

# Instructions for Form NYC-202EIN

## Unincorporated Business Tax Return For Estates and Trusts

# 2021

### Highlights of Recent Tax Law Changes for Unincorporated Businesses

- For details on the proper reporting of income and expenses addressed in the federal Tax Cuts and Jobs Act of 2017, such as mandatory deemed repatriation income, foreign-derived intangible income (FDII), global intangible low-taxed income (GILTI), please refer to Finance Memorandum 18-10. For information about the IRC section 163(j) limitation on the business interest expense deduction, please refer to Finance Memorandum 18-11.
- Note that according to the federal Tax Cuts and Jobs Act of 2017, net operating losses generated during or after 2018 generally may no longer be carried back. These losses may be carried forward indefinitely; however each year's deduction will be limited to 80% of taxable income (without regard to the deduction).
- In general, for tax years beginning in or after 2018, taxpayers who allocate business income inside and outside New York City must do so using single receipts factor allocation, i.e. the portion of the total gross sales or charges for services performed in New York City. See Administrative Code section 11-508.
- For taxable years beginning on or after January 1, 2015, federal or state tax base changes should be reported as an Amended Return. See Finance Memorandum 17-5, "Reporting Federal or State Changes", revised and dated October 10, 2018, for more information.
- For purposes of the New York City Unincorporated Business Tax, General Corporation Tax, Banking Corporation Tax and Business Corporation Tax, the City has "decoupled" from the Federal bonus depreciation allowed under IRC section 168(k), 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. See Form NYC-399Z and Finance Memorandum 21-1, "Application of the IRC §280F to Sports Utility Vehicles" for more information.
- Royalty payments -- For tax years beginning on or after January 1, 2013, the Unincorporated Business Tax has been amended to change the treatment of royalty payments to related members. Under prior law, taxpayers who made royalty payments to related entities were required to add back the amount of the payments to taxable income if those payments were deducted when calculating federal taxable income and if the royalty recipient, under certain conditions, could exclude the royalty income. Ad. Code section 11-506(e), as amended, eliminates the income exclusion previously allowed to certain royalty recipients and increases to four the number of exceptions to the add-back requirement. Part E of Chapter 59 of the Laws of 2013, § 9. For more information, see "Royalty Payments to Related Members," below.

### IMPORTANT INFORMATION CONCERNING FORM NYC-200V AND PAYMENT OF TAX DUE

Payments may be made on the NYC Department of Finance website at [nyc.gov/eservices](https://nyc.gov/eservices), or via check or money order. If paying with check or money order, do not include these payments with your New York City return. Checks and money orders must be accompanied by payment voucher form NYC-200V and sent to the address on the voucher. Form NYC-200V must be postmarked by the return due date to avoid late payment penalties and interest. See form NYC-200V for more information.

## GENERAL INFORMATION

### WHO MUST FILE

For tax years beginning in 2009 or later, any individual or unincorporated entity that carries on or liquidates a trade, business, profession or occupation wholly or partly within New York City and has a total gross income from all business regardless of where carried on of **more than \$95,000** (prior to any deduction for cost of goods sold or services performed) must file an Unincorporated Business Tax Return. See Finance Memorandum 99-1 for information regarding the treatment of single member limited liability companies owned by individuals that are disregarded for federal income tax purposes.

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

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

### WHICH FORMS TO FILE

Estates and Trusts must use Form NYC-202EIN. Individuals must file on Form NYC-202 or NYC-202S. Single-member LLCs must file on Form NYC-202. Partnerships (including any incorporated entity other than a single-member LLC treated as a partnership for federal income tax purposes) or other unincorporated organizations must file Form NYC-204 or Form 204EZ.

### WHO IS SUBJECT TO THE TAX

- 1) The Unincorporated Business Tax is imposed on any individual or unincorporated entity (including a partnership, fiduciary or corporation in liquidation and including any incorporated entity treated as a partnership for federal income tax purposes) engaged in any trade, business, profession, or occupation wholly or partly carried on within New York City.
- 2) Income received from the practice of law, medicine, dentistry, architecture, or any other profession is subject to the Unincorporated Business Tax.
- 3) S Corporations are not subject to the Unincorporated Business Tax. S Corporations are subject to the General Corporation Tax.

### 4) The Unincorporated Business Tax does not apply to:

- a) any entity subject to the tax imposed by Title 11, Chapter 6 of the NYC Administrative Code. For taxable years beginning in 1996 and thereafter, unincorporated associations and publicly traded partnerships taxable as corporations for federal income tax purposes under IRC §7701 (a) (3) and §7704 are subject to the applicable corporate tax under Title 11, Chapter 6 of the NYC Administrative Code and not the Unincorporated Business Tax. **However, unincorporated entities that were subject to the Unincorporated Business Tax for tax years beginning in 1995 that elected to continue to be subject to the Unincorporated Business Tax for years after 1995 on a timely filed Unincorporated Business Tax return for the tax year beginning in 1996 continue to be subject to the Unincorporated Business Tax.**
  - b) any entity subject to the tax imposed by Title 11, Chapter 11 (Utility Tax) of the NYC Administrative Code (except that vendors of utility services are subject to the Unincorporated Business Tax on that percentage of their entire net income allocable to the City which their non-utility receipts bear to their total receipts);
  - c) any entity carrying on an insurance business as a member of the New York Insurance Exchange (authorized in Section 6201 of the Insurance Law);
  - d) Real Estate Mortgage Investment Conduits (REMICs). Holders of interests in a REMIC remain taxable on such interests or on the income from such interests.
  - e) certain wireless telecommunications service providers - Effective for tax periods beginning on and after August 1, 2002, entities that receive eighty percent or more of their gross receipts from charges for providing mobile telecommunications services to customers will be taxed as if they were regulated utilities for purposes of the New York City Utility Tax and Unincorporated Business Tax. Thus, such entities will be subject to only the New York City Utility Tax and not the Unincorporated Business Tax.
- 5) An individual, trust or estate, except a

dealer as defined in Admin. Code §11-501 (l) will not be deemed engaged in an unincorporated business solely by reason of the conduct of the following activities for the taxpayer's own account: the purchasing, holding or selling of property (defined below), engaging in transactions in positions in property, the acquisition, holding or disposition, other than in the ordinary course of business, of interests in unincorporated entities also eligible for this exemption, and any other activity not constituting an unincorporated business subject to the Unincorporated Business Tax.

