employer's returns pursuant to the provisions of Article 22 of the New York State Tax Law, and the provisions of this article or Article X of this chapter imposing a nonresident earnings tax, or any local law enacted pursuant to authority granted in Article 2-E of the General City Law.

§ 15-110. Deposit and disposition of revenues.

All revenue collected by the State Tax Commission from the tax imposed by this Article IX or any tax imposed by Article X of this chapter shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the State Comptroller, to the credit of the Comptroller, in trust for the City of Yonkers. Such deposits shall be kept in trust and separate and apart from all other moneys in the possession of the Comptroller. The State Comptroller shall require adequate security from all such depositories of such revenue collected by the State Tax Commission. The State Comptroller shall retain in his/her hands such amount as the State Commissioner of Taxation and Finance may determine to be necessary for refunds in respect to the tax imposed by the City of Yonkers pursuant to this Article IX or Article X of this chapter imposing a nonresident earnings tax and for reasonable costs of the State Tax Commission in administering, collecting and distributing such taxes, out of which the State Comptroller shall pay any refunds of such taxes to which taxpayers shall be entitled under this Article IX or Article X of this chapter imposing a nonresident earnings tax. The State Comptroller, after reserving such refund and such cost shall, on or before the 15th day of each month, pay to the Comptroller of the City of Yonkers the balance of such taxes collected, to be paid into the Treasury of the City of Yonkers to the credit of the general fund, except that he/she shall pay to the State Department of Social Services that amount of overpayments of the tax imposed by the City of Yonkers pursuant to this Article IX or Article X of this chapter imposing a tax on nonresident earnings and the interest on such amount which is certified to him/her by the State Tax Commission as the amount to be credited against past-due support pursuant to § 171-c, Subdivision (6), of the New York State Tax Law and except that he/she shall pay to the New York State Higher Education Services Corporation that amount of overpayments of the tax imposed by the City of Yonkers pursuant to this Article IX or Article X of this chapter imposing a nonresident earnings tax and the interest on such amount which is certified to him/her by the State Tax Commission as the amount to be credited against the amount of defaults in repayment of guaranteed student loans pursuant to § 171-d, Subdivision (5) of the New York State Tax Law; and except that he shall pay to the State University of New York that amount of overpayments of tax imposed by this Article IX or Article X of this chapter and the interest on such amount which is certified to him by the Tax Commission as the amount to be credited against the amount of default in repayment of state university loans pursuant to Subdivision 6 of § 171-e of the New York State Tax Law. The amount deducted for administering, collecting and distributing such taxes during such monthly period shall be paid by the State Comptroller into the general fund of the state treasury to the credit of the state purposes account therein. The first payment to the Comptroller of the City of Yonkers shall be made on or before March 15, 1985, which payment shall represent the balance of revenue after provision for refund and such reasonable costs, with respect to taxes collected in 1984. Subsequent payments shall be made on or before April 15, 1985, and on or before the 15th day of each succeeding month thereafter and shall represent the balance of revenue with respect to taxes collected the preceding calendar months. The amounts so payable shall be certified to the State Comptroller by the President of the State Tax Commission or his/her delegate, either of whom shall not be held liable for any inaccuracy in such certificate. Where the amount so paid over to the Comptroller of the City of Yonkers is more or less than the amount due the City of Yonkers, the amount of overpayment or underpayment shall be certified to the Comptroller by the President of the State Tax Commission or his/her delegate, either of whom shall not be held liable for any inaccuracy in such certificate. The amount of overpayment or underpayment shall be so certified to the Comptroller as soon after the discovery of the overpayment or underpayment as reasonably possible, and subsequent payments by the Comptroller to such Comptroller shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the Comptroller and the President of the State Tax Commission shall consider reasonable in view of the amount of the overpayment or underpayment and all other facts and circumstances.

§ 15-111. Amount of surcharge.

