

### GENERAL INFORMATION

#### S CORPORATIONS

An S Corporation is subject to the General Corporation Tax and must file either Form NYC-4S, NYC-4S-EZ or NYC-3L, whichever is applicable. See *Finance Memorandum 99-3 for information regarding the treatment of qualified subchapter S subsidiaries.*

*The income, gains, losses, deductions and capital of a qualified subchapter S subsidiary may not be included in the report of the parent S Corporation. A QSSS must file a separate report if it is subject to tax.*

#### ENTITIES TAXED AS CORPORATIONS

Unincorporated entities electing to be treated as associations taxable as corporations for federal income tax purposes pursuant to the federal "check-the-box" rules under IRC §7701(a)(3) are treated as corporations for City tax purposes and are not subject to the Unincorporated Business Tax. Eligible entities having a single owner disregarded as a separate entity under the "check-the-box" rules and treated as either a sole proprietorship or a branch for federal tax purposes will be similarly treated for City tax purposes. See *Finance Memorandum 99-1 for additional information.*

#### NEW TREATMENT AFFECTING CERTAIN SMALL CORPORATIONS

Under legislation enacted in 2007 and applicable to tax years beginning on or after January 1, 2007, corporations that meet certain requirements are not subject to the alternative General Corporation Tax bases measured by business and investment capital or by entire net income plus compensation paid to certain shareholders. Thus, eligible corporations will compute their tax using only the entire net income base or the fixed-dollar minimum tax, whichever is greater. In addition, for purposes of computing the tax based on entire net income, eligible corporations (other than New York State S corporations) can elect to use the sum of 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, rather than report the New York City, specific modifications normally required to compute New York City taxable income.

Corporations that qualify under these new provisions may be able to compute their General Corporation Tax liability on Form NYC-4S-EZ. Corporations required to file a General Corporation Tax return that are not eligible to file Form NYC-4S-EZ must file Form NYC 3L or Form NYC-4S. To determine which corporations are eligible to file Form NYC-4S, see the instructions to that form.

#### CORPORATIONS THAT MAY FILE FORM NYC-4S-EZ

Corporations (as defined in Section 11-602.1 of the New York City Administrative Code) doing business, employing capital, owning or leasing proper-

ty in a corporate or organized capacity, or maintaining an office in New York City must file a General Corporation Tax return. Because of new legislation, corporations meeting certain criteria may be eligible to use the new simplified Form NYC-4S-EZ (and not be required to use either Form NYC-3L or NYC-4S). To use Form NYC-4S-EZ, the corporation must meet the following requirements:

1. The corporation has a business allocation percentage of 100% for the taxable year, as determined under section 11-604.3.(a) of the Administrative Code.
2. The corporation has no investment capital or income and no subsidiary capital or income at any time during the taxable year.
3. The corporation's gross income, as defined in Internal Revenue Code §61, is less than \$250,000 for the taxable year.
4. The corporation does not modify its federal depreciation deduction as provided on Forms NYC-399 and NYC-399z.
5. The corporation does not owe a penalty for underpaying its estimated tax.
6. The corporation is filing the return on or before the due date of the return (including extensions) and does not owe any late filing or late payment penalties.

In addition, certain types of corporations and corporations with certain modifications to taxable income or claiming New York City tax credits cannot file Form NYC-4S-EZ or NYC-4S and must file Form NYC-3L.

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

A corporation must file Form NYC-3L and not Form NYC-4S or Form NYC-4S-EZ if:

- 1) it carries on business both inside and outside New York City.
- 2) it has subsidiary and/or investment capital;
- 3) it claims an optional deduction for expenditures relating to air pollution control facilities, as provided in Section 11-602.8(g) of the NYC Administrative Code;
- 4) it claims a modification with respect to gain arising on the sale of certain property, as provided in Section 11-602.8(h) of the NYC Administrative Code;
- 5) it is a real estate investment trust qualified under Sections 856 and 857 of the Internal Revenue Code;