**Property Defined.** Property for this purpose includes real and personal property, including property qualifying as investment capital (see instructions for Schedule D of this form) and other stocks and securities, notional principal contracts, derivative financial instruments and other positions in property but excluding property and positions in property held by a dealer, and excluding debt instruments acquired in the ordinary course of a trade or business and certain other property. See Admin. Code §11-502 (c) (1) (A).

Notwithstanding anything to the contrary, the receipt of \$25,000 or less of gross receipts during the taxable year (determined without regard to any deductions) from an unincorporated business will not disqualify the taxpayer for this exemption.

- 6) A person that is an owner, lessee or fiduciary will not be deemed to be engaged in an unincorporated business solely by reason of the holding, leasing or managing of real property. For taxable years beginning on or after July 1, 1994, if an individual or unincorporated entity is carrying on an unincorporated business in whole or in part in the City, and is also holding, leasing or managing real property as an owner, lessee or fiduciary, the holding, leasing or managing of the property will not be considered an unincorporated business to the extent that the real property is held for the purposes of producing rental income or gain on the disposition of the real property, **provided, however, this partial exemption for rental real estate is not available to a dealer holding real property primarily for sale to customers in the ordinary course of the dealer's trade or business.** The operation by any taxpayer, otherwise eligible for the partial exemption, of a garage or other business at the property solely for the benefit of tenants in the property that is not open or available to the general public will be considered to be inci-

dental to the holding, leasing or managing of the property and will not be considered an unincorporated business. However, if such a taxpayer operates a garage or other business at the property that also is open or available to the general public, that garage or other business will be considered a taxable unincorporated business, provided, however, for taxable years beginning after 1995, if a taxpayer operates a garage that is open to building tenants and the public, the operation of that garage will not be considered a taxable unincorporated business but only to the extent of income from parking services provided at that garage to building tenants on a monthly or longer-term basis and **only if the information required to be filed with this return specified below is provided with respect to that garage.** All other income from the operation of that garage will be subject to the tax.

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

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

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

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

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

**ROYALTY PAYMENTS TO RELATED MEMBERS**

For tax years beginning on or after January 1, 2013, the Unincorporated Business Tax has been amended to change the treatment of royalty payments to related members. Under prior law, taxpayers who made royalty payments to related entities were required to add back the amount of the payments to taxable income if they were deducted when calculating federal taxable income. To avoid double taxation, if the royalty recipient was also a New York taxpayer, the statute allowed the recipient to exclude the royalty income if the related member added back the deduction for the royalty payment expense.

Ad. Code section 11-506(e), as amended, eliminates the income exclusion previously allowed to certain royalty recipients. It also modifies the two previous exceptions to the add-back requirement and adds two additional exceptions. Those four exceptions generally can apply in following situations (for additional conditions that must be met, see sections indicated below):

- If all or part of the royalty payment a related member received was then paid to an unrelated third party during the tax year, that portion of the payment will be exempt if the transaction giving rise to the original royalty payment to the related member was undertaken for a valid business purpose, and the related member was subject to tax on the royalty payment in this city or another city within the United States or a foreign nation or some combination thereof (Ad. Code section 11-506(e)(2)(B)(i));
- If the taxpayer's related member paid an aggregate effective rate of tax on the royalty payment, to this city or another city within the United States or some combination thereof, that is not less than 80 percent of the rate of tax that applied to the taxpayer under Ad. Code section 11-503 for the tax year (Ad. Code section 11-506(e)(2)(B)(ii));
- If the related member is organized under the laws of a foreign country that has a tax treaty with the United States, the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city, and the transaction giving rise to the royalty was undertaken for a valid business purpose and reflected an arm's length relationship. (Ad. Code section 11-506(e)(2)(B)(iii)); or

- If the taxpayer and the Department of Finance agree to alternative adjustments that more appropriately reflect the taxpayer's income. (Ad. Code section 11-506(e)(2)(B)(iv)).

The law as amended also defines the term "related member" by linking it to the definition in Internal Revenue Code section 465(b)(3)(c), but substituting 50 percent for the 10 percent ownership threshold.

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

FORM NYC-5UBTI - Declaration of Estimated Unincorporated Business Tax must be filed by every individual, estate or trust carrying on an unincorporated business or profession in New York City and whose estimated tax can reasonably be expected to exceed \$3,400 for the calendar year or fiscal year immediately following the year covered by this return.

The declaration must cover a full calendar or fiscal year and is due on the 15th day of the fourth month of the taxable year. (A partnership declaration should be filed on Form NYC-5UB.)

*For further information about estimated tax payments and due dates, see Form NYC-5UBTI.*

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

FORM NYC-115 - Unincorporated Business Tax Report of Change in Taxable Income made by the Internal Revenue Service and/or New York State Department of Taxation and Finance must be used for reporting adjustments in taxable income resulting from an Internal Revenue Service audit of your federal income tax return and/or a New York State Department of Taxation and Finance audit of your State income tax return for taxable years beginning prior to January 1, 2015 only.

