

Instructions for Form NYC-4S

NEW YORK CITY DEPARTMENT OF FINANCE



General Corporation Tax Return For fiscal years beginning in 2009 or for calendar year 2009

Highlights of Recent Tax Law Changes for Corporations

- Section 17 of Chapter 201 of the Laws of 2009 replaced the \$300 fixed dollar minimum tax with a sliding scale fixed dollar minimum tax based on receipts allocated to New York City for tax years beginning after 2008.
- The law was amended in 2009 to add the Metropolitan Commuter Transportation Mobility Tax (“MTA Payroll Tax”) under the Article 23 of the New York State Tax Law. General Corporation Tax (“GCT”) taxpayers must add this tax back to the extent it was deducted in computing federal taxable income. See Ad Code § 11-602(8)(b)(19) as added by section 17 of Chapter 25 of the Laws of 2009.
- 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 allowed under the Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009, except with respect to the depreciation deductions allowed with respect to “qualified New York liberty zone property” 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 Form NYC-399Z for more information.
- For tax years beginning in 2008, taxpayers who have claimed a deduction pursuant to section 199 of the Internal Revenue Code (Income attributable to domestic production activities) must add this amount back in determining entire net income for purposes of the General Corporation Tax. Taxpayers who must add back the amount deducted under IRC § 199 must use form NYC-3L. See Part HH-1 of Chapter 57 of the Laws of 2008 and Administrative Code sections 11-602(8)(b)(19) and 11-641(b)(15).
- For tax years beginning in 2007, taxpayers with (1) gross income, as defined under §61 of the Internal Revenue Code, of less than \$250,000, (2) a business allocation of 100%, and (3) no investment capital or income, or subsidiary capital or income are exempt from having to determine the alternative tax on capital and the alternative tax on entire net income plus compensation. See section 11-604(1)(D) of the Administrative Code of the City of New York, as added by Chapter 491 of the Laws of 2007. If a taxpayer meets these criteria and is otherwise eligible to file Form NYC 4-S, the taxpayer may be eligible to use new Form NYC-4S-EZ. To determine if you can use Form NYC-4S-EZ, see the instructions for that new form. Taxpayers who meet the three criteria noted above but are not eligible to file a Form NYC-4S-EZ must use Form NYC-3L but need not calculate the alternative tax on capital and the alternative tax on entire net income plus compensation. For purposes of computing entire net income for city purposes, corporations, other than New York State S corporations, that meet the three requirements listed above, may elect to use the sum of New York State entire net income and any deductions taken for the taxable year in computing federal taxable income for General Corporation Tax paid or accrued.
- For tax years beginning in 2009, the alternative tax measured by entire net income plus compensation is determined by using 18.75 percent, as a multiplier, instead of 30 percent. See Chapter 491 of the Laws of 2007.
- For films and shows completed on or after January 1, 2005, eligible taxpayers are allowed a Made in NYC Film Production Credit equal to 5% of the qualified production costs paid or incurred in the production of qualified films and television shows. Use Form NYC-9.9 to claim the credit on the General Corporation Tax.
- For tax years beginning on or after January 1, 2004, in determining ENI of taxpayers, other than eligible farmers (for purposes of the New York State farmers' school tax credit), the amount allowed as a deduction with respect to a sport utility vehicle that is not a passenger automobile for purposes of section 280F(d)(5) of the Internal Revenue Code is limited to the amount allowed under section 280F of the Internal Revenue Code as if the vehicle were a passenger automobile as defined in that section. Note that an SUV cannot qualify for the additional first year depreciation available under the Economic Stimulus Act of 2008 and the American Recovery and Reinvestment Act of 2009 for General Corporation Tax purposes. See Finance Memorandum 09-5, “Application of IRC §280F Limits to Sport Utility Vehicles” for more information.

