



# NYC 8CB

## CLAIM FOR REFUND OF GENERAL CORPORATION TAX FROM CARRYBACK OF NET OPERATING LOSS

(FOR REFUND CLAIMS OF \$5,000 OR LESS)

For CALENDAR YEAR \_\_\_\_\_ or FISCAL YEAR beginning \_\_\_\_\_, and ending \_\_\_\_\_,

FILE A SEPARATE CLAIM FOR EACH LOSS PERIOD. YOU MUST ATTACH PROOF OF FEDERAL REFUND. (FOR S CORPORATION, SEE INSTRUCTIONS)

Print or Type ▼

Name \_\_\_\_\_

Address (number and street) \_\_\_\_\_

City and State \_\_\_\_\_ Zip Code \_\_\_\_\_

EMPLOYER IDENTIFICATION NUMBER

\_\_\_\_\_ - \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

IN ACCORDANCE WITH SECTION 11.678(4) OF THE NEW YORK CITY ADMINISTRATIVE CODE, CLAIM IS MADE FOR CREDIT OR REFUND OF TAX

LOSS PERIOD ENDED	AMOUNT OF FEDERAL LOSS	AMOUNT OF NEW YORK STATE LOSS	AMOUNT OF NEW YORK CITY LOSS
	\$ _____	\$ _____	\$ _____

CHECK BOX(ES) AND ATTACH APPLICABLE FEDERAL FORMS. →  1139  1120S  OTHER: \_\_\_\_\_

SCHEDULE A Federal Information	Federal Information	
	A - SECOND PRECEDING TAX PERIOD ENDED	B - FIRST PRECEDING TAX PERIOD ENDED
1. Original federal taxable income before net operating loss deduction.....		
2. Revenue agent's adjustments (enter "0" if none) .....		
3. Federal net operating loss carryback .....		
4. Final federal income after adjustments (combine lines 1, 2 and 3) .....		

SCHEDULE B New York City Entire Net Income	New York City Entire Net Income		
5. Entire net income as originally reported .....			
6. Federal/State/City audit adjustments .....			
7. Adjusted entire net income (combine line 5 and line 6) .....			
8. New York City net operating loss carryback (see instructions).....			
9. Entire net income after NOL deduction (line 7 minus line 8) .....			

SCHEDULE C Tax Computation for Use by Non-Allocating Corporations	Tax Computation for Use by Non-Allocating Corporations		
10. Tax on adjusted entire net income - line 9 (see instructions).....			
11. Tax on capital (see instructions).....			
12. Alternative tax based on adjusted entire net income - (see instr.).....			
13. Minimum tax (see tax rate schedule for the proper amount) .....			
14. Tax on allocated subsidiary capital (see instructions) .....			
15. Tax: largest of line 10, 11, 12 or 13 PLUS line 14 (enter on Schedule E, line 31) .....			

<b>SCHEDULE D</b>		<b>Tax Computation for Use by Corporations Claiming Business or Investment Allocation</b>			
IF AN ALLOCATION IS CLAIMED, USE THIS SCHEDULE		A - SECOND PRECEDING TAX PERIOD		B - FIRST PRECEDING TAX PERIOD	
16. Enter net income after NOL deduction (Schedule B, line 9) .....					
17. Investment income less apportioned net operating loss .....					
18. Business income (line 16 less line 17) (see instructions).....					
19. Allocated business income (see instructions).....					
20. Allocated investment income (see instructions).....					
21. Total allocated income (add line 19 and line 20) .....					
22. Tax on allocated income (line 21 multiplied by tax rate) (see instr.).....					
23. Tax on allocated capital (see instructions) .....					
24. Alternative tax based on adjusted allocated income(see instr.).....					
25. Minimum tax (see instructions) .....					
26. Tax on allocated subsidiary capital (see instructions) .....					
27. Tax: largest of line 22, 23, 24 or 25 PLUS line 26 (enter on Schedule E, line 31) .....					

<b>SCHEDULE E</b>		<b>Refund Computation</b>			
28. Tax paid on original return and not refunded or credited (see instr.) .....					
29. Additional tax paid (attach explanation - see instructions) .....					
30. Total (line 28 plus line 29) .....					
31. TAX (Schedule C, line 15 OR Schedule D, line 27) .....					
32. Refunds requested (line 30 less line 31) .....					
33. <b>TOTAL REFUND</b> - Total of columns A, and B, line 32 (Total may not exceed \$5,000) .....					