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

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

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 "Highlights of Recent Tax Law Changes", Finance Memorandum 21-1, "Application of IRC §280F Limits to Sports Utility Vehicles" and instructions to Form NYC-399Z.

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. (Effective June 1, 2001).

FORM NYC-NOLD-UBTI - Net Operating Loss Deduction schedule must be included in the unincorporated business tax filing of every unincorporated business claiming a net operating loss deduction.

#### WHEN TO FILE

Form NYC-202EIN is due on or before April 18, 2022, or, for fiscal year taxpayers, on or before the 15th day of the fourth month following the close of the taxable year.

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.

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

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

#### WHERE TO FILE

All returns, except refund returns:

**NYC Department of Finance**  
P.O. Box 5564  
Binghamton, NY 13902-5564

**Remittances** - Pay online with Form NYC-200V at [nyc.gov/eservices](http://nyc.gov/eservices), or Mail pay-

ment and Form NYC-200V only to:

**NYC Department of Finance**  
P.O. Box 3933  
New York, NY 10008-3933

Returns claiming refunds:

**NYC Department of Finance**  
P.O. Box 5563  
Binghamton, NY 13902-5563

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

#### ACCESSING NYC TAX FORMS

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

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

#### IDENTIFYING INFORMATION

In the space provided on the front of the return, enter your correct Employer Identification Number. Enter the same business code entered on federal Schedule C or Schedule C-EZ. Individuals licensed and/or regulated by the NYC Taxi and Limousine Commission use the NAICS code 485310 for taxis and 485320 for limousines in lieu of the federal code.

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

#### BUSINESS CARRIED ON BOTH INSIDE AND OUTSIDE NEW YORK CITY

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

#### BUSINESS TERMINATED DURING TAXABLE YEAR

If the business was terminated during 2021, attach a statement to Form NYC-202EIN showing disposition of the business property and how it was reported on the return. Check the box marked final return on page 1 of the return.

#### USE OF FEDERAL FIGURES

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

#### FEDERAL OR NEW YORK STATE CHANGES

For taxable years beginning on or after January 1, 2015, changes in taxable income or other tax base made by the Internal Revenue Service ("IRS") and /or New York State Department of Taxation and Finance ("DTF") will no longer be reported on Form NYC-115. Instead, taxpayers must report these federal or state changes to taxable income or other tax base by filing an amended return. This amended return must include a tax worksheet that identifies each change to the tax base ("Tax Base Change") and shows how each such Tax Base Change affects the taxpayer's calculation of its New York City tax. A template for the tax worksheet is available on the DOF website at [nyc.gov/finance](http://nyc.gov/finance). This amended return must also include a copy of the IRS and/or DTF final determination, waiver, or notice of carryback allowance. Taxpayers that have federal and state Tax Base Changes for the same tax period may report these changes on the same amended return that includes separate tax worksheets for the IRS Tax Base Changes and the DTF Tax Base Changes.

The Amended Return checkbox on the return is to be used for reporting an IRS or DTF Tax Base Changes, with the appropriate box for the agency making the Tax Base Changes also checked. Taxpayers must file an amended return for Tax Base Changes within 90 days after (i) a final determination on the part of the IRS or DTF, or (ii) the signing of a waiver under IRC §6312(d) or NY Tax Law §681(f).

If the taxpayer believes that any Tax Base Change is erroneous or should not apply to its City tax calculation, it should not incorporate that Tax Base Change into its City tax calculation on its amended return. However, the taxpayer must attach: (i) a statement to its report that explains why it believes the adjustment is erroneous or inapplicable; (ii) the explanatory tax worksheet that identifies each Tax Base Change and shows how each would affect its City tax calculation; and (iii) a copy of the IRS and/or DTF final determination or waiver.

For more information on federal or state Tax Base Changes, including a more expansive explanation of how taxpayers must report these changes as well as samples of tax worksheets to be included within the amended return, see Finance Memorandum 17-5 revised and dated October 10, 2018.

For taxable years beginning prior to January 1, 2015 only Form NYC-115 is to be used to report changes in taxable income or other tax base made by the IRS and /or DTF. Form NYC-115 must be filed separately and should not be attached to any return.

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

### ACCOUNTING PERIODS AND METHODS

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

### PENALTIES

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

### TAX PREPARERS

Anyone who prepares a return for a fee must sign the return as a paid preparer and enter his or her Social Security Number or PTIN. Include the company or corporation name and Employer Identification Number, if applicable.

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

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

**You are not authorizing** the preparer to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Department. The authori-

zation 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

#### Period Covered

File the 2021 return for calendar year 2021 and fiscal years that begin in 2021 and end in 2022. For a fiscal or short tax year return, fill in the tax year space at the top of the form. The 2021 Form NYC-202-EIN also can be used if:

- You have a tax year of less than 12 months that begins and ends in 2022, and
- The 2022 Form NYC-202-EIN is not available at the time you are required to file the return.

You must show the 2022 tax year on the 2021 Form NYC-202-EIN and take into account any tax law changes that are effective for tax years beginning after December 31, 2021.

#### Amended Return

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

#### September 11, 2001 Related Tax Benefits

Check the box 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 or (ii) 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 and 4797 to this return. See instructions for Schedule B, lines 10c and 15 for more information.

#### Special Condition Codes

Check the Finance website for applicable special condition codes. If applicable, enter the two character code in the box provided on the form.

### SCHEDULE A

#### Computation of Tax

#### LINE 1 - BUSINESS INCOME

Enter on line 1 the total from page 3, Schedule B, line 27.

