

Instructions for Form NYC-202

FINANCE
NEW YORK



Unincorporated Business Tax Return For fiscal years beginning in 2002 or for calendar year **2002**

Highlights of Recent Tax Law Changes for Unincorporated Businesses

- Effective for tax years ending after September 10, 2001, for purposes of the New York City Unincorporated Business Tax, General Corporation Tax and Banking Corporation Tax, the City has "decoupled" from the Federal bonus depreciation deductions allowed under the Job Creation and Worker Assistance Act of 2002 except with respect to the depreciation and first year expense deductions allowed with respect to "qualified New York liberty zone property", "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan South of Houston Street and North of Canal Street.) For City tax purposes, depreciation deductions for all other "qualified property" must be calculated as if the property was placed in service prior to September 11, 2001. Local Law 17 of 2002. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" and new Form NYC-399Z included with these materials for more information.
- Effective for tax periods beginning on and after August 1, 2002, entities who receive eighty percent or more of their gross receipts from charges for the provision of mobile telecommunications services to customers will be taxed as if they were regulated utilities for purposes of the New York City Utility Tax, General Corporation Tax, Banking Corporation Tax and Unincorporated Business Tax. Thus, such entities will be subject to only the New York City Utility Tax. The amount of gross income subject to tax has been amended to conform to the Federal Mobile Telecommunications Sourcing Act of 2000. In addition, if any such entity is a partnership, its partners will not be subject to the New York City Utility Tax on their distributive share of the income of any such entity. Finally, for tax years beginning on and after August 1, 2002, partners in any such entity will not be subject to General Corporation Tax, Banking Corporation Tax or Unincorporated Business Tax on their distributive share of the income of any such entity. Chapter 93, Part C, of the Laws of New York, 2002.
- For tax years beginning after December 31, 2001, the definition of "unincorporated entity" has been amended to include any entity classified as a partnership for federal income tax purposes regardless whether it is incorporated.
- For taxable years beginning on or after January 1, 2001, new rules apply to the allocation of receipts from management, administration or distribution services provided to a regulated investment company. See Admin. Code §11-508(e-2) added by Ch. 63, Laws of 2000, Part AA, §4.

GENERAL INFORMATION

WHO MUST FILE

1. Any individual or unincorporated entity, other than a partnership, that carries on or liquidates a trade, business, profession or occupation wholly or partly within New York City and has a total gross income from all business regardless of where carried on of **more than \$75,000** (prior to any deduction for cost of goods sold or services performed) must file an Unincorporated Business Tax Return.
2. **In addition**, every unincorporated business other than a partnership that has unincorporated business gross income of \$75,000 or less, but has unincorporated business taxable income of more than \$35,000 must file a return for each taxable year in which it carries on business in the City to any extent. **Unincorporated business taxable income** is the excess of unincorporated business gross income over the aggregate of unincorporated business deductions, allocated to New York City, less the allowance for taxpayer's services and unincorporated business exemptions.

If an individual or an unincorporated entity carries on **two or more unincorporated businesses, in whole or in part within the City, all such businesses shall be treated as one unincorporated business for purposes of this tax.** The gross income and deductions from all such businesses must be combined and reported on one return.

However, an individual member of a partnership who carries on his own separate and independent unincorporated business is not required or permitted to include his distributive share of partnership income in computing his separate unincorporated business taxable income.

WHICH FORMS TO FILE

Individuals, estates and trusts must file on Form NYC-202, and partnerships (including any incorporated entity treated as a partnership for federal income tax purposes) or other unincorporated organizations must file Form NYC-204.

If you are required to file a return but do not owe any tax, you may be eligible to file Form NYC-202 EZ. To determine whether you may use Form NYC-202 EZ, refer to the form itself or use the following worksheet:

202 EZ WORKSHEET

1. Enter: Net profit (loss) from federal Schedule C or Schedule C-EZ..... \$ _____
2. Add: additional business/professional income (loss) such as sale of business assets, rental income and royalties from federal Form 1040, page 1 \$ _____
3. Add: income and unincorporated business taxes paid this year and deducted on federal Schedule C \$ _____
4. Add: lines 1, 2 and 3 \$ _____

- If line 4 does not exceed \$55,000 you may use Form NYC-202 EZ.
- If you are filing for a period of less than 12 months, refer to Form NYC-202 EZ to determine whether you may use that form.
- Taxpayers who allocate business income, who file as an estate or trust,

or who have NYC modifications other than line 3 of the worksheet are required to file Form NYC-202.

WHO IS SUBJECT TO THE TAX

- 1) The Unincorporated Business Tax is imposed on any individual or unincorporated entity (including a partnership, fiduciary or corporation in liquidation and including any incorporated entity treated as a partnership for federal income tax purposes) engaged in any trade, business, profession, or occupation wholly or partly carried on within New York City.
- 2) Income received from the practice of law, medicine, dentistry, architecture, or any other profession is subject to the Unincorporated Business Tax.
- 3) A corporation that makes an election under Section 1372 of the Internal Revenue Code (S Corporations) does not become subject to the Unincorporated Business Tax by reason of the election. S Corporations are subject to the General Corporation Tax.
- 4) **The Unincorporated Business Tax does not apply to:**
 - a) any entity subject to the tax imposed by Title 11, Chapter 6 (General Corporation Tax) of the NYC Administrative Code. 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. **This does not apply to unincorporated entities that were subject to the Unincorporated Business Tax for tax years beginning in 1995 that elected to continue to be subject to the Unincorporated Business Tax for years after 1995 on the Unincorporated Business Tax return filed for tax years beginning in 1996. That election cannot be made on an Unincorporated Business Tax return for 1997 or any later year.**
 - b) any entity subject to the tax imposed by Title 11, Chapter 11 (Utility Tax) of the NYC Administrative Code (except that

vendors of utility services are subject to the Unincorporated Business Tax on that percentage of their entire net income allocable to the City which their non-utility receipts bear to their total receipts);

- c) any entity carrying on an insurance business as a member of the New York Insurance Exchange (authorized in Section 6201 of the Insurance Law); or
- d) Real Estate Mortgage Investment Conduits (REMICs). Holders of interests in a REMIC remain taxable on such interests or on the income from such interests.
- e) certain wireless telecommunications service providers - Effective for tax periods beginning on and after August 1, 2002, entities that receive eighty percent or more of their gross receipts from charges for providing mobile telecommunications services to customers will be taxed as if they were regulated utilities for purposes of the New York City Utility Tax and Unincorporated Business Tax. Thus, such entities will be subject to only the New York City Utility Tax and not the Unincorporated Business Tax.
- 5) An individual, trust or estate, except a dealer as defined in Admin. Code §11-501 (l) will not be deemed engaged in an unincorporated business solely by reason of the conduct of the following activities for the taxpayer's own account: the purchasing, holding or selling of property (defined below), engaging in transactions in positions in property, the acquisition, holding or disposition, other than in the ordinary course of business, of interests in unincorporated entities also eligible for this exemption, and any other activity not constituting an unincorporated business subject to the Unincorporated Business Tax.