<b>CERTIFICATION OF AN ELECTED OFFICER OF THE CORPORATION</b>					
I hereby certify that this return, including any accompanying rider, is, to the best of my knowledge and belief, true, correct and complete.					
I authorize the Department of Finance to discuss this return with the preparer listed below. (see instructions) .....YES <input type="checkbox"/>					
SIGN HERE	Signature of Officer:	Title:	Date:	Preparer's Social Security Number or PTIN	
			MM-DD-YY	● <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
PREPARER'S USE ONLY	Preparer's signature:	Preparer's printed name:	Date:	Firm's Employer Identification Number	
			MM-DD-YY	● <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
	● Firm's name (or yours, if self employed) ▲ Address		Check if self-employed <input type="checkbox"/>	▲ Zip Code	

**MAILING** →  
**INSTRUCTIONS**

NYC DEPARTMENT OF FINANCE  
ACCOUNT EXAMINATIONS UNIT  
REFUND SECTION  
59 MAIDEN LANE, 19th FLOOR  
NEW YORK, NY 10038

ATTACH COPY OF NYC-3L  
NYC-4S OR NYC-4S-EZ AND  
PROOF OF FEDERAL REFUND

**GENERAL INFORMATION**

This form may be used to claim a refund or credit of General Corporation Tax based on a net operating loss carryback where the amount of refund or credit claimed is \$5,000 or less. Returns which are the basis for these refunds will be subject to review. All other refund claims must be made using Form NYC-8 or an amended return.

**NOTE**

Effective for tax years ending after September 10, 2001, for purposes of the General Corporation Tax, the City has decoupled from the federal bonus depreciation deductions permitted under federal legislation except with respect to certain property. See Finance Memorandum 02-3(Revised) for more details.

For tax years beginning on or after January 1, 2004, the City has decoupled from certain provisions regarding the treatment of SUVs. See Administrative Code sections 11-602.8(a)(13), 11-602.8(b)(17), 11-602.8(k), (o) and (p). See also Finance Memorandum 07-3 dated September 24, 2007 "Application of IRC §280F Limits to Sport Utility Vehicles".

**NEW LEGISLATION**

For tax years beginning on or after January 1, 2007 taxpayers meeting the following criteria should compute the General Corporation Tax owed based on the greater of entire net income and fixed dollar minimum tax. In order to qualify for using this method of computing the General Corporation Tax, the corporation must have:

- a. a 100% business allocation percentage for the taxable year, as determined under section 11-604.3(a) of the Administrative Code.
- b. no investment capital or income and no subsidiary capital or income at any time during the taxable year.
- c. gross income, as defined in Internal Revenue Code §61, of less than \$250,000.

Furthermore, any corporation that meets the above requirements and that has not made an election for the taxable year under the New York State Tax Law to be a New York State Subchapter S Corporation may elect to use as its New York City entire net income, the sum of its New York State entire net income, as determined under New York State Tax Law §208, and any deductions taken for the taxable year in computing federal taxable income for General Corporation Tax paid or accrued. See N.Y.C. Administrative Code §11-604.1(I)

**1. The use of this form is based on the following limitations:**

- a) The claim must be based on a net operating loss carryback.
- b) Corporations requesting a refund based on capital losses, an amended return or for any reason other than a net operating loss carryback must use Form NYC-8.
- c) The total amount of refund(s) claimed on this form cannot exceed \$5,000. Corporations whose refunds exceed \$5,000 must use Form NYC-8.
- d) A claim based on a net operating loss carryback must be filed within three years from the due date of the return for the period during which the loss occurred or within 2 years and 90 days from the date of federal credit or refund, or six months after the expiration of the period for assessing the tax, if extended by agreement between the taxpayer and the Department of Finance.
- e) A corporation that qualifies for a federal refund based on a net operating loss carryback should file a claim within 90 days after receipt of the federal refund. If filed later, interest will not be paid on the City refund.
- f) Net operating losses sustained during tax years ending after June 30, 1989, will not be permitted to be carried back, with the exception that a carryback will be allowed for the first \$10,000 of each of such losses.
- g) When a highly leveraged transaction occurs, a loss sustained in the year of merger, acquisition or consolidation occurring after July 1, 1989 cannot be used by the acquiring corporation. See subparagraphs (2-a), (2-b) and (2-c) of paragraph (f) of section 11-602.8 of the Administrative Code. This provision does not apply for taxable years beginning on or after January 1, 2000.

