



## General Corporation Tax Return For fiscal years beginning in 2000 or for calendar year 2000

### Highlights of Recent Tax Law Changes for Corporations

- The definition of "corporation" for purposes of the New York City General Corporation Tax has been amended to include an association and a publicly traded partnership taxable as a corporation for federal income tax purposes. Admin. Code §11-602(1).
- For years beginning after 6/30/96, corporations primarily engaged in the manufacture and sale of tangible personal property may elect to use a double-weighted receipts factor. Admin. Code §11-604.3(a)(4) and 8.
- For years beginning after 6/30/96, the requirement that corporations maintain a regular place of business outside the City in order to allocate income outside the City has been repealed. Admin. Code §11-604.3(a)(4).
- For years beginning after 6/30/98, and before 7/1/99, only 50 percent of salaries and compensation of officers, other than officers who are also greater than 5% stockholders, is required to be added back in calculating the alternative income plus compensation tax base. For tax years beginning after 6/30/99, none of the salaries and compensation of officers is required to be added back. For taxable years beginning after 6/30/98, the statutory exclusion has been increased from \$30,000 to \$40,000. Admin. Code §11-604.1(H).
- For taxable years beginning on or after January 1, 1998, an alien corporation is not subject to the GCT if its activities in the City are limited solely to investing or trading in stocks and securities for its own account within the meaning of IRC §864 (b) (2) (A) (ii) or investing or trading in commodities for its own account within the meaning of IRC §864 (b) (2) (B) (ii) or any combination of these activities. NYC Admin. Code §11-603.2-a.
- As a result of a recent court decision, taxpayers are allowed to use ACRS or MACRS depreciation for property placed in service outside New York in years beginning after 1984 and before 1994 under certain circumstances. For more information see the separate "Addendum to Instructions for Forms Relating to Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994" included with these materials.
- For taxable years beginning on or after January 1, 2000 and before January 1, 2001, temporary transitional rules apply to corporations affected by the enactment of the federal Gramm-Leach-Bliley Act (P.L. 106-102) under which certain newly formed corporations may elect to be taxed under the General Corporation Tax or Banking Corporation Tax and certain existing corporations will be subject to the same tax as applied for the last taxable year beginning before 2000. These rules are more fully described below.

### GENERAL INFORMATION

#### S CORPORATIONS

An S Corporation is subject to the General Corporation Tax and must file either Form NYC-4S or NYC-3L, whichever is applicable. See the Addendum to Instructions included with these forms for information regarding the treatment of qualified sub-chapter S subsidiaries.

#### CORPORATION DEFINED

For taxable years beginning in 1996 and thereafter, unincorporated associations and publicly traded partnerships taxable as corporations for federal income tax purposes under IRC §7701(a)(3) and §7704 are subject to the General Corporation Tax and not the Unincorporated Business Tax. Unincorporated entities electing to be treated as associations taxable as corporations for federal income tax purposes pursuant to the "check-the-box" rules under IRC §7701(a)(3) are treated as corporations for City tax purposes and are not subject to the Unincorporated Business Tax. Eligible entities having a single owner disregarded as a separate entity under the "check-the-box" rules and treated as either a sole proprietorship or a branch for federal tax purposes will be similarly treated for City tax purposes. See the Addendum to Instructions included with these forms for additional information. **Unincorporated entities that were subject to the Unincorporated Business Tax for tax years beginning in 1995 and that are taxable as corporations for federal income tax purposes that elected to continue to be subject to the Unincorporated Business Tax for years after 1995 are not subject to the GCT. Note: this election could only have**

**been made on the Unincorporated Business Tax return filed for tax years beginning in 1996.**

#### TRANSITIONAL PROVISIONS RELATION TO THE ENACTMENT OF THE GRAMM-LEACH-BLILEY ACT OF 1999:

##### Corporations formed before January 1, 2000:

Except for a banking corporation described in paragraphs (1) through (8) of Ad. Code section 11-640(a) (see, Form NYC-1, Instructions "Who Must File" items A through C), for taxable years beginning after 1999 and before 2001, a corporation that was in existence before January 1, 2000 will be taxable under the same tax (either NYC General Corporation Tax (GCT) or NYC Banking Corporation Tax (BCT)) as applied to it for its last taxable year beginning before January 1, 2000. For this purpose, a corporation will be considered to have been subject to a tax prior to 2000 if it was not a taxpayer but was properly included in a combined report filed by another corporation under that tax.

##### Newly-formed Corporations:

A corporation formed on or after January 1, 2000, and before January 1, 2001, may elect to be subject to either the GCT or BCT for its taxable years beginning after 1999 and before 2001 **provided the corporation is either:**

- a financial subsidiary, or
- at least 65% of the corporation's voting

stock is owned or controlled, directly or indirectly, by a financial holding company, and the corporation is principally engaged in activities described in sections 4(k) 4 or 4(k)5 of the Bank Holding Company Act of 1956, as amended, or described in regulations promulgated under that section.

A financial subsidiary is a corporation whose voting stock is 65% or more owned or controlled directly or indirectly, by a banking corporation (including a corporation that has elected to be subject to the BCT under these transition rules) described in paragraphs (1) through (3) of Ad. Code section 11-640(a) and described in 12 USCS section 24a or section 46 of the Federal Deposit Insurance Act.

A financial holding company is a corporation that has filed with the Federal Reserve Board a written declaration of its election to be a financial holding company under section 4(i) of the Bank Holding Company Act of 1956, as amended, provided the Federal Reserve Board has not found that election to be ineffective.

**An election by a newly-formed corporation under this provision must be made on or before the due date for filing its return for the applicable year, including extensions, and is made by filing the return required under the appropriate tax. The election is irrevocable.**

A bank holding company that, during a taxable year beginning after 1999 and before 2001, is doing business in the city, registers for the first time as a bank hold-

ing company under the Bank Holding Company Act of 1956, as amended, and elects to be a financial holding company, may, but cannot be required to, file a combined report filed under the BCT with one or more banking corporations 65% or more owned or controlled, directly or indirectly, by that bank holding company.

### **CORPORATIONS REQUIRED TO FILE FORM NYC-3L**

A corporation (as defined in Section 11-602.1 of the New York City Administrative Code) doing business, employing capital, or owning or leasing property in a corporate or organized capacity, or maintaining an office in New York City must file Form NYC-3L if:

- 1) it carries on business both inside and outside New York City;
- 2) it has subsidiary and/or investment capital;
- 3) it claims an optional deduction for depreciation in accordance with Section 11-604.3(d) or (e) of the NYC Admin. Code;
- 4) it claims an optional deduction for expenditures relating to air pollution control facilities, as provided in Section 11-602.8(g) of the NYC Admin. Code;
- 5) it claims a modification with respect to gain arising from the sale of certain property, as provided in Section 11-602.8(h) of the NYC Admin. Code;
- 6) it is a real estate investment trust qualified under Sections 856 and 857 of the Internal Revenue Code (see section 11-603.7 of the NYC Admin. Code);
- 7) it entered into a "safe harbor" lease transaction under provisions of the Internal Revenue Code as it was in effect for agreements entered into prior to January 1, 1994;
- 8) it claims a credit for sales and compensating use taxes paid with respect to electricity or electric service and certain other services, as provided in Sections 11-604.15 and 11-604.17-a of the NYC Admin. Code, or is required to adjust its current General Corporation Tax as a result of credits claimed in prior years with respect to that credit or the credit formerly allowed with respect to certain machinery and equipment under Section 11-604.12 of the NYC Admin. Code;
- 9) it claims a credit for increased real estate tax payments made to a landlord in connection with the relocation of employment opportunities to New York City, as provided in Section 11-604.13 of the NYC Admin. Code;

