

Instructions for Form NYC-3A

NEW YORK CITY DEPARTMENT OF FINANCE



Combined General Corporation Tax Return for fiscal years beginning in 2011 or for calendar year **2011**

GENERAL INFORMATION

See *Instructions for Form NYC-3L for Highlights of Recent Tax Law Changes for Corporations and other additional instructions.*

REPLACEMENT OF \$300 FIXED DOLLAR MINIMUM TAX WITH FIXED DOLLAR MINIMUM TAX BASED ON ALLOCATED 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 receipts allocated to the City instead of receipts allocated to New York State, as is done under the Franchise Tax. 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.*

TRANSITION PROVISIONS RELATING TO THE ENACTMENT OF THE GRAMM-LEACH-BLILEY ACT OF 1999

The enactment of the Gramm-Leach-Bliley Act of 1999 affected the types of activities that banks can conduct and, consequently, affected the qualification of certain corporations as banking corporations subject to the New York City Banking Corporation Tax ("BCT"). See the instructions for Form NYC-3L for an explanation of various transition rules affecting the Bank Tax treatment of banks, bank holding companies, financial holding companies and other corporations.

Combined Filing under Transitional Provisions

A bank holding company doing business in the City that, during a taxable year beginning after 1999 and before 2013, registers for the first time as a bank holding company under the Bank Holding Company Act of 1956, as amended, and elects

to be a financial holding company, may file a combined report under the BCT for such year with one or more banking corporations doing business in the City and 65% or more owned or controlled, directly or indirectly, by that bank holding company without seeking permission from the Commissioner. In addition, such bank holding company may, without seeking the Commissioner's permission: (i) include in a combined report filed for a subsequent year beginning after 1999 and before 2013 any eligible banking corporation that, for the first time in such subsequent year, either is doing business in the City or meets the above ownership requirements; and (ii) eliminate from a combined report filed in any such subsequent year any corporation no longer meeting the requirements for combination in such subsequent year. Except as provided above, the permission of the Commissioner is required for any such bank holding company to cease to file on a combined basis, elect to file on a combined basis or make any changes to the composition of the group of corporations filing on a combined basis for any subsequent year. Adm. Code §11-646(f)(2)(iv).

Termination of GCT Tax Status under Transitional Provisions

The law was changed in 2009 to provide conditions under which corporations subject to tax under the GCT as a result of the transition rules relating to the Gramm-Leach-Bliley provisions (both existing and newly-formed corporations as described above) will no longer be taxable under the GCT. If any of the conditions set out below exist or occur in a tax year beginning on or after January 1, 2009, such a corporation will be taxable under the BCT, rather than the GCT, as of the first day of the tax year in which the condition applied:

- The corporation ceases to be a taxpayer under the GCT.
- The corporation becomes subject to the fixed dollar minimum tax under Ad. Code section 11-604(1)(E)(a)(4).

- The corporation has no wages or receipts allocable to New York City pursuant to Ad. Code section 11-604(3), or is otherwise inactive. However, this condition does not apply to a corporation that is engaged in the active conduct of a trade or business, or substantially all of the assets of which are stock and securities of corporations that are directly or indirectly controlled by it and are engaged in the active conduct of a trade or business.
- 65% or more of the voting stock of the corporation becomes owned or controlled directly by a corporation that acquired the stock in a transaction (or series of related transactions) that qualifies as a purchase within the meaning of Internal Revenue Code section 338(h)(3), unless both corporations, immediately before the purchase, were members of the same affiliated group (as such term is defined in IRC section 1504 without regard to the exclusions provided for in 1504(b)).
- The corporation, in a transaction or series of related transactions, acquires assets, whether by contribution, purchase, or otherwise, having an average value as determined in accordance with Ad. Code section 11-604(2) (or, if greater, a total tax basis) in excess of 40% of the average value (or, if greater, the total tax basis) of all assets of the corporation immediately before the acquisition and, as a result of the acquisition, the corporation is principally engaged in a business that is different from the business immediately before the acquisition (provided that such different business is described in Ad. Code section 11-640(a)(9)(i) or (ii)).

Ad. Code section 11-640(m).

REQUIREMENTS FOR FILING ON A COMBINED BASIS

General Requirements

A group of corporations meeting the requirements set forth below must file a combined report. Filing or not filing on a combined basis is subject to review on audit. This report will not be considered

complete unless all of the information required is submitted.