**2. You are required to submit the following when filing this form:**

- a) Copies of General Corporation Tax Returns (Forms NYC-3L, NYC-4S or NYC-4S-EZ) for loss year and carryback years.
- b) Copies of federal form 1139 (claim filed with IRS) or the statement of account adjustment sent to the corporation by the IRS indicating approval of the refund of federal income tax for the carryback year or New York State Form AU-20.1.

- c) In lieu of federal Form 1139 or statement of account adjustment, an S corporation must provide a copy of its federal Form 1120S for the loss year as well as New York State Form AU-20.1, if applicable.

**3. Combined Return Filers**

Corporations included in a federal consolidated return or included in a New York City combined return (NYC-3A) must use Form NYC-8 to apply for a refund of New York City General Corporation Tax.

**4. Tax Rate Schedule**

The completion of this form requires the computation of the tax after the deduction of the net operating loss. To assist you, we have listed below the various tax rates in effect since July 1, 1989.

Taxable years beginning on or after...	...and before	Allocated Net Income/ Alternative Tax	Allocated Business & Investment Capital	Minimum Tax	Subsidiary Capital
7-1-89	1-1-07	8.85%	0.15%	\$300	.075%

**NOTE**

For cooperative housing corporations as defined in the Internal Revenue Code, the rate of tax on capital is 4/10 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. For years beginning on or after January 1, 1988, the amount of tax based on allocated business and investment capital may not exceed \$350,000.

**SIGNATURE**

This report must be signed by an officer authorized to certify that the statements contained herein are true. If the taxpayer is a publicly-traded partnership or another unincorporated entity taxed as a corporation, this return must be signed by a person duly authorized to act on behalf of the taxpayer.

**Preparer Authorization:** If you want to allow the Department of Finance to discuss your return with the paid preparer who signed it, you must check the "yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the "Preparer's Use Only" section of your return. It does not apply to the firm, if any, shown in that section. By checking the "Yes" box, you are authorizing the Department of Finance to call the preparer to answer any questions that may arise during the processing of your return. You also are authorizing the preparer to:

- Give the Department any information missing from your return,
- Call the Department for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain notices that you have shared with the preparer about math errors, offsets, and return preparation. The notices will not be sent to the preparer.

**You are not authorizing** the preparer to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Department. The authorization cannot be revoked, however, the authorization will automatically expire no later than the due date (without regard to any extensions) for filing next year's return. **Failure to check the box will be deemed a denial of authority.**

**SPECIFIC INSTRUCTIONS**

**SCHEDULE A**

**Federal Information**

Federal information entered in this schedule must agree with figures appearing on your federal Forms 1120, 1120A, 1120S or 1120F and 1139. If amounts do not agree, attach a rider reconciling the differences.

**LINE 1 - ORIGINAL FEDERAL TAXABLE INCOME**

Enter from your federal tax return the amount of federal taxable income before net operating loss deductions.

**SCHEDULE B**

**New York City Entire Net Income**

This schedule must be used to compute the adjusted New York City entire net income for each year to which a net operating loss is carried.

**LINE 8 - NEW YORK CITY NET OPERATING LOSS**

A net operating loss deduction for New York City purposes is allowed which is the same as allowed for federal purposes, subject to certain modifications and adjustments. These adjustments reflect inclusions and exclusions required in the calculation of entire net income and various other limitations.

The net operating loss from any one taxable period is limited to the federal or City loss, whichever is smaller. The deduction for a taxable period to which the net operating loss is carried cannot exceed the deduction allowed for that period by the Internal Revenue Service.

For a description of other modifications and limitations, refer to instructions to NYC-8 and Administrative Code Section 11-602.8(f).

The Job Creation and Worker Assistance Act of 2002 extended the generally applicable NOL carryback period for losses arising in tax years ending in 2001 and 2002 from two (2) to five (5) years. If the taxpayer elects to use a 2-year carryback period for federal purposes, the same carryback period applies for City purposes. If the taxpayer elects to relinquish the entire carryback period for federal purposes, then the taxpayer may not carryback any amount for City purposes.