- 6) it entered into a "safe harbor" lease transaction under provisions of Section 168(f)(8) of the Internal Revenue Code as it was in effect for agreements entered into prior to January 1, 1984;
- 7) it claims a credit for sales and compensating use taxes paid in the current year or is required to adjust its current General Corporation Tax as a result of credits claimed in prior years. See Instructions to Form NYC-9.5;
- 8) it claims a credit for increased real estate tax payments made to a landlord in connection with the relocation of employment opportunities to New York City, as provided in Section 11-604.13 of the NYC Administrative Code;
- 9) it claims a credit for certain costs or expenses incurred in relocating employment opportunities to New York City, as provided in Section 11-604.14, 11-604.17 or 11-604.19 of the NYC Administrative Code;
- 10) it claims a modification with respect to wages and salaries disallowed as a deduction for federal income tax purposes (work incentive/jobs credit provisions), as provided in Section 11-602.8(a)(7) of the NYC Administrative Code;
- 11) either separately or as a member of a partnership, it is engaged in an insurance business as a member of the New York Insurance Exchange;
- 12) it is a Regulated Investment Company as defined in Section 851 of the Internal Revenue Code;
- 13) it is a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation;
- 14) it claims a credit for New York City Unincorporated Business Tax paid by a partnership in which it is a partner as provided in Section 11-604.18 of the NYC Administrative Code;
- 15) it will be included in a combined report, Form NYC-3A;
- 16) it is required by Ad. Code section 11-602.8(n) either to add back royalty payments made to related members or subtract such payments from related members; or
- 17) It claims a credit for certain costs incurred in the production of qualified films and television shows, as provided in Section 11-604.20 of the NYC Administrative Code.
- 18) **It claimed a deduction pursuant to section 199 of the Internal Revenue Code (Income attributable to domestic production activities) on its federal tax return.**

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

- a) A dormant corporation that did not at any

- time during its taxable year engage in any activity or hold title to real property located in New York City.
- b) A nonstock corporation organized and operated exclusively for nonprofit purposes and not engaged in substantial commercial activities, that has been granted an exemption by the New York City Department of Finance.
- c) Corporations subject to taxation under Part 4 of Subchapter 3 of Chapter 6, Title 11 (Banking Corporations), or under Chapter 11, Title 11 (Utility Corporations) of the NYC Administrative Code, are not required to file General Corporation Tax returns. However, corporations that are subject to tax under Chapter 11 as vendors of utility services are subject to the General Corporation Tax in accordance with Section 11-603.4 of the NYC Administrative Code and must file a return.
- d) A limited profit housing corporation organized and operating pursuant to the provisions of Article Two of the Private Housing Finance Law.
- e) Insurance corporations.
- f) A Housing Development Fund Company (HDFC) organized and operating pursuant to the provisions of Article Eleven of the Private Housing Finance Law.
- g) Organizations organized exclusively for the purpose of holding title to property as described in Sections 501(c)(2) or (25) of the Internal Revenue Code.
- h) An entity treated as a Real Estate Mortgage Investment Conduit (REMIC) for federal income tax purposes. (Holders of an interest in a REMIC remain taxable on such interest or on the income therefrom.)
- i) Corporations principally engaged in the conduct of a ferry business and operating between any of the boroughs of the City under a lease granted by the City.
- j) A corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, provided that all of the capital stock of such corporation is owned by a municipal corporation of New York.
- k) Bank holding corporations filing on a combined basis in accordance with Section 11-646(f) of the NYC Administrative Code.
- l) Corporations principally engaged in the operation of marine vessels whose activities in the City are limited exclusively to the use of property in interstate or foreign commerce.
- m) Foreign corporations that are exempt under the provisions of Public Law 86-272. (See 19 RCNY Section 11-04 (b)(11).)

- n) An alien corporation, if its activities in the City are limited solely to investing or trading in stocks and securities for its own account within the meaning of IRC §864(b) (2) (A) (ii), or investing or trading in commodities for its own account within the meaning of IRC §864(b) (2) (B) (ii), or any combination of these activities. NYC Admin. Code §11-603.2-a.

**NOTE:**

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

**WHEN AND WHERE TO FILE**

The due date for filing is on or before March 16, 2009, or, for fiscal year taxpayers, on or before the 15th day of the third month following the close of the fiscal year.

Returns with remittances:

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

Returns claiming refunds:

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

All others:

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

**Certain short-period returns:** If this is **NOT** a final return and your Federal return covered a period of less than 12 months as a result of your joining or leaving a Federal consolidated group or as a result of a Federal IRC §338 election, this return generally will be due on the due date for the Federal return and not on the date noted above. **Check the box on the front of the return.**

**ACCESSING NYC TAX FORMS**

By Computer - Download forms from the Finance website at [nyc.gov/finance](http://nyc.gov/finance)

By Phone - Order forms through Finance's form ordering service, by calling 212-504-4035, and receive forms in the mail.

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

FORM NYC-EXT - Application for Automatic 6-Month Extension of Time to File Business Income Tax Return. File it on or before the due date of the return.

FORM NYC-EXT.1 - Application for Additional Extension is a request for an additional three months of time to file a return. A corporation with a valid six-month extension is limited to two additional extensions.

FORM NYC-8 - General Corporation Tax Claim for Refund is used to claim a credit or refund of General Corporation Tax. Please note that it cannot be used to file an amended return.

