



## Highlights of Recent Tax Law Changes for Corporations

- Effective for tax years ending after September 10, 2001, for purposes of the New York City Unincorporated Business Tax, General Corporation Tax and Banking Corporation Tax, the City has "decoupled" from the Federal bonus depreciation deductions allowed under the Job Creation and Worker Assistance Act of 2002 except with respect to the depreciation and first year expense deductions allowed with respect to "qualified New York liberty zone property", "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan South of Houston Street and North of Canal Street.) For City tax purposes, depreciation deductions for all other "qualified property" must be calculated as if the property was placed in service prior to September 11, 2001. Local Law 17 of 2002. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" and new Form NYC-399Z included with these materials for more information.
- Effective for tax periods beginning on and after August 1, 2002, entities who receive eighty percent or more of their gross receipts from charges for the provision of mobile telecommunications services to customers will be taxed as if they were regulated utilities for purposes of the New York City Utility Tax, General Corporation Tax, Banking Corporation Tax and Unincorporated Business Tax. Thus, such entities will be subject to only the New York City Utility Tax. The amount of gross income subject to tax has been amended to conform to the Federal Mobile Telecommunications Sourcing Act of 2000. In addition, if any such entity is a partnership, its partners will not be subject to the New York City Utility Tax on their distributive share of the income of any such entity. Finally, for tax years beginning on and after August 1, 2002, partners in any such entity will not be taxed on their distributive share of the income of any such entity. Chapter 93, Part C, of the Laws of New York, 2002.
- For tax years beginning after 1999, various provisions of the General Corporation Tax Law limiting tax benefits arising out of highly leveraged corporate mergers, consolidations and acquisitions are repealed. Local Law 57 of 2001.
- For taxable years beginning after 2000, the amount estimated as the taxpayer's General Corporation Tax and Banking Corporation Tax liability is to be determined after taking into account various applicable credits for purposes of determining the mandatory first installment of tax required to be paid with the prior year's return. Local Law 57 of 2001.

## GENERAL INFORMATION

### S CORPORATIONS

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

### CORPORATION DEFINED

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 General Corporation Tax and not the Unincorporated Business Tax. Unincorporated entities electing to be treated as associations taxable as corporations for federal income tax purposes pursuant to the "check-the-box" rules under IRC §7701(a)(3) are treated as corporations for City tax purposes and are not subject to the Unincorporated Business Tax. Eligible entities having a single owner disregarded as a separate entity under the "check-the-box" rules and treated as either a sole proprietorship or a branch for federal tax purposes will be similarly treated for City tax purposes. See the Finance Memorandum 99-1 included with these forms for additional information. **Unincorporated entities that were subject to the Unincorporated Business Tax for tax years beginning in 1995 and that are taxable**

**as corporations for federal income tax purposes that elected to continue to be subject to the Unincorporated Business Tax for years after 1995 are not subject to the GCT. Note: this election could only have been made on the Unincorporated Business Tax return filed for tax years beginning in 1996.**

### TRANSITIONAL PROVISIONS RELATION TO THE ENACTMENT OF THE GRAMM-LEACH-BLILEY ACT OF 1999:

#### Existing Corporations:

Except for a banking corporation described in paragraphs (1) through (8) of Ad. Code section 11-640(a) (see, Form NYC-1, Instructions "Who Must File" items A through C), for taxable years beginning after 1999 and before 2001, a corporation that was in existence before January 1, 2000 was taxable under the same tax (either NYC General Corporation Tax (GCT) or NYC Banking Corporation Tax (BCT)) as applied to it for its last taxable year beginning before January 1, 2000. For this purpose, a corporation was considered to have been subject to a tax prior to 2000 if it was not a taxpayer but was properly included in a combined report filed by another corporation under that tax.

Ad. Code §11-640 was amended to similarly require a corporation that was in existence prior to January 1, 2001 to be taxed in years beginning after 2000 and before 2003 under the same tax, either GCT or BCT, that

applied to it for the last year beginning before 2001. Ch. 383, Laws of 2001, Part P, §8.

#### Newly-formed Corporations:

A corporation formed on or after January 1, 2000, and before January 1, 2001, was permitted to elect to be subject to either the GCT or BCT for its taxable years beginning after 1999 and before 2001 **provided either:**

- the corporation was a financial subsidiary, or
- at least 65% of the corporation's voting stock is owned or controlled, directly or indirectly, by a financial holding company, and the corporation is principally engaged in activities described in sections 4(k) 4 or 4(k)5 of the Bank Holding Company Act of 1956, as amended, or described in regulations promulgated under that section.

A financial subsidiary is a corporation whose voting stock is 65% or more owned or controlled directly or indirectly, by a banking corporation (including a corporation that has elected to be subject to the BCT under these transition rules) described in paragraphs (1) through (3) of Ad. Code section 11-640(a) and described in 12 USCS section 24a or section 46 of the Federal Deposit Insurance Act.

A financial holding company is a corporation that has filed with the Federal Reserve Board a written declaration of its election to be a financial holding company under section 4(i)

of the Bank Holding Company Act of 1956, as amended, provided the Federal Reserve Board has not found that election to be ineffective.

**An election by a newly-formed corporation under this provision must have been made on or before the due date for filing its return for the applicable year, including extensions, and was made by filing the return required under the appropriate tax. The election is irrevocable.**

New Ad. Code §11-640(h) permits a corporation formed on or after January 1, 2001 and before January 1, 2003 to make a comparable election for tax years beginning after 2000 if it meets the requirements described above.

#### Combined Filing under Transitional Provisions

A bank holding company doing business in the City that, during a taxable year beginning after 1999 and before 2003, registers for the first time as a bank holding company under the Bank Holding Company Act of 1956, as amended, and elects to be a financial holding company, may file a combined report under the BCT for such year with one or more banking corporations doing business in the City and 65% or more owned or controlled, directly or indirectly, by that bank holding company without seeking permission from the Commissioner. In addition, such bank holding company may, without seeking the Commissioner's permission: (i) include in a combined report filed for a subsequent year beginning after 1999 and before 2003 any eligible banking corporation that, for the first time in such subsequent year, either is doing business in the City or meets the above ownership requirements; and (ii) eliminate from a combined report filed in any such subsequent year any corporation no longer meeting the requirements for combination in such subsequent year. Except as provided above, the permission of the Commissioner is required for any such bank holding company to cease to file on a combined basis, elect to file on a combined basis or make any changes to the composition of the group of corporations filing on a combined basis for any subsequent year. Ch. 383, Laws of 2001, Part P, §9.

