

Partnership Return

1996

Highlights of 1996 Tax Law Changes for Partnerships (including Limited Liability Companies)

- The business tax credit has been increased from \$600 to \$800 for tax years beginning in 1996 with a partial credit if the tax is between \$800 and \$1,000. Admin. Code §11-503(b).
- The Unincorporated Business Tax exemption for persons engaged solely in purchasing and selling property for their own account has been amended to make the exemption available to unincorporated entities, but not individuals, primarily engaged in qualifying investment activities. The exemption applies to income from those activities. Admin. Code §11-502(c).
- The Unincorporated Business Tax Paid Credit enacted in 1994 has been amended to permit unused credits to be carried forward for 7 years subject to certain restrictions. Admin. Code §11-503(j).
- The Unincorporated Business Tax treatment of income derived from partnerships in which an unincorporated business is a partner has been clarified. Admin. Code §§11-502(a), 11-506(a).
- The definition of "corporation" for purposes of the New York City General Corporation Tax has been amended to include an association and a publicly-traded partnership taxable as a corporation for federal income tax purposes. Admin. Code §11-602(1). See: "WHO IS SUBJECT TO THE TAX" for instructions for a one-time election for unincorporated entities affected by this change.
- The Unincorporated Business Tax exemption applicable to certain real estate activities has been expanded to include income from monthly or longer term parking charges paid by building tenants at a garage open to the public, subject to certain restrictions. Admin. Code §11-502(d).
- New rules apply to the allocation of income from broadcasting and publishing and, for years beginning after 6/30/96, income from sales of tangible personal property. Admin. Code §11-508, subdivisions (c) and (e-1).
- For years beginning after 6/30/96, entities primarily engaged in the manufacture and sale of tangible personal property and using a formula allocation method may elect to use a double-weighted gross income factor. Admin. Code §11-508(g).
- For years beginning after 6/30/96, the requirement that unincorporated businesses maintain a regular place of business outside the City in order to allocate income outside the City has been repealed. Admin. Code §11-508(a).

GENERAL INFORMATION

PARTNERSHIP DEFINED

The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization, including a limited liability company classified as a partnership for federal income tax purposes, through or by means of which any business, profession, financial operation or venture is carried on. An estate or trust is not a partnership.

WHO MUST FILE

1. Any partnership that carries on or liquidates any 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 \$10,000 (prior to any deduction for cost of goods sold or services performed) must file an Unincorporated Business Tax Return on Form NYC-204.
2. In addition, every partnership that has unincorporated business gross income of \$10,000 or less, but has any amount of unincorporated business taxable income must file a return for each taxable year in which it carries on business in the City to any extent. **Unincorporated business taxable income** is the excess of unincorporated business gross income over the aggregate of unincorporated business

deductions, allocated to New York City, less the allowance for partners' services and unincorporated business exemptions.

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) engaged in any trade, business, profession, or occupation wholly or partly carried on within New York City.
- 2) Income received from the practice of law, medicine, dentistry, architecture, or any other profession is subject to the unincorporated business tax.
- 3) A corporation that makes an election under Section 1372 of the Internal Revenue Code (S Corporations) does not become subject to the Unincorporated Business Tax by reason of the election. S Corporations are subject to the General Corporation Tax.
- 4) **The Unincorporated Business Tax does not apply to:**
 - a) any entity subject to the tax imposed by Title 11, Chapter 6 (General Corporation Tax) of the NYC Administrative Code. For taxable years beginning in 1996 and thereafter, unincorporated associations and publicly-traded partner-

ships taxable as corporations for federal income tax purposes under IRC §7701(a)(3) and §7704 are subject to the General Corporation Tax and not the Unincorporated Business Tax. **Unincorporated entities that were subject to the Unincorporated Business Tax for tax years beginning in 1995 but that are taxable as corporations for federal income tax purposes may elect to continue to be subject to the Unincorporated Business Tax for years after 1995 by checking the box on the top of page 1 of this form.**

Note: this election may only be made on the Unincorporated Business Tax return filed for tax years beginning in 1996.

- b) any entity subject to the tax imposed by Title 11, Chapter 11 (Utility Tax) of the NYC Administrative Code (except that vendors of utility services are subject to the unincorporated business tax on that percentage of their entire net income allocable to the City which their non-utility receipts bear to their total receipts);
- c) any entity carrying on an insurance

business as a member of the New York Insurance Exchange (authorized in Section 6201 of the Insurance Law); or

- d) Real Estate Mortgage Investment Conduit (REMIC's). Holders of interests in a REMIC remain taxable on such interests or on the income from such interests.

5) **Full Investment Exemption**

A partnership, except a dealer as defined in Admin. Code §11-501 (J), will not be deemed engaged in an unincorporated business solely by reason of the conduct of the following activities for its 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)(i)(A).

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

Partial Investment Exemption: (Admin Code §11-502(c)(4)) For taxable years beginning after 1995, if a taxpayer is an unincorporated entity (not an individual) and is **primarily engaged in**

1. the activities described above under "Full Investment Exemption" or
2. the ownership as an investor of interests in one or more other unincorporated entities engaged in an unincorporated business in the City, the taxpayer's own activities described at (1) and the activities of any other unincorporated entity primarily engaged in the activities described at (1) and (2) in which the taxpayer holds an interest will not be considered an unincorporated business carried on by the taxpayer and the income from those activities will not be subject to the tax. A taxpayer

will be considered to be **primarily engaged** in the activities described at (1) and (2) if at least 90 percent of the average monthly gross value of its total assets consists of:

- a. property as defined above,
- b. interests in unincorporated entities not engaged in any unincorporated business in the City, and
- c. interests held as an investor in entities engaged in an unincorporated business in the City.