Property Defined. Property for this purpose includes real and personal property, including property qualifying as investment capital (see instructions for Schedule D of this form) and other stocks and securities, notional principal contracts, derivative financial instruments and other positions in property but excluding property and positions in property held by a dealer, and excluding debt instruments acquired in the

ordinary course of a trade or business and certain other property. See Admin. Code §11-502 (c) (1) (A). Notwithstanding anything to the contrary, the receipt of \$25,000 or less of gross receipts during the taxable year (determined without regard to any deductions) from an unincorporated business will not disqualify the taxpayer for this exemption.

- 6) A person that is an owner, lessee or fiduciary will not be deemed to be engaged in an unincorporated business solely by reason of the holding, leasing or managing of real property. For taxable years beginning on or after July 1, 1994, if an individual or unincorporated entity is carrying on an unincorporated business in whole or in part in the City, and is also holding, leasing or managing real property as an owner, lessee or fiduciary, the holding, leasing or managing of the property will not be considered an unincorporated business to the extent that the real property is held for the purposes of producing rental income or gain on the disposition of the real property, **provided, however, this partial exemption for rental real estate is not available to a dealer holding real property primarily for sale to customers in the ordinary course of the dealer's trade or business.** The operation by any taxpayer, otherwise eligible for the partial exemption, of a garage or other business at the property solely for the benefit of tenants in the property that is not open or available to the general public will be considered to be incidental to the holding, leasing or managing of the property and will not be considered an unincorporated business. However, if such a taxpayer operates a garage or other business at the property that also is open or available to the general public, that garage or other business will be considered a taxable unincorporated business, provided, however, for taxable years beginning after 1995, if a taxpayer operates a garage that is open to building tenants and the public, the operation of that garage will not be considered a taxable unincorporated business but only to the extent of income from parking services provided at that garage to building tenants on a monthly or longer-term basis and **only if the information required to be filed with this return specified below is provided with respect to that garage.** All other income from the operation of

that garage will be subject to the tax.

The taxpayer must submit with this return a statement containing the following for each garage or other similar facility that is operated for the benefit of tenants and that is open to the general public:

- (1) the parking facility name;
- (2) the parking facility address;
- (3) the license number of the facility if applicable;
- (4) the licensed capacity of the facility if licensed;
- (5) the total number of transactions and amount of receipts for the taxable year from all sales of parking services, including prepaid parking services, all parking services provided without charge and all parking services paid for by a person other than the person whose vehicle is parked, garaged or stored (such as a merchant validation of a parking ticket);
- (6) the total number of transactions and amount of receipts from sales of monthly or longer term parking services including a designation of each transaction and receipt as exempt from the 8 percent Manhattan parking tax, where applicable; and
- (7) the total number of transactions and amount of receipts from sales of monthly or longer term parking services provided to building tenants.

Failure to submit the above information with this return will result in all of the income of that garage being subject to tax.

See Section 11-502 (d) of the NYC Administrative Code.

NOTE: If you are engaged in an activity exempt from Unincorporated Business Tax, you are not required to file a return.

OTHER FORMS YOU MAY BE REQUIRED TO FILE

FORM NYC-5UBTI - Declaration of Estimated Unincorporated Business Tax must be filed by every individual, estate or trust carrying on an unincorporated business or profession in New York City and whose estimated tax can reasonably be expected to exceed \$1,800 for the 2003 cal-

endar year or fiscal year beginning in 2003.

FORM NYC-62 - Application for Automatic Extension is an application for a six-month extension of time to file an Unincorporated Business Tax Return. File Form NYC-62 on or before the due date of the return.

FORM NYC-113 - Unincorporated Business Tax Claim for Credit or Refund is used to claim a refund of Unincorporated Business Tax.

FORM NYC-115 - Unincorporated Business Tax Report of Change in Taxable Income made by the Internal Revenue Service and/or New York State Department of Taxation and Finance must be used for reporting adjustments in taxable income resulting from an Internal Revenue Service audit of your federal income tax return and/or a New York State Department of Taxation and Finance audit of your State income tax return.

FORM NYC-221 - Underpayment of Estimated Unincorporated Business Tax will help you determine if you have underpaid an estimated tax installment and, if so, compute the penalty due.

FORM NYC-399 - Schedule of New York City Depreciation Adjustments must be used to compute the allowable New York City depreciation deduction if you claim the federal ACRS or MACRS depreciation deduction for certain property placed in service after December 31, 1980. See the instructions for line 10d of Schedule B.

FORM 399Z - Depreciation Adjustments for Certain Post 9/10/01 Property may have to be filed by taxpayers claiming depreciation deductions for "qualified property," other than "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements" placed in service after September 10, 2001 for Federal or New York State tax purposes. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" included with these materials.

FORM NYC-CRA - 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 \$200,000. (Effective June 1, 2001).

WHEN TO FILE

Form NYC-202 is due on or before April 15,

2003, or, for fiscal year taxpayers, on or before the 15th day of the fourth month following the close of the taxable year.

An automatic extension of six months for filing this return will be allowed if, within the time prescribed for filing, the taxpayer files with the Department of Finance an Application for Extension on Form NYC-62 and pays the amount properly determined as its tax.

No additional extension for filing a return will be granted beyond the six-month extension, unless the taxpayer is outside the United States. (Taxpayers outside the United States should refer to 19 RCNY Section 28-18(c) for additional extensions.)

WHERE TO FILE

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

NOTE: If a Declaration of Estimated Unincorporated Business Tax (Form NYC-5UBTI) is being filed, DO NOT mail it to any address listed here. It should be mailed to the address indicated on Form NYC-5UBTI.

TAX FORMS

You can have forms delivered to you by fax, by phone and by computer. Call **Tax Fax at (718) 935-6114** from the phone connected to your fax machine or fax modem. This service is available 24 hours a day, seven days a week.

You can also call Automated Tax Form Ordering Service, which operates 24 hours a day, seven days a week at **(718) 935-6739**.