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

A corporation (as defined in Section 11-602.1 of the New York City Administrative Code) doing business, employing capital, or owning or leasing property in a corporate or organized capacity, or maintaining an office in New York City must file Form NYC-3L if:

- 1) it carries on business both inside and outside New York City;
- 2) it has subsidiary and/or investment capital;

- 3) it claims an optional deduction for depreciation in accordance with Section 11-604.3(d) or (e) of the NYC Admin. Code;
- 4) it claims an optional deduction for expenditures relating to air pollution control facilities, as provided in Section 11-602.8(g) of the NYC Admin. Code;
- 5) it claims a modification with respect to gain arising from the sale of certain property, as provided in Section 11-602.8(h) of the NYC Admin. Code;
- 6) it is a real estate investment trust qualified under Sections 856 and 857 of the Internal Revenue Code (see section 11-603.7 of the NYC Admin. Code);
- 7) it entered into a "safe harbor" lease transaction under provisions of the Internal Revenue Code as it was in effect for agreements entered into prior to January 1, 1994;
- 8) it claims a credit for sales and compensating use taxes paid in the current year or is required to adjust its current General Corporation Tax as a result of credits claimed in prior years. See the instructions to Form NYC-9.5 and the instructions for Schedule B, lines 6a and 14 for more information.
- 9) it claims a credit for increased real estate tax payments made to a landlord in connection with the relocation of employment opportunities to New York City, as provided in Section 11-604.13 of the NYC Admin. Code;
- 10) it claims a credit for certain costs or expenses incurred in relocating employment opportunities to New York City, as provided in Sections 11-604.14 and 11-604.17 of the NYC Admin. Code;
- 11) it claims a modification with respect to wages and salaries disallowed as a deduction for federal income tax purposes (work incentive/jobs credit provisions), as provided in Section 11-602.8(a)(7) of the NYC Admin. Code;
- 12) either separately or as a member of a partnership, it is engaged in an insurance business as a member of the New York Insurance Exchange;
- 13) it is a Regulated Investment Company as defined in Section 851 of the Internal Revenue Code (see section 11-603.7 of the NYC Admin. Code);
- 14) it is a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation;
- 15) it claims a credit for New York City Unincorporated Business Tax paid by a partnership in which it is a partner as provided in Section 11-604.18 of the NYC Admin. Code; or
- 16) it will be included in a combined report (Form NYC-3A).

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

- a) A dormant corporation that did not at

- b) any time during its taxable year engage in any activity or hold title to real property located in New York City.
- b) A nonstock corporation organized and operated exclusively for nonprofit purposes and not engaged in substantial commercial activities that has been granted an exemption by the Department of Finance.
- c) Corporations subject to taxation under Part 4 of Subchapter 3 of Chapter 6, Title 11 (Banking Corporations) or under Chapter 11, Title 11 (Utility Corporations) of the NYC Admin. Code are not required to file General Corporation Tax returns. However, corporations that are subject to tax under Chapter 11 as vendors of utility services are subject to the General Corporation Tax in accordance with section 11-603.4 of the NYC Admin. Code and must file a return.
- d) A limited profit housing corporation organized and operating pursuant to the provisions of Article Two of the Private Housing Finance Law.
- e) Insurance corporations.
- f) A Housing Development Fund Company (HDFC) organized and operating pursuant to the provisions of Article Eleven of the Private Housing Finance Law.
- g) Organizations organized exclusively for the purpose of holding title to property as described in Sections 501(c)(2) or (25) of the Internal Revenue Code.
- h) An entity treated as a Real Estate Mortgage Investment Conduit (REMIC) for federal income tax purposes. (Holders of interests in a REMIC remain taxable on such interests or on the income thereon.)
- i) Corporations principally engaged in the conduct of a ferry business and operating between any of the boroughs of the City under a lease granted by the City.
- j) A corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, provided that all of the capital stock of the corporation is owned by a municipal corporation of New York.
- k) Bank holding corporations filing on a combined basis in accordance with Section 11-646(f) of the NYC Admin. Code.
- l) Corporations principally engaged in the operation of marine vessels whose activities in the City are limited exclusively to the use of property in interstate or foreign commerce.
- m) Foreign corporations that are exempt under the provisions of Public Law 86-272. (Refer to 19 RCNY Section 11-04 (b)(11).)
- n) For taxable years beginning on or after January 1, 1998, an alien corporation if its activities in the City are limited solely to investing or trading in stocks and securities for its own account within the

meaning of IRC §864(b)(2)(A)(ii) or investing or trading in commodities for its own account within the meaning of IRC §864(b)(2)(B)(ii) or any combination of these activities. NYC Admin. Code §11-603.2-a.

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

#### WHEN AND WHERE TO FILE

The due date for filing is on or before March 17, 2003, or, for fiscal year taxpayers, on or before the 15th day of the 3rd month following the close of the fiscal year.

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

Returns with remittances:

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

Returns claiming refunds:

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

All others:

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

#### AUTOMATIC EXTENSIONS

An automatic extension of six months for filing this return will be allowed if, by the original due date, the taxpayer files with the Department of Finance an application for automatic extension on Form NYC-6 and pays the amount properly estimated as its tax. A taxpayer with a valid six-month automatic extension filed on Form NYC-6 may request up to two additional three-month extensions by filing Form NYC-6.1. A separate Form NYC-6.1 must be filed for each additional three-month extension.

Mail Forms NYC-6 and 6.1 to the address indicated on the form.

#### FINAL RETURNS

If a corporation ceases to do business in New York City, the due date for filing a final General Corporation Tax Return is the 15th day after the due date of the cessation (Section 11-605 of the NYC Admin. Code). Corporations may apply for an automatic six-month

extension for filing a final return by filing Form NYC-6F, Application for Extension to File Final Return. Any tax due must be paid with the final return or the extension.

#### TAX FORMS

You can have forms delivered to you by fax, computer or phone. Call Tax Fax at (718) 935-6114 at any time from the phone connected to your fax machine or modem. You can also visit our Internet web site at:

**<http://nyc.gov/finance>**

You can also call our automated tax form ordering service at any time, which at **(718) 935-6739**.

Forms can also be obtained at:

**NYC Department of Finance  
Taxpayer Assistance  
25 Elm Place, 4th Floor  
Brooklyn, NY 11201-5807**

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

FORM NYC-6 OR NYC-6F - Application for Automatic Extension for General Corporation Tax is an application for a six-month extension of time to file a tax return. File it on or before the due date of the return. If the corporation ceased to be subject to tax during 2002, use Form NYC-6F to request an extension to file a final return.

FORM NYC-6.1 - Application for Additional Extension for General Corporation Tax is a request for an additional three months of time to file a return. A corporation with a valid six-month extension is limited to two additional extensions.

FORM NYC-8 - General Corporation Tax Claim for Credit or Refund is used to claim a refund of General Corporation Tax. Please note that it no longer can be used to file an amended return.

FORM NYC-222 - Underpayment of Estimated Tax by Corporations will help a corporation determine if it has underpaid an estimated tax installment and, if so, compute the penalty due.

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

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

FORM NYC-399Z - Depreciation Adjustments for Certain Post 9/10/01 Property may have to be filed by taxpayers claiming depreciation deductions for "qualified prop-

erty," other than "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements" placed in service after September 10, 2001 for Federal or New York State tax purposes. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" included with these materials.

FORM NYC-400 - Declaration of Estimated Tax by General Corporations must be filed by any corporation whose New York City tax liability can reasonably be expected to exceed \$1,000 for the 2003 calendar year or fiscal year beginning in 2003.

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

FORM NYC-CR-A - Commercial Rent Tax Annual Return must be filed by every tenant that rents premises for business purposes in Manhattan south of the center line of 96th Street **and** whose annual or annualized gross rent for any premises is at least \$200,000. (Effective June 1, 2001.)