GENERAL INFORMATION

S CORPORATIONS

An S Corporation is subject to the General Corporation Tax and must file Form 4S-EZ, if it is eligible to use that form, or Form NYC-4S or Form NYC-3L, whichever is applicable. Under certain limited circumstances, an S Corporation may be permitted or required to file a combined return. See, e.g., *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.

CORPORATION DEFINED

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.*

REPLACEMENT OF \$300 FIXED DOLLAR MINIMUM TAX WITH FIXED DOLLAR MINIMUM TAX BASED ON RECEIPTS

For tax years beginning after 2008, the \$300 fixed dollar minimum tax has been replaced with a sliding scale fixed dollar minimum tax based on receipts allocated to New York City. The sliding scale is the same as the one used to determine the fixed dollar minimum tax under the New York State Franchise Tax, but the receipts used to determine the fixed dollar minimum tax are the receipts allocated to the City instead of the receipts allocated to New York State. The amount of City receipts for this purpose is the same as the amount used for determining the taxpayer’s business allocation percentage. See *Ch. 201, § 17, of the Laws of 2009.* For taxpayers who use Form NYC-4S or NYC-4S-EZ, and, accordingly, allocate 100 percent of their income to the City, the amount of receipts used for this purpose is the total amount of all receipts the taxpayer has received in the regular course of business.

CORPORATIONS THAT MAY FILE FORM NYC-4S

Corporations (as defined in Section 11-602.1 of the New York City Administrative Code) doing business, employing capital, or owning or leasing property in a corporate or organized capacity, or maintaining an office in New York City must file a General Corporation Tax return. Corporations not required to file Form NYC-3L may file Form NYC-4S or Form NYC-4S-EZ.

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) for taxable years beginning after 6/30/96 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, 11-604.17-b or 11-604.19 of the NYC Administrative Code. See Instructions to Forms NYC-9.5, NYC-9.6 and NYC-9.8;
- 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.
- 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; or
- 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 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) For taxable years beginning on or after January 1, 1998, 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 15, 2010, or, for fiscal year taxpayers, on 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

By Phone - Order forms by calling 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

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-222 - Underpayment of Estimated Tax by Corporations will help a corporation deter-

mine if it has underpaid an estimated tax installment and, if so, compute the penalty due.

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

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 09-5, "Application of IRC §280F Limits to Sport Utility Vehicles".

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 2010 calendar year or fiscal year beginning in 2010.

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, see Form NYC-400 (Declaration of Estimated Tax).

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

Check the box marked "yes" on page 1 of this form if, on your federal return: (i) you reported bonus depreciation and/or a first year expense deduction under IRC §179 for "qualified New York Liberty Zone property," "qualified New York Liberty Zone leasehold improvements," or "qualified Resurgence Zone property," regardless of whether you are required to file form NYC-399Z, (ii) you claimed a federal targeted jobs credit for Liberty Zone business employees, or (iii) you replaced property involuntarily converted as a result of the attacks on the World Trade Center during the five (5) year extended replacement period. You must attach Federal forms 4562, 4684, 4797 and 8884 to this return. See instructions to Schedule B, lines 4 and 6b.

SCHEDULE A
Computation of Tax

LINES 2a AND 2b
TAX ON TOTAL CAPITAL

Enter the amount from Schedule C, line 7 in the left-hand column of line 2a or 2b. Multiply by the applicable percentage and enter the tax in the right-hand column. **If that amount exceeds \$1,000,000, enter \$1,000,000.**

For cooperative housing corporations as defined in the Internal Revenue Code, the rate of tax on capital is 4/10 mill (.04%) instead of 1 1/2 mills (.15%). For all other corporations subject to tax, including housing companies organized and operating pursuant to Article Four of the Private Housing Finance Law (other than cooperative housing corporations), the rate of tax on capital is 1 1/2 mills (.15%).

LINE 3b
ALTERNATIVE TAX

Every taxpayer that is eligible to file this form must calculate its alternative tax and enter its computation on line 3b. To compute the alternative tax, measured by entire net income plus compensation, you may use the following worksheet and attach the worksheet to the return. Professional corporations must calculate the alternative tax.