For this purpose, real property and marketable securities are valued at their fair market value and all other assets are valued according to the books and records of the taxpayer in accordance with generally accepted accounting principles (GAAP).

Investor Defined: For this purpose, a taxpayer will be considered to hold an interest in another entity as an investor if either :

- (i) the entity would qualify as primarily engaged in the activities described at (1) and (2) above and the taxpayer's share of each item of the entity's income, gain, deduction, credit or loss is not materially different from the taxpayer's share of any other such item, or
- (ii) the taxpayer is neither a general partner nor managing or participating in the day-to-day business of the other entity. See Admin. Code §11-502 (c) (1) (B).

Use the worksheet provided at the end of these instructions to determine whether you are eligible for the partial exemption. The partial exemption is illustrated by the following examples:

Example 1:

In 1996, Partnership A is engaged directly in the purchase and sale of stocks and securities for its own account in the City. Partnership A also is a limited partner in Partnership B, which is engaged in the purchase and sale of securities for its own account in the City. Partnership A also is a non-managing member of Limited Liability Company C, which is a securities dealer in the City. Partnership A's interest in C represents less than 10 percent of the value of A's assets. LLC C is subject to tax on all of its income. Partnership B is wholly exempt from tax.

Partnership A is not eligible for the full investment exemption. However, Partnership A qualifies as primarily engaged in activities described at (1) and (2). Therefore, A is not taxable on its own self-trading activity nor on its share of B's income from self-trading. A is taxable on its share of C's income, gains and losses,

including any income, gains and losses from C's own self-trading activity. Partnership A is not treated as a dealer solely by reason of its membership in LLC C.

Example 2:

The facts are the same in example 1 except that C is also a limited partner in Partnership D, which is engaged solely in the purchase and sale of securities for its own account in the City. LLC C's interest in Partnership D represents less than 90 percent of C's gross assets. Partnership D is exempt from tax because it is solely trading for its own account. C is taxable on its share of D's self-trading income because C does not qualify as primarily engaged in the activities described at (1) and (2). A is taxable on its share of C's income including C's share of D's self-trading income.

Example 3:

The facts are the same as in example 2 except that C's interest in Partnership D represents 95 percent of C's gross assets. C qualifies as primarily engaged in the activities described at (1) and (2). Therefore C is not taxable on its share of D's self-trading income. A is taxable on its share of C's income other than C's share of D's self-trading income

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

corporated 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 building 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 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 engage exclusively in an exempt unincorporated business activity but file for information purposes, check the box at the top of page 1 of the return.

OTHER FORMS YOU MAY BE REQUIRED TO FILE

FORM NYC-5UB - Partnership Declaration of Estimated Unincorporated Business Tax must be filed by every partnership carrying on an unincorporated business or profession in New York City and whose estimated tax can reasonably be expected to exceed \$1,000 for the calendar year 1997 or fiscal year beginning in 1997.

FORM NYC-64 - Application for Automatic Extension is an application for a six-month extension of time to file an unincorporated business tax return for partnerships. File Form NYC-64 on or before the due date of the return.

FORM NYC-113 - Unincorporated Business Tax Amended Return and/or Claim for Refund is used to amend Form NYC-204, as originally filed or as it was later adjusted by an amended return, or to claim a refund of Unincorporated Business Tax.

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

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

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

FORM NYC-CRA - Commercial Rent Tax Annual Return must be filed by every tenant that rents premises for business purposes in Manhattan south of the center line of 96th Street and whose aggregate annual rent for all taxable premises in Manhattan south of the center line of 96th Street, before deductions and reductions, is more than \$15,000.

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

WHEN TO FILE

Form NYC-204 is due on or before April 15,

1997, or, for fiscal year taxpayers, on or before the 15th day of the fourth month following the close of the taxable year.

If a partnership is terminated and completely liquidated during its normal taxable year, resulting in an accounting period of less than 12 months for federal income tax purposes, the due date is the 15th day of the fourth month following the end of the accounting period.

An automatic extension of six months for filing this return will be allowed if, within the time prescribed for filing, the taxpayer files with the Department of Finance an Application for Extension on Form NYC-64 and pays the amount properly estimated as its tax.

No additional extension for filing a return will be granted beyond the six-month extension, unless the taxpayer is outside the United States. (Taxpayers outside the United States should refer to 19 RCNY Section 28-18(c)(3) for additional extensions.)

WHERE TO FILE

Returns with remittances:

NYC Department of Finance
Box 3900
Church Street Station
New York, NY 10008

Returns claiming refunds:

NYC Department of Finance
Box 1117
Wall Street Station
New York, NY 10005

All others:

NYC Department of Finance
Box 1130
Wall Street Station
New York, NY 10005

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

TAX FORMS

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

Forms can also be obtained at:

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

or by calling: (1) Taxpayer Assistance at (718) 935-6000, Monday through Friday, 9:00 am to 4:30 pm, or (2) the Department of Finance's Automated Tax Form Ordering Service, which operates 24 hours a day, seven days a week at (718) 935-6739.

ESTIMATED TAX

Any partnership whose estimated tax can rea-

sonably be expected to exceed \$1,000 for the 1997 calendar year or fiscal year beginning in 1997 must file a partnership Declaration of Estimated Unincorporated Business Tax (Form NYC-5UB). The declaration must cover a full calendar or fiscal year and is due 3 1/2 months after the beginning of the taxable year.

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

BUSINESS CARRIED ON BOTH INSIDE AND OUTSIDE NEW YORK CITY

If business is carried on both inside and outside New York City and, for taxable years beginning before July 1, 1996, a regular place of business is maintained outside of New York City, a fair and equitable portion of the business income shall be allocated to New York City.