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

#### ESTIMATED TAX

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

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

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

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

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

For more information regarding estimated tax payments and due dates, you may call Citytax Dial, New York City's recorded tax information line, at: (718) 935-6736. Message #233 will provide you with current information.

### PENALTY FOR UNDERSTATING TAX

If there is a substantial understatement of tax (i.e., if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$5,000) for any taxable year, a penalty will be imposed equal to 10% of the amount of the understated tax.

The amount on which you pay the penalty can be reduced by subtracting any item for which (1) there is or was substantial authority for the way in which the item was treated on the return, or (2) there is adequate disclosure of the relevant facts affecting the item's tax treatment on the return or in a statement attached to the return.

### CHANGE OF BUSINESS INFORMATION

If there have been any changes in your business name, identification number, billing or mailing address or telephone number, complete Form DOF-1, Change of Business Information. You can obtain this form by calling Taxpayer Assistance at (718) 935-6000. You can also visit our internet website at <http://nyc.gov/finance>.

### FOREIGN AIRLINES

Retroactive to tax years beginning on or after January 1, 1989, foreign airlines that have a foreign air carrier permit pursuant to Section 402 of the Federal Aviation Act of 1958 are permitted to exclude from entire net income the following items:

- all income from the international operation of aircraft, even though effectively connected with the conduct of a trade or business in the United States
- income from outside the United States that is derived from the operation of aircraft
- certain passive income derived from sources outside the United States

The above exclusions are permitted provided that the foreign country in which the airline is based and organized grants a similar or greater exemption from tax with respect to United States airlines. For more information, see Admin. Code Section 11-602.8 (c-1).

For taxable years beginning on or after January 1, 1994, property, receipts and wages, salaries or other personal service compensation directly attributable to the generation of income not included in entire net income

under Admin. Code Section 11-602.8 (c-1) are excluded when calculating the business allocation percentage. (See Admin. Code Section 11-604.3 (a) (6).)

Also for taxable years beginning on or after January 1, 1994, in calculating the tax on business and investment capital of foreign airlines, assets (and the liabilities directly or indirectly attributable to those assets) employed in generating the income excluded from entire net income are excluded. (See Admin. Code Sections 11-602.4 and 11-602.6.)

### WIRELESS TELECOMMUNICATIONS SERVICE PROVIDERS

Effective for tax periods beginning on and after August 1, 2002, entities who receive eighty percent or more of their gross receipts from charges for the provision of mobile telecommunications services to customers will be taxed as if they were regulated utilities for purposes of the New York City Utility Tax or General Corporation Tax. Thus, such entities will be subject to only the New York City Utility Tax. The amount of gross income subject to tax has been amended to conform to the Federal Mobile Telecommunications Sourcing Act of 2000. In addition, for tax years beginning on and after August 1, 2002, partners in any such entity will not be subject to General Corporation Tax on their distributive share of the income of any such entity.

Page 5 alternative tax worksheet (note additional instructions about making paragraphs a) & b) into c) & d) and making c) & d) (w/ edits to d)) a) & b).

### SIGNATURE

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

### TAX PREPARERS

Anyone who prepares a return for a fee must sign the return as a paid preparer and enter his or her Social Security Number or PTIN. See Finance Memorandum 00-1 included with these materials. Include the company or corporation name and Employer Identification Number, if applicable.

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

authorizing the Department of Finance to call the preparer to answer any questions that may arise during the processing of your return. Also, you are authorizing the preparer to:

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

**You are not authorizing** the preparer to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Department. The authorization cannot be revoked, however, the authorization will automatically expire no later than the due date (without regard to any extensions) for filing next year's return. **Failure to check the box will be deemed a denial of authority.**

## SPECIFIC INSTRUCTIONS

### SCHEDULE A

Computation of Tax

### LINES 2a AND 2b - TAX ON ALLOCATED CAPITAL

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

Enter the amount from Schedule E, line 14 in the left-hand column of line 2a or line 2b. Multiply by the applicable percentage and enter the tax in the right-hand column. **If that amount exceeds \$350,000, enter \$350,000.**

### LINE 3 - ALTERNATIVE TAX

Every taxpayer must calculate its alternative tax and enter its computation on line 3. To compute the alternative tax, measured by entire net income plus compensation, you may use the worksheet on page 6 of Form NYC-3L.

### Additional Information for Computing the Alternative Tax

#### ALTERNATIVE TAX WORKSHEET

- a) Line 1. If you claim optional depreciation on qualified New York City property, add federal depreciation and deduct

federal gain (or add federal loss) on such property from Form NYC-324 multiplied by the business allocation percentage. Add New York City gain and deduct optional depreciation and New York City loss on such property from Form NYC-324. Attach schedule showing adjustments.

**Line 2 - Salaries.** For taxable years beginning on or after 7/1/99 no portion of officers salaries and other compensation is included in the alternative tax base. Notwithstanding the foregoing, include in the alternative tax computation 100% of all salaries and compensation of stockholders owning more than 5% of the corporation's stock, as deducted for federal tax purposes and reported on Schedule F, regardless of whether such stockholders are also officers. In determining whether a stockholder owns more than 5% of the issued capital stock, include all classes of stock, issued and outstanding, voting and nonvoting stock.

- b) Line 3 - Enter on line 3 the sum of line 1 and line 2.
- c) Line 4 - For taxable years beginning on or after 7/1/98, enter \$40,000. If the return does not cover an entire year, the exclusion must be prorated based on period covered by the return.

#### LINE 7 - UBT PAID CREDIT

Enter on line 7 the credit against the General Corporation Tax for Unincorporated Business Tax paid by partnerships from which you receive a distributive share or guaranteed payment that you include in calculating General Corporation Tax liability on either the entire net income or income plus compensation base. (Attach Form NYC-9.7.)

#### LINE 8 - CREDITS FROM FORM NYC-9.5

Enter on this line the following credits against the General Corporation Tax:

- 1) Relocation and employment assistance program (REAP) credit (Attach Form NYC-9.5.)
- 2) Sales and compensating use taxes (Refer to instructions on Form NYC-9.5 and attach form.)

**NOTE:** This credit may only be taken for sales tax paid in the current year for certain purchases in certain prior periods.

#### LINE 9 - CREDITS FROM FORM NYC-9.6

Real estate tax escalation credit and employment opportunity relocation costs credit (Refer to instructions on Form NYC-9.6 and attach form.)

#### LINE 11b - FIRST INSTALLMENT PAYMENT

Do not use this line if an application for automatic extension, Form NYC-6, has been filed. The payment of the amount shown at line 11b is required as payment on account of estimated tax for the 2003 calendar year, if a calendar year taxpayer, or for the taxable year beginning in 2003, if a fiscal year taxpayer.

**NOTE:** Recent legislation has changed the calculation of the first installment of estimated tax so that it is based on the tax for the year reported on this return AFTER applicable credits. The first installment is required if that amount exceeds \$1,000. When required, the first installment is equal to 25% of the tax for the year reported on this return after applicable credits.

#### LINE 12 - SALES TAX ADDBACK

This line relates to the General Corporation Tax credit for sales and compensating use taxes paid on certain machinery and equipment and/or certain services. If the taxpayer received a credit or refund of any such sales or compensating use taxes in 2002 for which it claimed a General Corporation Tax credit in a prior tax period, the amount of such credit or refund must be added back at line 12. A corresponding adjustment is to be made at line 14 on Schedule B. (Refer to instructions to line 14 on Schedule B.)