- 10) it claims a credit for certain costs or expenses incurred in relocating employment opportunities to New York City, as provided in Sections 11-604.14 and 11-604.17 of the NYC Admin. Code;
- 11) it claims a modification with respect to wages and salaries disallowed as a deduction for federal income tax purposes (work incentive/jobs credit provisions), as provided in Section 11-602.8(a) (7) of the NYC Admin. Code;
- 12) either separately or as a member of a partnership, it is engaged in an insurance business as a member of the New York Insurance Exchange;
- 13) it is a Regulated Investment Company as defined in Section 851 of the Internal Revenue Code (see section 11-603.7 of the NYC Admin. Code);
- 14) it is a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation;
- 15) it claims an energy cost savings credit for eligible electricity charges, as provided in Section 11-604.16 of the NYC Admin. Code; or
- 16) it claims a credit for New York City Unincorporated Business Tax paid by a partnership in which it is a partner as provided in Section 11-604.18 of the NYC Admin. Code.
- 17) it will be included in a combined report (Form NYC-3A)

### **The following are NOT required to file a General Corporation Tax Return:**

- a) A dormant corporation which did not at any time during its taxable year engage in any activity or hold title to real property located in New York City.
- b) A nonstock corporation organized and operated exclusively for nonprofit purposes and not engaged in substantial commercial activities that has been granted an exemption by the Department of Finance.
- c) Corporations subject to taxation under Part 4 of Subchapter 3 of Chapter 6, Title 11 (Banking Corporations) or under Chapter 11, Title 11 (Utility Corporations) of the NYC Admin. Code are not required to file General Corporation Tax returns. However, corporations which are subject to tax under Chapter 11 as vendors of utility services are subject to the General Corporation Tax in accordance with Section 11-603.4 of the NYC Admin. Code and must file a return.
- d) A limited profit housing corporation organized and operating pursuant to the provisions of Article Two of the

- e) Private Housing Finance Law.
- e) Insurance corporations.
- f) A Housing Development Fund Company (HDFC) organized and operating pursuant to the provisions of Article Eleven of the Private Housing Finance Law.
- g) Organizations organized exclusively for the purpose of holding title to property as described in Sections 501(c)(2) or (25) of the Internal Revenue Code.
- h) An entity treated as a Real Estate Mortgage Investment Conduit (REMIC) for federal income tax purposes. (Holders of interests in a REMIC remain taxable on such interests or on the income thereon.)
- i) Corporations principally engaged in the conduct of a ferry business and operating between any of the boroughs of the City under a lease granted by the City.
- j) A corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, provided that all of the capital stock of the corporation is owned by a municipal corporation of New York.
- k) Bank holding corporations filing on a combined basis in accordance with Section 11-646(f) of the NYC Admin. Code.
- l) Corporations principally engaged in the operation of marine vessels whose activities in the City are limited exclusively to the use of property in interstate or foreign commerce.
- m) Foreign corporations that are exempt under the provisions of Public Law 86-272. (Refer to 19 RCNY Section 11-04 (b)(11).)

**NOTE:** A corporation that has an officer, employee, agent or representative in the City and that is not subject to the General Corporation Tax is not required to file a Form NYC-3L or NYC-4S but must file a Form NYC - 245 (Section 11-605 of the NYC Admin. Code).

### **WHEN AND WHERE TO FILE**

The due date for filing is on or before March 15, 2001, or, for fiscal year taxpayers, within 2 1/2 months after the close of the fiscal year.

Returns with remittances:

**NYC Department of Finance  
P.O. Box 5040  
Kingston, NY 12402-5040**

Returns claiming refunds:

**NYC Department of Finance  
P.O. Box 5050  
Kingston, NY 12402-5050**

All others:

**NYC Department of Finance  
P.O. Box 5060  
Kingston, NY 12402-5060**

#### TAX FORMS

You can have forms delivered to you by fax, computer or phone. Call Tax Fax at (718) 935-6114 at any time from the phone connected to your fax machine or modem. You can also visit our Internet web site at:

<http://nyc.gov/finance>

You can also call our automated tax form ordering service at any time, which at (718) 935-6739.

Forms can also be obtained at:

**NYC Department of Finance  
Taxpayer Assistance  
25 Elm Place, 4th Floor  
Brooklyn, NY 11201-5807**

#### OTHER FORMS YOU MAY BE REQUIRED TO FILE

FORM NYC-6 OR NYC-6F - Application for Automatic Extension for General Corporation Tax is an application for a six-month extension of time to file a tax return. File it on or before the due date of the return. If the corporation ceased to be subject to tax during 2000, use Form NYC-6F to request an extension to file a final return.

FORM NYC-6.1 - Application for Additional Extension for General Corporation Tax is a request for an additional three months of time to file a return. A corporation with a valid six-month extension is limited to two additional extensions.

FORM NYC-8 - General Corporation Tax Claim for Credit or Refund is used to claim a refund of General Corporation Tax. Please note that it no longer can be used to file an amended return.

FORM NYC-222 - Underpayment of Estimated Tax by Corporations will help a corporation determine if it has underpaid an estimated tax installment and, if so, compute the penalty due.

FORM NYC-245 - Activities Report of Corporations must be filed by a corporation that has an officer, employee, agent or representative in the City but disclaims liability for the General Corporation Tax.

FORM NYC-399 - Schedule of New York City Depreciation Adjustments is used to compute the allowable New York City depreciation deduction if a federal ACRS or MACRS depreciation deduction is claimed for certain property placed in service after December 31, 1980.

FORM NYC-400 - Declaration of Estimated Tax by General Corporations must be filed by any corporation whose New York City tax liability can reasonably be expected to exceed \$1,000 for the 2001 calendar year or fiscal year beginning in 2001.

FORM NYC-3360 - General Corporation Tax Report of Change in Tax base made by the Internal Revenue Service and/or New York State Department of Taxation and Finance is used for reporting adjustments in taxable income or other basis of tax resulting from an audit of your federal corporate tax return and/or State audit of your State corporate tax return.

FORM NYC-CR-A - Commercial Rent Tax Annual Return must be filed by every tenant that rents premises for business purposes in Manhattan south of the center line of 96th Street **and** whose annual or annualized gross rent for any premises is at least \$100,000. (Effective June 1, 1999.)

FORM NYC-3L, SCHEDULE M - Merger, Acquisition and Consolidation Report must be filed by any corporation subject to the General Corporation Tax that is involved in a merger, acquisition or consolidation during any tax period ending on or after July 1, 1989.

FORM NYC-RPT - Real Property Transfer Tax Return must be filed when the corporation acquires or disposes of an interest in real property, including a leasehold interest; when there is a partial or complete liquidation of the corporation that owns or leases real property; or when there is a transfer of a controlling economic interest in a corporation, partnership or trust that owns or leases real property.

#### ESTIMATED TAX

If the tax for the period following that covered by this return is expected to exceed \$1,000, a declaration of estimated tax and installment payments are required. Form NYC-400 is to be used for this purpose. If the tax on this return exceeds \$1,000, Form NYC-400 will automatically be mailed to you.

If, after filing a declaration, your estimated tax substantially increases or decreases as a result of a change in income, deduction or allocation, you must amend your declaration on or before the next date for an installment payment. The procedure is as follows:

- Complete the amended schedule of the notice of estimated tax due. (This is your quarterly notice for payment of estimated tax.)
- Mail the bottom portion of the notice

along with your check to:

**NYC Department of Finance  
P.O. Box 3917  
Church Street Station  
New York, NY 10008-3917**

If the amendment is made after the 15th day of the 9th month of the taxable year, any increase in tax must be paid with the amendment.

For more information regarding estimated tax payments and due dates, you may call Citytax Dial, New York City's recorded tax information line, at: (718) 935-6736. Message #233 will provide you with current information.

#### AUTOMATIC EXTENSIONS

An automatic extension of six months for filing this return will be allowed if, by the original due date, the taxpayer files with the Department of Finance an application for automatic extension on Form NYC-6 and pays the amount properly estimated as its tax. A taxpayer with a valid six-month automatic extension filed on Form NYC-6 may request up to two additional three-month extensions by filing Form NYC-6.1. A separate Form NYC-6.1 must be filed for each additional three-month extension.

Mail Forms NYC-6 and 6.1 to the address indicated on the form.

#### PENALTY FOR UNDERSTATING TAX

If there is a substantial understatement of tax (i.e., if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$5,000) for any taxable year, a penalty will be imposed equal to 10% of the amount of the understated tax.