If the unincorporated business does not carry on business both inside and outside of New York City or, for taxable years beginning before July 1, 1996, a regular place of business is not maintained outside of New York City, all of the business income shall be allocated to New York City. *(Refer to the instructions on page 8, Schedule E, Business Allocation Schedule.)*

BUSINESS TERMINATED DURING TAXABLE YEAR

If the partnership was terminated during 1996, attach a statement to Form NYC-204 showing disposition of the business property and how it was reported on the return.

USE OF FEDERAL FIGURES

Except where otherwise indicated, items of business income, gain, loss or deduction are to be entered on the return as reportable for federal tax purposes. All items reported on Form NYC-204 derived from federal partnership returns are, however, subject to verification, audit and revision by the Department of Finance. Report the character of a partner's share of income, gains, losses and deductions from a partnership as if it were realized directly by the partner regardless of how the partner acquired its partnership interest and regardless of whether the partner's share of such items is disproportionate to its interest in capital. The preceding sentence does not apply to guaranteed payments or other payments to the partner treated as made to one who is not a partner for federal income tax purposes, and does not affect the treatment of any item as being derived from an unincorporated business carried on in the City by the partner.

FEDERAL OR NEW YORK STATE CHANGES

If, on audit of the partnership return, the federal or New York State tax authorities change

any item of income or deduction reported to the Internal Revenue Service or the New York State Department of Taxation and Finance, or an item of income or deduction is changed as a result of a renegotiation of a contract with the United States or New York State, or the partnership executes a consent and waiver of the restrictions to assessment by either authority, the partnership must report the change to the Department of Finance within 90 days. Form NYC-115 should be used for this purpose and may be obtained from the sources listed on this page.

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 distributable income or in the partner's distributive shares, an amended partnership return must be filed within 90 days. Use Form NYC-113 to amend Form NYC-204.

ACCOUNTING PERIODS AND METHODS

The accounting period for which Form NYC-204 is filed and the method of accounting used are the same as for federal income tax purposes. If a partnership's taxable year or method of accounting is changed for federal income tax purposes, the change must also 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, or for making a false certification. The mere fact that the figures reported on Form NYC-204 are taken from the federal return will not relieve the partnership 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. Include the company or corporation name and Employer Identification Number, if applicable.

SPECIFIC INSTRUCTIONS

SCHEDULE A

Computation of Tax

LINE 1 - TOTAL INCOME

Enter on line 1, the total entered on page 2, Schedule B, line 31.

LINE 2 - ALLOCATION

Taxpayers allocating income for Unincorporated Business Tax purposes and using the statutory formula basis (Schedule E) should determine the business allocation percentage to be used here by completing Schedule E,

Parts 1, 2 and 3. Transfer the percentage from Schedule E, Part 3, line 5 to line 2 of this schedule and check (✓) the "formula" box.

Taxpayers allocating income on the basis of business books and records should check (✓) the second box on line 2, omit the percentage, disregard lines 3 through 6 and continue with line 7. Enter on line 10 the sum of lines 1 and 9. *(Refer to the instructions on page 8, Allocation by Separate Books and Records.)*

Taxpayers allocating income on the basis of an alternative method of allocation must complete Schedule E, Parts 1, 2 and 3 and attach an explanation of the alternative method. If a percentage formula is used other than the statutory formula, enter on line 2 of this schedule the percentage shown in the explanation. If a direct allocation method is used, disregard lines 2 through 6. Enter on line 10 the sum of line 9 and the amount directly allocated to New York City contained in the explanation. Check (✓) the appropriate box on line 2. *(Refer to the instructions on page 8, Alternative Method of Allocation.)*

Taxpayers not allocating income should enter 100% on line 2.

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 12 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 the full amount of gain (or loss) and net rental income included on line 12 of Schedule B. *(Refer to Who is Subject to the Tax, paragraph 6, on page 1 of these instructions.)*

LINE 9 - ALLOCATED INVESTMENT INCOME

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

UNINCORPORATED BUSINESS NET OPERATING LOSS

If line 10 shows a net loss from business, this loss is the partnership's 1996 unincorporated business net operating loss.

Beginning with losses sustained by the unincorporated business during taxable years ending after June 30, 1989, the New York City net operating loss deduction shall be determined as if the taxpayer had elected to relinquish the carryback provision except for the first \$10,000 of each of such losses, which may be carried back to the three preceding years.

Losses that are not permitted to be carried back may be carried forward and used to offset income for a period of 15 years subsequent to the loss year.

If a "carryback" results in an overpayment of a prior year's tax, a claim for refund on Form NYC-113 (Amended Return and/or Claim for Refund of Unincorporated Business Tax) should be filed within the limitation period prescribed by law. This claim should be accompanied by a copy of Form NYC-204 filed for the taxable year for which the refund is claimed and a detailed statement of the computation.

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 the partnership had an unincorporated business net operating loss in a prior year any part of which may be carried over to 1996, the amount claimed for 1996 should be entered on line 11 after completing Schedule F, line 1. (Refer to instructions for Schedule F.)

LINE 13 - ALLOWANCE FOR ACTIVE PARTNERS' SERVICES

A deduction may be claimed for reasonable compensation for personal services rendered by the partners. The allowable deduction is:

- 1) 20% of line 12, or
- 2) \$5,000 for each active partner,

whichever is lower. If line 12 is a loss, enter "0" on line 13. This deduction is not dependent on amounts actually withdrawn by the partners as salaries and is in lieu of any deduction for salaries credited or paid to or withdrawn by them. Enter in the box provided on line 13 the number of partners actively engaged in the business.