You can also obtain forms by visiting our Internet web site at

www.nyc.gov/finance

Forms are also available at:

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

IDENTIFYING INFORMATION

In the space provided on the front of the return, enter your correct Social Security Number **and** Employer Identification Number and New York State Sales Tax ID Number, if applicable. The Sales Tax ID number can be 9, 10 or 11 digits. Enter the same business code entered on federal Schedule C or Schedule C-EZ. Individuals licensed and/or regulated by the NYC Taxi and Limousine Commission use business code 999999 in lieu of the federal code.

If this is an amended return, check the box on page 1.

ESTIMATED TAX

Any unincorporated entity whose estimated tax can reasonably be expected to exceed \$1,800 for the 2003 calendar year or fiscal year beginning in 2003 must file a Declaration of Estimated Unincorporated Business Tax (Form NYC-5UBTI). The declaration must cover a full calendar or fiscal year and is due on the 15th day of the fourth month of the taxable year. (A partnership declaration should be filed on Form NYC-5UB.)

For further information about estimated tax payments and due dates you may call Citytax Dial, New York City's recorded tax information, at (718) 935-6736. Message #133 will provide you with current information.

BUSINESS CARRIED ON BOTH INSIDE AND OUTSIDE NEW YORK CITY

If business is carried on both inside and outside New York City, a fair and equitable portion of the business income must be allocated to New York City. Otherwise, all of the business income must be allocated to New York City. (Refer to the instructions on page 9 for Schedule C, Business Allocation)

BUSINESS TERMINATED DURING TAXABLE YEAR

If the business was terminated during 2002, attach a statement to Form NYC-202 showing disposition of the business property and how it was reported on the return.

USE OF FEDERAL FIGURES

Except where otherwise indicated, items of business income, gain, loss or deduction are to be entered on the return as reportable for federal tax purposes. All items reported on Form NYC-202 or on attachments to it, however, are subject to verification, audit and revision by the Department of Finance.

FEDERAL OR NEW YORK STATE CHANGES

If, on audit of your return, the federal or New York State tax authorities change any item of income or deduction reported to the Internal Revenue Service or the New York State Department of Taxation and Finance, or an item of income or deduction is changed as a result of a renegotiation of a contract with the United States or New York State, or you execute a consent and waiver of the restrictions on assessment by either authority and the change pertains to the unincorporated business income or deductions reported on the Unincorporated Business Tax return, you must report the change to the Department of Finance within 90 days. Form NYC-115 should be used for this purpose and may be obtained from the sources listed in these instructions.

Form NYC-115 must be filed separately and should not be attached to any return.

If an amended federal or New York State return is filed reflecting a change in unincorporated business income or deductions, an amended Unincorporated Business Tax return must be filed within 90 days. Use Form NYC-202 and check the box at the top of page 1.

ACCOUNTING PERIODS AND METHODS

The accounting period for which Form NYC-202 is filed and the method of accounting used are the same as for federal income tax purposes. If a taxpayer's taxable year or method of accounting is changed for federal income tax purposes, the same changes must be made for purposes of the Unincorporated Business Tax.

PENALTIES

The law imposes penalties for failure to file a return or to pay any tax when due, or for making, rendering, signing, certifying or filing a false or fraudulent return. The mere fact that the figures reported on Form NYC-202 are taken from the federal return will not relieve the taxpayer from the imposition of penalties because of negligence or for filing a false or fraudulent return.

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. Include the company or corporation name and Employer Identification Number, if applicable.

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. Also, you 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

Computation of Tax

LINE 1 - BUSINESS INCOME

Enter on line 1 the total from page 2, Schedule B, line 28.

LINE 2 - BUSINESS ALLOCATION PERCENTAGE

Taxpayers not allocating income should enter 100% on line 2, then complete lines 4 and 5.

Taxpayers allocating income for Unincorporated Business Tax purposes and using the statutory formula basis should determine the business allocation percentage to be used here by completing Schedule C, parts 1, 2 and 3. Transfer the percentage entered on Schedule C, part 3, line 5 to line 2 of this schedule rounded to the nearest one hundredth of a percentage point and check (✓) the "formula" box.

Taxpayers allocating income on the basis of business books and records should check (✓) the second box on line 2, omit the percentage, disregard lines 3 through 6, and continue with line 7. Enter on line 10 the sum of lines 1 and 9. (Refer to the instructions on page 9 of these instructions for Schedule C, Allocation by Separate Books and Records.)

Taxpayers allocating income on the basis of an alternative method of allocation must complete Schedule C, parts 1, 2 and 3 and attach an explanation of the alternative method. If a percentage formula is used other than the statutory formula, enter on line 2 of this schedule the percentage shown in the explanation rounded to the nearest one hundredth of a percentage point. If a direct allocation method is used, disregard lines 2 through 6 and enter on line 10 the amount directly allocated to New York City contained in the explanation. Check the appropriate box on line 2. (Refer to the instructions for Schedule C, Alternative Allocation Method.)

LINES 3 AND 6 - INCOME, GAIN OR LOSS FROM NYC REAL PROPERTY

The business allocation percentage is not applied to income from rentals of New York City real property or gains or losses from the sale of New York City real property. Enter here the modified gain (or loss) from the sale or exchange and net income from rental of real property located in New York City included on line 1 of Schedule A. This is the gain (or loss) and net rental income included on line 8 of Schedule B as adjusted for the portion of the New York City modifications (Schedule B, part 2) applicable to such items. If New York City modifications are not applicable, enter on lines 3 and 6 the full amount of gain (or loss) and net rental income included on line 8 of Schedule B. (Refer to Who is Subject to the Tax, paragraph 6, on page 2 of these instructions.)

LINE 9 - ALLOCATED INVESTMENT INCOME

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

CURRENT YEAR'S UNINCORPORATED BUSINESS NET OPERATING LOSS

If line 10 shows a net loss from business, this loss is the 2002 unincorporated business net operating loss.

Beginning with losses sustained during taxable years ending after June 30, 1989 only

the first \$10,000 of each year's loss may be carried back. The carryback period for City purposes generally corresponds to the federal carryback period available for individuals. 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. Whichever carryback period, if any, the taxpayer elects for federal purposes, the same carryback period must be used for City purposes. If the taxpayer elects to carry back the first \$10,000 of the loss, any excess net operating loss may be carried forward as if the taxpayer had elected to relinquish the entire carryback period for all but the first \$10,000 of the loss. If the taxpayer elects to forego the federal carryback period, no amount of the net operating loss may be carried back for City purposes and the entire net operating loss may be carried forward for City purposes.

Losses that are not permitted to be carried back may be carried forward and used to offset income for the period permitted for Federal tax purposes, generally 20 years for losses from years beginning after 8/5/97.