#### LINE 14 - PREPAYMENTS

Enter the sum of all estimated tax payments made for this tax period, the payment made with the extension request, if any, and both the carryover credit and the first installment recorded on the prior tax period's return. This figure should be obtained from the Composition of Prepayments Schedule on page 6 of Form NYC-3L.

#### LINE 17a - 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: (718) 935-6000.

#### LINE 17b - 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 17c - PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

A penalty is imposed for failure to file a declaration of estimated tax or for failure to pay the entire installment payment of estimated tax due. (For complete details, refer to Form NYC-222, Underpayment of Estimated Tax by Corporations.) If you underpaid your estimated tax, use Form NYC-222 to compute the penalty. Attach Form NYC-222. If no penalty is due, enter "0" on line 17c.

#### LINE 21 - TOTAL REMITTANCE

If the amount on line 19 is not greater than zero, enter on line 21 the sum of line 15 and the amount by which line 18 exceeds the amount on line 16, if any. After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 21. 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 made payable to the order of: **NYC Department of Finance**.

#### LINE 22 - NEW YORK CITY RENT

If the corporation is carrying on business both inside and outside New York City, complete Schedule G and enter on line 22 of Schedule A total rent from Schedule G, part 1. If the corporation is only carrying on business in New York City, enter the total rent deducted on the federal return for premises located in the City. Rent includes consideration paid for the use or occupancy of premises as well as payments made to or on behalf of a landlord for taxes, charges, insurance or other expenses normally payable by the landlord other than for the improvement, repair or maintenance of the tenant's premises.

#### SCHEDULE B

Computation and Allocation of Entire Net Income

#### LINE 1 - FEDERAL TAXABLE INCOME

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

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

If you file federal Form 1120-A, use the amount from line 24.

If you file federal Form 1120-RIC, see Admin. Code section 11-603.8.

If you file federal Form 1120-REIT, see Admin. Code section 11-603.7.

**S Corporations and qualified subchapter S subsidiaries (QSSS) must file returns as ordinary corporations. If you are an S corporation filing on Form 1120S or a QSSS, you must report on line 1 the amount you would have had to report as taxable income were you not a federal S corporation or QSSS. See Finance Memorandum 99-3 included with these materials.**

Enter at Schedule B, line 1, income and deductions from federal Form 1120S, Schedule K, lines 1-10 and 11a. In addition, include other items and amounts that are required to be reported separately to shareholders and not numerically included on federal Schedule K, but attached in a separate schedule.

**NOTE:** The charitable contribution deduction from federal Form 1120S, Schedule K, line 7 may not exceed 10% of the sum of lines 1 through 10 (other than line 7) of Schedule K.

#### **LINE 2 - NONTAXABLE INTEREST**

Include all interest received or accrued which was not taxable on your federal income tax return.

#### **LINES 3 AND 4 - SUBSIDIARY CAPITAL**

A subsidiary is a corporation which is controlled by the taxpayer by reason of the taxpayer's ownership of more than 50% of the total number of shares of the corporation's voting capital stock, issued and outstanding. The term "subsidiary capital" means all investments in the stock of subsidiary corporations, plus all indebtedness from subsidiary corporations (other than accounts receivable acquired in the ordinary course of business for services rendered or from sales of property held primarily for sale to customers), whether or not evidenced by bonds or other written instruments, on which interest is not claimed and deducted by the subsidiary for purposes of taxation under Title 11, Chapter 6, Subchapters 2 and 3 of the Admin. Code.

If you have a subsidiary, complete lines 3 and 4, and attach a list of all items included. You will also have to complete Schedule C. If you do not have a subsidiary, enter "0" on lines 3 and 4.

On line 3, enter total of amounts, including interest expense, deducted in computing federal taxable income that are directly attributable to subsidiary capital or to income, gains or losses from subsidiary capital. Include

capital losses from sales or exchanges of subsidiary capital, all other losses, bad debts and any carrying charges attributable to subsidiary capital.

On line 4, enter all amounts, including interest, that are indirectly attributable to subsidiary capital or to income, gains or losses from subsidiary 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.

#### **LINE 5 - STATE AND LOCAL INCOME TAXES**

On line 5a enter the amount deducted on your federal return for income taxes paid or accrued to any state, any political subdivision of a state or to the District of Columbia, if they are on or measured by profits or income or include profits or income as a measure of tax, including taxes expressly in lieu of any of the foregoing taxes. Include the New York State Metropolitan Transportation Business Tax surcharge.

On line 5b enter the amount of New York City General Corporation Tax and Banking Corporation Tax deducted on your federal return.

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

#### **LINES 6a, 6b, 6c, 6d AND 6e - NEW YORK CITY ADJUSTMENTS**

a) The credit for sales tax paid on electricity or electric service used in the production of certain tangible property formerly allowed by Admin. Code §11-604.15 has been repealed for purchases on or after November 1, 2000. No amount should be added back with respect to this credit.

Purchases of machinery or equipment for which a credit is allowed by Admin. Code §11-604.12 were exempted from sales tax effective December 1, 1989. Purchases of certain services performed on machinery or equipment used in production for which a credit is allowed by Admin. Code §11-604.17-a were exempted from sales tax effective September 1, 1996. Credits may be taken under these two provisions only if the sales tax payment was made in the current year with respect to a purchase in a period when the applicable sales tax was effective. In such case, the sales tax excluded or deducted for federal tax purposes should be added back. If you are claiming a credit pursuant to §11-604.12, a form NYC 9.5 for the year 1990 or a prior year should be used. If you are claiming a credit pursuant to §11-604.17-a, a form NYC 9.5 for the year 2000 or a prior year should be used.

b & c) Taxpayers claiming the real estate tax escalation credit and/or the relocation costs credit must enter on lines 6(c) and 6(d), respectively the amounts shown on lines 4 and 5, respectively, of Part II of Form NYC-9.6.

d) The Federal bonus depreciation allowed for "qualified property," as defined in the Job Creation and Worker Assistance Act of 2002 is not allowed for General Corporation Tax purposes except for such deductions allowed with respect to "qualified New York liberty zone property", "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan South of Houston Street and North of Canal Street.) For City tax purposes, depreciation deductions for all other "qualified property" must be calculated as if the property was placed in service prior to September 11, 2001. Enter on Schedule B, line 6(d) and 16 the appropriate adjustments from form NYC-399Z. See, Finance Memorandum 02-3 "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" included with these materials for more information. The federal depreciation deduction computed under the Accelerated Cost Recovery System or Modified Accelerated Cost Recovery System (IRC Section 168) is not allowed for the following types of property:

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

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed. Enter on line 6d the ACRS adjustment from Form NYC-399, Schedule C, line 8, Column A. Enter on line 16 the ACRS adjustment from Form NYC-399, Schedule C, line 8, Column B.

ACRS and MACRS may be available for property placed in service outside New York in years beginning after 1984 and before 1994. See Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994" included with these materials.