A combined report is required if the requirements set forth in items A and B below are met:

A- Related Corporation:

A related corporation is:

- (1) Any corporation substantially all the capital stock of which the taxpayer owns or controls either directly or indirectly;
- (2) Any corporation which owns or controls directly or indirectly substantially all the capital stock of the taxpayer; and
- (3) Any corporation the capital stock of which is owned or controlled directly or indirectly by interests that own or control directly or indirectly substantially all the capital stock of the taxpayer.

“Substantially all” is ordinarily considered the actual or beneficial ownership or control of 80% or more of the voting stock of the issuing corporation throughout the taxable year.

B - Substantial Intercorporate Transactions:

A GCT taxpayer must file on a combined basis with any related corporations described in item A, above, if there are substantial intercorporate transactions among the related corporations. It is not necessary that there be substantial intercorporate transactions between any one corporation and every other related corporation. It is necessary, however, that there be substantial intercorporate transactions between the taxpayer and a related corporation or, collectively, a group of such related corporations. In determining whether there are substantial intercorporate transactions, the commissioner shall consider and evaluate all activities and transactions of the taxpayer and its related corporations. Activities and transactions that will be considered include, but are not limited to: (1) manufacturing, acquiring goods or property, or performing services, for related corporations; (2) selling goods acquired from related corpora-

tions; (3) financing sales of related corporations; (4) performing related customer services using common facilities and employees for related corporations; (5) incurring expenses that benefit, directly or indirectly, one or more related corporations; and (6) transferring assets, including such assets as accounts receivable, patents or trademarks from one or more related corporations.

Additional Circumstances For Combined Filing

In addition, the Department of Finance may require or permit a taxpayer to file a combined report with one or more related corporations even if substantial intercorporate transactions are absent under circumstances in which a combined report is necessary to properly reflect the taxpayer’s GCT liability because of intercompany transactions or some agreement, understanding, arrangement, or transaction.

Exceptions

Alien corporations, corporations that are taxable under Title 11, Chapter 6, Subchapter 3 or under Title 11, Chapter 11 (except a vendor of utility services that is taxable under both Chapter 11 and Subchapter 2 of Chapter 6), and insurance corporations may not be included in a combined report.

No taxpayer may file a report on a combined basis covering any other corporation where the taxpayer or the other corporation allocates in accordance with the special allocation provisions applicable to aviation corporations or corporations principally engaged in the operation of vessels and the taxpayer or other corporation does not allocate using the special allocation provisions.

Reporting Corporation

In general, the parent corporation should act as the reporting corporation for the combined group. The reporting corporation must be the parent corporation if it is a member of the combined group. A parent corporation is the corporation that owns or controls, directly or indirectly, substantially all of the capital stock of each other member of the combined group. If the parent corporation is not part of the combined

group, the combined group must then designate a member as its reporting corporation.

If the parent corporation is not part of the combined group, or if substantially all of the capital stock of a parent corporation that is a member of the combined group is owned or controlled, directly or indirectly, by a person or corporation that is not part of the combined group, enter the name of the non-member parent or that person or corporation and its Employer Identification Number (if any) in the box entitled “Name of Parent of Controlled Group” on page 1. The name entered should correspond to the person or corporation listed on line 3 or 4 of Schedule J of Form NYC-3L of other corporations included in the combined report.

Special Rules For Combining Captive Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs).

Captive REITs and RICs.

For tax years beginning on or after January 1, 2009, the law has been amended to provide that a captive REIT or RIC must generally be included in a combined report under the General Corporation Tax (GCT) or Banking Corporation Tax (BCT). Under new Ad. Code 11-601(12), a REIT or RIC is a captive REIT or RIC if more than 50% of its voting stock is owned or controlled, directly or indirectly, by a single corporation. Any voting stock held in a segregated asset account of a life insurance corporation as described in Internal Revenue Code section 817 is not taken into account for the purpose of determining the percentage of stock ownership. As explained more below, if a corporation subject to the GCT directly owns over 50% of the voting stock of a captive REIT or RIC or is the “closest controlling shareholder” of a captive REIT or RIC, then the captive REIT or RIC must be included in a combined report under the GCT with that corporation. For these purposes, the “closest controlling stockholder” means the corporation: (a) that indirectly owns or controls over 50% of the voting stock of a captive REIT or RIC; (b) is subject to tax

under the GCT or BCT or otherwise required to be included in a combined report or report under the GCT or BCT; and (c) is the fewest tiers of corporations away in the ownership structure from the captive REIT or RIC.