The surcharge imposed by this article shall be at the rate of fifteen per centum (15%) of the net state tax as defined in § 15-90* of this article. Further, in the event that the City of Yonkers is desirous of changing the amount of said income tax surcharge from the rate herein imposed, said change shall be effectuated by the adoption by the City Council of a special ordinance.

* So in original. 15-90 probably should be 15-101

§ 15-112. (Reserved)

§ 15-113. (Reserved)

ARTICLE X
EARNINGS TAX ON NONRESIDENTS

§ 15-114. Title.

This article shall be known as the "City of Yonkers Earnings Tax on Nonresidents Act of 1984."

§ 15-115. Definitions; word usage.

A. As used in this article, the following terms shall mean and include:

CITY - The City of Yonkers, Westchester County, New York.

ESTIMATED TAX - The amount of tax on the net earnings from self-employment which a taxpayer estimates to be his/her tax under § 15-116 of this article for the taxable year.

NET EARNINGS FROM SELF-EMPLOYMENT - The same as net earnings from self-employment as defined in Subsection (a) of Section 1402 of the Internal Revenue Code of 1954, except that an estate or trust shall be deemed to have "net earnings from self-employment" determined in the same manner as if it were an individual subject to the tax on self-employment income imposed by Section 1401 of the Internal Revenue Code of 1954 diminished by the amount of any deduction allowed by Subsection (c) of Section 642 of the Internal Revenue Code and the deductions allowed by Sections 651 and 661 of said code to the extent that they represent distributions or payments to a resident of the City of Yonkers. However, "trade or business," as used in Subsection (a) of Section 1402 of such code, shall mean the same as "trade or business" as defined in Subsection (c) of Section 1402 of such code, except that Paragraphs 4, 5 and 6 of such subsection shall not apply in determining "net earnings from self-employment" taxable under this Article X; provided, however, that in the case of a nonresident individual or partner of a partnership doing an insurance business described in Subdivision 1(a) of § 425-a of the Insurance Law, any item of income, gain, loss or deduction of such business which is the individual's distributive or pro rata share for federal income tax purposes or which the individual is required to take into account separately for federal income tax purposes shall not be considered to be "net earnings from self-employment."

NONRESIDENT ESTATE OR TRUST - An estate or trust which is not a resident.

NONRESIDENT INDIVIDUAL - An individual who is not a resident.

PAYROLL PERIOD AND EMPLOYER - The same as "payroll period and employer" as defined in Subsections (b) and (d) of Section 3401 of the Internal Revenue Code of 1954, and "employee" shall also include all those included as employees in Subsection (c) of such section of such code.

RESIDENT ESTATE OR TRUST:

(1) The estate of a decedent who at his/her death was domiciled in the City of Yonkers.

(2) A trust or a portion of a trust.

(a) A trust or a portion of a trust consisting of property transferred by will of a decedent who at his death was domiciled in the City of Yonkers; or

(b) A trust or a portion of a trust consisting of the property of:

(1) A person domiciled in the City of Yonkers at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable or if it was then revocable and has not subsequently become irrevocable; or

(2) A person domiciled in the City of Yonkers at the time such trust or portion of a trust became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

(c) For the purposes of the foregoing, a trust or a portion of a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes such trust or portion of a trust, and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

RESIDENT INDIVIDUAL - An individual:

(1) Who is domiciled in the City of Yonkers, unless he/she maintains no permanent place of abode in the City of Yonkers, maintains a permanent place of abode elsewhere and spends in the aggregate not more than thirty (30) days of the taxable year in the City of Yonkers; or within any period of five hundred forty-eight (548) consecutive days he is present in a foreign country or countries for at least four hundred fifty (450) days, and during such period of five hundred forty-eight (548) consecutive days he/she is not present in the city for more than ninety (90) days and does not maintain a permanent place of abode in the city at which his/her spouse (unless such spouse is legally separated) or minor children are present for more than ninety (90) days, and during any period of less than twelve (12) months, which would be treated as a separate taxable period based on a change of resident status, and which period is contained within such period of five hundred forty-eight (548) consecutive days, he/she is present in the City of Yonkers for a number of days which does not exceed an amount which bears the same ratio to ninety (90) as the number of days contained in such period of less than twelve (12) months bears to five hundred forty-eight (548); or

(2) Who is not domiciled in the City of Yonkers but maintains a permanent place of abode in the City of Yonkers and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in the City of Yonkers, unless such individual is in active service in the armed forces of the United States.