The amount on which you pay the penalty can be reduced by subtracting any item for which (1) there is or was substantial authority for the way in which the item was treated on the return, or (2) there is adequate disclosure of the relevant facts affecting the item's tax treatment on the return or in a statement attached to the return.

#### CHANGE OF BUSINESS INFORMATION

If there have been any changes in your business name, identification number, billing or mailing address or telephone number, complete Form DOF-1, Change of Business Information. You can obtain this form by calling Taxpayer Assistance at (718) 935-6000. You can also visit our internet website at:

<http://nyc.gov/finance>

**FINAL RETURNS**

If a corporation ceases to do business in New York City, the due date for filing a final General Corporation Tax Return is the 15th day after the due date of the cessation (Section 11-605 of the NYC Admin. Code). Corporations may apply for an automatic six-month extension for filing a final return by filing Form NYC-6F, Application for Extension to File Final Return. Any tax due must be paid with the final return or the extension.

**FOREIGN AIRLINES**

Retroactive to tax years beginning on or after January 1, 1989, foreign airlines that have a foreign air carrier permit pursuant to Section 402 of the Federal Aviation Act of 1958 are permitted to exclude from entire net income the following items:

- all income from the international operation of aircraft, even though effectively connected with the conduct of a trade or business in the United States
- income from outside the United States that is derived from the operation of aircraft
- certain passive income derived from sources outside the United States

The above exclusions are permitted provided that the foreign country in which the airline is based and organized grants a similar or greater exemption from tax with respect to United States airlines. For more information, see Admin. Code Section 11-602.8 (c-1).

For taxable years beginning on or after January 1, 1994, property, receipts and wages, salaries or other personal service compensation directly attributable to the generation of income not included in entire net income under Admin. Code Section 11-602.8 (c-1) are excluded when calculating the business allocation percentage. (See Admin. Code Section 11-604.3 (a) (6).)

Also for taxable years beginning on or after January 1, 1994, in calculating the tax on business and investment capital of foreign airlines, assets (and the liabilities directly or indirectly attributable to those assets) employed in generating the income excluded from entire net income are excluded. (See Admin. Code Sections 11-602.4 and 11-602.6.)

**TAX PREPARERS**

Anyone who prepares a return for a fee must sign the return as a paid preparer and enter his or her Social Security Number or PTIN. See Finance Memorandum 00-1 included with these materials. Include the company or corporation name

and Employer Identification Number, if applicable.

**SPECIFIC INSTRUCTIONS****SCHEDULE A****Computation of Tax****LINES 2a AND 2b - TAX ON ALLOCATED CAPITAL**

For cooperative housing corporations as defined in the Internal Revenue Code, the rate of tax on capital is 4/10 mill instead of 1 1/2 mills. For all other corporations subject to tax, including housing companies organized and operating pursuant to Article Four of the Private Housing Finance Law (other than cooperative housing corporations), the rate of tax on capital is 1 1/2 mills.

Enter the amount from Schedule E, line 14 in the left-hand column of line 2a or line 2b. Multiply by the applicable percentage and enter the tax in the right-hand column. **If that amount exceeds \$350,000, enter \$350,000.**

**LINE 3 - ALTERNATIVE TAX**

Every taxpayer must calculate its alternative tax and enter its computation on line 3. To compute the alternative tax, measured by entire net income plus compensation, you may use the worksheet on page 6 of Form NYC-3L.

**Additional Information for Computing the Alternative Tax****ALTERNATIVE TAX WORKSHEET**

- a) Line 2 - Salaries. For taxable years beginning on or after 7/1/99 no portion of officers salaries and other compensation is included in the alternative tax base. Notwithstanding the foregoing, include in the alternative tax computation 100% of all salaries and compensation of stockholders owning more than 5% of the corporation's stock, as deducted for federal tax purposes and reported on Schedule F, regardless of whether such stockholders are also officers. In determining whether a stockholder owns more than 5% of the issued capital stock, include all classes of stock, issued and outstanding, voting and nonvoting stock.
- b) Line 3 - Enter on line 3 the sum of line 1 and line 2.
- c) If you claim a deduction for optional depreciation on qualified New York City property, add federal deprecia-

tion and deduct federal gain (loss) on such property. Apply allocation percentage where applicable. Add New York City gain (loss) and deduct optional depreciation on qualified New York City property. The alternative tax is 8.85% of the resulting figure. Attach a rider showing this computation.

- d) A net operating loss carryforward or carryback may not reduce federal taxable income to less than zero.
- e) Line 4 - For taxable years beginning on or after 7/1/98, enter \$40,000. If the return does not cover an entire year, the exclusion must be prorated based on period covered by the return.

**LINE 7 - UBT PAID CREDIT**

Enter on line 7 the credit against the General Corporation Tax for Unincorporated Business Tax paid by partnerships from which you receive a distributive share or guaranteed payment that you include in calculating General Corporation Tax liability on either the entire net income or income plus compensation base. (Attach Form NYC-9.7.)

**LINE 9b - FIRST INSTALLMENT PAYMENT**

Do not use this line if an application for automatic extension, Form NYC-6, has been filed. The payment of the amount shown at line 9b is required as payment on account of estimated tax for the 2001 calendar year, if a calendar year taxpayer, or for the taxable year beginning in 2001, if a fiscal year taxpayer.

**LINE 10 - SALES TAX ADDBACK**

This line relates to the General Corporation Tax credit for sales and compensating use taxes paid on certain machinery and equipment and/or electricity or electric service or certain other services. If the taxpayer received a credit or refund of sales or compensating use taxes in 2000 for which it claimed a General Corporation Tax credit in a prior tax period, the amount of such credit or refund must be added back at line 10. A corresponding adjustment is to be made at line 14 on Schedule B. (Refer to instructions on Form NYC-9.5.)

**LINE 12a - CREDITS FROM FORMS NYC-9.5, NYC-9.6**

Enter on this line the following credits against the General Corporation Tax:

- 1) Sales and compensating use taxes (Refer to instructions on Form NYC-9.5 and attach form.)

- 2) Real estate tax escalation credit and employment opportunity relocation costs credit (Refer to instructions on Form NYC-9.6 and attach form.)
- 3) Relocation and employment assistance program (REAP) credit (Attach Form NYC-9.5.)

### LINE 12b - ENERGY COST SAVINGS CREDIT

This line relates to the energy cost savings credit available to energy users certified as eligible by the New York City Energy Office and suppliers of fuel services. Attach Form NYC-ECS if claiming this credit. If the total available credit (from Form NYC-ECS) exceeds the total tax shown on line 11 reduced by the 25% first installment entered on line 9a or 9b less the credits taken on line 12a, enter only that portion of the allowable credit that reduces the balance to zero. The excess credit must be carried forward to future years or applied to other eligible taxes. See instructions for Form NYC-ECS.

### LINE 14 - PREPAYMENTS

Enter the sum of all estimated tax payments made for this tax period, the payment made with the extension request, if any, and both the carryover credit and the first installment recorded on the prior tax period's return. This figure should be obtained from the Composition of Prepayments Schedule on page 3 of Form NYC-3L.

### LINE 17a - LATE PAYMENT - INTEREST

If the tax is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from the due date to the date paid. For information as to the applicable rate of interest, call: (718) 935-6000.

### LINE 17b - LATE PAYMENT OR LATE FILING/ADDITIONAL CHARGES

- a) A **late filing penalty** is assessed if you fail to file this form when due, unless the failure is due to reasonable cause. For every month or partial month that this form is late, add to the tax (less any payments made on or before the due date) 5%, up to a total of 25%.
- b) If this form is filed more than 60 days late, you will be subject to the **minimum late filing penalty**. This penalty is the lesser of (1) \$100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).

- c) A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.
- d) The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b.

If you claim not to be liable for these additional charges, attach a statement to your return explaining the delay in filing, payment or both.