If a "carryback" results in an overpayment of a prior year's tax, a claim for refund on Form NYC-113 accompanied by a copy of the Unincorporated Business Tax Return for the taxable year for which the refund is claimed, should be filed within the limitation period prescribed by law. A detailed computation of the net operating loss deduction for that year must accompany the refund claim.

LINE 11 - NEW YORK CITY NET OPERATING LOSS DEDUCTION

The business allocation percentage is not applied to a New York City net operating loss deduction that was subject to allocation in the year in which the loss was incurred. If there was an unincorporated business net operating loss in a prior year any part of which may be carried over to 2002, the amount claimed for 2002 should be entered on line 11 after completing Schedule E. (Refer to instructions for Schedule E.)

LINE 13 - ALLOWANCE FOR TAXPAYER'S SERVICES

A deduction may be claimed for reasonable compensation for taxpayer's personal services. The allowable deduction is:

- 1) 20% of line 12 or
- 2) \$5,000,

whichever is lower. If line 12 is a loss, enter "0" on line 13.

LINE 15 - EXEMPTION

An unincorporated business exemption of \$5,000 is allowed against net income reported on line 14. If more than one business was carried on by a taxpayer, only one exemption of \$5,000 is allowed against the combined net income derived from all business activities.

The exemption of \$5,000 must be prorated on a \$13.70 daily basis if the business was carried on for a period of less than a full taxable year of 12 months, unless the business was carried on and the return is filed for a number of whole months. In that case, the proration is to be on a \$416.67 per month basis.

EXAMPLE

- #1 If the sole proprietorship carried on business for a full 9 months, the exemption amount to be entered on line 15 is \$3,750.03 (9 months X \$416.67 per full month).
- #2 If the sole proprietorship carried on business for 263 days, the exemption amount to be entered on line 15 is \$3,603.10 (263 days X \$13.70 per day).

TAXPAYERS FILING A SHORT PERIOD RETURN should fill in the dates at the top of page 1 of the return and prorate the exemption as described above.

LINE 16 - TAXABLE INCOME

Enter here the amount of line 14 less line 15. (If loss, refer to these instructions for information concerning a net operating loss.)

LINE 17 - TAX

Enter on line 17 the amount obtained by multiplying the amount entered on line 16 by 4%.

LINE 18 - SALES AND USE TAX ADDBACK

This item relates to the unincorporated business tax credit for sales and compensating use tax paid on certain machinery, equipment and services (NYC Administrative Code Sections 11-503(d) and 11-503(k)). If the taxpayer received a refund or credit in 2002 of such sales or compensating use tax for which it claimed an unincorporated business tax credit in a prior tax period, the amount of such refund or credit must be added back on line 18. A corresponding adjustment is to be made on line 14 on Schedule B, part 2. (Refer to instructions for line 14 on Schedule B, part 2.)

LINE 20 - BUSINESS TAX CREDIT

- If the amount entered on line 19 is

\$3,200 or over, no credit is allowable; enter "0" on line 20.

- If the amount entered on line 19 is \$1,800 or less, your credit is the entire amount of tax on line 19. No tax will be due.
- If the amount of tax entered on line 19 exceeds \$1,800 but is less than \$3,200, a credit is allowed in the amount determined by multiplying the tax on line 19 by a fraction, the numerator of which is \$3,200 minus the amount of the tax on line 19 and the denominator of which is \$1,400. Use the following formula:

FORMULA

$$\frac{\text{tax on line 19} \times (\$3,200 - \text{tax on line 19})}{\$1,400} = \begin{matrix} \text{Unincorporated} \\ \text{Business Tax} \\ \text{Credit} \end{matrix}$$

EXAMPLE

If the tax on line 19 is \$2,800, the business tax credit is calculated as follows:

- 1) $\$2,800 \times \frac{(\$3,200 - 2,800)}{\$1,400} = \800
- 2) Enter \$800 on line 20.
- 3) Enter \$2,000 (\$2,800 - 800) on line 21 (Unincorporated Business Tax)

LINE 21 - UNINCORPORATED BUSINESS TAX

Enter on line 21 the unincorporated business tax due. If the credit on line 20 equals the tax shown on line 19, enter "0" on line 21.

LINE 22a - OTHER CREDITS

Enter on line 22a credits against the unincorporated business tax for:

- 1) relocation and employment assistance program (REAP) credit (Refer to instructions on Form NYC-114.5 and attach form.)
- 2) sales and compensating use taxes (Refer to instructions on Form NYC-114.5 and attach form for an appropriate year.) NOTE: The sales and use tax credits may only be taken for sales or use tax paid in the current year on certain purchases in prior years. See instructions for Schedule B, line 10a.

LINE 22b - REAL ESTATE TAX ESCALATION CREDIT AND EMPLOYMENT OPPORTUNITY RELOCATION COSTS CREDIT

(Refer to instructions on Form NYC-114.6, Claim for Credit Applied to Unincorporated Business Tax and attach form.)

LINE 24 - PAYMENT OF ESTIMATED TAX

Enter on line 24 the sum of all payments of estimated tax made for calendar year 2002 or fiscal year beginning in 2002 including carryover credit from the preceding taxable year, and payment with extension, NYC-62.

LINE 27a - 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 Taxpayer Assistance at: (718) 935-6000.

LINE 27b - 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.

LINES 29 and 30 - NET OVERPAYMENT

If there is an overpayment on line 29, enter on line 30a the amount of overpayment to be refunded. Enter on line 30b the amount to be credited to the 2003 estimated tax on Form NYC-5UBTI. If line 23 is less than zero, disregard negative sign and add that amount to line 24.

LINE 31 - TOTAL REMITTANCE DUE

If the amount on line 29 is not greater than zero, enter on line 31 the sum of the amount on line 25 and the amount by which line 28 exceeds line 26, 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 31. 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 payable to: **NYC Department of Finance**.

SCHEDULE B

Computation of Total Income

PART 1 - ITEMS OF BUSINESS INCOME, GAIN, LOSS OR DEDUCTION

Amounts on lines 1 through 6 are to be entered from the federal tax return.

- 1) Taxpayers carrying on two or more unincorporated businesses, either wholly or partly in New York City, must enter the combined net income from all business activities relating to such businesses.
- 2) If business is carried on both inside and outside New York City and,
 - a) if the New York City income can be fairly and equitably determined from the books and records of the business, report in Schedule B, part 1, the New York City income and deductions only. Apply the New York City modifications described in part 2 that relate to the New York City items reported. (Refer to instructions for Schedule C.)
 - b) if the New York City income cannot be fairly and equitably determined from the books and records of the business, the statutory formula contained in Schedule C, part 3 of the form must be used to apportion the income from business carried on both inside and outside of New York City.
 - c) if neither the books and records method nor the statutory formula fairly and equitably allocates income to New York City, an alternative method of allocation must be used. If a percentage formula is used other than the statutory formula, enter the amounts from the federal tax return on lines 1 through 6 of this schedule. If a

direct allocation method is used, report in Schedule B, part 1, the New York City income and deductions only. Apply the New York City modifications described in part 2 that relate to the New York City items reported.