TAXABLE YEAR - The taxpayer's taxable year for federal income tax purposes.

WAGES - Wages as defined in Subsection (a) of Section 3401 of the Internal Revenue Code of 1954, except that "wages" shall not include payments for active service as a member of the armed forces of the United States and shall not include, in the case of a nonresident individual or partner of a partnership doing an insurance business as a member of the New York insurance exchanges described in Subdivision 1(a) of § 425-a of the Insurance Law, any item of income, gain, loss or deduction of such business which is such individual's distributive or pro rata share for federal income tax purposes or which such individual is required to take into account separately for federal income tax purposes.

B. Comparable meaning of terms. Unless a different meaning is clearly required, any term used in this article shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal taxes, and any reference in this article to the Internal Revenue Code, the Internal Revenue Code of 1954 or to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal taxes, and amendments thereto.

§ 15-116. Imposition of tax; exclusion.

A. Imposition of tax. A tax is hereby imposed at a rate of 1/4 of 1% on the wages earned, and net earnings from self-employment, within the City of Yonkers of every nonresident, individual, estate and trust.

B. Exclusion.

(1) In computing the amount of wages and net earnings from self-employment taxable under Subsection A of this section, there shall be allowed an exclusion against the total of wages and net earnings from self-employment in accordance with the following table:

Total of Wages and Net Earnings from Self-Employment	Exclusion Allowable
Not over $10,000.00	$3,000.00
Over $10,000.00 but not over $20,000.00	$2,000.00
Over $20,000.00 but not over $30,000.00	$1,000.00
Over $30,000.00	None

(2) The exclusion allowable shall be applied pro rata against wages and net earnings from self-employment.

(3) For taxable periods of less than one year, the exclusion allowable shall be prorated pursuant to regulations of the State Tax Commission.

C. Limitation. In no event shall a taxpayer be subject to the tax under this article in an amount greater than he/she would be required to pay if he/she were a resident of the City of Yonkers and subject to the City of Yonkers income tax surcharge on residents of the City of Yonkers adopted by the City of Yonkers pursuant to authority granted by Article 30-A of the Tax Law.

§ 15-117. Taxable years to which tax is imposed.

The tax imposed by this article is imposed for taxable years beginning December 31, 1983 and ending on or before December 31, 2003.

§ 15-118. Allocation to City.

A. General. If net earnings from self-employment are derived from services performed or from sources within and without the City of Yonkers, there shall be allocated to the City of Yonkers a fair and equitable portion of such earnings.

B. Allocation of net earnings from self-employment.

(1) Place of business. If a taxpayer has no regular place of business outside the City of Yonkers, all of his/her net earnings from self-employment shall be allocated to the City of Yonkers.

(2) Allocation by taxpayer's books. The portion of net earnings from self-employment allocable to the City of Yonkers may be determined from the books and records of a taxpayer's trade or business, if the methods used in keeping such books and the accuracy thereof are approved by the State Tax Commission as fairly and equitably reflecting net earnings from self-employment within the City of Yonkers.

(3) Allocation by formula. If Subsection B(2) of this section does not apply to the taxpayer, the portion of net earnings from self-employment allocable to the City of Yonkers shall be determined by multiplying net earnings from self-employment, within and without the City of Yonkers, by the average of the following three percentages:

(a) Property percentage. The percentage computed by dividing the average of the value, at the beginning and end of the taxable year, of real and tangible personal property connected with the net earnings from self-employment and located within the City of Yonkers by the average of the value, at the beginning and end of the taxable year, of all real and tangible personal property connected with the net earnings from self-employment and located both within and without the City of Yonkers. For this purpose, "real property" shall include real property, whether owned or rented.