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

The business allocation percentage is not applied to income from rentals of New York City real property or gains or losses from the sale of New York City real property. Enter here the modified gain (or loss) from the sale or exchange and net income

from rental of real property located in New York City included on line 1 of Schedule A. This is the gain (or loss) and net rental income included on line 8 of Schedule B as adjusted for the portion of the New York City modifications (Schedule B, part 2) applicable to such items. If New York City modifications are not applicable, enter on lines 3 and 6 the full amount of gain (or loss) and net rental income included on line 8 of Schedule B. (*Refer to "Who is Subject to the Tax", paragraph 6.*)

#### LINE 9 - ALLOCATED INVESTMENT INCOME

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

#### LINE 10 - CURRENT YEAR'S UNINCORPORATED BUSINESS NET OPERATING LOSS

If line 10 shows a net loss from business, this loss is the 2021 unincorporated business net operating loss. The deduction of losses incurred in taxable years beginning on or after January 1, 2018 continues to be limited to 80% of New York City taxable income. Additionally, NOLs generated in tax years beginning on or after January 1, 2018 may not be carried back to any prior year. See also Form NYC-NOLD-UBTP

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

Losses that are not permitted to be carried back may be carried forward and used to offset income for the period permitted for Federal tax purposes, generally 20 years for losses from years beginning after 8/5/97 and prior to years ending after 12/31/17.

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

#### LINE 11 - NEW YORK CITY NET OPERATING LOSS DEDUCTION

The business allocation percentage is not applied

to a New York City net operating loss deduction that was subject to allocation in the year in which the loss was incurred. If there was an unincorporated business net operating loss in a prior year any part of which may be carried over to 2021, the amount claimed for 2021 should be entered on line 11 after completing Form NYC-NOLD-UBTI. (Refer to instructions for Form NYC-NOLD-UBTI.)

**LINE 13 - ALLOWANCE FOR TAXPAYER'S SERVICES**

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

- 1) 20% of line 12 or
- 2) \$10,000,

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

**LINE 15 - EXEMPTION**

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

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

**EXAMPLE**

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

**Taxpayers filing a short period return should fill in the dates at the top of page 1 of the return and prorate the exemption as described above.**

**LINE 16 - TAXABLE INCOME**

Enter here the amount of line 14 less line 15. (If loss, refer to the instructions for Schedule A, line 10.)

**LINE 17 - TAX**

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

**LINE 18 - BUSINESS TAX CREDIT**

- If the amount entered on line 17 is \$5,400 or over, no credit is allowable; enter "0"

on line 18.

- If the amount entered on line 17 is \$3,400 or less, your credit is the entire amount of tax on line 17. No tax will be due.
- If the amount of tax entered on line 17 exceeds \$3,400 but is less than \$5,400, a credit is allowed in the amount determined by multiplying the tax on line 17 by a fraction, the numerator of which is \$5,400 minus the amount of the tax on line 17 and the denominator of which is \$2,000. Use the following formula:

**FORMULA**

$$\frac{\text{tax on line 17} \times (\$5,400 - \text{tax on line 17})}{\$2,000} = \begin{matrix} \text{Unincorporated} \\ \text{Business Tax} \\ \text{Credit} \end{matrix}$$

**EXAMPLE**

If the tax on line 17 is \$3,900, the business tax credit is calculated as follows:

- 1)  $\$3,900 \times \frac{(\$5,400 - \$3,900)}{\$2,000} = \$2,925$
- 2) Enter \$2,925 on line 18.
- 3) Enter \$975 (\$3,900 - 2,925) on line 19 (Unincorporated Business Tax)

**LINE 19 - UNINCORPORATED BUSINESS TAX**

Enter on line 19 the unincorporated business tax due. If the credit on line 18 equals the tax shown on line 17, enter "0" on line 19.

**LINE 20a - RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM (REAP) CREDITS**

Refer to instructions on Form NYC-114.5 and attach form.

**LINE 20b - REAL ESTATE TAX ESCALATION CREDIT AND EMPLOYMENT OPPORTUNITY RELOCATION COSTS CREDIT AND INDUSTRIAL BUSINESS ZONE CREDIT**

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

**LINE 20c - LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM (LMREAP) CREDIT**

Refer to instructions on Form NYC-114.8 and attach form.

**LINE 20e - BEER PRODUCTION CREDIT**

Enter on this line the NYC beer production credit. (Attach Form NYC-114.12)

**LINE 22 - PAYMENT OF ESTIMATED TAX**

Enter on line 22 the sum of all payments of estimated tax made for calendar year 2021 or fiscal year beginning in 2021 including carry-

over credit from the preceding taxable year, and payment with extension, NYC-EXT. Complete table on page 2 of this return.

**LINE 25a - 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 regarding interest rates, visit the Department of Finance website at [www1.nyc.gov/site/finance/taxes/business-interest-rates.page](http://www1.nyc.gov/site/finance/taxes/business-interest-rates.page) or call 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

**LINE 25b - 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 late filing penalty cannot 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.

**LINES 27 and 28 - NET OVERPAYMENT**

If there is an overpayment on line 27, enter on line 28a the amount of overpayment to be refunded. Enter on line 28b the amount to be credited to the 2022 estimated tax on Form NYC-5UBTI. If line 21 is less than zero, disregard negative sign and add that amount to line 22.

**LINE 29 - TOTAL REMITTANCE DUE**

If the amount on line 27 is not greater than zero, enter on line 29 the sum of the amount on line 23 and the amount, if any, by which line 26 exceeds line 24. If filing and paying electronically, enter the amount of your remittance on Line A. If not paying electronically, leave Line A blank. All remittances must be payable in U.S. dollars drawn on a U.S. bank.

Checks drawn on foreign banks will be rejected and returned. Remittances must be payable to: **NYC Department of Finance.**

**LINE 31 - GROSS RECEIPTS OR SALES FROM FEDERAL RETURN**

Enter the amount from line 3 of Schedule C (Gross receipts or sales less returns and allowances) or from line 1 of Schedule C-EZ (Gross Receipts) of Federal form 1040.