### LINE 17c - PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

A penalty is imposed for failure to file a declaration of estimated tax or for failure to pay the entire installment payment of estimated tax due. (For complete details, refer to Form NYC-222, Underpayment of Estimated Tax by Corporations.) If you underpaid your estimated tax, use Form NYC-222 to compute the penalty. Attach Form NYC-222. If no penalty is due, enter "0" on line 17c.

### LINE 21 - TOTAL REMITTANCE

If the amount on line 19 is not greater than zero, enter on line 21 the sum of line 15 and the amount by which line 18 exceeds the amount on line 16, if any. After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 21. All remittances must be payable in U.S. dollars drawn on a U.S. bank. Checks drawn on foreign banks will be rejected and returned. Remittances must be made payable to the order of: **NYC Department of Finance**.

### LINE 22 - NEW YORK CITY RENT

If the corporation is carrying on business both inside and outside New York City, complete Schedule G and enter on line 22 of Schedule A total rent from Schedule G, part 1. If the corporation is only carrying on business in New York City, enter the total rent deducted on the federal return for premises located in the City. Rent includes consideration paid for the use or occupancy of premises as well as payments made to or on behalf of a landlord for taxes, charges, insurance or other expenses normally payable by the landlord other than for the improvement, repair or maintenance of the tenant's premises.

## SCHEDULE B

Computation and Allocation of Entire Net Income

### LINE 1 - FEDERAL TAXABLE INCOME

Enter your federal taxable income (before net operating loss and special deductions) as required to be reported on your federal tax return.

If you file federal Form 1120, use the amount from line 28.

If you file federal Form 1120-A, use the amount from line 24.

If you file federal Form 1120-RIC, see Admin. Code section 11-603.8.

If you file federal Form 1120-REIT, see Admin. Code section 11-603.7.

**S Corporations and qualified subchapter S subsidiaries (QSSS) must file returns as ordinary corporations. If you are an S corporation filing on Form 1120S or a QSSS, you must report on line 1 the amount you would have had to report as taxable income were you not a federal S corporation or QSSS. See Finance Memorandum 99-3 included with these materials.**

Enter at Schedule B, line 1, income and deductions from federal Form 1120S, Schedule K, lines 1-10 and 11a. In addition, include other items and amounts that are required to be reported separately to shareholders and not numerically included on federal Schedule K, but attached in a separate schedule.

**NOTE:** The charitable contribution deduction from federal Form 1120S, Schedule K, line 7 may not exceed 10% of the sum of lines 1 through 10 (other than line 7) of Schedule K.

### LINE 2 - NONTAXABLE INTEREST

Include all interest received or accrued which was not taxable on your federal income tax return.

### LINES 3 AND 4 - SUBSIDIARY CAPITAL

A subsidiary is a corporation which is controlled by the taxpayer by reason of the taxpayer's ownership of more than 50% of the total number of shares of the corporation's voting capital stock, issued and outstanding. The term "subsidiary capital" means all investments in the stock of subsidiary corporations, plus all indebtedness from subsidiary corporations (other than accounts receivable acquired in the ordinary course of business for services rendered or from sales of property held pri-

marily for sale to customers), whether or not evidenced by bonds or other written instruments, on which interest is not claimed and deducted by the subsidiary for purposes of taxation under Title 11, Chapter 6, Subchapters 2 and 3 of the Admin. Code.

Effective for acquisitions occurring on or after July 1, 1989, in taxable years beginning on or after January 1, 1989, if a subsidiary's stock or assets (excluding cash and assets disposed of by the subsidiary in the regular course of business) are sold within eighteen months after the date the stock of the subsidiary was acquired, and immediately thereafter the parent owns 50% or less of the total number of shares of stock or the subsidiary owns less than 50% of the total value of the assets that it held on the acquisition date, the parent may not be allowed to treat the stock as subsidiary capital (Sections 11-602.3(b) and (c) of the Admin. Code).

If you have a subsidiary, complete lines 3 and 4, and attach a list of all items included. You will also have to complete Schedule C. If you do not have a subsidiary, enter "0" on lines 3 and 4.

On line 3, enter total of amounts, including interest expense, deducted in computing federal taxable income that are directly attributable to subsidiary capital or to income, gains or losses from subsidiary capital. Include capital losses from sales or exchanges of subsidiary capital, all other losses, bad debts and any carrying charges attributable to subsidiary capital.

On line 4, enter all amounts, including interest, that are indirectly attributable to subsidiary capital or to income, gains or losses from subsidiary capital.

For more information regarding indirect attribution rules and formulas, you may call Citytax Dial, New York City's recorded tax information line, at (718) 935-6736. Message #235 will provide you with current information.

**LINE 5 - STATE AND LOCAL INCOME TAXES**

On line 5a enter the amount deducted on your federal return for income taxes paid or accrued to any state, any political subdivision of a state or to the District of Columbia, if they are on or measured by profits or income or include profits or income as a measure of tax, including taxes expressly in lieu of any of the foregoing taxes. Include the New York State Metropolitan Transportation Business Tax surcharge.

On line 5b enter the amount of New York City General Corporation Tax and Banking Corporation Tax deducted on your fed-

eral return.

Attach a schedule listing each locality and the amount of all those taxes deducted on your federal return.

**LINES 6a, 6b, 6c, 6d AND 6e - NEW YORK CITY ADJUSTMENTS**

- a) Taxpayers claiming the sales and compensating use tax credit must enter the amount shown on line 4 of Part II of Form NYC-9.5.
- b & c) Taxpayers claiming the real estate tax escalation credit and/or the relocation costs credit must enter on lines 6 c) and 6 d), respectively the amounts shown on lines 4 and 5, respectively, of Part II of Form NYC-9.6.
- d) The federal depreciation deduction computed under the Accelerated Cost Recovery System or Modified Accelerated Cost Recovery System (IRC Section 168) is not allowed for the following types of property:
  - property placed in service in New York State in taxable years beginning before January 1, 1985 (except recovery property subject to the provisions of Internal Revenue Code Section 280-F)
  - property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry, or navigation business, or two or more such businesses which is placed in service in taxable years beginning after December 31, 1988, and before January 1, 1994.

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed. Enter on line 6d the ACRS adjustment from Form NYC-399, Schedule C, line 8, Column A. Enter on line 16 the ACRS adjustment from Form NYC-399, Schedule C, line 8, Column B.

ACRS and MACRS may be available for property placed in service outside New York in years beginning after 1984 and before 1994. See Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994" included with these materials.

- e) Eligible energy users and suppliers of fuel services (relating to the energy cost savings credit) must add back the amounts required under Section 11-602.8(b)(4-e) and (4-f) of the Admin. Code.

**LINE 7 - OTHER ADDITIONS**

- a) Effective for taxable years beginning on or after January 1, 1982, the New York City Admin. Code was amended

to nullify the effects of federal "safe harbor leases" upon New York City taxable income (Section 11-602.8(a)(8) and (9) of the Admin. Code). This applies to agreements entered into prior to January 1, 1984.

Any amount included in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be removed when computing New York City taxable income. Any amount excluded in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be included when computing New York City taxable income.

Exempt from these adjustments are leases for qualified mass commuting vehicles and property of a taxpayer, subject to the General Corporation Tax, principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, which is placed in service before taxable years beginning in 1989.

Enter the appropriate additions and deductions on lines 7 and 17, respectively, and attach a rider to show the "safe harbor" adjustments to New York City taxable income.

- b) Entire net income is determined without the deduction, exclusion or credit of 5% of interest paid or accrued during the taxable year by a taxpayer engaged in certain types of stock or asset acquisitions (as described in Section 11-602.8(b)(6-a) of the Admin. Code) during the taxable year and for the three immediately preceding taxable years (to the extent deducted in the computation of entire net income).

The amount of interest added back in computing entire net income, however, may not exceed the limitation amount as described in the above referenced Admin. Code Section effective with respect to corporate mergers or consolidations for taxable years beginning on or after January 1, 1989, and with respect to acquisitions involving eighty percent of the assets of another corporation occurring on or after July 1, 1989. Attach a completed Schedule M.

- c) Foreign taxes paid or accrued that are deducted from gross income to determine federal taxable income must be added to entire net income. A foreign tax credit may not be used as a deduction when computing NYC entire net income.