(b) Payroll percentage. The percentage computed by dividing the total wages, salaries and other personal service compensation paid or incurred during the taxable year to employees in connection with the net earnings from self-employment derived from a trade or business carried on within the City of Yonkers by the total of all wages, salaries and other personal service compensation paid or incurred during the taxable year to employees in connection with the net earnings from self-employment derived from a trade or business carried on both within and without the City of Yonkers.

(c) Gross income percentage. The percentage computed by dividing the gross sales or charges for services performed by or through an agency located within the City of Yonkers by the total of all gross sales or charges for services performed within and without the City of Yonkers. The sales or charges to be allocated to the City of Yonkers shall include all sales negotiated or consummated, and charges for services performed, by an employee, agent, agency or independent contractor chiefly situated at, connected by contract or otherwise with or sent out from offices or other agencies of the trade or business from which a taxpayer is deriving net earnings from self-employment, situated within the City of Yonkers.

C. Other allocation methods. The portion of net earnings from self-employment allocable to the City of Yonkers shall be determined in accordance with rules and regulations of the State Tax Commission if it shall appear to the Tax Commission that the net earnings from self-employment are not fairly and equitably reflected under the provisions of Subsection B of this section.

D. Special rules for real estate. Income and deductions from the rental of real property and gain and loss from the sale, exchange or other disposition of real property shall not be subject to allocation under Subsection B or C of this section but shall be considered as entirely derived from or connected with the place in which such property is located.

§ 15-119. Accounting periods and methods.

A. Accounting periods. A taxpayer's taxable year under this article shall be the same as his/her taxable year from federal income tax purposes.

B. Change of accounting periods. If a taxpayer's taxable year is changed for federal income tax purposes, his/her taxable year for purposes of this article shall be similarly changed. If a taxable period of less than twelve (12) months results from a change of taxable year, the exclusion allowable under § 15-116 of this article shall be prorated under regulations of the State Tax Commission.

C. Accounting methods. A taxpayer's method of accounting under this article shall be the same as his/her method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, net earnings from self-employment within the City of Yonkers shall be computed under such method as in the opinion of the State Tax Commission clearly reflects net earnings from self-employment within the City of Yonkers.

D. Change of accounting methods.

(1) If a taxpayer's method of accounting is changed for federal income tax purposes, his/her method of accounting for purposes of this article shall be similarly changed.

(2) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax which results from adjustments determined to be necessary solely by reason of the change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the

preceding taxable years beginning after 1983, not in excess of two (2), during which the taxpayer used the method of accounting from which the change is made.

(3) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the year of such change of method and for any subsequent year, which is attributable to the receipt of installment payments properly accrued in a prior year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments, in accordance with regulations of the State Tax Commission.

§ 15-120. Estimated tax.

Every taxpayer having net earnings from self-employment shall make a declaration of his/her estimated tax and shall pay his/her estimated tax in the same manner and subject to the same requirements, to the greatest extent possible, as provided in §§ 655 and 656 of the New York State Tax Law, if his net earnings from self-employment can reasonably be expected to exceed fifteen thousand dollars ($15,000). No declaration or payment of estimated tax shall be required for taxable years beginning in 1984.

§ 15-121. Withholding tax from wages.