Alternative Tax Worksheet

Net income/loss (Schedule A, line 1)	1) \$ _____
Compensation. See Instr.	2) \$ _____
Total (line 1 plus line 2)	3) \$ _____
Statutory exclusion See Instr.	4) \$ _____
Net amount (line 3 minus line 4)	5) \$ _____
18.75% of net amount (line 5 x 18.75%)	6) \$ _____
Tax rate	7) 8.85%
Alternative tax (line 6 x line 7) Transfer amount to page 1, Schedule A, line 3b	8) \$ _____

Worksheet Instructions

LINE 2 - COMPENSATION

Include in the alternative tax computation 100% of all salaries and compensation, including commissions, paid to stockholders holding more than 5% of the corporation's stock, whether or not they are also officers, as deducted on the federal return and reported in Schedule D, line 2. For taxable years beginning after 6/30/99, no portion of officers' compensation is added back unless the officer is also a more than 5% shareholder.

In determining whether a stockholder owns more than 5% of the issued capital stock, include all classes of voting and nonvoting stock, issued and outstanding.

LINE 4

For taxable years beginning on or after 7/1/98, enter \$40,000. (If the return does not cover an entire year, the exclusion must be prorated based on the period covered by the return.)

LINE 6

Pursuant to NYC Administrative Code § 11-604(1)(H)(c) as added by Chapter 491 of the Laws of 2007, the amount on Line 5 is multiplied by 18.75% for tax years beginning on or after January 1, 2009 and before January 1, 2010.

LINE 4 - MINIMUM TAX

Enter the New York City Gross Receipts and Minimum Tax amount from the following table. The amount of New York City receipts for this purpose is the total amount of all receipts the taxpayer has received in the regular course of business from such sources as sales of personal property, services performed, rentals of property and royalties. This receipts amount would be the same as the amount that would have to be shown on Form NYC-3L, Schedule H, Column A, Line 2g if the taxpayer had filed Form NYC-3L.

TABLE - FIXED DOLLAR MINIMUM TAX

For a corporation with New York City receipts of:

Not more than \$100,000:.....	\$25
More than \$100,000 but not over \$250,000:....	\$75
More than \$250,000 but not over \$500,000:	\$175
More than \$500,000 but not over \$1,000,000:	\$500
More than \$1,000,000 but not over \$5,000,000:	\$1,500
More than \$5,000,000 but not over \$25,000,000:	\$3,500
Over \$25,000,000:	\$5,000

SHORT PERIODS - FIXED DOLLAR MINIMUM TAX

Compute the New York City receipts for short periods (tax periods of less than 12 months) by dividing the amount of New York receipts by the number of months in the short period and multiplying the result by 12. The fixed dollar minimum tax may be reduced for short periods:

PERIOD REDUCTION

Not more than 6 months.....	50%
More than 6 months but not more than 9 months	25%
More than 9 months	None

LINE 6b
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 6b is required as payment on account of estimated tax for the 2010 calendar year, if a calendar year taxpayer, or for the taxable year beginning in 2010, if a fiscal year taxpayer.

LINE 8
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. This figure should be obtained from the completed Composition of Prepayments Schedule on page 2 of Form NYC-4S.

LINE 11a
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 Finance website at nyc.gov/finance or call 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

LINE 11b
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, the above penalty will not be less than the lesser of (1) \$100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).
- c) A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.
- d) The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b.

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

LINE 11c
PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

A penalty is imposed for failure to file a declaration of estimated tax or for failure to pay the entire installment payment of estimated tax due. (For more information refer to Form NYC-222, *Underpayment of Estimated Tax by Corporations.*) If you underpaid your estimated tax, use Form NYC-222 to compute the penalty. Attach Form NYC-222. If no penalty is due, enter "0" on line 11c.

LINE 15
TOTAL REMITTANCE DUE NYC DEPARTMENT OF FINANCE

If the amount on line 9 is greater than zero or the amount on line 13 is less than zero, enter on line 15 the sum of line 9 and the amount, if any, by which

line 12 exceeds the amount on line 10. After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 15.