- d) Any "windfall profit" tax deducted in computing federal income must be added back when computing NYC entire net income.
- e) If the taxpayer deducted on its federal return interest paid to a corporate stockholder owning more than 50% of its issued and outstanding stock, that corporate shareholder may not exclude that interest from its NYC entire net income as income from subsidiary capital. (See instructions for lines 3, 4 and 9.) To enable a more than 50% corporate shareholder to treat any such interest as excludible income from subsidiary capital, such interest should be added back on line 7 of this return in computing NYC entire net income.
- f) In the case of a taxpayer organized outside the United States, all income from sources outside the United States, less all allowable deductions attributable thereto, that was not taken into account in computing federal taxable income must be added back in computing NYC entire net income.

**LINE 9 - INCOME FROM SUBSIDIARY CAPITAL**

Enter on line 9a dividends, capital gains and other income and gain from subsidiary capital that was included as part of federal taxable income. Complete Schedule C.

Enter on line 9b interest from subsidiary capital that was included in federal taxable income. **Do not** enter on line 9b interest for which the payor subsidiary claimed a deduction. (See instructions for Schedule B, lines 3 and 4, above, for the definition of subsidiary capital.)

**LINE 10 - NONSUBSIDIARY DIVIDENDS**

Enter 50% of dividends received from non-subsubsidiary corporations. Do not include the following: (1) "grossed-up" dividends pursuant to Section 78 of the IRC, (2) dividends from stocks not meeting the holding period requirement set forth in IRC Section 246(c), and (3) subsidiary dividends treated as investment income pursuant to Section 11-602.8 (b) (13) and (15) and Section 11-602.5 of the Admin. Code and dividends from subsidiary stock that does not constitute subsidiary capital pursuant to Section 11-602.3(b) and (c) of the Admin. Code. Regulated investment companies and real estate investment trusts do not qualify for this deduction.

**LINE 11 - NET OPERATING LOSS**

Enter New York City net operating loss

carryforward from prior years. The following rules apply to net operating losses.

- 1) A deduction may only be claimed for net operating losses sustained in taxable years during all or part of which the corporation was subject to the General Corporation Tax. New York City allows net operating losses to be used in the same manner as provided by IRC Section 172. However, the amount of any federal loss must be adjusted in accordance with Section 11-602.8(f) of the Admin. Code. Regulated investment companies and real estate investment trusts do not qualify for this deduction.
- 2) The deduction of a net operating loss carryforward from prior years may not exceed and is limited to the amount of the current year's federal taxable income. A net operating loss may not be claimed as a deduction if Schedule B, line 1 reflects a loss.
- 3) The deduction shall not exceed the deduction which would have been allowed if the taxpayer had not made an election to be an S Corporation under the rules of the Internal Revenue Code or had not elected to be included in a group reporting on a consolidated basis for federal income tax purposes.
- 4) Net operating losses incurred in taxable years ending after December 31, 1975, and on or before June 30, 1989, may generally be carried back to the preceding three taxable years and/or forward to the following 15 taxable years.
- 5) Beginning with losses sustained during taxable years ending after June 30, 1989, the New York City net operating loss deduction shall be determined as if the taxpayer has elected to relinquish the carryback provision, except for the first \$10,000 of each such loss, which may be carried back to the three preceding years (two years for loss incurred in tax years beginning after August 5, 1997.)
- 6) Losses which are not permitted to be carried back, may generally be carried forward and used to offset income for the period permitted for federal tax purposes, generally 15 years subsequent to the loss year (20 years for losses incurred in taxable years beginning after August 5, 1997). In addition, any portion of the \$10,000 NOL permitted to be carried back but not used may be carried forward.
- 7) The net operating loss deduction for a taxable year in which the taxpayer was

a target corporation in a corporate acquisition or any subsequent taxable year may not include any net operating loss sustained by the target corporation in its taxable year during which the acquisition occurred or in any prior taxable year. (For additional rules relating to mergers and acquisitions, refer to Section 11-602.8(f) subparagraphs (2-a), (2-b) and (2-c) of the Admin. Code and Section 77(b) of Chapter 241, Laws of 1989.)

- 8) Beginning January 1, 1989, corporations principally engaged in the conduct of an aviation, steamboat, ferry or navigation business or two or more of such businesses are permitted to claim a net operating loss deduction in the same manner as other corporations.

These corporations are allowed to carryforward any net operating losses or a proportionate part of a net operating loss sustained during the federal taxable period(s) covering the years 1985 through 1988, providing the corporation was taxable under Title 11, Chapter 6, Subchapter 4 of the Admin. Code (Transportation Corporation Tax) for the calendar years 1985 through and including 1988. The net operating loss must be computed as if:

- a) the corporation had been subject to taxation under Subchapter 2 (General Corporation Tax) during the period(s) the loss was sustained,
- b) the loss was sustained in 1988, and
- c) the taxpayer had elected to relinquish the entire carryback period under IRC Section 172.

For special rules relating to acquisitions, mergers or consolidations involving corporations principally engaged in the conduct of aviation, steamboat, ferry or navigation business, refer to Section 77b of Chapter 241 of the Laws of 1989.

- 9) Corporations reporting both business and investment income must complete line 22 of this schedule to apportion any net operating loss between business income and investment income.

Attach a copy of the schedule supporting the deduction claimed at either line 29(a) on page 1 of your federal Form 1120 or line 25(a) of your federal Form 1120A.

**CARRYBACK LOSSES**

If the entry on line 19 is a loss, a request to carry it back as a net operating loss deduction in any prior year must be made separately on Form NYC-8CB or Form NYC-8. Do not attach or mail a Form NYC-8CB or Form NYC-8 with the tax return. This

request must be submitted within three years of the due date of the return for the loss year or within the period prescribed in Section 11-678 of the Admin. Code. Corporations that have elected to relinquish the three-year carryback of a net operating loss (2 years for losses incurred in taxable years beginning after August 5, 1997) must submit a copy of the federal election.

S Corporations or any other corporation filing General Corporation Tax Returns on a basis which is different from returns filed with the Internal Revenue Service may make an election to relinquish the three-year carryback (2 years for losses incurred in taxable years beginning after August 5, 1997) by filing a request, in writing, on or before the due date (or extended due date) of the return for the loss year.

#### **LINE 12 - PROPERTY ACQUIRED PRIOR TO 1966**

A deduction is allowed with respect to gain from the sale or other disposition of any property acquired prior to January 1, 1966 (except stock in trade, inventory, property held primarily for sale to customers in the ordinary course of trade or business or accounts or notes receivable acquired in the ordinary course of trade or business). The amount of the deduction with respect to each such property is equal to the difference between:

- a) the amount of the taxpayer's federal taxable income; and
- b) the amount of the taxpayer's federal taxable income (if smaller than the amount described in (a)), computed as if the federal adjusted basis of each such property (on the sale or other disposition of which gain was realized) on the date of the sale or other disposition had been equal to either:
  - 1) its fair market value on January 1, 1966, or the date of its sale or other disposition prior to January 1, 1966, plus or minus all adjustments to basis made with respect to such property for federal income tax purposes for periods on or after January 1, 1966; or
  - 2) the amount realized from its sale or other disposition, whichever is lower.

In no event, however, shall the total amount computed above exceed the taxpayer's net gain for the year from the sale or other disposition of property (other than stock in trade, inventory, property held primarily for sale to customers in the ordinary course of trade or business, or accounts or notes receivable acquired in

the ordinary course of trade or business).

Attach a rider showing computation and a copy of federal Form 1120, 1120-A or 1120-S, Schedule D.

#### **LINE 13 - CITY AND STATE REFUNDS**

Enter at line 13 refunds or credits of the New York City General Corporation Tax, New York State Franchise Tax or New York City or State Banking Corporation Tax for which no tax exclusion or deduction was allowed in determining the taxpayer's taxable (entire) net income in a prior year.