Withholding of the City of Yonkers earnings tax on nonresidents' wages shall commence on November 1, 1984. With respect to payment of wages made on or after November 1, 1984, the provisions contained in Part V of Article 22 of the New York State Tax Law relating to withholding of tax on wages shall be applicable with the same force and effect as if those provisions had been incorporated in full in this section and had expressly referred to the tax imposed by this article, except where inconsistent with the provisions of this article, except that the term "aggregate amount" contained in Subdivision (a)(1), (2), (3) and (4) of § 674 of the Tax Law shall mean the aggregate of the aggregate amounts of New York State personal income tax, city earnings tax on nonresidents authorized pursuant to Article 2-E of the General City Law or Article

30-B of the New York State Tax Law, city personal income tax on residents authorized pursuant to Article 30 of the New York State Tax Law or city income tax surcharge authorized pursuant to Article 30-A of the New York State Tax Law required to be deducted and withheld.

§ 15-122. Filing of returns.

A. General. On or before the 15th day of April following the close of the taxable year, every person subject to the tax shall make and file a return, and any balance of the tax shown due on the face of such return shall be paid therewith. The State Tax Commission may, by regulation, provide for the filing of returns and payment of the tax at such other times as it deems necessary for the proper enforcement of this article. The State Tax Commission may also provide by regulation that any return otherwise required to be made and filed under this article by any nonresident individual need not be made and filed if such nonresident individual had, during the taxable year to which the return would relate, no net earnings from self-employment within the City of Yonkers. Any regulation allowing such waiver of return may provide for additional limitations on and conditions and prerequisites to the privilege of not filing a return.

B. Husband and wife. If husband and wife, both of whom are nonresidents of the City of Yonkers, file separate New York State personal income tax returns on a single form, the State Tax Commission may require the filing of separate returns under this article on single form; and if the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the State Tax Commission to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable. If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses or, if either is deceased, to the survivor; provided, however, that the provisions of this subsection shall not apply if the return of either spouse includes a demand that any overpayment made by him or her shall be applied only on account of his or her separate liability. However, an overpayment by a spouse and interest thereon shall be credited against past-due support or the amount of a default in repayment of a guaranteed student loan or state university loan owed by the other spouse, of which the State Tax Commission has been notified pursuant to § 171-c or § 171-d or § 171-e of the Tax Law, as the case may be, unless the spouse not liable for past-due support or a default in repayment of a guaranteed student loan or state university loan includes a demand that the overpayment and interest thereon attributable to such spouse not be credited against the past-due support or the default in repayment of a guaranteed student loan or state university loan owed by the other spouse.

C. Decedents. The return for any deceased individual shall be made and filed by his/her executor, administrator or other person charged with his/her property. If a final return of a decedent is for a fractional part of a year, the due date of such return shall be the 15th day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of the year.

D. Individuals under a disability. The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his/her guardian, committee, fiduciary or other person charged with the care of his/her person or property (other than a receiver in possession of only a part of his/her property) or by his/her duly authorized agent.

E. Estates and trusts. The return for an estate or trust shall be made and filed by the fiduciary.

F. Joint fiduciaries. If two (2) or more fiduciaries are acting jointly, the return may be made by any one (1) of them.

G. Cross reference. For provisions as to information on returns by partnerships, employers and other persons, see § 15-128.

§ 15-123. Combined returns and employer's returns.

A. The State Tax Commission may require the filing of any or all of the following:

(1) A combined return which, in addition to the return provided for in a local law authorized by Article 30-B of the Tax Law, may also include returns required to be filed under a local law authorized by Article 2-E of the General City Law or Article 30 or 30-A of the Tax Law and under Article 22 of the Tax Law.

(2) A combined employer's return which, in addition to the employer's return, provided for in a local law authorized by Article 30-B of the Tax Law, may also include employer's returns required to be filed under a local law authorized by Article 2-E of the General City Law or Article 30 or 30-A of the Tax Law and under Article 22 of the Tax Law.

B. Where a combined return or employer's return is required, the State Tax Commission may also require payment of a single amount which shall be the total of the amounts (total taxes less any credits or refunds) required to be paid with the returns or employer's returns pursuant to the provisions of local laws imposed under the authority of Article 30-B of the Tax Law, Article 2-E of the General City Law or Article 30 or 30-A of the New York State Tax Law and pursuant to the provisions of Article 22 of the New York State Tax Law.