**COMPOSITION OF PREPAYMENTS SCHEDULE**

Enter the payment date and the amount of all prepayments made for this tax period.

**SCHEDULE B**

*Computation of Total Income*

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

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

Taxpayers carrying on two or more unincorporated businesses, either wholly or partly in New York City, must enter the combined net income from all business activities relating to such businesses.

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

Enter here the amount reported for federal tax purposes. This amount should be the amount reported on federal Schedule C or C-EZ, Form 1040. (If you operate a farm, enter the profit or loss reported on federal Schedule F, Form 1040.) Attach a copy of federal Schedule C, C-EZ or F. If this is a final return, attach a copy of your *entire* federal Form 1041 and check the box on page 1.

**LINE 2 - MULTIPLE SCHEDULES C AND F**

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

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

Enter here the total gain or loss from the sale or exchange of real or personal property carried as business assets (including proceeds from the sale of the business and its goodwill). Attach federal Schedule D and/or Form 4797. Note that federal depreciation and federal basis must be used in these computations. (Refer to instructions for Schedule B, part 2, line 19, relating to the subtraction from gain reported on line 3 for certain property acquired prior to January 1, 1966, and instructions for Schedule B, part 2, lines 10c and 15 relating to ACRS depreciation modifications.)

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

Enter here the net amount of rental and royalty income derived from real and personal business property, using federal figures. (*Attach federal Schedule E.*) Include the rental income from property even if not considered an unincorporated business. (*Refer to "Who is Subject to the Tax", paragraph 6.*)

**LINE 5 - OTHER BUSINESS INCOME (OR LOSS)**

Enter net amount of income or loss derived from business activities or sources other than those enumerated on lines 1, 3, and 4 of Schedule B, part 1 and attach a schedule giving details of the items reported. Interest and dividends from securities held in connection with the business or carried as business assets should be reported here.

If a net operating loss deduction is allowable in 2021 by reason of a carryover of a net operating loss sustained in a prior year, do not enter the loss deduction here. Complete Form NYC-NOLD-UBTI.

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

Rental income or loss from real property located outside New York City and gain or loss on disposition of real property located outside New York City are not considered for purposes of computing the unincorporated business tax. Therefore, to exclude this income, loss or gain, subtract on line 7 the amount included on lines 3 and 4 if income or gain is reported, and add this amount on line 7 if loss is reported. Do not exclude the rental income from property located in New York City even if not considered an unincorporated business. (Refer to "Who is Subject to the Tax", paragraph 6.) (See instructions for line 18.)

**PART 2 - NEW YORK CITY MODIFICATIONS**

It may be necessary to make certain additions to or subtractions from the amount reported in part 1, line 8 to arrive at total income to be reported on line 22. If any of the items listed in Schedule B, Part 2 is applicable, complete Part 2 showing the nature and amount of each item. If none of these apply, transfer the amount on line 8 to line 22 of Schedule B.

**- ADDITIONS -**

**LINE 9 - INCOME AND UNINCORPORATED BUSINESS TAXES**

Enter the amount of income and unincorporated business taxes imposed by New York City, New York State or any other taxing jurisdiction

that were deducted in computing Part 1, line 8.

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

*Line 10a:* Taxpayers claiming the real estate tax escalation credit or employment opportunity relocation costs or industrial business zone credits must enter the sum of the amounts shown on lines 4 and 5 of Form NYC-114.6.

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

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

*Line 10c:* The Federal bonus depreciation allowed for "qualified property," as defined in IRC section 168(k) is not allowed for Unincorporated Business Tax purposes except for such deductions allowed with respect to "qualified New York liberty zone property", "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan South of Houston Street and North of Canal Street.) For more information on Federal bonus depreciation, see Form NYC-399Z and that Form's instructions. 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.

Section 13201(b) of the Tax Cuts and Jobs Act of 2017 ("TCJA") extended the bonus depreciation deduction to cover property placed in service before January 1, 2027 (except for aircraft and long-production period property have to be placed into service before January 1, 2028.) Previously, Section 143 of the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No.114-113, Div Q (December 18, 2015)("2015 PATH Act") had extended bonus depreciation so that it was available for property acquired and placed in service during 2015-2019; bonus depreciation was extended through 2020 for certain property with a longer production period. Under the 2015 PATH Act, the bonus depreciation is 50% for property placed in service during 2015-2017, 40% for property placed in service during 2018, and 30% for property placed in service during 2019.

Pursuant to section 13201(a) of the TCJA, for property placed in service after September 27, 2017, the bonus depreciation rate was raised to

100% with the phase-down to begin in 2023. The taxpayer can elect to apply a 50% depreciation rate for property placed in service in the taxpayer's first tax year ending after September 27, 2017. The phase-down of the bonus depreciation enacted under the 2015 PATH Act is still applicable to property acquired before September 28, 2017. Thus, for property acquired before September 28, 2017 and placed in service in 2018, the bonus depreciation is 40% and 30% for property placed in service in 2019 with no bonus depreciation for property placed in service after 2019. Under the TCJA the first year depreciation limit increase of \$8,000 for passenger automobiles under §280(F)(a)(1)(A) is extended to include automobiles placed in service on or before December 31, 2026. Prior to that in order to qualify for the \$8,000 increase in bonus depreciation, the passenger automobile would had to have been placed into service on or before December 31, 2019. This extension of the placed in service deadline only applies to automobiles acquired on or after September 28, 2017. However, if the passenger automobile was acquired before September 28, 2018, the first year additional depreciation is phased down to \$6,400 in the case of an automobile placed in service during 2018 and to \$4,800 in the case of automobile placed in service during 2019.