LINE 15 - SPECIFIC EXEMPTION

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

The specific 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 returns filed for a number of whole months. In that case, the proration is \$416.67 per month.

EXAMPLE

- #1 If the partnership carried on business for a full 9 months, the exemption amount to be entered on line 15 is \$3,705.03 (9 months X \$416.67 per full month).
- #2 If the partnership 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 specific exemption as described above.

LINE 18 - SALES AND USE TAX ADDBACK

This item relates to the unincorporated business tax credit for sales and compensating use tax paid on electricity or electric service and on certain machinery, equipment and other services (NYC Administrative Code Sections 11-503(g), 11-503(d) and 11-503(k)). If the taxpayer received a refund or credit in 1996 of any sales or compensating use tax for which it claimed an unincorporated business tax credit in a prior tax period, the amount of such refund or credit must be added back on line 18. A corresponding adjustment is to be made on line 18 of Schedule B, part 2. (Refer to instructions on Form NYC-114.5, Claim for Credit Applied to Unincorporated Business Tax.)

LINE 20- BUSINESS TAX CREDIT

- If the amount entered on line 19 is \$1,000 or over, no credit is allowable; enter "None" on line 20.
- If the amount entered on line 19 is \$800 or less, your credit is the entire amount of tax on line 19. No tax will be due.
- If the amount of tax entered on line 19 exceeds \$800 but is less than \$1,000, a credit is allowed in the amount determined by multiplying the tax on line 19 by a fraction, the numerator of which is \$1,000 minus the amount of the tax on line 19 and the denominator of which is \$200. Use the following formula:

FORMULA

$$\text{amount on line 19} \times \frac{(\$1,000 - \text{tax on line 19})}{\$200} = \text{business tax credit}$$

EXAMPLE

If the tax on line 19 is \$940, the business tax credit is calculated as follows:

- 1) $940 \times \frac{(\$1,000 - \$940)}{\$200} = \282
- 2) Enter \$282 on line 20
- 3) Enter \$658 (\$940 - \$282) on line 21 (Unincorporated Business Tax).

LINE 21 - UNINCORPORATED BUSINESS TAX

Enter on line 21 the Unincorporated Business Tax due. If the credit on line 20 equals the tax shown on line 19, enter "None" on line 21.

LINE 22 - UBT PAID CREDIT

Enter on line 22 the credit against the Unincorporated Business Tax paid by partnerships from which you receive a distributive share or guaranteed payment that you include

in unincorporated business taxable income. (Attach Form NYC-114.7, UBT Paid Credit.)

LINE 23 - BALANCE BEFORE CREDITS

If the balance is less than zero, enter "0."

LINE 24a - OTHER CREDITS

Enter on line 24a credits against the unincorporated business tax for:

- 1) sales and compensating use taxes. (Refer to instructions on Form NYC-114.5.) (Attach form.)
- 2) real estate tax escalation credit and employment opportunity relocation costs credit. (Refer to instructions on Form NYC-114.6, Claim for Credit Applied to Unincorporated Business Tax.) (Attach form.)
- 3) relocation and employment assistance program (REAP) credit. (Refer to instructions on Form NYC-114.5.) (Attach form.)

LINE 24b - ENERGY COST SAVINGS CREDIT

This item relates to the energy cost savings program credit available to eligible businesses. Attach Form NYC-ECS if claiming this credit. If the total available credit (from Form NYC-ECS) exceeds the tax shown on line 21 less the other credits taken on line 24a, enter only that portion of the allowable credit that reduces the balance to zero. The excess credit must be carried forward to future years or applied to other eligible taxes.

LINE 26 - PAYMENT OF ESTIMATED TAX

Enter on line 26 the sum of all payments of estimated tax made for calendar year 1996 or fiscal year ending in 1997 including amount of overpayment from preceding taxable year credited to this year's tax.

LINE 27 - BALANCE DUE

If you have a balance due on line 27, add lines 27, 30a, 30b and 30c. This is the amount you owe. Enter your payment on line 32 and line A, then complete line 33.

The entire balance due must be paid with the return and is not to be transferred to or paid on any other return.

LINES 28 and 29 - OVERPAYMENT

If there is an overpayment on line 28, enter on line 29a the amount of overpayment to be refunded. Enter on line 29b the amount to be credited to the 1997 estimated tax on Form NYC-5UB. If line 25 is less than zero, disregard negative sign and add that amount to line 26.

LINE 30a - LATE PAYMENT/ INTEREST

If the tax is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from the due date to the

date paid. For information as to the applicable rate of interest, call *Taxpayer Assistance at (718) 935-6000*.

LINE 30b - LATE PAYMENT OR LATE FILING/ADDITIONAL CHARGES

- a) A **late filing penalty** is assessed if you fail to file this form when due, unless the failure is due to reasonable cause. For every month or partial month that this form is late, add to the tax (less any payments made on or before the due date) 5%, up to a total of 25%.
- b) If this form is filed more than 60 days late, you will be subject to the **minimum late filing penalty**. This penalty is the lesser of (1) \$100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).
- c) A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.
- d) The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b.

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

LINE 32 - TOTAL REMITTANCE DUE

After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 27. All remittances must be payable in U.S. dollars drawn on a U.S. bank. Checks drawn on foreign banks will be rejected and returned. Remittances must be payable to: **NYC Department of Finance**.

SCHEDULE B

Computation of Total Income

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

Amounts on lines 1 through 12 are to be entered from the federal Partnership Tax Return and Schedule K. **Attach federal Form 1065 and all schedules, including individual Schedules K-1.**

- 1) Where a partnership carries on two or more unincorporated businesses, either wholly or partly in New York City, all are treated as one business for purposes of the Unincorporated Business Tax. Combine the net income of all business activities and enter on lines 1 through 9. An unincorporated entity (not an individual) is considered to be carrying on any trade, business, profession or occupation

carried on in the City by any other unincorporated entity in which the taxpayer owns an interest. An unincorporated entity will not be considered to be conducting an unincorporated business in the City as a result of owning an interest in another unincorporated entity if the second entity is not engaged in any activity in the City.