§ 15-124. Payment of tax.

A person required to make and file a return under this article shall, without assessment, notice or demand, pay any tax due thereon to the State Tax Commission on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return). The State Tax Commission shall prescribe by regulation the place for filing any return declaration, statement or other document required pursuant to this article and for payment of any tax.

§ 15-125. Signing of returns and other documents.

A. General. Any return, declaration, statement or other document required to be made pursuant to this article shall be signed in accordance with regulations or instructions prescribed by the State Tax Commission. The fact that an individual's name is signed to a return, declaration, statement or other document shall be prima facie evidence for all purposes that the return, declaration, statement or other document was actually signed by him/her.

B. Partnerships. Any return, statement or other document required of a partnership shall be signed by one (1) or more partners. The fact that a partner's name is signed to a return, statement or other document shall be prima facie evidence for all purposes that such partner is authorized to sign on behalf of the partnership.

C. Certification. The making or filing of any return, declaration, statement or other document or copy thereof required to be made or filed pursuant to this article, including a copy of a federal return, shall constitute a certification by the person making or filing such return, declaration, statement or other document or copy thereof that the statements contained therein are true and that any copy filed is a true copy.

§ 15-126. Change of residency status.

A. General. If an individual changes his/her status during his/her taxable year from resident to nonresident, or from nonresident to resident, he/she shall file a return as a nonresident for the portion of the year during which he/she is a nonresident if he/she is subject to the tax imposed by this article or, if not subject to such tax, an information return for the portion of the year during which he/she is a nonresident, subject to such exceptions as the State Tax Commission may prescribe by regulation. Such information return shall be due at the same time as the return required by Article IX of this chapter for the portion of the year during which such individual is a resident.

B. City of Yonkers taxable wages and net earnings from self-employment for portion of year individual is a nonresident. The City of Yonkers taxable wages and net earnings from self-employment for the portion of the year during which the taxpayer is a nonresident shall be determined, except as provided in Subsection C, under this article as if his/her taxable year for federal income tax purposes were limited to the period of his/her nonresident status.

C. Special accruals.

(1) If an individual changes his/her status from resident to nonresident, he/she shall, regardless of his/her method of accounting, accrue for the portion of the taxable year prior to such change of status any items of income, gain, loss or deduction accruing prior to the change of status, if not otherwise properly includable (whether or not because of an election to report on an installment basis) or allowable for City of Yonkers earnings tax purposes for such portion of the taxable year or a prior taxable year. The amounts of such accrued items shall be determined as such accrued items were includable or allowable for federal self-employment tax purposes.

(2) If an individual changes his/her status from nonresident to resident, he/she shall, regardless of his method of accounting, accrue for the portion of the taxable year prior to such change of status any items of income, gain, loss or deduction accruing prior to the change of status, if not otherwise properly includable (whether or not because of such an election to report on an installment basis) or allowable for federal self-employment tax purposes for such portion of the taxable year or a prior taxable year. The amounts of such accrued items shall be determined as if such accrued items were includable or allowable for federal self-employment tax purposes.

(3) No item of income, gain, loss or deduction which is accrued under this subsection shall be taken into account in determining city-adjusted wages earned or net earnings from self-employment within the City of Yonkers for any subsequent taxable period.

(4) Where an individual changes his/her status from resident to nonresident, the accruals under this subsection shall not be required if

the individual files with the State Tax Commission a bond or other security acceptable to the Commission, conditioned upon the inclusion of amounts accruable under this subsection in the determination of the City of Yonkers income tax surcharge under this Article X hereof for one (1) or more subsequent taxable years as if the individual had not changed his/her resident status. In such event, the tax under this article shall not apply to such amounts.

D. Prorations. Where an individual changes his/her status during his/her taxable year from resident to nonresident or from nonresident to resident, the exclusion allowable under § 15-116B shall be prorated, under regulations of the State Tax Commission, to reflect the portions of the entire taxable year during which the individual was a resident and a nonresident.