If a captive REIT or RIC is required to be included in a combined report under the GCT, it will be subject to tax under the GCT. Ad. Code § 11-605(4)(a)(5). **Note that if a captive REIT or RIC is required to be included in a combined report under the BCT, it will not be subject to tax under the GCT, and, as a result, must file an NYC-1 report. Ad. Code section 11-640(d). Further, the Gramm-Leach-Bliley transitional provisions do not apply to a captive REIT or a RIC required to be included in a combined report under the BCT as provided by Ad. Code section 11-640(g)(4).**

Requirement to be Included in a Combined Report under the GCT.

A captive REIT or RIC must be included in a combined report under the GCT under the following conditions:

- (1) A captive REIT or a RIC must be included in a combined report with the corporation that directly owns or controls over 50% of the voting stock of the captive REIT or RIC if that corporation is subject to tax or required to be included in a combined report under the GCT.
- (2) If over 50% of the voting stock of a captive REIT or RIC is not directly owned or controlled by a corporation that is subject to tax or required to be included in a combined report under the GCT, then the captive REIT or RIC must be included in a combined report with the corporation that is the "closest controlling" stockholder of the captive REIT or RIC. If the corporation that is the "closest controlling" stockholder is subject to tax or required to be included in a combined report under the GCT, then the captive REIT or RIC must be included in a combined report under the GCT.
- (3) If the corporation that directly owns or controls the voting stock of the captive REIT or captive RIC is described as a corporation that is not permitted to make a combined report as provided in Ad. Code section 11-605(4)(a)(1), (a)(2) or (a)(4), then the captive REIT or captive RIC must determine the closest controlling shareholder under Ad. Code section 11-605(4)(a)(5)(iii) to be included in a combined report with that corporation. If the corporation that is the closest controlling stockholder of the captive REIT or captive RIC is a corporation not permitted to make a combined report, then that corporation is deemed to not be in the ownership structure of the captive REIT or captive RIC, and the closest controlling stockholder will be determined under Ad. Code section 11-605(4)(a)(5)(iii) without regard to that corporation.
- (4) If a captive REIT owns the stock of a qualified REIT subsidiary (as defined in IRC section 856(i)(2)), then the qualified REIT subsidiary must be included in any combined report required to be made by the captive REIT that owns its stock.
- (5) If a captive REIT or a RIC is required by any of the conditions set out herein to be included in a combined report with another corporation, and that other corporation is required to be included in a combined report with another corporation under other provisions of Ad. Code 11-605(4)(a), the captive REIT or RIC must be included in that combined report with those corporations.
- (6) If a captive REIT or RIC is not required to be included in a combined report or report under the GCT (Ad. Code § 11-605(4)(a)(5)) or BCT (Ad. Code § 11-646(f), then the corporation will be required to be file a combined report if it either meets the substantial intercorporate transactions requirement provided in Ad. Code 11-605(4)(a) or the inter-company transactions or agreement, understanding, arrangement or

transaction requirement of Ad. Code § 11-605(4)(a)(3) is satisfied and more than 50% percent of the voting stock of the captive REIT or the captive RIC and substantially all of the capital stock of that other corporation are owned and controlled, directly or indirectly, by the same corporation.

Computation of tax for Captive REITs and RICs.

In the case of a combined report under the GCT, the tax is measured by the combined entire net income or combined capital of all the corporations included in the report, including any captive REIT or RIC.

In the case of a captive REIT or RIC that must be included in a combined report, the entire net income of the captive REIT must be computed under Ad. Code § 11-603(7) and the entire net income of a captive RIC must be computed under Ad. Code § 11-603(8).

In computing entire net income, the deduction under the IRC for dividends paid by the captive REIT or RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over 50% of the voting stock of the captive REIT or RIC must be added back to the federal taxable income of the captive REIT or RIC for tax years beginning on or after January 1, 2009. The term affiliated group is defined in IRC section 1504 without regard to the exceptions of 1504(b).