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. SUVs which are entitled to Federal first-year bonus depreciation under IRC section 168(k) are not entitled to bonus depreciation for New York City purposes except for SUVs that are "qualified Resurgence Zone property." 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 10(c) and 15 the appropriate adjustments from form NYC-399Z. See, Finance Memorandum 21-1, "Application of IRC 280F Limits to Sport Utility Vehicles" for more information.

The federal depreciation deduction computed under the Accelerated Cost Recovery System (ACRS) or the Modified Accelerated Cost Recovery System (MACRS) (IRC Section 168) is not allowed for property placed in service in New York State in taxable years begin-

ning before January 1, 1985 (except recovery property subject to the provisions of IRC Section 280-F).

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

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed. Enter on line 10c the ACRS depreciation deduction used in computing part 1, line 8. (Refer to instructions for line 15.) (Attach Form NYC-399 and/or NYC-399Z.)

*Line 10d:* Add back losses, interest, depreciation and any other expenses deducted for federal income tax purposes directly or indirectly attributable to the holding, leasing or managing of real property (including any business conducted at the property as an incidental service to tenants) or to the income or gain therefrom, if such holding, leasing or managing of property is exempt from Unincorporated Business Tax under NYC Administrative Code Section 11-502(d) in taxable years beginning on or after July 1, 1994 or January 1, 1996, in the case of parking services rendered to tenants at a garage open to the public. (Refer to "Who is Subject to the Tax", paragraph 6.) Enter on line 10d expense deductions and losses reflected in Part 1, line 8 attributable to exempt real estate activities.

**LINE 11 - OTHER ADDITIONS**

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

- 1) interest income on state and local bonds held in connection with the business (other than on bonds of New York State and its political subdivisions)
- 2) interest or dividend income on bonds or securities, held in connection with the business, of any United States authority, commission or instrumentality that the laws of the United States exempt from federal income tax but not from state or local income taxes
- 3) any amount deducted in computing part 1, line 8, for salaries, wages, withdrawals or interest paid to the proprietor of the unincorporated business

- 4) Add back royalty and interest payments made to related members as required by Ad. Code section 11-506(e). (See Royalty Payments to Related Members, page 3)
- 5) any other additions required by Sections 11-506, 11-507 and 11-509 of the NYC Administrative Code. (Attach any appropriate schedules.)

**- SUBTRACTIONS -**

**LINE 13 - INCOME AND UNINCORPORATED BUSINESS TAX REFUNDS**

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

**LINE 14 - FEDERAL EMPLOYMENT CREDIT**

Enter the portion of wages and salaries paid or incurred for the taxable year for which a deduction is not allowed pursuant to the provisions of Section 280C of the Internal Revenue Code. (Attach federal Form 5884 or any other applicable federal forms.)

**LINE 15 - DEPRECIATION ADJUSTMENT**

In place of the disallowed ACRS deduction for certain property, line 10c, a depreciation deduction computed by any method permitted under IRC Section 167 as in effect on December 31, 1980, will be allowed. Enter on line 15 the ACRS adjustment from Form NYC-399, Schedule C, line 8, column B. (Attach Form NYC-399.) See instructions for line 10c and for Form NYC-399, see also Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994."

If a taxpayer took the additional depreciation deduction on its federal return with respect to "qualified property" OTHER THAN "qualified Resurgence Zone property", "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements or SUVs for which an add-back was required under the instructions to Line 10(c) of this schedule, use NYC 399Z to calculate the amount of the deduction that may be deducted for City purposes. The amount appearing in column B of line 8 on Form NYC 399Z should be included on this line. See "Highlights of Recent Tax Law Changes" and Finance Memorandum 21-1, "Application of IRC 280F Limits to Sport Utility Vehicles", for more information.

**LINE 16 - EXEMPT INCOME**

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

- 1) interest income on United States obligations included in computing part 1, line 8



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

**LINE 17 - DIVIDENDS**

Enter 50% of dividends other than dividends from stocks not meeting the holding period requirement set forth in IRC Section 246(c).

**LINE 18 - REAL ESTATE SUBTRACTIONS**

Subtract income or gain includible in gross income for federal income tax purposes from the holding, leasing or managing of real property (including any business conducted at the property as an incidental service to tenants) if such holding, leasing or managing of property is not subject to Unincorporated Business Tax under NYC Administrative Code Section 11-502(d) in taxable years beginning on or after July 1, 1994 or January 1, 1996, in the case of parking services rendered to tenants at a garage open to the public. (Refer to "Who is Subject to the Tax", paragraph 6.) Enter on line 18 the amount of income and gain reflected in Part 1, line 8, attributable to exempt real estate activities.

**LINE 19 - OTHER SUBTRACTIONS**

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

- 1) the portion of gain included in computing part 1, line 8, from the sale or other disposition of property acquired before January 1, 1966, except:
  - a) stock in trade of the taxpayer or other property of a kind that would be properly included in his inventory if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; and
  - b) accounts or notes receivable acquired in the ordinary course of his/her trade or business for services rendered or from the sale of property described in a) to the extent of the difference between:
    - i) the amount of gain reported at part 1, line 3, for each property; and
    - ii) the amount of gain that would be reported on line 3 for each property if the adjusted basis of the

property on the date of sale or other disposition had been either:

- A) its fair market value on January 1, 1966, plus or minus all federal adjustments to basis for the period after December 31, 1965; or
- B) the amount realized from its sale or other disposition, whichever is lower.

If the gain reported is from a sale of property before January 1, 1966, and reported on the installment method, the fair market value of the property on the date of sale must be substituted for its fair market value on January 1, 1966. The total adjustment may not exceed the taxpayer's net gain from the sale or other disposition of all the property.