#### **LINE 14 - SALES TAX REFUNDS AND CREDITS**

This line relates to credits or refunds of sales and compensating use tax paid on certain machinery and equipment and/or electricity or electric service and certain other services included in federal taxable income for which a credit was claimed in a prior year. The amount entered here should be the same as the amount entered at line 10 of Schedule A. (Refer to instructions for Schedule A, line 10.)

#### **LINE 15 - FEDERAL JOBS CREDIT**

Enter the portion of wages and salaries paid or incurred for the taxable year for which a deduction is not allowed pursuant to the provisions of Section 280C of the Internal Revenue Code because the federal targeted jobs tax credit was taken.

#### **LINE 16 - DEPRECIATION ADJUSTMENT**

Taxpayers using IRC section 167 depreciation, enter on line 16 the ACRS adjustment from Form NYC-399, Schedule C, line 8, Column B. See instructions for Schedule B, line 6(d).

#### **LINE 17 - OTHER DEDUCTIONS**

- a) Refer to instructions to Schedule B, line 7 for adjustments relating to safe harbor leases.
- b) Taxpayers entitled to a special deduction for construction, reconstruction, erection or improvement of air pollution control facilities initiated on or after January 1, 1966, and having a situs in NYC in accordance with Section 11-602.8(g) should submit a rider showing the complete computation.

Enclose certification of compliance issued pursuant to Section 17-0707 or Section 19-0309 of the Environmental Conservation Law. Entire net income for the current year and all succeeding years must be computed without any deduction for such expenditures or for depreciation of such property.

c) Deduct foreign dividend gross up pursuant to Section 78 of the IRC (see federal Form 1120, Schedule C, line 15) to the extent not deducted at line 9a. Entire net income does not include any amount treated as dividends pursuant to Section 78 of the IRC.

d) Regulated investment companies must deduct dividends paid to stockholders on this line.

#### **LINE 20 - SPECIAL ADJUSTMENTS**

- a) If you elect to claim a deduction for optional depreciation on qualified New York City property, complete Form NYC-324. (Refer to instructions on the back of that form.)
- b) A corporation organized outside the United States must enter at line 20 its entire net income wherever earned, including all income from sources outside the United States, less all allowable deductions attributable thereto, not taken into account in computing federal taxable income. Attach Schedule.
- c) If you are, either separately or as a member of a partnership, doing insurance business as a member of the New York Insurance Exchange described in Section 6201 of the Insurance Law, make the adjustment required under Section 11-602.8(a)(6) and Section 11-602.8(b)(8) of the Admin. Code.

#### **LINE 21 - INVESTMENT INCOME**

Investment income includes: 50% of dividends from non-subsidary stocks held for investment; interest from investment capital; net capital gain or loss from sales or exchanges of nonsubsidary securities held for investment; and income from cash if an election is made to treat cash as investment capital on line 3 of Schedule D. Do not include any "grossed up" dividends pursuant to Section 78 of the IRC that have been deducted in computing entire net income.

Investment income includes interest received upon a loan to a subsidiary, if the subsidiary claims such interest as a NYC General or Banking Corporation Tax deduction on any return for any period, and if such loan is evidenced by a bond or other corporate security. Do not include any capital loss which was not used in computing federal taxable income.

In computing investment income, subtract the amount of deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income.

**LINE 21a - DIVIDENDS AND INCOME FROM TARGET CORPORATIONS**

Enter the sum of the following items:

- 1) dividends not excluded on line 10 except for "grossed-up" dividends pursuant to Section 78 of the IRC. This includes 50% of dividends from non-subsubsidiary corporations for which an exclusion was allowed on line 10 of this schedule; 100% of dividends from stock not meeting the holding period requirement set forth in Section 246(c) of the IRC; 100% of subsidiary dividends treated as investment income pursuant to Section 11-602.8(b) (13) and (15) and Section 11-602.5 of the Admin. Code; and 100% of dividends from subsidiary stock which does not constitute subsidiary capital pursuant to Section 11-602.3 (b) and (c) of the Admin. Code, and
- 2) any income treated as investment income pursuant to Section 11-602.8 (b) (14) and Section 11-602.5 of the Admin. Code.

**LINE 21d - INCOME FROM CASH**

Enter income from cash on Schedule B, line 21d, only if you have elected to treat cash as investment capital and have entered the amount thereof on Schedule D, line 3.

**LINE 21f - DEDUCTIONS ATTRIBUTABLE TO INVESTMENT INCOME**

For more information regarding indirect attribution rules and formulas, you may call Citytax Dial, New York City's recorded tax information line, at (718) 935-6736. Message #235 will provide you with current information.

**LINE 22 - APPORTIONED NEW YORK CITY NET OPERATING LOSS DEDUCTION**

Corporations which report both business and investment income must apportion any net operating loss deduction on line 11 between business income and investment income. This is computed by multiplying the net operating loss deduction by a ratio. The ratio is a fraction, the numerator of which consists of investment income before deducting any net operating loss and the denominator of which is entire net income before deducting any net operating loss. The ratio may be expressed as a percentage. Multiply the net operating loss deduction by the result. Enter this amount on line 22.

**LINE 25 - ALLOCATED INVESTMENT INCOME**

If the investment allocation percentage is zero, interest on bank accounts must be multiplied by the business allocation percentage.

**SCHEDULE C**

Subsidiary Capital and Allocation

- and -

**SCHEDULE D**

Investment Capital and Allocation

If you have investment and business capital, you must complete Schedules D and H.

To determine the value of your assets for business, investment and subsidiary capital purposes, you must include real property and marketable securities at fair market value.

The fair market value of any asset is the price (without any encumbrance, whether or not the taxpayer is liable) at which a willing seller, not compelled to sell, will sell and a willing purchaser, not compelled to buy, will buy. The fair market value, on any date, of stocks, bonds and other securities regularly dealt in on an exchange, or in the over-the-counter market, is the mean between the highest and lowest selling prices on that date.

The value of all other property must be included at the value shown on the taxpayer's books and records in accordance with generally accepted accounting principles (GAAP). (Refer to the instructions for Schedule E, lines 1 through 5 for more information on computing average value.)

Complete Schedule C if you have any subsidiaries. (Refer to the instructions for Schedule B, lines 3 and 4 for the definition of a subsidiary and subsidiary capital.)

Complete Schedule D if you have investment capital. Investment capital is the average value of your investments in stocks, bonds, and other corporate or government securities, less liabilities, both long term and short term, directly or indirectly attributable to investment capital. Investment capital does not include those stocks, bonds or other securities that are held for sale to customers in the regular course of business or that constitute subsidiary capital. Investment capital does not include interests in, or obligations of, partnerships or other unincorporated entities. (Refer to Title 19 Rules of the City of New York Section 11-37 for the definition of investment capital.)

In completing Schedules C and D, you may use the worksheet which appears below to determine the amount of liabilities indirectly attributable to a particular asset.

In column D of Schedules C and D on the line for the asset in question, include the sum of the amount from line 15 of this worksheet and the amount of liabilities directly attributable to that asset.

**WORKSHEET**

Total liabilities from Sch. E, line 6, Col. C...	1.	_____
Liabilities directly attributable to:		
Subsidiary capital .....	2.	_____
Investment capital .....	3.	_____
Business capital .....	4.	_____
Add: lines 2, 3, and 4 .....	5.	_____
Subtract: line 5 from line 1 .....	6.	_____
Enter amount from either:		
Sch. C, line 1, col. C less		
amount from line 2 of worksheet	7a.	_____
OR		
Sch. D, line 1, col. C less		
amount from line 3 of worksheet	7b.	_____
Enter amount from Sch. E, line 5, col. C		
less amount from line 5 of worksheet .....	8.	_____
Divide: line 7a or 7b by line 8 .....	9.	_____ %
Multiply: line 6 by line 9 .....	10.	_____
Average value of a particular asset .....	11.	_____
Enter amount from either:		
Sch. C, line 1, col. C .....	12a.	_____
OR		
Sch. D, line 1, col. C .....	12b.	_____
Divide: line 11 by line 12a or 12b .....	13.	_____ %
Enter amount from line 10 .....	14.	_____
Multiply: line 14 by line 13 .....	15.	_____

**ISSUER'S ALLOCATION PERCENTAGE**

To determine the portion of subsidiary or investment capital to be allocated within the City, multiply the amount of subsidiary or investment capital during the period covered by the return (column E) by the issuer's allocation percentage (as defined in the instructions for Schedule E, line 15).