(Refer to the instructions for Schedule C, Business Allocation, for further details.)

LINE 1 - NET PROFIT (OR LOSS) FROM BUSINESS, FARMING OR PROFESSIONS

Enter here the amount reported for federal tax purposes. This amount should be the amount reported on federal Schedule C or C-EZ, Form 1040. (If you operate a farm, enter the profit or loss reported on federal Schedule F, Form 1040.) Attach a copy of federal Schedule C, C-EZ or F. If this is a final return, attach a copy of your entire federal Form 1040.

If allocation is based upon books and records, report the net profit (or loss) from New York City operations of the business.

LINE 2 - MULTIPLE SCHEDULES C AND F

If entering income from more than one federal Schedules C, C-EZ or F, check the box and enter number of Schedules C, C-EZ or F attached.

LINE 3 - GAIN (OR LOSS) FROM SALE OF REAL OR PERSONAL BUSINESS PROPERTY

Enter here the total gain or loss from the sale or exchange of real or personal property carried as business assets (including proceeds from the sale of the business and its goodwill). Attach federal Schedule D and/or Form 4797. Note that federal depreciation and federal basis must be used in these computations. (Refer to instructions for Schedule B, part 2, line 19, relating to the subtraction from gain reported on line 3 for certain property acquired prior to January 1, 1966, and instructions for Schedule B, part 2, lines 10d and 16 relating to ACRS depreciation modifications.)

LINE 4 - NET AMOUNT OF RENTS FROM REAL OR PERSONAL BUSINESS PROPERTY

Enter here the net amount of rental and royalty income derived from real and personal business property, using federal figures. (Attach federal Schedule E.) **If you are using the books and records method of allocation, enter amounts allocable to New York City.** Include the rental income from property even if not considered an

unincorporated business. (Refer to Who is Subject to the Tax, paragraph 6, on page 2 of these instructions.)

LINE 5 - OTHER BUSINESS INCOME (OR LOSS)

Enter net amount of income or loss derived from business activities or sources other than those enumerated on lines 1, 3, and 4 of Schedule B, part 1 and attach a schedule giving details of the items reported. Interest and dividends from securities held in connection with the business or carried as business assets should be reported here. **If you are using the books and records method of allocation, enter amounts allocable to New York City.**

If a net operating loss deduction is allowable in 2002 by reason of a carryover of a net operating loss sustained in a prior year, do not enter the loss deduction here. Complete Schedule E.

LINE 7 - INCOME OR GAIN FROM SALE OR EXCHANGE OF REAL PROPERTY

Rental income or loss from real property located outside New York City and gain or loss on disposition of real property located outside New York City are not considered for purposes of computing the unincorporated business tax. Therefore, to exclude this income, loss or gain, subtract on line 7 the amount included on lines 3 and 4 if income or gain is reported, and add this amount on line 7 if loss is reported. Do not exclude the rental income from property located in New York City even if not considered an unincorporated business. (Refer to "Who is Subject to the Tax", paragraph 6.) (See instructions for line 19.)

PART 2 - NEW YORK CITY MODIFICATIONS

It may be necessary to make certain additions to or subtractions from the amount reported in part 1, line 8 to arrive at total income to be reported on line 27. If any of the following items is applicable, complete part 2 showing the nature and amount of each item, and enter the combined total on line 21. If none of these apply, transfer the amount on line 8 to line 22 of Schedule B. If the business is carried on both inside and outside New York City and the New York City income is determined from books and records of the business, enter in part 2 only those additions and subtractions that relate to the New York City items reported on lines 1 through 5 of Schedule B, part 1.

- ADDITIONS -

LINE 9 - INCOME AND UNINCORPORATED BUSINESS TAXES

Enter the amount of income and unincorporated business taxes imposed by New York City, New York State or any other taxing jurisdiction that were deducted in computing part 1, line 8.

LINE 10 - MODIFICATIONS RELATING TO ITEMS OF TAX CREDIT AND DEDUCTION

Line 10a: The credit for sales tax paid on electricity or electric service used in the production of certain tangible property formerly allowed by Admin. Code §11-503(g) has been repealed for purchases on or after November 1, 2000. No amount should be added back with respect to this credit.

Purchases of machinery or equipment for which a credit is allowed by Admin. Code §11-503(d) were exempted from sales tax effective December 1, 1989. Purchases of certain services performed on machinery or equipment used in production for which a credit is allowed by Admin. Code §11-503(k) were exempted from sales tax effective September 1, 1996. Credits may be taken under these two provisions only if the sales tax payment was made in the current year with respect to a purchase in a period when the applicable sales tax was effective. In such cases, the sales tax excluded or deducted for federal tax purposes should be added back. If you are claiming a credit pursuant to §11-503(d), a form NYC 114.5 for the year 1990 or a prior year should be used. If you are claiming a credit pursuant to §11-503(k), a form NYC 114.5 for the year 2000 or a prior year should be used.

Line 10b: Taxpayers claiming the real estate tax escalation credit or employment opportunity relocation costs credit must enter the amount shown on lines 4 and 5, respectively, of Form NYC-114.6.

Line 10c: Enter any amounts deducted in computing part 1, line 8, for:

- i) interest on money borrowed to purchase or carry bonds or securities, the interest on which is exempt from the Unincorporated Business Tax;
- ii) expenses that relate to exempt income or to property held for the production of exempt income; and
- iii) amortization of bond premium on any bond, the interest on which constitutes exempt income.

Line 10d: The Federal bonus depreciation allowed for "qualified property," as defined in the Job Creation and Worker Assistance Act of 2002 is not allowed for Unincorporated Business Tax purposes except for such deductions allowed with respect to "qualified New York liberty zone property", "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan South of Houston Street and North of Canal Street.) For City tax purposes, depreciation deductions for all other "qualified property" must be calculated as if the property was placed in service prior to September 11, 2001. Enter on Schedule B, lines 10(d) and 16 the appropriate adjustments from form NYC-399Z. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" included with these materials for more information. The federal depreciation deduction computed under the Accelerated Cost Recovery System (ACRS) or the Modified Accelerated Cost Recovery System (MACRS) (IRC Section 168) is not allowed for property placed in service in New York State in taxable years beginning before January 1, 1985 (except recovery property subject to the provisions of IRC Section 280-F).