FORM NYC-222 - Underpayment of Estimated Tax by Corporations will help a corporation determine if it has underpaid an estimated tax installment and, if so, compute the penalty due. (Corporations filing Form NYC-222 cannot use Form NYC-4S-EZ)

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

FORM NYC-399 - Schedule of New York City Depreciation Adjustments is used to compute the allowable New York City depreciation deduction if a federal ACRS or MACRS depreciation deduction is claimed for certain property placed in service after December 31, 1980. (Corporations filing Form NYC-399 cannot use Form NYC-4S-EZ)

FORM NYC-399Z - Depreciation Adjustments for Certain Post 9/10/01 Property may have to be filed by taxpayers claiming depreciation deductions for certain sport utility vehicles or "qualified property," other than "qualified New York Liberty Zone property", "qualified New York Liberty Zone leasehold improvements" and "qualified resurgence zone property" placed in service after September 10, 2001 for Federal or New York State tax purposes. See Finance Memorandum 08-2, "Application of IRC §280F Limits to Sport Utility Vehicles". (Corporations filing Form NYC-399Z cannot use Form NYC-4S-EZ)

FORM NYC-400 - Declaration of Estimated Tax by General Corporations must be filed by any corporation whose New York City tax liability can reasonably be expected to exceed \$1,000 for the 2008 calendar year or fiscal year beginning in 2008.

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

FORM NYC-CR-A - Commercial Rent Tax Annual Return must be filed by every tenant that rents premises for business purposes in Manhattan south of the center line of 96th Street **and** whose annual or annualized gross rent for any premises is at least \$200,000.

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

**ESTIMATED TAX**

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

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

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

**NYC Department of Finance  
P.O. Box 5100  
Kingston, NY 12402-5100**

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

*For more information regarding estimated tax payments and due dates, you may call Finance's Customer Assistance at 212-504-4036.*

**AUTOMATIC EXTENSIONS**

An automatic extension of six months for filing this return will be allowed if, by the original due date, the taxpayer files with the Department of Finance an application for automatic extension on Form NYC-EXT and pays the amount properly estimated as its tax. See the instructions for Form NYC-EXT for information regarding what constitutes a proper estimated tax for this purpose. Failure to pay a properly estimated amount will result in a denial of the extension.

A taxpayer with a valid six-month automatic extension filed on Form NYC-EXT may request up to two additional three-month extensions by filing Form NYC-EXT.1. A separate Form NYC-EXT.1 must be filed for each additional three-month extension.

**PENALTY FOR UNDERSTATING TAX**

If there is a substantial understatement of tax (i.e., if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$5,000) for any taxable year, a penalty will be imposed equal to 10% of the amount of the understated tax. The amount on which you pay the penalty can be reduced by subtracting any item for which (1) there is or was substantial authority for the way in which the item was treated on the return, or (2) there is adequate disclosure on the return or in a statement attached to the return.

**CHANGE OF BUSINESS INFORMATION**

If there have been any changes in your business name, identification number, billing or mailing address or telephone number, complete Form DOF-1, Change of Business Information.

**FINAL RETURNS**

If a corporation ceases to do business in New York City, the due date for filing a final General Corporation Tax Return is the 15th day after the date of the cessation (Section 11-605.1 of the NYC Administrative Code). Corporations may apply for an automatic six-month extension for filing a final return by filing Form NYC-EXT. Any tax due must be paid with the final return or the extension, whichever is filed earlier.

**SIGNATURE**

This report must be signed by an officer authorized to certify that the statements contained in it 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.

**TAX PREPARERS**

Anyone who prepares a return for a fee must sign the return as a paid preparer and enter his or her Social Security Number or PTIN, see Finance Memorandum 00-1. 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**

See the instructions for Schedule B1 for those corporations that are eligible to use their New York State entire net income for purposes of computing the tax due under this method.

**LINE 4b****FIRST INSTALLMENT PAYMENT**

Do not use this line if an application for automatic extension (NYC-EXT) has been filed. The payment of the amount shown at line 4b is required as payment on account of estimated tax for the 2009 calendar year, if a calendar year taxpayer, or for the taxable year beginning in 2009, if a fiscal year taxpayer.

**LINE 6****PREPAYMENTS**

Enter the sum of all estimated tax payments made for this tax period, the payments made with the extension request, if any, and both the carryover credit and the first installment recorded on the prior tax period's return.

**LINE 9****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, see the Department of Finance website at: [http://home2.nyc.gov/html/dof/html/business/business\\_tax\\_interest.shtml](http://home2.nyc.gov/html/dof/html/business/business_tax_interest.shtml) or call **212-504-4036**.