**LINE 7 - OTHER ADDITIONS**

a) Effective for taxable years beginning on or after January 1, 1982, the New York City Admin. Code was amended to nullify the effects of federal "safe harbor leases" upon New York City taxable income (Section 11-602.8(a)(8) and (9) of the Admin. Code). This applies to agreements entered into prior to January 1, 1984.

Any amount included in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be removed when computing New York City taxable income. Any amount excluded in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be included when computing New York City taxable income.

Exempt from these adjustments are leases for qualified mass commuting vehicles and property of a taxpayer, subject to the General Corporation Tax, principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, which is placed in service before taxable years beginning in 1989.

Enter the appropriate additions and deductions on lines 7 and 17, respectively, and attach a rider to show the "safe harbor" adjustments to New York City taxable income.

- b) Foreign taxes paid or accrued that are deducted from gross income to determine federal taxable income must be added to entire net income. A foreign tax credit may not be used as a deduction when computing NYC entire net income.
- c) Any "windfall profit" tax deducted in computing federal income must be added back when computing NYC entire net income.
- d) If the taxpayer deducted on its federal return interest paid to a corporate stockholder owning more than 50% of its issued and outstanding stock, that corporate shareholder may not exclude that interest from its NYC entire net income as income from subsidiary capital. (See instructions for lines 3, 4 and 9.) To enable a more than 50% corporate shareholder to treat any such interest as excludible income from subsidiary capital, such interest should be added back on line 7 of this return in computing NYC entire net income.
- e) In the case of a taxpayer organized outside the United States, all income from sources outside the United States, less all allowable deductions attributable thereto, that was not taken into account

in computing federal taxable income must be added back in computing NYC entire net income.

**LINE 9 - INCOME FROM SUBSIDIARY CAPITAL**

Enter on line 9a dividends, capital gains and other income and gain from subsidiary capital that was included as part of federal taxable income. Complete Schedule C.

Enter on line 9b interest from subsidiary capital that was included in federal taxable income. **Do not** enter on line 9b interest for which the payor subsidiary claimed a deduction. (See instructions for Schedule B, lines 3 and 4, above, for the definition of subsidiary capital.)

**LINE 10 - NONSUBSIDIARY DIVIDENDS**

Enter 50% of dividends received from non-subsubsidiary corporations. Do not include the following: (1) "gross-up" dividends pursuant to Section 78 of the IRC, and (2) dividends from stocks not meeting the holding period requirement set forth in IRC Section 246(c). Regulated investment companies and real estate investment trusts do not qualify for this deduction.

**LINE 11 - NET OPERATING LOSS**

Enter New York City net operating loss carryforward from prior years. The following rules apply to net operating losses.

- 1) A deduction may only be claimed for net operating losses sustained in taxable years during all or part of which the corporation was subject to the General Corporation Tax. New York City allows net operating losses to be used in the same manner as provided by IRC Section 172. However, the amount of any federal loss must be adjusted in accordance with Section 11-602.8(f) of the Admin. Code. Regulated investment companies and real estate investment trusts do not qualify for this deduction.
- 2) The deduction of a net operating loss carryforward from prior years may not exceed and is limited to the amount of the current year's federal taxable income. A net operating loss may not be claimed as a deduction if Schedule B, line 1 reflects a loss.
- 3) The deduction shall not exceed the deduction which would have been allowed if the taxpayer had not made an election to be an S Corporation under the rules of the Internal Revenue Code or had not elected to be included in a group reporting on a consolidated basis for federal income tax purposes.
- 4) Beginning with losses sustained during taxable years ending after June 30, 1989, the New York City net operating loss deduction taken for City purposes for each year may not exceed the deduction

allowable for that year for federal income tax purposes calculated as if the taxpayer had elected to relinquish the carryback period except with respect to the first \$10,000 of each year's loss. The carryback period for General Corporation Tax purposes corresponds to the federal carryback period. The Job Creation and Worker Assistance Act of 2002 extended the generally applicable NOL carryback period for losses arising in tax years ending in 2001 and 2002 from two to five years. If the taxpayer elects to use a 2-year carryback period for federal purposes, the same carryback period applies for City purposes. If the taxpayer elects to relinquish the entire carryback period for federal purposes, then the taxpayer may not carryback any amount for City purposes.

- 5) Losses which are not permitted to be carried back, may generally be carried forward and used to offset income for the period permitted for federal tax purposes, generally 20 years subsequent to the loss year for losses incurred in taxable years beginning after August 5, 1997.
- 6) Beginning January 1, 1989, corporations principally engaged in the conduct of an aviation, steamboat, ferry or navigation business or two or more of such businesses are permitted to claim a net operating loss deduction in the same manner as other corporations.

These corporations are allowed to carry forward any net operating losses or a proportionate part of a net operating loss sustained during the federal taxable period(s) covering the years 1985 through 1988, providing the corporation was taxable under Title 11, Chapter 6, Subchapter 4 of the Admin. Code (Transportation Corporation Tax) for the calendar years 1985 through and including 1988. The net operating loss must be computed as if:

- a) the corporation had been subject to taxation under Subchapter 2 (General Corporation Tax) during the period(s) the loss was sustained,
- b) the loss was sustained in 1988, and
- c) the taxpayer had elected to relinquish the entire carryback period under IRC Section 172.

For special rules relating to acquisitions, mergers or consolidations involving corporations principally engaged in the conduct of aviation, steamboat, ferry or navigation business, refer to Section 77b of Chapter 241 of the Laws of 1989.

- 7) Corporations reporting both business and investment income must complete line 22 of this schedule to apportion any net operating loss between business income and investment income.

Attach a copy of the schedule supporting the deduction claimed at either line 29(a) on page 1 of your federal Form 1120 or line 25(a) of your federal Form 1120A.

**CARRYBACK LOSSES**

If the entry on line 19 is a loss, a request to carry it back as a net operating loss deduction in any prior year must be made separately on Form NYC-8CB or Form NYC-8. Do not attach or mail a Form NYC-8CB or Form NYC-8 with the tax return. This request must be submitted within three years of the due date of the return for the loss year or within the period prescribed in Section 11-678 of the Admin. Code. Corporations that have elected to relinquish the carryback period for a net operating loss incurred in taxable years beginning after August 5, 1997 must submit a copy of the federal election.

Because an S corporation does not carry over NOLs, it will not have made an election to relinquish any or all of its carryback period. Therefore, for City tax purposes for losses arising in taxable years ending in or after 2002, it will be presumed that, unless the taxpayer S corporation attached a statement to this return indicating that the taxpayer intends to carry back the loss, the taxpayer is presumed to have elected to relinquish the entire carryback period. For S corporations filing on a combined basis only with other S corporations or qualified Subchapter S subsidiaries, any statement attached either to a proforma NYC-3L or to the NYC-3A will be deemed applicable to the entire group. 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.

**LINE 12 - PROPERTY ACQUIRED PRIOR TO 1966**

A deduction is allowed with respect to gain from the sale or other disposition of any property acquired prior to January 1, 1966 (except stock in trade, inventory, property held primarily for sale to customers in the ordinary course of trade or business or accounts or notes receivable acquired in the ordinary course of trade or business). The amount of the deduction with respect to each such property is equal to the difference between:

- a) the amount of the taxpayer's federal taxable income; and
- b) the amount of the taxpayer's federal taxable income (if smaller than the amount described in(a)), computed as if the federal adjusted basis of each such property (on the sale or other disposition of which gain was realized) on the date of the sale or other disposition had been equal to either:
  - 1) its fair market value on January 1, 1966, or the date of its sale or other disposition prior to January 1, 1966,

- plus or minus all adjustments to basis made with respect to such property for federal income tax purposes for periods on or after January 1, 1966; or
- 2) the amount realized from its sale or other disposition, whichever is lower.