ACRS and MACRS may not be allowed for property placed in service outside of New York State in taxable years beginning after 1984 and before January 1, 1994 (except property subject to the provisions of IRC Section 280-F). For additional information regarding depreciation deductions for property placed in service outside New York 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.

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed.

Enter on line 10d the ACRS depreciation deduction used in computing part 1, line 8. (Refer to instructions for line 16.) (Attach Form NYC-399.)

Line 10e: Add back losses, interest, depreciation and any other expenses deducted for federal income tax purposes directly or indirectly attributable to the holding, leasing or managing of real property (including any business conducted at the property as an incidental service to tenants) or to the income or gain therefrom, if such holding,

leasing or managing of property is exempt from Unincorporated Business Tax under NYC Administrative Code Section 11-502(d) in taxable years beginning on or after July 1, 1994 or January 1, 1996, in the case of parking services rendered to tenants at a garage open to the public. (Refer to Who is Subject to the Tax, paragraph 6, on page 2 of these instructions.) Enter on line 10e expense deductions and losses reflected in Part 1, line 8 attributable to exempt real estate activities.

LINE 11 - OTHER ADDITIONS

Describe in a separate schedule the nature and amount of any additions, such as:

- 1) interest income on state and local bonds held in connection with the business (other than on bonds of New York State and its political subdivisions)
- 2) interest or dividend income on bonds or securities, held in connection with the business, of any United States authority, commission or instrumentality that the laws of the United States exempt from federal income tax but not from state or local income taxes
- 3) any amount deducted in computing part 1, line 8, for salaries, wages, withdrawals or interest paid to the proprietor of the unincorporated business
- 4) five (5)% of an amount equal to interest paid or accrued by a taxpayer engaged in certain types of stock or asset acquisitions (as described in Section 11-506(d) of the Administrative Code) during the taxable year and for the three immediately preceding taxable years (to the extent deducted in the computation of unincorporated business taxable income). The amount will not exceed the limitation amount as described in Section 11-506(b) of the NYC Administrative Code. Effective for taxable years beginning on or after January 1, 1989, and for takeovers occurring July 1, 1989, and thereafter. (Attach schedule or computation.)
- 5) any other additions required by Sections 11-506, 11-507 and 11-509 of the NYC Administrative Code. (Attach any appropriate schedules.)

- SUBTRACTIONS -

LINE 13 - INCOME AND UNINCORPORATED BUSINESS TAX REFUNDS

Enter any refund or credit for overpayment of any income tax to the extent included in computing part 1, line 8.

LINE 14 - SALES AND USE TAX REFUNDS OR CREDITS

This item relates to the unincorporated business tax credit for sales and compensating use taxes paid on certain machinery, equipment and services. If the taxpayer received a refund or credit in 2002 of any sales or compensating use tax for which it claimed an unincorporated business tax credit in a prior tax period, the amount of the refund or credit must be added to the Unincorporated Business Tax on line 18 of Schedule A, and entered at Schedule B, part 2, line 14, as a subtraction modification.

There is no addback for current refunds of sales tax paid on purchases or use of electricity or electric service used in the production of certain tangible property for which the taxpayer took a credit in a prior period under Adm. Code §11-503(g).

LINE 15 - FEDERAL EMPLOYMENT 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. (Attach federal Form 5884 or 8884 for Liberty Zone business employees.)

LINE 16 - DEPRECIATION ADJUSTMENT

In place of the disallowed ACRS deduction for certain property, line 10d, a depreciation deduction computed by any method permitted under IRC Section 167 as in effect on December 31, 1980, will be allowed. Enter on line 16 the ACRS adjustment from Form NYC-399, Schedule C, line 8, column B. (Attach Form NYC-399.) See instructions for line 10d and for Form NYC-399, see also Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994."

If a taxpayer took the additional depreciation deduction on its federal return provided under the Job Creation and Worker Assistance Act of 2002, P.L.107-147 with respect to property OTHER THAN "qualified Resurgence Zone property", "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements, use NYC 399Z to calculate the amount of the deduction that may be deducted for City purposes. The amount appearing in column B of line 8 on Form NYC 399Z should be included on this line. See Finance Memorandum 02-3, included with these materials, for more information.

LINE 17 - EXEMPT INCOME

Attach a schedule showing the nature and amount of exempt income, such as:

- 1) interest income on United States obligations included in computing part 1, line 8
- 2) interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included in computing part 1, line 8, but exempt from state or local income taxes under United States law
- 3) interest or dividend income on bonds or securities to the extent exempt from income tax under New York laws authorizing the issuance of such bonds or securities, but included in computing part 1, line 8

LINE 18 - DIVIDENDS

Enter 50% of dividends other than the following:

- 1) dividends from stocks not meeting the holding period requirement set forth in IRC Section 246(c);
- 2) dividends described in Section 11-602.8 (b) (13) and (15) of the NYC Administrative Code relating to dividends from corporations where certain stock or asset dispositions have occurred within 18 months of a qualifying acquisition; and
- 3) dividends from stock described in Section 11-602.3(b) and (c) of the Administrative Code relating to dividends from corporations where certain stock or asset dispositions have occurred within 18 months of a qualifying acquisition.

In applying the provisions of Section 11-602 referred to in 2) and 3) above, references to "acquiring corporation" and "acquiring person" should be read as referring to the unincorporated business.

LINE 19 - REAL ESTATE SUBTRACTIONS

Subtract income or gain includible in gross income for federal income tax purposes from the holding, leasing or managing of real property (including any business conducted at the property as an incidental service to tenants) if such holding, leasing or managing of property is not subject to Unincorporated Business Tax under NYC Administrative Code Section 11-502(d) in taxable years beginning on or after July 1, 1994 or January 1, 1996, in the case of parking services rendered to tenants at a garage open to the public. (Refer to Who is Subject to the Tax, paragraph 6, on page 2 of these instructions.) Enter on line 19 the amount of income and gain reflected in Part 1, line

8, attributable to exempt real estate activities.