- 2) If business is carried on both inside and outside New York City and, for taxable years beginning before July 1, 1996, a regular place of business is maintained outside of New York City, and
 - a) if the New York City income can be fairly and equitably determined from the books and records of the business, report in Schedule B, part 1, the New York City income and deductions only. Apply the New York City modifications described in part 2 that relate to the New York City items reported. (*Refer to instructions for Schedule E.*)
 - b) if the New York City income cannot be fairly and equitably determined from the books and records of the business, the statutory formula contained in Schedule E, Part 3 of the form, must be used to apportion the income from business carried on both inside and outside of New York City.
 - c) if neither the books and records method nor the statutory formula fairly and equitably allocates income to New York City, an alternative method of allocation must be used. If a percentage formula is used other than the statutory formula, enter the amounts from the federal tax return on lines 1 through 11 of this schedule. If a direct allocation method is used, report in Schedule B, part 1, the New York City income and deductions only. Apply the New York City modifications described in part 2 that relate to the New York City items reported. (*Refer to the instructions on page 8, Schedule E, Business Allocation Schedule for further details.*)

NOTE: A partnership that makes an election under IRC Section 754 may not adjust the basis of its assets on the sale of an interest in a partnership.

LINES 1, 2, 3 AND 4

Enter on line 1 the ordinary income (loss) from federal Form 1065, line 22. Enter on line 2 net income (loss) from all rental real estate activity not included on line 1, but included on Schedule K of federal Form 1065. Enter on line 3 portfolio income included on federal Schedule K. Enter on line 4 guaranteed payments to partners properly reportable on

Schedule K. **If you are using the books and records method of allocation, enter amount allocable to New York City.**

Portfolio income includes interest, dividends, royalties, annuity income and gain (loss) on the disposition of property. (*Attach a schedule indicating type and amount of portfolio income.*)

LINE 8 - ADDBACK OF OTHER DEDUCTIONS

Enter on line 8 those deductions included in lines 1 and 2 that are not allowed in computing unincorporated business taxable income, other than the guaranteed payments entered on line 4, the payments to current or retired partners on line 5 and the New York City modifications on lines 13 through 15. For example, the partnership's contributions to retirement plans for partners (if deducted on Form 1065, page 1) are entered on line 8. **If you are using the books and records method of allocation, enter amount allocable to New York City.**

LINE 9 - OTHER ITEMS

Enter the net amount of the partners' distributive shares of income and deduction items not included in any other line on Form NYC-204, Schedule B, but required to be reported separately to complete federal Form 1065. (*Attach schedule.*) **If you are using the books and records method of allocation, enter amount allocable to New York City.**

LINE 11 - INCOME OR GAIN - 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, gain or loss, subtract on line 11 the amount included on line 10 if income or gain is reported, and add this amount on line 11 if a 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, on page 1 of these instructions.*)

PART 2 - NEW YORK CITY MODIFICATIONS

It may be necessary to make certain additions to or subtractions from the amount reported on Schedule B, part 1, line 12 to arrive at total income from business to be reported on line 28. If any of the following items is applicable, complete part 2 showing the nature and amount of each item. If none of these applies, transfer the amount on line 12 to line 28 of Schedule B.

If the business is carried on both inside and outside New York City and the New York City income is determined from the books and records of the business, enter in part 2 only those additions and subtractions that relate to

the New York City items reported on lines 1 through 9 of Schedule B, part 1.

- ADDITIONS -

LINE 13 - 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 12.

LINE 14 - MODIFICATIONS RELATING TO ITEMS OF TAX CREDIT AND DEDUCTION

Line 14a: Taxpayers claiming the sales and compensating use tax credits must enter the amount shown on line 4 of Form NYC-114.5.

Line 14b: Taxpayers claiming the real estate tax escalation credit or employment opportunity relocation costs credit must enter the amount shown on lines 4 and 5, respectively, of Form NYC-114.6.

Line 14c: Any amount deducted in computing part 1, line 12, 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; or
- iii) amortization of bond premium on any bond, the interest on which constitutes exempt income.

Line 14d: 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 the following types of property:

- i) property placed in service in New York State in taxable years beginning before January 1, 1985 (except recovery property subject to the provisions of IRC Section 280-F)
- ii) property placed in service outside of New York State in taxable years beginning before January 1, 1994 (except property subject to the provisions of IRC Section 280-F)

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

Enter on line 14d the ACRS depreciation deduction used in computing, part 1, line 12. (Refer to instructions for line 20.) (Attach Form NYC-399.)

Line 14e: Eligible energy users and suppliers of fuel services claiming the energy cost savings credit must add back the amounts required under Section 11-506(b)(10-a) and (10-b) of the NYC Administrative Code.

LINE 15 - 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) five (5)% of an amount equal to interest paid or accrued by a taxpayer engaged in certain types of stock or asset acquisitions (as described in Section 11-506(d) of the NYC Administrative Code) during the taxable year and for the three immediately preceding taxable years (to the extent deducted in the computation of unincorporated business taxable income). The amount will not exceed the limitation amount as described in Section 11-506(b)(11) of the NYC Administrative Code. (Effective for taxable years beginning on or after January 1, 1989, and for takeovers occurring July 1, 1989, and thereafter.) (Attach schedule or computation.)
- 4) 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, of these instructions.)
- 5) losses, interest or other expenses deducted for federal income tax purposes directly or indirectly attributable to notional principal contracts, the holding, sale, disposition, assumption, offset or termination of a position in property as defined in Admin. Code §11-502(c)(1)(A), or other substantially similar losses from ordinary and routine trading or investment activity as determined by the Commissioner, realized in connection with certain investment activities to the extent such activities are

considered exempt from the Unincorporated Business Tax. Refer to *Who is Subject to the Tax*, Paragraph 5 of these instructions.