- 2) interest on money borrowed to purchase or carry bonds or securities, the interest on which is subject to the Unincorporated Business Tax but exempt from federal income tax; ordinary and necessary expenses paid or incurred during the taxable year in connection with such income or property held for the production of such income; and amortization of bond premium for the taxable year on any bond, the interest from which is subject to the Unincorporated Business Tax but exempt from federal income tax, to the extent these items were not deducted in computing part 1, line 8.
- 3) any other subtractions required by Sections 11-506 and 11-507 (other than charitable contributions) of the NYC Administrative Code. (Attach any appropriate schedules.)

Do not include on line 19 any net operating loss carryover. Any unincorporated business net operating loss deduction allowable in 2021 by reason of a carryover of a net operating loss sustained by the unincorporated business in prior years should be reported in Form NYC-NOLD-UBTI and on Schedule A.

**SAFE HARBOR LEASES**

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

**LINE 23 - CHARITABLE CONTRIBUTIONS**

Deductions are allowed for charitable contributions made by the unincorporated business,

as a tax entity separate and distinct from its owners or proprietors, to the extent they would be deductible by a corporation for federal income tax purposes, but not in excess of 5% of line 22. In general, contributions deductible by a corporation are the same as those for individuals, except that:

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

**LINE 25 - INVESTMENT INCOME**

Investment income includes: 50% of dividends from stocks held for investment; interest from investment capital; net capital gain or loss from sales or exchanges of securities held for investment; and income from cash if an election is made to treat cash as investment capital on line 3 of Schedule D. Do not include any capital loss that could not be used in computing federal taxable income.

In computing investment income, subtract the amount of deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income.

**LINE 25a - DIVIDENDS FROM STOCKS HELD FOR INVESTMENT**

Enter dividends not excluded on line 17. This includes 50% of dividends from corporations for which an exclusion was allowed on line 18 of this schedule, and 100% of dividends from stock not meeting the holding period requirement set forth in Section 246(c) of the IRC.

**LINE 25d - INCOME FROM CASH**

Enter income from cash on Schedule B, line 25d only if you have elected to treat cash as investment capital and have entered the amount thereof on Schedule D, line 3.

**LINE 25f - DEDUCTIONS ATTRIBUTABLE TO INVESTMENT INCOME**

For more information, see Statement of Audit Procedure GCT-2008-04, Noninterest Expense Attribution, April 9, 2008 and Statement of Audit Procedure PP-2008-12, GCT & UBT Treatment of Repurchase Agreements and Securities Lending and Borrowing Transactions for Financial Services Firms Regularly Engaged in Such Activities, March 31, 2008, available on the Department's website at [nyc.gov/finance](http://nyc.gov/finance).

**SCHEDULE C  
Business Allocation**

An allocation of business income is permitted for purposes of the Unincorporated Business Tax if you carry on business both inside and outside New York City. For tax years beginning on or after January 1, 2012, all taxpayers must allocate unincorporated business taxable income using formula allocation. See sections 11-508(b) and (c) of the Administrative Code. Tax year 2011 was the last taxable year in which eligible taxpayers who made the one-time election to continue using books and records allocation for tax year 2005 were permitted to use that method of allocation.

**ALLOCATION BY FORMULA**

Income from business carried on both inside and outside New York City must be determined in accordance with the statutory formula or an alternative method approved by the Department of Finance. Schedule C, parts 1, 2 and 3 must be completed for this purpose in accordance with the following specific instructions.

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

**ALTERNATIVE ALLOCATION METHOD**

In order to request a discretionary adjustment to the statutory 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 <http://www1.nyc.gov/site/finance/taxes/business-filing-information.page>

If 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 C, 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 C, you may be entitled to claim a refund of the excess amount you have paid.

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

**SCHEDULE C, PARTS 1 AND 2**

Enter the information requested in parts 1 and 2, all columns. Indicate in the "rent" column whether you own or rent the premises listed.

Enter the amount of rent paid, if any. (*Attach rider if necessary.*)

**SCHEDULE C, PART 3 - SINGLE RECEIPTS FACTOR ALLOCATION**

The business allocation percentage is computed by dividing the amount of New York City gross income by total gross income and entering the result on Schedule C, Part 3, Line 2.

**LINE 1 - GROSS SALES OF MERCHANDISE OR CHARGES FOR SERVICES RENDERED DURING THE YEAR**

Except as provided below, the amount to be entered on line 1 in column A is the portion of the total gross sales or charges that represents services performed by or through an agency in New York City. This includes services performed by employees, agents, agencies or independent contractors situated at, connected with, or sent out from, offices of the unincorporated business (or its agencies) located in New York City. Notwithstanding the foregoing, for tax years beginning on and after July 1, 2005, the source of income from services will be determined by the place where the services were performed (the "place-of-performance method"), instead of the office out of which the services were performed, according to the following phase-in schedule: Taxpayers having gross receipts of less than \$100,000 for the first tax year starting on or after July 1, 2005 and before July 1, 2006 must use the place-of-performance method starting in that year. Taxpayers having gross receipts of less than \$300,000 for the first tax year starting on or after July 1, 2006 and before July 1, 2007, must use the place-of-performance method starting in that year. All other taxpayers must use the place-of-performance method starting with the first tax year beginning on or after July 1, 2007.

For taxable years beginning after June 30, 1996, the amount to be entered in column A with respect to sales of tangible personal property is the portion of the total gross sales of tangible personal property that represents sales where shipment is made to a point within New York City.

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

Receipts from management, administration or distribution services provided to a regulated investment company (RIC) must be allocated based upon the percentage of the RIC's shareholders domiciled in New York City. (Attach Rider showing computation.) See Admin. Code §11-508(e-2).