§ 15-127. Extension of time for payment.

The State Tax Commission may grant a reasonable extension of time for payment of a tax or estimated tax (or any installment), or for filing any return, declaration, statement or other document required pursuant to this article, on such terms and conditions as it may require. Except for a taxpayer who is outside the United States or who intends to claim nonresident status pursuant to Subsection A(1) of the definition of "resident individual" in § 15-115, no such extension for filing any return, declaration, statement or other document shall exceed six (6) months.

§ 15-128. Requirements for returns, notices, records and statements.

A. General. The State Tax Commission may prescribe regulations as to the keeping of records, the content and form of returns and statements and the filing of copies of federal income tax returns and determinations. The State Tax Commission may require any person, by regulation or notice served upon such person, to make such return, render such statements or keep such records as the State Tax Commission may deem sufficient to show whether or not such person is liable under this article for tax or for collection of tax.

B. Partnerships. Every partnership doing business in the City of Yonkers and having no partners who are residents of the City of Yonkers shall make a return for the taxable year setting forth all items of income, gain, loss and deduction and such other pertinent information as the State Tax Commission regulations and instructions prescribe. Such return shall be filed on or before the 15th day of the fourth month following the close of each taxable year. For purposes of this subsection, "taxable year" means year or period which would be a taxable year of the partnership if it were subject to tax under this article.

C. Information at source. The State Tax Commission may prescribe regulations and instructions requiring returns of information to be made and filed on or before February 28 of each year as to the payment or crediting in any calendar year of amounts of six hundred dollars ($600) or more to any taxpayer under this article. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of this state, or any municipal corporation or political subdivision of this state, having the control, receipt, custody, disposal or payment of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, shall constitute the return of information required to be made under this section with respect to such wages.

D. Notice of qualification as receiver, etc. Every receiver, trustee in bankruptcy, assignee for benefit of creditors or other like fiduciary shall give notice of his qualification as such to the State Tax Commission, as may be required by regulation.

§ 15-129. Report of change in taxable income.

If the amount of a taxpayer's federal or New York State taxable income or self-employment income reported on his/her federal or New York State Tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or the New York State Tax Commission or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States or New York State or if a taxpayer, pursuant to Subsection (d) of Section 6213 of the Internal Revenue Code, executing a notice of waiver of the restrictions provided in Subsection (a) of said section, or if a taxpayer, pursuant to § 681, Subdivision (f), of the New York State Tax Law executes a notice of waiver of the restrictions provided in Subdivision (c) of said section, or if any tax on self-employment income in addition to that shown on his/her return is assessed, the taxpayer shall report such change or correction in federal or New York State taxable income or such execution of such notice of waiver or such assessment and the changes or corrections of his/her federal or New York State taxable income or self-employment income on which it is based, within ninety (90) days after the final determination of such change, correction or renegotiation or such execution of such notice of waiver or the making of such assessment as otherwise required by the State Tax Commission and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal or New York State income or self-employment income tax return shall also file within ninety (90) days thereafter an amended return under this article and shall give such information as the State Tax Commission may require. The State Tax Commission may, by regulation, prescribe such exceptions to the requirements of this section as it deems appropriate.

§ 15-130. Administrative provisions.

The provisions contained in Part VI of Article 22 of the New York State Tax Law and § 1331 of the New York State Tax Law, including the provisions of judicial review by a proceeding under Article 78 of the Civil Practice Law and Rules, shall be applicable with the same force and effect as if those provisions had been incorporated in full in this section and had expressly referred to any tax imposed by this article, except where inconsistent with the provisions of this article.

§ 15-131. Deposit and disposition of revenues.

Revenues resulting from the imposition of the tax authorized by this article shall be deposited and disposed of in the same manner as revenues resulting from the imposition of the tax imposed by Article VIII of this chapter.