- 6) In the case of a taxpayer that qualifies for the partial investment exemption (see: *Who is Subject to the Tax*, paragraph 5 of these instructions), losses, interest or other expenses deducted for federal income tax purposes directly or indirectly attributable to the sale or other disposition of an interest in another unincorporated entity to the extent attributable to activities of that entity covered by the taxpayer's partial exemption.
- 7) Any other additions required by Sections 11-506, 11-507 and 11-509 of the NYC Administrative Code. (Attach any appropriate schedules.)

- SUBTRACTIONS -

LINE 17 - INCOME AND UNINCORPORATED BUSINESS TAX REFUNDS

Enter any refund or credit for the overpayment of any income tax to the extent included in computing part 1, line 10.

LINE 18 - SALES AND USE TAX REFUNDS OR CREDITS

This item relates to the unincorporated business tax credit for sales and compensating use taxes paid on electricity or electric service and certain machinery, equipment and other services. If the taxpayer received a refund or credit in 1996 of any sales or use tax for which it claimed an unincorporated business tax credit in a prior tax period, the amount of the refund or credit must be added to the Unincorporated Business Tax on line 18 of Schedule A, and entered at part 2, line 18 as a subtraction modification. (Refer to instructions on Form NYC-114.5.)

LINE 19 - 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.)

LINE 20 - DEPRECIATION ALLOWED

In place of the disallowed ACRS deduction for certain property, line 14d, 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 20 the ACRS adjustment from Form NYC-399, Schedule C, line 8B. (Attach Form NYC-399.)

LINE 21 - EXEMPT INCOME

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

- 1) interest income on United States obligations included in computing part 1, line 12;
- 2) interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included in computing part 1, line 12 but exempt from state or local income taxes under United States law; or
- 3) interest or dividend income on bonds or securities to the extent exempt from income tax under New York laws authorizing the issuance of these bonds or securities, but included in computing part 1, line 12.

LINE 22 - DIVIDENDS

Enter 50% of dividends *other than the following*:

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

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

LINE 23 - 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 12, 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 the 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 for

each property; and

- ii) the amount of gain that would be reported 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, or on the date of its sale or disposition prior to 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 a gain reported is from a sale of property prior to January 1, 1966, reported on the installment method, the fair market value of the property on the date of the 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 income or property held for the production of this income; and amortization of bond premium for the taxable year on any bond, the interest on 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 12.
- 3) 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, of these instructions.*)
- 4) income or gain includible in gross income for federal income tax purposes, including dividends, interest, income attributable to securities loans, notional principal contracts, the holding, sale, disposition, assumption, offset or termination of a position in property as defined in Admin. Code

§11-502(2) (1) (A), or other substantially similar income from ordinary and routine trading or investment activity as determined by the Commissioner, realized in connection with certain investment activities to the extent such activities are considered exempt from the Unincorporated Business Tax. (*Refer to: "Who is Subject to the Tax", paragraph 5 of these instructions.*)

- 5) in the case of a taxpayer that qualifies for the partial investment exemption (*see: "Who is Subject to the Tax", paragraph 5 of these instructions*), income or gain includible in gross income for federal income tax purposes realized from the sale or other disposition of an interest in another unincorporated entity to the extent attributable to activities of that entity covered by the taxpayer's partial exemption.
- 6) any other subtractions required by Sections 11-506, 11-507 (other than charitable contributions) and 11-509 of the NYC Administrative Code. (*Attach any appropriate schedules.*)

Any unincorporated business net operating loss deduction allowable in 1996 by reason of a carryover of a net operating loss sustained by the partnership in prior years should be reported in Schedule F.

SAFE HARBOR LEASES

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

LINE 27 - CHARITABLE CONTRIBUTIONS

Deductions are allowed for charitable contributions made by the partnership, as a tax entity separate and distinct from its partners, to the extent contributions would be deductible by a corporation for federal income tax purposes, but not in excess of 5% of line 26. 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 29 - 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 29a - DIVIDENDS FROM STOCKS HELD FOR INVESTMENT

Enter dividends not excluded on line 22. This includes 100% of dividends described in Sections 11-602.8(b)(13) and (15) of the Administrative Code; 100% of dividends from stock described in Sections 11-602.3(b) and (c) of the Administrative Code; 50% of dividends from corporations for which an exclusion was allowed on line 22 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 29d - INCOME FROM CASH

Enter income from cash on Schedule B, line 29d only if you have elected to treat cash as investment capital and have entered the amount thereof on Schedule D, line 3.

LINE 29f - DEDUCTIONS ATTRIBUTABLE TO INVESTMENT CAPITAL

For more information regarding indirect attribution rules and formulas, you may call Citytax Dial, New York City's recorded tax information line, at (718) 935-6736. Message #235 will provide you with current information.