Taxpayers electing to use the 5-year carryback period (or any other applicable federal carryback period) should attach a separate sheet showing the carryback calculations.

Because an S corporation does not carry over NOLs, it will not have made an election to relinquish any or all of its carryback period. Therefore, for City tax purposes for losses arising in taxable years ending in or after 2002, it will be presumed that, unless the taxpayer S corporation attached a statement to its return (Form NYC-3L) indicating that the taxpayer intends to carry back the loss, the taxpayer is presumed to have elected to relinquish the entire carryback period.

**SCHEDULE C**

**Tax Computation for Use by Non-Allocating Corporations**

This schedule must be completed for all corporations that do not claim an allocation.

**NOTE:** If you have amended your return or have been subject to federal, state and city adjustments, do not use amounts from your original return. Use the amounts as so amended or adjusted.

Those taxpayers meeting the criteria listed under General Information, "New Legislation" for tax years beginning on or after January 1, 2007, should complete only lines 10 and 13, and enter the larger of line 10 or 13 on line 15.

**LINE 10**

Compute the tax on adjusted entire net income (amount on line 9) using the appropriate tax rate from the table on page 3.

**LINE 11**

Compute the tax based on your original or amended General Corporation Tax return using the appropriate tax rate from the table on page 3.

**LINE 12**

Compute the alternative tax using the worksheet at the end of these instructions.

**LINES 13 & 14**

Enter the minimum tax and tax on allocated subsidiary capital as computed on your original General Corporation Tax Return or an amended return.

**SCHEDULE D**

**Tax Computation for Corporations Claiming Business or Investment Allocation**

This schedule must be used by taxpayers that have claimed business or investment allocations.

**NOTE:** If you have amended your return or have been subject to federal, state and city adjustments, do not use amounts from your original return. Use the amounts as so amended or adjusted.

**LINE 17 - INVESTMENT INCOME**

Corporations that claim both business and investment allocations must apportion the net operating loss between business income and investment income. This is computed by multiplying the net operating loss deduction by 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. The resulting portion of the net operating loss is subtracted from investment income and the balance is entered on line 17.

**LINE 18 - BUSINESS INCOME**

Subtract adjusted investment income from the adjusted entire net income to obtain the adjusted business income (line 16 minus line 17).

**LINE 19 - ALLOCATED BUSINESS INCOME**

Multiply line 18 by the business allocation percentage computed on your original return (NYC - 3L, Schedule H).

**LINE 20 - ALLOCATED INVESTMENT INCOME**

Multiply line 17 by the investment allocation percentage computed on your original return (NYC-3L, Schedule D, line 2).

**LINES 22, 23 and 24 - TAX COMPUTATION**

Compute the tax using the appropriate tax rate from the table on page 3 and the alternative tax worksheet below.

**LINES 25 & 26**

Enter the minimum tax and tax on allocated subsidiary capital as computed on your original General Corporation Tax Return or an amended return.

**SCHEDULE E**

**Refund Computation**

**LINE 28 - TAXES NOT REFUNDED OR CREDITED**

Enter for each period the taxes paid on the original return and not refunded or credited.

**LINE 29 - ADDITIONAL TAX PAID**

Enter any additional General Corporation Taxes paid as a result of federal or State changes or assessments issued by this Department.

**Alternative Tax Worksheet**

a. Enter amount from line 9 .....	a.
b. Add compensation of officers and greater than 5% shareholders (for years beginning after 6/30/96 but before 7/1/98 add 75% of compensation of officers other than those who are also greater than 5% shareholders. For years beginning after 6/30/98 and before 7/1/99 add 50% of compensation of such officers. For years beginning after 6/30/99, no portion of such officers' compensation is required to be added back.) .....	b.
c. Less \$15,000 (\$30,000 for years beginning after 6/30/97 but before 7/1/98, \$40,000 for years beginning after 6/30/98) prorated for periods of less than 12 months .....	c.
d. Multiply line c by 30% .....	d.
e. Enter the lesser of line d or amount of investment income from General Corporation Tax return Schedule B, line 23, if any .....	e.
f. Subtract line e from line d .....	f.
g. Multiply line f by applicable business allocation percentage .....	g.
h. Multiply line e by applicable investment allocation percentage .....	h.
i. <b>Alternative Tax.</b> Multiply total of line g and h by applicable tax rate and enter on line 12 .....	i.