In no event, however, shall the total amount computed above exceed the taxpayer's net gain for the year from the sale or other disposition of property (other than stock in trade, inventory, property held primarily for sale to customers in the ordinary course of trade or business, or accounts or notes receivable acquired in the ordinary course of trade or business).

Attach a rider showing computation and a copy of federal Form 1120, 1120-A or 1120-S, Schedule D.

**LINE 13 - CITY AND STATE REFUNDS**

Enter at line 13 refunds or credits of the New York City General Corporation Tax, New York State Franchise Tax or New York City or State Banking Corporation Tax for which no tax exclusion or deduction was allowed in determining the taxpayer's taxable (entire) net income in a prior year.

**LINE 14 - SALES TAX REFUNDS AND CREDITS**

This line relates to credits or refunds of sales and compensating use tax paid on certain machinery and equipment and/or certain services included in federal taxable income for which a credit was claimed in a prior year. The amount entered here should be the same as the amount entered at line 12 of Schedule A. (Refer to instructions for Schedule A, line 12.)

There is no addback for current refunds of sales tax paid on purchases of electricity or electric service used in the production of certain tangible property for which the taxpayer took a credit in a prior period under Adm. Code §11-604.15.

**LINE 15 - FEDERAL JOBS 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 because the federal targeted jobs tax credit was taken. Attach Federal Form 5884 or 8884 for Liberty Zone business employees.

**LINE 16 - DEPRECIATION ADJUSTMENT**

Taxpayers using IRC section 167 depreciation, enter on line 16 the adjustments from Form NYC-399 and/or Form NYC-399Z, Schedule C, line 8, Column B. See instructions for Schedule B, line 6(d).

**LINE 17 - OTHER DEDUCTIONS**

- a) Refer to instructions to Schedule B, line 7 for adjustments relating to safe harbor leases.
- b) Taxpayers entitled to a special deduction for construction, reconstruction, erection or improvement of air pollution control facilities initiated on or after January 1, 1966, and having a situs in NYC in accordance with Section 11-602.8(g) should submit a rider showing the complete computation.
 

Enclose certification of compliance issued pursuant to Section 17-0707 or Section 19-0309 of the Environmental Conservation Law. Entire net income for the current year and all succeeding years must be computed without any deduction for such expenditures or for depreciation of such property.
- c) Deduct foreign dividend gross-up pursuant to Section 78 of the IRC (see federal Form 1120, Schedule C, line 15) to the extent not deducted at line 9a. Entire net income does not include any amount treated as dividends pursuant to Section 78 of the IRC.
- d) Regulated investment companies must deduct dividends paid to stockholders on this line.

**LINE 20 - SPECIAL ADJUSTMENTS**

- a) If you elect to claim a deduction for optional depreciation on qualified New York City property, complete Form NYC-324. (Refer to instructions on the back of that form.)
- b) A corporation organized outside the United States must enter at line 20 its entire net income wherever earned, including all income from sources outside the United States, less all allowable deductions attributable thereto, not taken into account in computing federal taxable income. Attach Schedule. See "FOREIGN AIRLINES" under GENERAL INFORMATION, above.
- c) If you are, either separately or as a member of a partnership, doing insurance business as a member of the New York Insurance Exchange described in Section 6201 of the Insurance Law, make the adjustment required under Section 11-602.8(a)(6) and Section 11-602.8(b)(8) of the Admin. Code.
- d) For tax years beginning on or after August 1, 2002, corporations that are partners in partnerships that receive at least eighty percent of their gross receipts from providing mobile telecommunications services must exclude their distributive share of income, gains, losses and deductions from any such partnership, including their share of separately reported items, from their federal taxable income reported on line 1. See

"Highlights of Recent Tax Law Changes for Corporations", supra.

**LINE 21 - INVESTMENT INCOME**

Investment income includes: 50% of dividends from non-subsidiary stocks held for investment; interest from investment capital; net capital gain or loss from sales or exchanges of nonsubsidiary 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 "gross-up" dividends pursuant to Section 78 of the IRC that have been deducted in computing entire net income.

Investment income includes interest received upon a loan to a subsidiary, if the subsidiary claims such interest as a NYC General or Banking Corporation Tax deduction on any return for any period, and if such loan is evidenced by a bond or other corporate security. Do not include any capital loss which was not 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 21a - DIVIDENDS**

Enter the following items:

dividends not excluded on line 10 except for "gross-up" dividends pursuant to Section 78 of the IRC. This includes 50% of dividends from nonsubsidiary corporations for which an exclusion was allowed on line 10 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 21d - INCOME FROM CASH**

Enter income from cash on Schedule B, line 21d, only if you have elected to treat cash as investment capital and have entered the amount thereof on Schedule D, line 3.

**LINE 21f - DEDUCTIONS ATTRIBUTABLE TO INVESTMENT INCOME**

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.

**LINE 22 - APPORTIONED NEW YORK CITY NET OPERATING LOSS DEDUCTION**

Corporations which report both business and investment income must apportion any net operating loss deduction on line 11 between business income and investment income. This is computed by multiplying the net

operating loss deduction by a ratio. The ratio is a fraction, the numerator of which consists of investment income before deducting any net operating loss and the denominator of which is entire net income before deducting any net operating loss. The ratio may be expressed as a percentage. Multiply the net operating loss deduction by the result. Enter this amount on line 22.

**LINE 25 - ALLOCATED INVESTMENT INCOME**

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

**SCHEDULE C**

Subsidiary Capital and Allocation

- and -

**SCHEDULE D**

Investment Capital and Allocation

If you have investment and business capital, you must complete Schedules D and H.

To determine the value of your assets for business, investment and subsidiary capital purposes, you must include real property and marketable securities at fair market value.

The fair market value of any asset is the price (without any encumbrance, 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). (Refer to the instructions for Schedule E, lines 1 through 5 for more information on computing average value.)

Complete Schedule C if you have any subsidiaries. (Refer to the instructions for Schedule B, lines 3 and 4 for the definition of a subsidiary and subsidiary capital.)

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 those stocks, bonds or other securities that are held for sale to customers in the regular course of business or that constitute subsidiary capital. Investment capital does not include interests in, or obligations of, partnerships or other unincorporated entities. (Refer to Title 19 Rules of the City of

New York Section 11-37 for the definition of investment capital.)

In completing Schedules C and D, you may use the worksheet which appears below to determine the amount of liabilities indirectly attributable to a particular asset.

In column D of Schedules C and D on the line for the asset in question, include the sum of the amount from line 15 of this worksheet and the amount of liabilities directly attributable to that asset.