SCHEDULE C

Partnership Information

Partnerships must complete this schedule in order to claim the allowance for partner's services (Schedule A, line 13). In addition, this schedule must be completed for partners to claim the UBT Paid Credit on their own respective Unincorporated Business, General Corporation or Banking Corporation Tax returns. Enter for each partner in column 3 the sum of that partner's distributive share of income, gain, loss and deductions of the partnership, and guaranteed payments from the partnership, **but only if the sum is greater than or equal to zero** (i.e., the partner's income, gain, and guaranteed payments exceed the partner's losses and deductions). For this purpose, a partner's distributive share is that partner's distributive share of each item of income, gain, loss, and deduction, other than guaranteed payments made by the partnership, reflected in Schedule B, line 28, plus the amount of any guaranteed payments to that partner from the partnership. **If the sum is less than zero** (i.e., the partner's losses and deductions exceed the partner's income, gain, and guaranteed payments), **enter zero ("0")**.

Enter in column 4 each partner's percentage share of the total of the amounts entered in column 3. Divide the amount for the partner in column 3 by the column 3 total. The total of the percentages in column 4 must add up to 100%.

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.

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

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 capi-

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

SCHEDULE E

Business Allocation

An allocation of business income is permitted for purposes of the Unincorporated Business Tax if the partnership carries on business both inside and outside New York City and, for taxable years beginning before July 1, 1996, it maintains a regular place of business outside of New York City. A regular place of business is maintained outside of the City if the partnership has, maintains, operates or occupies desk space, an office, a shop, a store, a warehouse, a factory, an agency or other place where its affairs are systematically and regularly carried on outside New York City.

If the partnership has no regular place of business outside the City, it may not allocate any income from business carried on outside the City for taxable years beginning before July 1, 1996 even though its representatives may travel outside the City for purposes of performing any duties connected with the trade or business and may make sales or perform services for persons or entities located outside the City.

ALLOCATION BY SEPARATE BOOKS AND RECORDS

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

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

ALLOCATION BY FORMULA

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

A partnership that derives more than 10% of its gross receipts for the taxable year from pub-

lishing 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 partnership's business income in the City.

ALTERNATIVE ALLOCATION METHOD

If Schedule E, Part 3 does not fairly and equitably reflect the income from New York City and you use an alternate method, Schedule E, Part 3, based upon the statutory formula, must still be completed and a detailed explanation of the alternate allocation method used to determine New York City income must be attached. Full details of any modifications increasing or decreasing the amount of New York City income computed by use of the alternate method and how the alternative method is more equitable than the statutory formula must also be attached.

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

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

SCHEDULE E, 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 E, PART 3

Complete this schedule if business is carried on both inside and outside New York City and you do not maintain accounts fairly and equitably reflecting the New York City operations of the business.

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

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

Each factor is computed by dividing the amount in column A by the amount in column B. The resulting percentages are added together, the sum is divided by 3, and the resulting allocation percentage is entered on line 5. If one of the factors is missing, the other two percentages are added and the sum is divided by two. If two of the factors are missing, the remaining percentage is the allocation percentage. A factor is not missing merely because its numerator is zero, but is missing if both its numerator and denominator are zero.

EXAMPLE

A partnership has no employees either inside or outside New York City and pays no wages. The allocation percentage is computed by adding the property percentage and the gross income percentage and dividing the total by two.

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

For taxable years beginning after 6/30/96, a manufacturing business may elect to use a double-weighted gross income factor. An election must be made on a timely filed original return and is made by entering on line 3b the amount from line 3a. If you make an election, add the percentages in column C and divide the sum by 4 and enter the result on line 5. If one or more of the other factors is missing, add the remaining percentage(s) and divide by the number of percentages so added. **If you do not wish to make the election, do not enter an amount on line 3b.** For purposes of this election, a manufacturing business is an unincorporated business primarily engaged in the manufacturing and sale of tangible personal property. Manufacturing includes assembly, working raw materials into wares, and giving new shapes, qualities or combinations to matter that has already gone through some artificial process, through the use of machinery, tools, appliances or other similar equipment. An entity is primarily engaged in manufacturing if more than 50% of its gross receipts for the year are attributable to manufacturing.

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

LINE 1a - REAL PROPERTY OWNED

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

The average value of the property is determined by adding:

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

LINE 1b - REAL PROPERTY RENTED FROM OTHERS

The value of real property rented to the business and to be included in line 1b is generally **eight** times the gross rent payable during the

taxable year for which the return is filed. Gross rent includes:

- 1) any amount payable for the use or possession of real property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise; and
- 2) any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other agreement; and
- 3) that proportion of the cost of any improvement to the real property made by or on behalf of the business which reverts to the owner or lessor upon termination of a lease or other agreement.

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

LINE 1c - TANGIBLE PERSONAL PROPERTY OWNED

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

The average value of the property is determined by adding:

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

LINE 2 - WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION

The amounts to be entered on line 2 include wages, salaries, and other personal service compensation paid only to employees of the unincorporated business. Do not include payments to independent contractors or to independent sales agents. The portion that represents the amount paid in connection with operations carried on in New York City should be entered on line 2 in column A. The total compensation paid to employees during the taxable year in connection with unincorporated business operations carried on both inside and outside New York City should be entered in column B. If an employee works in or travels out of an office or other place of business within New York City, the compensation paid to that employee for services is part of operations carried on within New York City and must be included in New York City amounts.

LINE 3 - GROSS SALES OF MERCHANDISE OR CHARGES FOR SERVICES DURING THE YEAR

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

Notwithstanding the foregoing, for taxable years beginning after June 30, 1996, the amount to be entered on line 3, 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.

The amount to be entered on line 3 in column B is the total gross sales made or charges for services performed by the partners or by employees, agents, agencies, or independent contractors of the unincorporated business inside and outside New York City.

Partnerships engaged in the business of publishing newspapers or periodicals must allocate receipts from sales of subscriptions to, and advertising in, such publications based upon the delivery of the publications within New York City compared to the deliveries of the publications to all locations.