OTHER FORMS AND MINIMUM TAX

Every corporation included in this combined return is required to file a separate return on Form NYC-3L. Schedules B through H on the separate returns (Form NYC-3L) must be completed and the appropriate information transferred to Schedules I through L on Form NYC-3A to compute the combined tax. In addition, information from the Schedule B of the 3L for each member of the combined group must be used to complete the Composite Schedule B Information, Part 3 of the Combined Group Information Schedule, Form NYC-3A, page 7. For more on the Composite Schedule B Information, see page 6 of these Instructions.

Payment must include the combined tax plus a minimum tax for each corporation included in the combined report with the exception of any corporation not otherwise subject to the tax. The remittance must be payable in U.S. dollars drawn on a U.S. bank. Checks drawn on foreign banks will be rejected and returned.

Each General Corporation Tax Return (NYC-3L) attached to this return must be signed by a duly authorized officer of the corporation covered by that return.

SIGNATURE

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

BUSINESS AND INVESTMENT ALLOCATIONS

Corporations that allocate must complete Schedules D and H of Form NYC-3L.

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

Special 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 on the return on page 2. **Check the box on the front of the return.**

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.

IF MORE THAN THREE CORPORATIONS ARE INCLUDED IN THE COMBINED RETURN, ATTACH MULTIPLE COPIES OF PAGE 2 OF THIS FORM. DO NOT ATTACH MULTIPLE COPIES OF PAGE 3.

SCHEDULE A

Computation of Tax

LINE A - PAYMENT

After completing this form, enter the amount of your payment. Your payment should be the full amount as shown on line 23.

LINE 2 - ALLOCATED CAPITAL

The tax based on allocated combined capital is limited to \$1,000,000. Multiply the amount from Schedule M, line 10 by the applicable percentage, but do not enter more than \$1,000,000 in the right-hand column on line 2, Schedule A.

LINE 3 - ALTERNATIVE TAX

Every taxpayer, including a professional corporation but excluding a real estate investment trust or regulated investment company, must calculate its alternative tax.

LINE 4 - MINIMUM TAX

Enter the amount of New York City Receipts for the reporting corporation from Schedule H, Column A, Line 2g of Form NYC-3L and the Minimum Tax amount for the reporting corporation from the following table. If 100% of your business income is to be allocated to the City, enter the total amount of your business receipts, which should be the same as the amount that you would have had to enter on line 2g of Schedule H of Form NYC-3L if you had been required to complete that line.

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 City 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 months50%
- More than 6 months
but not more than 9 months25%
- More than 9 months.....None

LINE 9 - UBT PAID CREDIT

Enter on line 9 the credit against the General Corporation tax for unincorporated business tax paid by partnerships from which any corporation included in this return receives a distributive share or guaranteed payment that is included in calculating General Corporation Tax liability on either the entire net income or income plus compensation base. Attach Form(s) NYC-9.7 (UBT Paid Credit).

LINE 10a

Attach Form NYC-9.5 (Claim for Credit Applied to General Corporation Tax).

LINE 10b - CREDITS FROM FORM NYC-9.8

Enter on this line the credit against the General Corporation Tax for the new Lower Manhattan relocation and employment assistance program. (Attach Form NYC-9.8.)

LINE 11a

Attach Form NYC-9.6 (Claim for Credit Applied to General Corporation Tax).

LINE 11b

Attach Form NYC-9.9. (Claim for Made in NYC Film Production Credit.)

LINE 16 - PREPAYMENTS

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

LINE 23

If the amount on line 17 is greater than zero or the amount on line 21 is less than zero, enter on line 23 the sum of line 17 and the amount, if any, by which line 20 exceeds the amount on line 18.

SCHEDULE I

Analysis of Income and Capital from Form NYC-3L

Include in Column B, intercorporate eliminations and any other modifications, including net operating loss deduction. Please explain on rider.

SCHEDULE J

Business allocation from Form NYC-3L

WEIGHTED FACTOR ALLOCATION

For taxable years beginning in 2011, taxpayers must weight the three factors as follows: 23.5% for property; 23.5% for wages; and 53% for receipts. See Ad. Code section 11-604(3)(a)(10) as added by section 2 of Chapter 201 of the Laws of 2009. Those combined groups using weighted factors must complete the columns as appropriate for the lines on Schedule J. The following example illustrates the calculation of the business allocation percentage using weighted factors:

Example:

Assume the percentages on lines 3, 7 and 11 are as follows:

- 3. 25.0001%
- 7. 35.6103%
- 11. 65.2207%

The amounts on lines 4, 8, 12, 13, and 14 should be calculated as follows:

- 4. 25.0001X 23.5 = 587.5024
- 8. 35.6103X 23.5 = 836.8421
- 12. 65.2207X 53 = 3456.6971
- 13. Sum of above = 4881.0416
- 14. Divide line 13 by 100

Express as a percentage: 48.81%

NOTE - For purposes of computing the business allocation percentage using the weighted factor method, as described above, a factor is not missing merely because its numerator is zero, but is missing if both its numerator and denominator are zero.