LINE 20 - OTHER SUBTRACTIONS

Describe in a separate schedule the nature and amount of any subtractions, such as:

- 1) the portion of gain included in computing part 1, line 8, from the sale or other disposition of property acquired before January 1, 1966, except:
 - a) stock in trade of the taxpayer or other property of a kind that would be properly included in his inventory if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; and
 - b) accounts or notes receivable acquired in the ordinary course of his/her trade or business for services rendered or from the sale of property described in "a" to the extent of the difference between:
 - i) the amount of gain reported at part 1, line 3, for each property; and
 - ii) the amount of gain that would be reported on line 3 for each property if the adjusted basis of the property on the date of sale or other disposition had been either:
 - A) its fair market value on January 1, 1966, plus or minus all federal adjustments to basis for the period after December 31, 1965; or
 - B) the amount realized from its sale or other disposition,
 whichever is lower.
 If the gain reported is from a sale of property before January 1, 1966, and reported on the installment method, the fair market value of the property on the date of sale must be substituted for its fair market value on January 1, 1966. The total adjustment may not exceed the taxpayer's net gain from the sale or other disposition of all the property.
- 2) interest on money borrowed to purchase or carry bonds or securities, the interest on which is subject to the

Unincorporated Business Tax but exempt from federal income tax; ordinary and necessary expenses paid or incurred during the taxable year in connection with such income or property held for the production of such income; and amortization of bond premium for the taxable year on any bond, the interest from which is subject to the Unincorporated Business Tax but exempt from federal income tax, to the extent these items were not deducted in computing part 1, line 8

- 3) any other subtractions required by Sections 11-506, 11-507 (other than charitable contributions) and 11-509 of the NYC Administrative Code. (Attach any appropriate schedules.)

Do not include on line 20 any net operating loss carryover. Any unincorporated business net operating loss deduction allowable in 2002 by reason of a carryover of a net operating loss sustained by the unincorporated business in prior years should be reported in Schedule E and on Schedule A.

SAFE HARBOR LEASES

This applies to agreements entered into prior to January 1, 1984. Effective for taxable years beginning on or after January 1, 1982, the NYC Administrative Code was amended to nullify the effects of federal "Safe Harbor Leases" upon New York City unincorporated business taxable income. (Refer to Sections 11-506 and 11-507 of the NYC Administrative Code for details.)

LINE 24 - CHARITABLE CONTRIBUTIONS

Deductions are allowed for charitable contributions made by the unincorporated business, as a tax entity separate and distinct from its owners or proprietors, to the extent they would be deductible by a corporation for federal income tax purposes, but not in excess of 5% of line 23. In general, contributions deductible by a corporation are the same as those for individuals, except that:

- 1) contributions to fraternal societies, orders and associations operating under the lodge system are not deductible; and
- 2) contributions to a trust, chest, fund or foundation are deductible only if they are to be used within the United States or its possessions.

LINE 26 - INVESTMENT INCOME

Investment income includes: 50% of dividends from stocks held for investment; interest from investment capital; net capital gain or loss from sales or exchanges of

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 capital loss that could not be 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 26a - DIVIDENDS FROM STOCKS HELD FOR INVESTMENT

Enter dividends not excluded on line 18. This includes 100% of dividends described in Sections 11-602.8(b)(13) and (15) of the Administrative Code; 100% of dividends from stock described in Sections 11-602.3(b) and (c) of the Administrative Code; 50% of dividends from corporations for which an exclusion was allowed on line 18 of this schedule; and 100% of dividends from stock not meeting the holding period requirement set forth in Section 246(c) of the IRC.

LINE 26d - INCOME FROM CASH

Enter income from cash on Schedule B, line 26d only if you have elected to treat cash as investment capital and have entered the amount thereof on Schedule D, line 3.

LINE 26f - DEDUCTIONS ATTRIBUTABLE TO INVESTMENT 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.

SCHEDULE C

Business Allocation

An allocation of business income is permitted for purposes of the Unincorporated Business Tax if you carry on business both inside and outside New York City.

ALLOCATION BY SEPARATE BOOKS AND RECORDS

If you carry on a business both inside and outside New York City and maintain books and records that fairly and equitably reflect income from the New York City business, complete Schedule C, parts 1 and 2 and attach a detailed schedule showing the source of each item of income and expense as being attributable to inside and outside New York City.

This apportionment must be a fair and equitable reflection of the income from New York City. In cases where the methods used in keeping the books of the business do not fairly and equitably reflect income and expense from New York City, the Department of Finance may specifically allocate items of income and expense to the various places of business.

ALLOCATION BY FORMULA

If the New York City income of the business cannot be determined from your books, income from business carried on both inside and outside New York City must be determined in accordance with the statutory formula or an alternative method approved by the Department of Finance. Schedule C, parts 1, 2 and 3 must be completed for this purpose in accordance with the following specific instructions.

An unincorporated business that derives more than 10% of its gross receipts for the taxable year from publishing newspapers or periodicals or radio or television broadcasting must allocate all its income using the statutory formula unless the Department of Finance requires an alternative method to be used in order to fairly and equitably reflect the taxpayer's business income in the City.

ALTERNATIVE ALLOCATION METHOD

If Schedule C, part 3 does not fairly and equitably reflect the income from New York City and you use an alternate method, you must still complete Schedule C, part 3, based upon the statutory formula, and attach a detailed explanation of the alternate allocation method used to determine New York City income, together with full details of any modification increasing or decreasing the amount of New York City income computed by use of the alternate method and how the alternative method is more equitable than the statutory formula.

If you carried on more than one business for which an alternative allocation method is required, a similar statement must be prepared for each business and attached to your return.

Security and commodity brokers should refer to 19 RCNY Section 28-07(h) for special rules for allocating commissions, manager fees, primary spreads, and selling concessions.

SCHEDULE C, PARTS 1 AND 2

Enter the information requested in parts 1 and 2, all columns. Indicate in the "rent" col-

umn whether you own or rent the premises listed. Enter the amount of rent paid, if any. (Attach rider if necessary.)

SCHEDULE C, PART 3

Complete this schedule if business is carried on both inside and outside New York City and you do not maintain separate books and records that fairly and equitably reflect the New York City operations of the business.

Compute the business allocation percentage by means of the three-factor formula as follows:

- the property factor (line 1)
- the payroll factor (line 2)
- the gross income factor (line 3)

Each factor is computed by dividing the amount in column A by the amount in column B. The resulting percentages are added together, the sum is divided by the number of percentages, and the resulting allocation percentage rounded to the nearest one hundredth of a percentage point is entered on line 5. If one of the factors is missing, the other percentages are added and the sum is divided by the number of percentages. If two of the factors are missing, the remaining percentage is the 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 taxpayer has no employees either inside or outside New York City and pays no wages. The allocation percentage is computed by adding the property percentage and the gross income percentage and dividing the total by two.

For taxable years beginning after 6/30/96, a manufacturing business may elect to use a double-weighted gross income factor. An election must be made on a timely filed original return and is made by entering on line 3b the amount from line 3a. If you make an election, add the percentages in Column C 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 3b.** For purposes of this election, a manufacturing business is an unincorporated business primarily engaged in the manu-

facturing 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 business is primarily engaged in manufacturing if more than 50% of its gross receipts for the year are attributable to manufacturing.