**WORKSHEET**

Total liabilities from Sch. E, line 6, Col. C.. **1.** \_\_\_\_\_

Liabilities directly attributable to:

    Subsidiary capital ..... **2.** \_\_\_\_\_

    Investment capital ..... **3.** \_\_\_\_\_

    Business capital ..... **4.** \_\_\_\_\_

Add: lines 2, 3, and 4 ..... **5.** \_\_\_\_\_

Subtract: line 5 from line 1 ..... **6.** \_\_\_\_\_

Enter amount from either:

    Sch. C, line 1, col. C less amount from line 2 of worksheet . **7a.** \_\_\_\_\_

    OR

    Sch. D, line 1, col. C less amount from line 3 of worksheet . **7b.** \_\_\_\_\_

Enter amount from Sch. E, line 5, col. C less amount from line 5 of worksheet ..... **8.** \_\_\_\_\_

Divide: line 7a or 7b by line 8 ..... **9.** \_\_\_\_\_%

Multiply: line 6 by line 9 ..... **10.** \_\_\_\_\_

Average value of a particular asset ..... **11.** \_\_\_\_\_

Enter amount from either:

    Sch. C, line 1, col. C ..... **12a.** \_\_\_\_\_

    OR

    Sch. D, line 1, col. C ..... **12b.** \_\_\_\_\_

Divide: line 11 by line 12a or 12b ..... **13.** \_\_\_\_\_%

Enter amount from line 10 ..... **14.** \_\_\_\_\_

Multiply: line 14 by line 13 ..... **15.** \_\_\_\_\_

**ISSUER'S ALLOCATION PERCENTAGE**

To determine the portion of subsidiary or investment capital to be allocated within the City, multiply the amount of subsidiary or investment capital during the period covered by the return (column E) by the issuer's allocation percentage (as defined in the instructions for Schedule E, line 15).

This percentage may be obtained (1) from tax service publications, (2) by writing to: NYC Department of Finance, Taxpayer Correspondence Unit, 25 Elm Place, 4th Floor, Brooklyn, NY 11201, (3) from the department's website under "Forms/Guides" at [www.nyc.gov/finance](http://www.nyc.gov/finance), or (4) by calling (718) 935-6000. If the subsidiary or other issuer was not doing business in New York City during the preceding year, the percentage is zero. The investment allocation percentage should be rounded to the nearest one hundredth of a percentage point.

**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 E**

Computation and Allocation of Capital

**LINES 1 THROUGH 5 - AVERAGE VALUE OF TOTAL ASSETS**

To determine the value of your assets for business, investment and subsidiary capital purposes, you must include real property and marketable securities at fair market value.

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

On Schedule E, line 1, enter the value of total assets at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. Attach a schedule showing the computation of the average value.

On line 2, enter the value of real property and marketable securities included in line 1.

Enter on line 4 the fair market value of real property and marketable securities.

Average value is generally computed on a quarterly basis. A more frequent basis (monthly, weekly or daily) may be used. Where the taxpayer's usual accounting practice does not permit computation of average value on a quarterly or more frequent basis, a semiannual or annual basis may be used if no distortion of average value results.

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

**LINE 6 - TOTAL LIABILITIES**

The liabilities deductible in computing each type of capital are those liabilities (both long and short term) which are directly or indirectly attributable to each type of capital. Use the same method of averaging as is used in determining average value of assets.

**LINE 15 - ISSUER'S ALLOCATION PERCENTAGE**

The percentage is determined by adding together allocated New York City business, investment and subsidiary capital, dividing the sum by total capital, and rounding to the nearest one hundredth of a percentage point.

The issuer's allocation percentage represents the amount of capital employed within New York City as compared to total capital employed everywhere. Every taxpayer using Form NYC-3L is required to compute its issuer's allocation percentage.

Combined filers must compute a combined issuer's allocation percentage by using amounts from Form NYC-3A. The combined issuer's allocation percentage should be entered on Schedule A of Form NYC-3A.

**SCHEDULE H**

Business Allocation

**NOTE:** Zip codes beginning with the following three-digits are within the five boroughs of New York City:

- Manhattan** - 100, 101, 102
- Bronx** - 104
- Brooklyn** - 112
- Queens** - 111, 113, 114, 116
- Staten Island** - 103

In addition, the five-digit zip codes 11004, 11005 and some addresses with a zip code of 11001 are in the borough of Queens. If the zip code is 11001, call the US Postal Service at (516) 354-3297 to determine if the corporation's address is within New York City.

A corporation is entitled to allocate part of its business income and capital outside New York City if it carries on business both inside and outside New York City and, for taxable years beginning before July 1, 1996, only if it has a "regular place of business" outside the City. Otherwise, 100% of its business income and capital must be allocated to New York City. If you did not carry on business both inside and outside New York City, you must enter 100% at Schedule H, line 5. If you carried on business both inside and outside New York City, you must complete Schedule G, parts I and II and Schedule H, business allocation percentage.

The business allocation percentage is generally computed by means of a three factor formula:

- real and tangible personal property (including rented property)
- business receipts
- payroll

Each factor is computed by dividing the amount in column A (New York City amount) by the amount in column B (total amount). The three resulting percentages are added together, the sum is divided by 3 rounded to the nearest one hundredth of a percentage point and the resulting business allocation percentage is entered at Schedule

H, 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 business 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 corporation owns no real or tangible personal property and rents no real property either within or without the City. The property factor being missing, the business allocation percentage is computed by adding the business receipts and payroll percentages and dividing the total by two.

*Property Factor***LINE 1a - REAL ESTATE OWNED**

When computing the property percentage, value real and tangible personal property owned by the corporation at the adjusted basis used for federal income tax purposes. However, you may make a one-time revocable election to value real and tangible personal property owned at fair market value. You must make this election on or before the due date (or extended due date) for filing the General Corporation Tax Return for the first taxable year beginning on or after January 1, 1988. This election will not apply to any taxable year with respect to which the corporation is included in a combined report unless each of the corporations included on the combined report has made the election which remains in effect for such year.

**LINE 1b - REAL ESTATE RENTED**

The value of real property rented to the taxpayer is eight times the gross rent payable during the year covered by this return. Gross rent includes any amount payable as rent or in lieu of rent, such as taxes, repairs, etc., and, if there are leasehold improvements made by or on behalf of the taxpayer, the amount of annual amortization of such cost. Do not include the rental of personal property on this line.

**LINE 1d - TANGIBLE PERSONAL PROPERTY OWNED**

Enter the average value of the tangible personal property owned. The term "tangible personal property" means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of debt.

**LINE 1e - TANGIBLE PERSONAL PROPERTY RENTED**

Enter the average value of the tangible personal property you rented. The value of rented tangible personal property is eight times the gross rent payable during the year covered by this return.

*Receipts Factor***LINES 2a & 2b - SALES OF TANGIBLE PERSONAL PROPERTY**

Enter on line 2a, column A, receipts in the regular course of business from the sale of tangible personal property where shipments are made to points within New York City. Enter on line 2b, column B, receipts from all sales of tangible personal property.

**LINE 2c - SERVICES PERFORMED**

Receipts from services performed within New York City are allocable to New York City. All amounts received by the taxpayer in payment for such services are allocable to New York City, irrespective of whether the services were performed by employees or agents of the taxpayer, by subcontractors, or by any other persons. It is immaterial where such amounts were payable or where they actually were received.