**LINE 11****TOTAL REMITTANCE DUE NYC DEPARTMENT OF FINANCE**

If the amount on line 7 is greater than zero, enter on line 11 the sum of line 7 and line 9. After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 11.

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. Remittance must be made payable to the order of:

**NYC DEPARTMENT OF FINANCE**

**Your federal tax return should not be attached to this form.**

**SCHEDULE B1**

*This schedule should be used by taxpayers that are New York State C Corporations that elect to use their NYS entire net income for purposes of calculating their NYC General Corporation Tax. Deductions taken for General Corporation Tax on their federal corporate return should be added back to this amount.*

**SCHEDULE B2**

*This schedule is to be used by taxpayers that are either New York State S Corporations or are New York State C Corporations that do not elect to use the method provided in Schedule B1.*

**LINE 1****FEDERAL TAXABLE INCOME**

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

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

**S Corporations and qualified subchapter S subsidiaries (QSSS) must file as ordinary corporations. If you are an S Corporation filing on Form 1120S or a QSSS, you must report on line 1 the amount you would have had to report as taxable income were you not a federal S Corporation or a QSSS.**

Enter at Schedule B2, line 1, the total amount of income reported on lines 1 through 10 of federal form 1120S, Schedule K, less the total amount of deductions reported on lines 11 through 12d of that schedule. In addition, include other items and amounts that are required to be reported separately to shareholders and not numerically included on federal Schedule K, but attached in a separate schedule.

**NOTE:**

The charitable contribution deduction from federal Form 1120S, Schedule K, line 12a may not exceed 10% of the sum of lines 1 through 12d (other than line 12a) of Schedule K.

Corporations that are partners in partnerships that receive at least eighty percent of their gross receipts from providing mobile telecommunications services must exclude their distributive share of income, gains, losses and deductions from any such partnership, including their share of separately reported items, from their federal taxable income reported on line 1.

**LINE 2  
STATE AND LOCAL INCOME TAXES  
DEDUCTED ON FEDERAL RETURN**

The amount deducted on your federal return for income taxes paid or accrued to any state, any political subdivision of a state or to the District of Columbia, if they are on or measured by profits or income or include profits or income as a measure of tax, including taxes expressly in lieu of any of the foregoing taxes. Include the New York State Metropolitan Transportation business tax surcharge and the amount of New York City General Corporation Tax and Banking Corporation Tax deducted on your federal return.

**LINE 4  
NET OPERATING LOSS**

Enter New York City net operating loss carryforward from prior years. A deduction may *only* be claimed for net operating losses sustained in taxable years during all or part of which the corporation was subject to the General Corporation Tax. New York City allows net operating losses to be used in the same manner as provided by Section 172 of the Internal Revenue Code. However, the amount of any federal loss must be adjusted in accordance with Section 11-602.8(f) of the NYC Administrative Code.

**NOTE:**

**The deduction of a net operating loss carryforward from prior years may not exceed and is limited to the amount of the current year's federal taxable income. A net operating loss may not be claimed as a deduction if Schedule B2, line 1, reflects a loss.**

In addition, the deduction shall not exceed the deduction allowed for federal purposes or the deduction which would have been allowed if the taxpayer had not made an election to be (a) an S Corporation under the rules of the Internal Revenue Code or (b) included in a group reporting on a consolidated basis for federal income tax purposes.

The New York City net operating loss deduction shall be determined as if the taxpayer had elected to relinquish the carryback provision *except for the first \$10,000* of each of such losses. Losses which are not permitted to be carried back may generally be carried forward and used to offset income for the period permitted for federal tax purposes. In addition, any portion of the \$10,000 NOL permitted to be carried back but not used may be carried forward. See instructions for Forms NYC-8 and NYC-8CB for more information.

If the taxpayer elects to relinquish the entire carryback period for federal purposes, then the taxpayer may not carryback any amount for City purposes.

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 this return indicating that the taxpayer intends to carry back a net operating loss reported on this return, the taxpayer is presumed to have elected to relinquish the entire carryback period.

**LINE 5  
CITY / STATE REFUNDS**

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

**LINE 6  
TAXABLE NET INCOME**

Total the amounts listed on lines 4 and 5 and subtract the sum from line 3. Enter the result on line 6. If the entry on this line is a loss, a request to carry it back as a net operating loss deduction in any prior year must be made separately on Form NYC-8CB or Form NYC-8. Do not attach or mail a Form NYC-8CB or Form NYC-8 with the tax return. This request must be submitted within three years of the due date of the return for the loss year or within the period prescribed in Section 11-678 of the NYC Administrative Code.

**CUSTOMER ASSISTANCE**

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

**Call 212-504-4036**

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

**You can also visit our internet website at:**

**[nyc.gov/finance](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.