Partnerships engaged in the business of radio or television broadcasting, whether by cable or through the airways or by other means of transmission, must allocate receipts from broadcasting programs or commercial messages or the sales of subscriptions for such broadcasting based upon the audience within New York City compared to the audience everywhere.

SCHEDULE F***Net Operating Loss Deduction***

The net operating loss deduction allowable on Form NYC-204 is computed in the same manner for unincorporated business tax purposes as it would be for federal income tax purposes if the unincorporated business were an individual taxpayer, but taking into account only unincorporated business gross income and unincorporated business deductions allocated to New York City of the unincorporated business.

If the unincorporated business was carried on both inside and outside New York City during the year in which the net operating loss was

sustained, the allowable 1996 net operating loss deduction is determined by reference to the allocation basis or method used in the year the loss was sustained, regardless of whether the unincorporated business was carried on both inside and outside New York City during 1996. The amount of loss allocated to New York City for the loss year is the amount to be entered on line 1 of Schedule F.

LINES 2, 3, 4 and 5

For purposes of completing lines 2 through 5, the amount of loss absorbed in a year is determined without regard to changes in interests of the member partners.

LINE 7

If the amount on Schedule A, line 10 is a loss, enter "0."

If you are submitting a Schedule F for more than one loss year, enter on line 7 of Schedule F for the earliest loss year the amount from the current year's Schedule A, line 10. On the Schedule F for any subsequent loss year, enter on line 7 the amount from the current year's Schedule A, line 10, reduced by the sum of the amounts entered on Schedules F, line 12 for any earlier loss years.

For limitations on the net operating loss deduction of a partnership where the interests of the member partners have changed between a loss year and the year for which the deduction is claimed, refer to Section 11-507(2)(b) of the NYC Administrative Code and 19 RCNY Section 28-06(c)(3).

SCHEDULE G***Additional Required Information***

All questions in this schedule (questions 1 through 11) must be answered.

TAXPAYER ASSISTANCE

For interest calculations and account information, contact Taxpayer Assistance, Monday through Friday, 8:30 am to 5:30 pm. To speak with a Taxpayer Representative, call between 9:00 am and 4:30 pm.

Call: (718) 935-6000

Walk in: 25 Elm Place, 4th floor
Brooklyn, NY 11201

For recorded information on various tax topics, call **Citytax Dial** at (718) 935-6736. Select message "131" for up-to-date information on tax changes.

PRIVACY ACT NOTIFICATION

The Federal Privacy Act of 1974, as amended, requires all agencies requesting Social Security Numbers to inform individuals from whom they seek information why the request is being made and how the information is used. The disclosure of Social Security Numbers is required by Sections 11-102.1 and 11-537 of the Administrative Code of the City of New York. Such numbers which are disclosed on any report or return are used for tax administration purposes, and as may be required by law, or when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access (limited or otherwise) to the information contained in his/her return.

WORKSHEET FOR PARTIAL EXEMPTION

A LIST EACH ASSET OF THE TAXPAYER (ATTACH ADDITIONAL SHEETS IF NECESSARY)	B AVERAGE VALUE IN MONTH 1	C AVERAGE VALUE IN MONTH 2	D AVERAGE VALUE IN MONTH 3	E AVERAGE VALUE IN MONTH 4	F AVERAGE VALUE IN MONTH 5	G AVERAGE VALUE IN MONTH 6	H AVERAGE VALUE IN MONTH 7	I AVERAGE VALUE IN MONTH 8	J AVERAGE VALUE IN MONTH 9	K AVERAGE VALUE IN MONTH 10	L AVERAGE VALUE IN MONTH 11	M AVERAGE VALUE IN MONTH 12	N - TOTAL OF COLUMNS B - M DIVIDED BY 12 OR THE NUM- BER OF MONTHS FOR A TAX YEAR OF LESS THAN 12 MONTHS
1. REAL PROPERTY ASSETS NOT HELD FOR SALE TO CUSTOMERS OR AS INVENTORY													
2. TANGIBLE PERSONAL PROPERTY NOT HELD FOR SALE TO CUSTOMERS OR AS INVENTORY.													
3. STOCKS, SECURITIES, DERIVATIVE FINANCIAL INSTRUMENTS, FOREIGN CURRENCIES, OPTIONS, FORWARD AND FUTURES CONTRACTS NOT HELD FOR SALE TO CUSTOMERS OR AS INVENTORY (EXCLUDING OBLIGATIONS HELD AS A FACTOR, OBLIGATIONS ACQUIRED IN THE ORDINARY COURSE OF BUSINESS FOR FUNDS LOANED, SERVICES RENDERED OR PROPERTY SOLD OR RENTED AND EXCLUDING INTERESTS IN OTHER UNINCORPORATED ENTITIES).													
4. INTERESTS IN UNINCORPORATED ENTITIES NOT ENGAGED IN AN UNINCORPORATED BUSINESS IN NEW YORK CITY.													
5. INTERESTS IN UNINCORPORATED ENTITIES ENGAGED IN AN UNINCORPORATED BUSINESS IN NEW YORK CITY HELD BY THE TAXPAYER AS AN INVESTOR.													
6. TOTAL OF COLUMN (N), LINES 1 - 5.													
7. ALL OTHER ASSETS OF THE TAXPAYER.													
8. TOTAL OF COLUMN (N), LINES 6 AND 7.													
9. COLUMN (N), LINE 6 DIVIDED BY LINE 8.													

IF COLUMN (N), LINE 9 IS LESS THAN .90, YOU ARE NOT ELIGIBLE FOR THE PARTIAL EXEMPTION. IF COLUMN (N), LINE 9 IS .90 OR MORE, YOU ARE ELIGIBLE FOR THE PARTIAL EXEMPTION