**SOURCING OF RECEIPTS OF REGISTERED SECURITIES OR COMMODITIES BROKERS OR DEALERS.**

For taxable years beginning after 2008, new rules are applicable in determining the sourcing of the receipts of taxpayers which are registered securities or commodities brokers or dealers. See Chapter 201 of the Laws of 2009.

**Receipts earned by registered securities or commodities broker or dealer** - The rules below apply for determining whether a receipt is deemed to arise from services performed in New York City by a registered securities or commodities broker or dealer, for purposes of computing the gross income factor of the BAP (Administrative Code section 11-508(e-3)).

*A registered securities or commodities broker or dealer* is a broker or dealer who is registered by the Securities and Exchange Commission (SEC) or the Commodities Futures Trading Commission and includes over-the-counter (OTC) derivatives dealers as defined under regulations of the SEC (17 CFR 240.3b-12). The terms *securities and commodities* have the same meanings as the meanings in IRC sections 475(c)(2) and 475(e)(2).

- **Brokerage commissions** - Brokerage commissions earned from the execution of securities or commodities purchase or sales orders for the accounts of customers are deemed to arise from a service performed in New York City if the customer who is responsible for paying the commissions is located in New York City.
- **Margin interest** - Margin interest earned on brokerage accounts is deemed to arise from a service performed in New York City if the customer who is responsible for paying the margin interest is located in New York City.
- **Account maintenance fees** - Account maintenance fees are deemed to arise from a service performed in New York City if the customer who is responsible for paying the account maintenance fees is located in New York City.
- **Income from principal transactions** - Gross income from principal transactions (that is, transactions in which the registered broker or dealer is acting as principal for its own account, rather than as an agent for the customer) are deemed to arise from a service performed in New York City if the pro-

duction credits for these transactions are awarded to a New York City branch, office, or employee of the taxpayer.

Registered broker dealers may elect to source the gross income from principal transactions based on the location of the customer to the principal transaction. If the election is made, gross income from principal transactions is deemed to arise from a service performed in New York City to the extent that the gross proceeds from the transactions are generated from sales of securities or commodities to customers within the city based upon the mailing addresses of those customers in the records of the taxpayer. For additional information, see section 11-503(e-3)(1)(C) as added by section 108 of Chapter 201 of the Laws of 2009.

- **Fees from advisory services for the underwriting of securities** - Fees earned from advisory services for a customer in connection with the underwriting of securities (where the customer is the entity contemplating the issuance of the securities or is issuing securities) or for the management of an underwriting of securities are deemed to arise from a service performed in New York City if the customer responsible for paying the fee is located in New York City.
- **Receipts from the primary spread for the underwriting of securities** - Receipts from the primary spread or selling concession from underwritten securities are deemed to arise from a service performed in New York City if production credits are awarded to a branch, office, or employee of the taxpayer in New York City as a result of the sale of underwritten securities.
- **Interest earned on loans to affiliates** - Interest earned on loans and advances made by a taxpayer to an affiliate are deemed to arise from a service performed in New York City if the principal place of business of the affiliate who is responsible for the payment of interest is located in New York City. An entity shall be considered an affiliate with the taxpayer for this purpose if the entity and the taxpayer have an eighty percent or more common direct or indirect, actual or beneficial ownership.
- **Fees for management or advisory services** - Fees earned from management or advisory services, including fees from advisory services for activities relating to mergers or acquisition activities, are deemed to arise from a service performed in New York City if the customer responsible for paying these fees is located in New York City.

A customer is located in New York City if the mailing address of the customer, as it appears in the broker's or dealer's records, is in New

York City. For more information, see 11-503(e-3) as added by section 108 of Chapter 201 of the Laws of 2009.

**LINE 2 – BUSINESS ALLOCATION PERCENTAGE**

Divide line 1, column A by line 1, column B. Round to the nearest hundredth of a percent.

**SCHEDULE D**

*Investment Allocation*

Complete Schedule D if you have investment capital. Investment capital is the average value of your investments in stocks, bonds, and other corporate or government securities, less liabilities, both long term and short term, directly or indirectly attributable to investment capital. Investment capital does not include governmental stocks, bonds and other securities the interest and dividends from which are totally exempt from the UBT, except such instruments that are disposed of during the taxable year, producing taxable gain or loss. Investment capital does not include those stocks, bonds or other securities that are held for sale to customers in the regular course of business. Investment capital does not include interests in, or obligations of, partnerships or other unincorporated entities.

To determine the value of your assets for investment allocation purposes, you must include marketable securities at fair market value.

The fair market value of any asset is the price (without any encumbrance, whether or not the taxpayer is liable) at which a willing seller, not compelled to sell, will sell and a willing purchaser, not compelled to buy, will buy. The fair market value, on any date, of stocks, bonds and other securities regularly dealt in on an exchange or in the over-the-counter market is the mean between the highest and lowest selling prices on that date.

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

**ISSUER'S ALLOCATION PERCENTAGE**

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

This percentage may be obtained (1) from tax service publications, (2) from the Department's website under "Forms & Publications" at [nyc.gov/finance](http://nyc.gov/finance) or (3) by calling 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK

(212-639-9675). If the issuer was not doing business in New York City during the preceding year, the percentage is "0".

**SCHEDULE D, LINE 3 - CASH**

If you have both business and investment capital, you may elect to treat cash on hand or on deposit as either business or investment capital. If you wish to elect to treat cash as investment capital, you must include it on this line. Otherwise, you will be deemed to have elected to treat cash as business capital. You may not elect to treat part of such cash as business capital and part as investment capital. You may not revoke your election after it has been made.

**SCHEDULE F**

*Additional Required Information*

All questions in this schedule (Questions 1 through 10) must be answered.

**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](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.