After the business allocation percentage is computed, multiply Schedule A, line 4 by the business allocation percentage to determine the amount allocated to New York City. Enter the result on Schedule A, line 5.

The three factors are described below in the instructions for lines 1a, 1b, 1c, 2 and 3. Complete lines 1a, 1b, 1c, and 1d of Schedule C, part 3, to determine the average value of real and tangible personal property of the business.

LINE 1a - REAL PROPERTY OWNED

Enter in column A the average value of real property located within New York City. Enter in column B the average value of real property connected with the business both inside and outside New York City. For this purpose, property connected with the business does not include property from which the taxpayer solely receives rental income not considered income from an unincorporated business. See "Who is subject to the Tax", paragraph 6, of these instructions. The average value of the property is determined by adding:

- 1) its value at the beginning of the taxable year, and
- 2) its value at the end of the taxable year, and dividing by two.

LINE 1b - REAL PROPERTY RENTED FROM OTHERS

The value of real property rented to the business and to be included in line 1b is generally **eight** times the gross rent payable during the taxable year for which the return is filed. Gross rent includes:

- 1) any amount payable for the use or possession of real property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise; and
- 2) any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other agreement;

and

- 3) that proportion of the cost of any improvement to real property made by or on behalf of the business which reverts to the owner or lessor upon termination of a lease or other agreement.

If a building is erected on land leased by or on behalf of the business, the value of the building is determined in the same manner as if it were owned by the business. The value of the underlying land is determined by multiplying the gross annual ground rent by eight. Enter the value of rented real property located within New York City in column A and the value of all rented real property in column B.

LINE 1c - TANGIBLE PERSONAL PROPERTY OWNED

Enter in column A the average value of tangible personal property located within New York City. Enter in column B the average value of all tangible personal property connected with the business both inside and outside New York City.

The average value of the property is determined by adding:

- 1) its value at the beginning of the taxable year, and
- 2) its value at the end of the taxable year, and dividing by two.

LINE 2 - WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION

The amounts to be entered on line 2 include wages, salaries, and other personal service compensation paid only to employees of the unincorporated business. Do not include payments to independent contractors or independent sales agents. The portion that represents the amount paid in connection with operations carried on in New York City should be entered on line 2 in column A.

The total compensation paid to employees during the taxable year in connection with unincorporated business operations carried on both inside and outside New York City should be entered in column B.

If an employee works in or travels out of an office or other place of business within New York City, the compensation paid to that employee for services is part of operations carried on within New York City and must be included in New York City amounts.

LINES 3a and 3b - GROSS SALES OF MERCHANDISE OR CHARGES FOR SERVICES RENDERED DURING THE YEAR

The amount to be entered on line 3a in column A is the portion of the total gross sales or charges that represents sales made or services performed by or through an agency in New York City. This includes sales made or services performed by employees, agents, agencies or independent contractors situated at, connected with, or sent out from, offices of the unincorporated business (or its agencies) located in New York City. For example, if a salesperson working out of the New York office of the business covers the states of New Jersey and Pennsylvania, all sales made by him or her are to be allocated to New York City and included in column A on line 3. Notwithstanding the foregoing, for taxable years beginning after June 30, 1996, the amount to be entered on line 3 in column A with respect to sales of tangible personal property is the portion of the total gross sales of tangible personal property that represents sales where shipment is made to a point within New York City.

Taxpayers engaged in publishing newspapers or periodicals must allocate receipts from advertising in such publications based on the circulation of the publication in the City compared to the total circulation. Taxpayers engaged in radio or television broadcasting, whether by cable or other means, must allocate receipts from broadcasting programs or commercial messages based upon the location of the audience for the broadcasts in the City compared to the total audience. Taxpayers engaged in publishing newspapers or periodicals or in radio or television broadcasting must allocate receipts from subscriptions to such newspapers, periodicals and broadcast programs based on the location of the subscriber.

Manufacturers electing to double-weight the gross income factor should enter the amount from line 3a, Column C, on line 3b. See 19 RCNY §28-07(d) for rules relating to the definition of manufacturing.

Receipts from management, administration 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.) See Admin. Code §11-508(e-2).

SCHEDULE D

Investment Allocation

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 governmental stocks, bonds and other securities the interest and dividends from which are totally exempt from the UBT, except such instruments that are disposed of during the taxable year, producing taxable gain or loss. Investment capital does not include those stocks, bonds or other securities that are held for sale to customers in the regular course of business. Investment capital does not include interests in, or obligations of, partnerships or other unincorporated entities.

To determine the value of your assets for investment allocation purposes, you must include 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).

ISSUER'S ALLOCATION PERCENTAGE

To determine the portion of investment capital to be allocated within the City, multiply the value of each stock or security during the period covered by the return (column E) by the issuer's allocation percentage for that stock or security.

This percentage may be obtained (1) from tax service publications, (2) by writing to: NYC Department of Finance, Taxpayer Correspondence, 25 Elm Place, 4th Floor, Brooklyn, NY 11201, or (3) by calling (718) 935-6000. If the issuer was not doing business in New York City during the preceding year, the percentage is "0".

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

Net Operating Loss Deduction

The net operating loss deduction allowable on Form NYC-202 is computed in the same manner for unincorporated business tax purposes as it would be for federal income tax purposes, but taking into account only unincorporated business gross income and unincorporated business deductions allocated to New York City of the unincorporated business.

If the unincorporated business was carried on both inside and outside New York City during the year in which the net operating loss was sustained, the allowable 2002 net operating loss deduction is to be determined by reference to the allocation basis or method used in the year the loss was sustained, regardless of whether the unincorporated business was carried on both inside and outside New York City during 2002. The amount of loss allocated to New York City for the loss year is the amount to be entered on line 1 of Schedule E.

LINE 7

If the amount on Schedule A, line 10 is a loss, enter "0." If you are submitting a Schedule E for more than one loss year, enter on line 7 of Schedule E for the earliest loss year the amount from Schedule A, line 10. On the Schedule E for any subsequent loss year, enter on line 7 the amount from Schedule A, line 10, reduced by the sum of the amounts entered on Schedules E, line 8, for any earlier loss years.

SCHEDULE F

Additional Required Information

All questions in this schedule (Questions 1 through 8) must be answered.

COMPOSITION OF 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 estimated tax payment to New York City has been stamped with a 12 digit Transaction ID Number on the face of your cancelled check.

TAXPAYER ASSISTANCE

For interest calculations and account information, contact Taxpayer Assistance, Monday through Friday, 8:30am to 5:30 pm.

Call: (718) 935-6000

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 the following address:

<http://nyc.gov/finance>

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.