This percentage may be obtained (1) from tax service publications, (2) by writing to: NYC Department of Finance, Taxpayer Correspondence Unit, 25 Elm Place, 4th Floor, Brooklyn, NY 11201, or (3) by calling (718) 935-6000. If the subsidiary or other issuer was not doing business in New York City during the preceding year, the percentage is zero. The investment allocation percentage should be rounded to the nearest one hundredth of a percentage point.

**SCHEDULE D, LINE 3 - CASH**

If you have both business and investment capital, you may elect to treat cash on hand or on deposit as either business or investment capital. If you wish to elect to treat cash as investment capital, you must include it on this line. Otherwise, you will

be deemed to have elected to treat cash as business capital. You may not elect to treat part of such cash as business capital and part as investment capital. You may not revoke your election after it has been made.

## SCHEDULE E

### Computation and Allocation of Capital

#### LINES 1 THROUGH 5 - AVERAGE VALUE OF TOTAL ASSETS

To determine the value of your assets for business, investment and subsidiary capital purposes, you must include real property and marketable securities at fair market value.

The value of all other property must be included at the value shown on the taxpayer's books and records in accordance with generally accepted accounting principles (GAAP).

On Schedule E, line 1, enter the value of total assets at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. Attach a schedule showing the computation of the average value.

On line 2, enter the value of real property and marketable securities included in line 1.

Enter on line 4 the fair market value of real property and marketable securities.

Average value is generally computed on a quarterly basis. A more frequent basis (monthly, weekly or daily) may be used. Where the taxpayer's usual accounting practice does not permit computation of average value on a quarterly or more frequent basis, a semiannual or annual basis may be used if no distortion of average value results.

**With respect to real property owned by the taxpayer and located within New York City, the fair market value is presumed to be not less than the estimated market value of the property on the Final Assessment Roll of the City for the period covered by the return or the most recent sales price, whichever is greater.**

#### LINE 6 - TOTAL LIABILITIES

The liabilities deductible in computing each type of capital are those liabilities (both long and short term) which are directly or indirectly attributable to each type of capital. Use the same method of averaging as is used in determining average value of assets.

#### LINE 15 - ISSUER'S ALLOCATION PERCENTAGE

The percentage is determined by adding together allocated New York City business, investment and subsidiary capital, dividing the sum by total capital, and rounding to the nearest one hundredth of a percentage point.

The issuer's allocation percentage represents the amount of capital employed within New York City as compared to total capital employed everywhere. Every taxpayer using Form NYC-3L is required to compute its issuer's allocation percentage.

Combined filers must compute a combined issuer's allocation percentage by using amounts from Form NYC-3A. The combined issuer's allocation percentage should be entered on Schedule A of Form NYC-3A.

#### PREPAYMENTS SCHEDULE

Enter the payment date and the amount of all prepayments made for this tax period. In the last column enter the Transaction ID Number. Every corporate estimated payment to New York City has been stamped with a twelve digit Transaction ID Code. (The number can be found on the face of your cancelled check.) Enter on line E the amount of any overpayment from the prior year that you elected to credit toward this year's tax. Do not include this amount on lines B through D.

#### SCHEDULE H

##### Business Allocation

**NOTE:** Zip codes beginning with the following three-digits are within the five boroughs of New York City:

**Manhattan** - 100, 101, 102

**Bronx** - 104

**Brooklyn** - 112

**Queens** - 111, 113, 114, 116

**Staten Island** - 103

In addition, the five-digit zip codes 11004, 11005 and some addresses with a zip code of 11001 are in the borough of Queens. If the zip code is 11001, call the US Postal Service at (516) 354-3297 to determine if the corporation's address is within New York City.

A corporation is entitled to allocate part of its business income and capital outside New York City if it carries on business both inside and outside New York City and, for taxable years beginning before July 1, 1996, only if it has a "regular place of business" outside the City. Otherwise, 100% of its business income and capital must be allocated to New York City. If you did not carry on business both inside

and outside New York City, you must enter 100% at Schedule H, line 5. If you carried on business both inside and outside New York City, you must complete Schedule G, parts I and II and Schedule H, business allocation percentage.

The business allocation percentage is generally computed by means of a three factor formula:

- real and tangible personal property (including rented property)
- business receipts
- payrolls

Each factor is computed by dividing the amount in column A (New York City amount) by the amount in column B (total amount). The three resulting percentages are added together, the sum is divided by 3 rounded to the nearest one hundredth of a percentage point and the resulting business allocation percentage is entered at Schedule H, line 5. If one of the factors is missing, the other two percentages are added and the sum is divided by two. If two of the factors are missing, the remaining percentage is the business allocation percentage. A factor is not missing merely because its numerator is zero, but is missing if both its numerator and denominator are zero.

**Example:** A corporation owns no real or tangible personal property and rents no real property either within or without the City. The property factor being missing, the business allocation percentage is computed by adding the business receipts and payroll percentages and dividing the total by two.

#### Property Factor

#### LINE 1A - REAL ESTATE OWNED

When computing the property percentage, value real and tangible personal property owned by the corporation at the adjusted basis used for federal income tax purposes. However, you may make a one-time revocable election to value real and tangible personal property owned at fair market value. You must make this election on or before the due date (or extended due date) for filing the General Corporation Tax Return for the first taxable year beginning on or after January 1, 1988. This election will not apply to any taxable year with respect to which the corporation is included in a combined report unless each of the corporations included on the combined report has made the election which remains in effect for such year.

#### LINE 1b - REAL ESTATE RENTED

The value of real property rented to the taxpayer is eight times the gross rent payable

during the year covered by this return. Gross rent includes any amount payable as rent or in lieu of rent, such as taxes, repairs, etc., and, if there are leasehold improvements made by or on behalf of the taxpayer, the amount of annual amortization of such cost. Do not include the rental of personal property on this line.

**LINE 1d - TANGIBLE PERSONAL PROPERTY OWNED**

Enter the average value of the tangible personal property owned. The term "tangible personal property" means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of debt.

**LINE 1e - TANGIBLE PERSONAL PROPERTY RENTED**

Enter the average value of the tangible personal property you rented. The value of rented tangible personal property is eight times the gross rent payable during the year covered by this return.

*Receipt Factor*

**LINES 2a & 2b - SALES OF TANGIBLE PERSONAL PROPERTY**

Enter on line 2a, column A, receipts in the regular course of business from the sale of tangible personal property where shipments are made to points within New York City. Enter on line 2b, column B, receipts from all sales of tangible personal property.

**LINE 2c - SERVICES PERFORMED**

Receipts from services performed within New York City are allocable to New York City. All amounts received by the taxpayer in payment for such services are allocable to New York City, irrespective of whether the services were performed by employees or agents of the taxpayer, by subcontractors, or by any other persons. It is immaterial where such amounts were payable or where they actually were received.

Commissions received by the taxpayer are allocated to New York City if the services for which the commissions were paid were performed in New York City. If the taxpayer's services for which commissions were paid were performed for the taxpayer by salesmen attached to or working out of a New York City office of the taxpayer, the taxpayer's services will be deemed to have been performed in New York City.

Taxpayers engaged in the business of publishing newspapers or periodicals must allocate receipts from sales of advertising contained in such newspapers and periodicals based upon the circulation of the newspa-

pers and periodicals in New York City as compared to its total circulation.

Taxpayers principally engaged in the activity of air freight forwarding acting as principal and like indirect air carriers are required to determine receipts for purposes of the receipts factor arising from the activity from services performed within New York City as follows: 100% of the receipts if both the pick up and delivery associated with the receipts are made in New York City and 50% of the receipts if either the pickup or delivery associated with the receipts is made in the City.

Receipts from management, admin. or distribution services provided to a regulated investment company (RIC) must be allocated based upon the percentage of the RIC's shareholders domiciled in New York City. (Attach rider showing computation.)