ALTERNATIVE ALLOCATION METHOD

You cannot use an allocation method other than the formula basis set out in Schedule H without the consent of the Department of Finance. In order to request consent to use a different method of allocation, a written request, separate and apart from filing this return, must be submitted. For details on how to make such a request, go to www.nyc.gov/finance. If the consent to use a different allocation method has not been obtained at the time of the filing of the return, you must use the formula

basis set out in Schedule H, and pay the tax in accordance therewith. If the Department consents to your proposed alternative allocation method and it results in a lower tax liability than the formula basis set out in Schedule H, you may be entitled to claim a refund of the excess amount you have paid.

SCHEDULE K - LINE 3

Enter in Column C, page 3, the amount from line 1 divided by the amount from line 2, rounded to the nearest one hundredth of a percentage point.

SCHEDULE M

Summary

LINE 1

See Form NYC-3L, instructions for Schedule B, line 23b to compute investment income for corporations included in this combined report.

LINES 6 - 9

If the tax period reported on this return is less than 12 months and allocated capital has been separately prorated on Form NYC-3L for the corporations included in this combined report, do not prorate allocated capital again. See Form NYC-3L, instructions for Schedule E, lines 7 through 11 for more information and for information on calculating business and investment capital for the corporations included in this combined report.

LINE 10 - ISSUERS ALLOCATION PERCENTAGE

Enter on line 10 and on Schedule A, line 24, the amount from line 8 plus the amount from line 9 divided by the amount from Schedule I, line 6, Column C, rounded to the nearest one hundredth of a percentage point. Do not calculate your issuer's allocation percentage by adding the business, investment and subsidiary capital allocation percentages and dividing that total by the number of percentages. If the tax period reported on this return is less than 12 months and the amount on line 9 has been prorated, in calculating the issuers allocation percentage, use the amount that would have been entered on line 9 had there been no proration. The issuer's allocation percentage cannot be less than zero.

LINES 12 AND 13

Enter on Line 12 the sum of the fixed dollar minimum tax amounts for each corporation (other than the reporting corporation) as shown on Schedule A, Line 4 of Form 3L for which the minimum tax amount is \$1,500 or more for each such corporation required to have fixed dollar minimum tax included on this Form. Enter on Line 13 the sum of the fixed dollar minimum tax amounts for each corporation (other than the reporting corporation) as shown on Schedule A, Line 4 of Form 3L for which the minimum tax amount is \$500 or less for each such corporation required to have fixed dollar minimum tax included on this form.

COMBINED GROUP INFORMATION SCHEDULE

All of the information required on this Schedule must be submitted for this return to be considered complete. Failure to provide any information requested will result in correspondence and may result in the filing on a combined basis by this group of corporations being revised or disallowed.

AFFILIATIONS SCHEDULE

List names of all affiliated corporations, including those not included in this combined report, their federal Employer Identification Number, if any, and principal business activity. In addition, list the entity that directly owns the corporation, the Employee Identification Number and the number of shares of voting capital stock owned and outstanding at the beginning of the year. An affiliated corporation for purposes of completing the schedule is a corporation that satisfies the stock ownership or control requirements set forth in Section A, "Related Corporation," on page 2 of these instructions, without regard to any limitation that may otherwise exclude the corporation from the combined report.

You may attach a completed federal Form 851 for any domestic corporations that would otherwise be included on the Affiliations Schedule.

COMBINED GROUP INFORMATION SCHEDULE - Part 3 - Composite Schedule B Information

Fill in the composite Schedule B information, Line 1 through Line 24. For each line in the Composite Schedule B Information, enter the sum of each of the corresponding lines from parent's and subsidiaries' NYC-3L Schedule B.

See page 2 of your 2011 Form NYC-3A for mailing instructions and addresses.