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

**LINE 16
RENT DEDUCTED ON FEDERAL RETURN**

Enter on this line total rent paid on business premises located inside New York City and deducted on federal return.

**SCHEDULE B
Computation of New York
City Taxable Income**

**LINE 1
FEDERAL TAXABLE INCOME**

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

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

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 B, line 1, the total amount of income reported on lines 1 through 10 of the 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.

For tax years beginning on or after August 1, 2002, 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.

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.

**LINES 3a AND 3b
STATE AND LOCAL TAXES**

On line 3a enter the amount deducted on your federal return for business 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 MTA Payroll Tax (Tax Law, Art. 23).

On line 3b, enter the amount of New York City General Corporation Tax and Banking Corporation Tax deducted on your federal return.

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

**LINES 4 AND 6b
DEPRECIATION**

The federal depreciation deduction computed under the Accelerated Cost Recovery System or Modified Accelerated Cost Recovery System (IRC Section 168) is not allowed for the following types of property:

- property placed in service in New York State in taxable years beginning before January 1, 1985 (except recovery property subject to the provisions of the Internal Revenue Code Section 280-F).
- property of a taxpayer principally engaged in the conduct of an aviation, steamboat, ferry, or navigation business, or two or more such businesses which is placed in service in taxable years beginning after December 31, 1988 and before January 1, 1994.

ACRS and MACRS may not be allowed for property placed in service outside of New York State in taxable years beginning before January 1, 1994 (except property subject to the provisions of Internal Revenue Code Section 280-F.) For information regarding depreciation deductions for property placed in service outside New York after 1984 and before 1994, see Finance Memorandum 99-4 "Property Placed in Service Outside New York After 1984 and Before 1994."

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed. Enter on line 4 the ACRS or MACRS adjustment from Form NYC-399, Schedule C, line 8, Column A. Enter on line 6b the ACRS or MACRS adjustment from Form NYC-399, Schedule C, line 8, Column B.

The Federal bonus depreciation allowed for "qualified property," as defined in the Job Creation and Worker Assistance Act of 2002 is not allowed for General Corporation 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. See, Finance Memorandum 02-3 (Revised) "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" for more information.

Economic Stimulus Act of 2008. Section 102 of the Economic Stimulus Act of 2008, Pub. L. No. 110-185, 122 Stat. 613 (Feb. 13, 2008) amended IRC section 168(k). As amended, section 168(k)(1)(A) provides a 50-percent additional first year depreciation deduction for certain new property acquired by the taxpayer after December 31, 2007, and before January 1, 2009 (in the case of certain property, before January 1, 2010), so long as no written binding contract for the acquisition of the property existed prior to January 1, 2008. Section 1201 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat 115 (February 17, 2009) further amended IRC section 168(k) by extending the 50 percent additional first year depreciation deduction to new property acquired before January 1, 2010 (in the case of certain property, before January 1, 2011.) However, as discussed above the Administrative Code limits the depreciation for "qualified property" other than "Qualified Resurgence Zone property" and "New York Liberty Zone property" to the deduction that would have been allowed for such property had the property been acquired by the taxpayer on September 10, 2001, and therefore, except for Qualified Resurgence Zone property, as defined in the Administrative Code and "New York Liberty Zone property", the City has decoupled from the federal bonus depreciation provision. The Administrative Code also requires appropriate adjustments to the amount of any gain or loss included in entire net income or unincorporated business entire net income upon the disposition of any property for which the federal and New York City depreciation deductions differ. Use Form 399Z for this calculation.