**LINE 2d - RENTALS OF PROPERTY**

Receipts from rentals of real and personal property situated in New York City are allocable to New York City. These include all amounts received by the taxpayer for the use or occupation of property, whether or not such property is owned by the taxpayer.

**LINE 2e - ROYALTIES**

Royalties from the use in New York City of patents or copyrights are allocable to New York City. These include all amounts received by the taxpayer for the use of patents or copyrights, whether or not the patents or copyrights were originally issued to or are owned by the taxpayer. A patent or copyright is used in New York City to the extent that activities thereunder are carried on in New York City.

**LINE 2f - OTHER BUSINESS RECEIPTS**

All other business receipts earned by the taxpayer within New York City are allocable to New York City. Business receipts are not considered to have been earned by the taxpayer in New York City solely by reason of the fact that they were payable in New York City or actually were received in New York City. Receipts from sales of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts.

The following are also business receipts and are allocable to New York City:

- receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business, provided the real property was situated in New York City
- receipts from sales of intangible per-

sonal property included in business capital held by the taxpayer as a dealer for sale to customers in the regular course of business, provided the sales were made in New York City or through a regular place of business in New York City.

**LINE 2i -**

For taxable years beginning after 6/30/96, a manufacturing business may elect to use a double-weighted receipts factor. An election must be made on a timely filed original return and is made by entering on line 2i the amount from line 2h. If you make an election, add the percentages in column B and divide the sum by 4 and enter the result on line 5 rounded to the nearest one hundredth of a percentage point. If one or more of the other factors is missing, add the remaining percentage(s) and divide by the number of percentages so added. **If you do not wish to make the election, do not enter an amount on line 2i.** For purposes of this election, a corporation is engaged in a manufacturing business if it is primarily engaged in the manufacturing and sale of tangible personal property. Manufacturing includes assembly, working raw materials into wares, and giving new shapes, qualities or combinations to matter that has already gone through some artificial process, through the use of machinery, tools, appliances or other similar equipment. A corporation is primarily engaged in manufacturing if more than 50% of its gross receipts for the year are attributable to manufacturing.

If a taxpayer that is otherwise eligible to elect to use a double-weighted receipts factor is permitted or required to file on a combined basis with one or more other corporations, the taxpayer may elect to use a double-weighted receipts factor only if the requirements for the election would be met if all the corporations included in the combined report were treated as a single corporation. If a taxpayer included in a combined report properly makes an election to use a double-weighted receipts factor, each of the other corporations in the combined groups will be treated as having made a proper election to use a double-weighted receipts factor.

*Payroll Factor*

**LINE 3 - WAGES AND SALARIES**

Employees within New York City include all employees, except general executive officers, regularly connected with or working out of an office or place of business maintained by the taxpayer within New York City, irrespective of where the services of these employees were performed.

General executive officers include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either inside or outside of New York City is not a general executive officer.

### LINE 5 - AVIATION CORPORATIONS AND CORPORATIONS OPERATING VESSELS

Complete Schedule I (Business Allocation for Aviation Corporations and Corporations Operating Vessels) and enter the percentage from part 1 or 2 on Schedule H, line 5.

#### SCHEDULE I

Business Allocation for Aviation Corporations and Corporations Operating Vessels.

#### Part 1 - Aviation Corporations

A taxpayer principally engaged in the conduct of aviation is required to determine the portion of the entire net income to be allocated within the City by multiplying its business income by a business allocation percentage which is equal to the arithmetic average of the three percentages from part 1, lines 2, 4 and 6.

Line 1

"Aircraft arrivals and departures" means the number of landings and takeoffs of the aircraft of an aviation corporation and the number of air pickups and deliveries by such aircraft. Arrivals and departures solely for maintenance or repair, refueling (where no debarking or embarking of traffic occurs), or arrivals and departures in the event of emergency situations should not be included in computing this percentage.

Line 3

"Revenue tons handled" by an aviation corporation at an airport means the weight, in tons, of revenue passengers (at two hundred pounds per passenger) and revenue cargo first received either as originating or connecting traffic, or finally discharged by such corporation at such airport.

Line 5

"Originating revenue" means revenue to an aviation corporation from the transportation of revenue passengers and revenue property first received by such corporation at an airport as either originating or connecting traffic.

Line 8

Transfer the percentage from part 1, line 8 to Schedule H, line 5.

#### Part 2 - Corporations Operating Vessels

A taxpayer principally engaged in the operation of vessels is required to determine the portion of entire net income to be allocated within the City by multiplying its business income by a business allocation percentage determined by dividing the aggregate number of working days of the vessels it owns or leases in territorial waters of the City during the period covered by its report by the aggregate number of working days of all the vessels it owns or leases during the period. Complete part 2.

Line 1

"Working days" means days during which a vessel is sufficiently manned for the carriage of persons or cargo or during which it has cargo aboard. The working time in New York City territorial waters and the working time everywhere shall be computed for each vessel in hours and minutes. At the end of the year, such time shall be totalled for all vessels and the sum converted into days. In lieu of records indicating actual time in New York City territorial waters, such time may be computed on the basis of records showing the number of times the Ambrose Light Station was passed on the way in and out of port.

Line 2

Transfer the percentage from part 2, line 2 to Schedule H, line 5.

#### SCHEDULE J

##### Additional Required Information

All questions must be answered.

Question 1

In reporting the "NYC principal business activity," give the one activity that accounts for the largest percentage of total receipts. Total receipts means gross receipts plus all other income. State the broad field of business activity as well as the specific product or service (e.g., mining copper, manufacturing cotton broad woven fabric, wholesale meat, retail men's apparel, export or import chemicals, real estate rental, or real estate operation of motel).

Question 2

If the corporation is included in a consolidated federal return, give the name of the common parent corporation filing the consolidated return.

Question 3

If the corporation is included in a New York City Combined General Corporation Tax Return, give the name of the corporation that is a member of the combined group and owns or controls, directly or indirectly, substantially all of the capital

stock of each other member of the combined group. If no corporation that is part of the combined group satisfies this requirement, give the name of the person or corporation that owns or controls, directly or indirectly, substantially all of the capital stock of all the members of the combined group.

Question 10

If you answer "yes" to question a, attach a separate sheet providing street address, borough, block and lot number of such property. If you answer "yes" to question b, c or d, complete questions 11 and 12.

A controlling interest in the case of a corporation means:

- 50% or more of the total combined voting power of all classes of stock of such corporation; or
- 50% or more of the total fair market value of all classes of stock of such corporation.

Question 13

If you answer "yes" to question 13, no portion of the income, gain, loss, deduction or capital of a QSSS is permitted to be included in a separate report filed by the S corporation parent. The QSSS must file a separate general corporation tax report. See Finance Memorandum 99-3 included with these materials.

#### TAXPAYER ASSISTANCE

For interest calculations and account information, contact Taxpayer Assistance at **(718) 935-6000**, Monday through Friday 8:30am to 5:30 pm.

You can speak to a Taxpayer Assistance Representative between the hours of 9:00 am and 4:30 pm.

You can also visit our Internet website at <http://nyc.gov/finance>

For additional assistance, you can e-mail inquiries to: [gct@DOFLAN.ci.nyc.ny.us](mailto:gct@DOFLAN.ci.nyc.ny.us)

#### PRIVACY ACT NOTIFICATION

The Federal Privacy Act of 1974, as amended, requires agencies requesting Social Security Numbers to inform individuals from whom they seek this information as to whether compliance with the request is voluntary or mandatory, why the request is being made and how the information will be used. The disclosure of Social Security Numbers for taxpayers is mandatory and is required by section 11-102.1 of the Administrative Code of the City of New York. Such numbers disclosed on any report or return are requested for tax administration purposes and will be used to facilitate the processing of tax returns and to establish and maintain a uniform system for identifying taxpayers who are or may be subject to taxes administered and collected by the Department of Finance, and, as may be required by law, or when the taxpayer gives written authorization to the Department of Finance for another department, person, agency or entity to have access (limited or otherwise) to the information contained in his or her return.