For tax years beginning on or after January 1, 2004, other than for eligible farmers (for purposes of the New York State farmers' school tax credit), the amount allowed as a deduction with respect to a sport utility vehicle that is not a passenger automobile for purposes of section 280F(d)(5) of the Internal Revenue Code is limited to the amount allowed under section 280F of the Internal Revenue Code as if the vehicle were a passenger automobile as defined in that section. For SUVs that are qualified property other than qualified Resurgence Zone property and other than New York Liberty Zone property, the amount allowed as a deduction is calculated as of the date the SUV was actually placed in service and not as of September 10, 2001. Note that for the 2008 tax year, for General Corporation Tax purposes: an SUV cannot qualify as either New York Resurgence Zone Property or as New York Liberty Zone property. See Administrative Code section 11-602(8)(o). Nor may an SUV qualify for the additional first year depreciation available under the Economic Stimulus Act of 2008 or the American Recovery and Reinvestment Act of 2009. On the disposition of an SUV subject to the limitation, the amount of any gain or loss included in income must be adjusted to reflect the limited deductions allowed for City purposes under this provision. Enter on Schedule B, lines 4 and 6b the appropriate adjustments from form NYC-399Z. See Finance Memorandum 09-5, "Application of IRC §280F Limits to Sport Utility Vehicles."

LINE 6a
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 B, 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 Form 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. Corporations that have elected to relinquish the carryback of a net operating loss must submit a copy of the federal election. *Attach a copy of the schedule supporting the deduction claimed on line 29(a) on page 1 of your federal Form 1120.*

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 6c
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 taxpay-

er's taxable (entire) net income in a prior year.

LINE 8
TAXABLE NET INCOME

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 an amended return. Do not attach or mail a Form NYC-8CB or an amended return with this 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.

SCHEDULE C
Total Capital

LINES 1 THROUGH 4
AVERAGE VALUE OF TOTAL ASSETS

To determine the value of your assets for business *capital* purposes, you must include real property and marketable securities at fair market value. The fair market value of any asset is the price, without any encumbrance, at which a willing seller, not compelled to sell, will sell, and a willing buyer, not compelled to buy, will buy.

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

On Schedule C, lines 1 through 5, enter the values at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. *Attach a schedule showing the computation of the average value.*

On line 2 enter the value of real property and marketable securities included in line 1. Enter on line 4 the fair market value of real property and marketable securities.

Average value is generally computed on a quarterly basis where the taxpayer's usual accounting practice permits. A more frequent basis may be used. If the taxpayer's usual accounting practice does not permit computation of average value on a quarterly or more frequent basis, a semiannual or annual basis may be used if no distortion of average values results.

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

LINE 6
TOTAL LIABILITIES

Title 11, Chapter 6 of the NYC Administrative Code permits the deduction of all liabilities (both long and short term) when computing business capital for purposes of the tax measured by capital. Use the same method of averaging as is used in determining average value of total assets.

LINE 7

If the period covered by this report is other than a period of twelve calendar months, after completing lines 1 through 6 but before entering any amount on line 7, multiply the excess of the amount on line 5 over the amount on line 6 by a fraction, the numerator of which is the number of months or major parts thereof included in such period and the denominator of which is twelve. Enter the resulting amount on line 7 of Schedule C and on Schedule A, line 2a or 2b. Attach a separate schedule showing computation.

SCHEDULE E
Additional Required Information

LINES 2 & 3

If you answer "Yes" to line 2, attach a separate sheet providing the street address, borough, block and lot number of such property and answer question 3b.

A controlling interest in the case of a corporation means:

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

LINE 4

No portion of the income, gain, loss, deduction or capital of a QSSS is permitted to be included in a report filed by the S corporation parent other than a combined report including the QSSS. The parent should file Form NYC-3L (See "Corporations required to file Form NYC-3L", item 2, *supra*.) The QSSS must file a separate general corporation tax report.

COMPOSITION OF PREPAYMENTS SCHEDULE
Enter the payment date and the amount of all prepayments made for this tax period.

LINE D

Include on this line the amount of any overpayment from the prior year credited toward your tax liability for the current tax year. Do not include this amount on Lines B or C.

For interest calculations and account information, call 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

You can also visit the Finance website at 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.