Commissions received by the taxpayer are allocated to New York City if the services for which the commissions were paid were performed in New York City. If the taxpayer's services for which commissions were paid were performed for the taxpayer by salesmen attached to or working out of a New York City office of the taxpayer, the taxpayer's services will be deemed to have been performed in New York City.

Corporations 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. Corporations 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. For taxable years beginning on or after January 1, 2002, corporations 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.

Taxpayers principally engaged in the activity of air freight forwarding acting as principal and like indirect air carriers are required to determine receipts for purposes of the receipts factor arising from the activity from services performed within New York City as follows: 100% of the receipts if both the pick up and delivery associated with the receipts are made in New York City and 50% of the receipts if either the pickup or delivery associated with the receipts is made in the City.

Receipts from management, admin. 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.)

**LINE 2d - RENTALS OF PROPERTY**

Receipts from rentals of real and personal property situated in New York City are allocable to New York City. These include all amounts received by the taxpayer for the use or occupation of property, whether or not such property is owned by the taxpayer.

**LINE 2e - ROYALTIES**

Royalties from the use in New York City of patents or copyrights are allocable to New York City. These include all amounts received by the taxpayer for the use of patents or copyrights, whether or not the patents or copyrights were originally issued to or are owned by the taxpayer. A patent or copyright is used in New York City to the extent that activities thereunder are carried on in New York City.

**LINE 2f - OTHER BUSINESS RECEIPTS**

All other business receipts earned by the taxpayer within New York City are allocable to New York City. Business receipts are not considered to have been earned by the taxpayer in New York City solely by reason of the fact that they were payable in New York City or actually were received in New York City. Receipts from sales of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts.

The following are also business receipts and are allocable to New York City:

- receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business, provided the real property was situated in New York City
- receipts from sales of intangible personal property included in business capital held by the taxpayer as a dealer for sale to customers in the regular course of business, provided the sales were made in New York City or through a regular place of business in New York City.

**LINE 2i - ADDITIONAL RECEIPTS FACTOR**

For taxable years beginning after 6/30/96, a manufacturing business may elect to use a double-weighted receipts factor. An election must be made on a timely filed original return and is made by entering on line 2i the amount from line 2h. The election is irrevocable except with special permission of the Commissioner under certain circumstances. If you make an election, add the percentages in column B and divide the sum by 4 and enter the result on line 5 rounded to the nearest one hundredth of a percentage point. 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 2i.** For purposes of this election, a corporation is engaged in a manufacturing business if it is 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. A corporation is primarily engaged in manufacturing if more than 50% of its gross receipts for the year are attributable to manufacturing. See Title 19 Rules of the City of New York §11-63(c)(4) for more information.

If a taxpayer that is otherwise eligible to elect to use a double-weighted receipts factor is permitted or required to file on a combined basis with one or more other corporations, the taxpayer may elect to use a double-weighted receipts factor only if the requirements for the election would be met if all the corporations included in the combined report were treated as a single corporation. If a taxpayer included in a combined report properly makes an election to use a double-weighted receipts factor, each of the other corporations in the combined groups will be treated as having made a proper election to use a double-weighted receipts factor.

*Payroll Factor***LINE 3a - WAGES AND SALARIES**

Employees within New York City include all employees, except general executive officers, regularly connected with or working out of an office or place of business maintained by the taxpayer within New York City, irrespective of where the services of these employees were performed.

General executive officers include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either inside or outside of New York City is not a general executive officer.

**LINE 5 - BUSINESS ALLOCATION PERCENTAGE**

Aviation Corporations and Corporations Operating Vessels. Complete Schedule I (Business Allocation for Aviation Corporations and Corporations Operating Vessels) and enter the percentage from part 1 or 2 on Schedule H, line 5.

**SCHEDULE I**

Business Allocation for Aviation Corporations and Corporations Operating Vessels.

**Part 1 - Aviation Corporations**

A taxpayer principally engaged in the conduct of aviation is required to determine the portion of the entire net income to be allocated within the City by multiplying its business income by a business allocation percentage which is equal to the arithmetic average of the three percentages from part 1, lines 2, 4 and 6.

Line 1

“Aircraft arrivals and departures” means the number of landings and takeoffs of the aircraft of an aviation corporation and the number of air pickups and deliveries by such aircraft. Arrivals and departures solely for maintenance or repair, refueling (where no debarking or embarking of traffic occurs), or arrivals and departures in the event of emergency situations should not be included in computing this percentage.

Line 3

“Revenue tons handled” by an aviation corporation at an airport means the weight, in tons, of revenue passengers (at two hundred pounds per passenger) and revenue cargo first received either as originating or connecting traffic, or finally discharged by such corporation at such airport.

Line 5

“Originating revenue” means revenue to an aviation corporation from the transportation of revenue passengers and revenue property first received by such corporation at an airport as either originating or connecting traffic.

Line 8

Transfer the percentage from part 1, line 8 to Schedule H, line 5.

**Part 2 - Corporations Operating Vessels**

A taxpayer principally engaged in the operation of vessels is required to determine the portion of entire net income to be allocated within the City by multiplying its business income by a business allocation percentage determined by dividing the aggregate number of working days of the vessels it owns or leases in territorial waters of the City during the period covered by its report by the aggregate number of working days of all the vessels it owns or leases during the period. Complete part 2.

Line 1

“Working days” means days during which a vessel is sufficiently manned for the carriage of persons or cargo or during which it has cargo aboard. The working time in New York City territorial waters and the working time everywhere shall be computed for each vessel in hours and minutes. At the end of the year, such time shall be totalled for all vessels and the sum con-

verted into days. In lieu of records indicating actual time in New York City territorial waters, such time may be computed on the basis of records showing the number of times the Ambrose Light Station was passed on the way in and out of port.

Line 2

Transfer the percentage from part 2, line 2 to Schedule H, line 5.

**SCHEDULE J**

Additional Required Information

All questions must be answered.

Question 1

In reporting the "NYC principal business activity," give the one activity that accounts for the largest percentage of total receipts. Total receipts means gross receipts plus all other income. State the broad field of business activity as well as the specific product or service (e.g., mining copper, manufacturing cotton broad woven fabric, wholesale meat, retail men's apparel, export or import chemicals, real estate rental, or real estate operation of motel).

Question 2

If the corporation is included in a consolidated federal return, give the name of the common parent corporation filing the consolidated return.

Question 3

If the corporation is included in a New York City Combined General Corporation Tax Return, give the name of the corporation that is a member of the combined group and owns or controls, directly or indirectly, substantially all of the capital stock of each other member of the combined group. If no corporation that is part of the combined group satisfies this requirement, give the name of the person or corporation that owns or controls, directly or indirectly, substantially all of the capital stock of all the members of the combined group.

Question 10

If you answer "yes" to question a, attach a separate sheet providing street address, borough, block and lot number of such property. If you answer "yes" to question b, c or d, complete questions 11 and 12.

A controlling interest in the case of a corporation means:

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

Question 13

If you answer "yes" to question 13, no portion of the income, gain, loss, deduction or capital of a QSSS is permitted to be included in a separate report filed by the S corporation parent. The QSSS must file a separate gener-

al corporation tax report. See Finance Memorandum 99-3 included with these materials.

**SCHEDULE K**

Federal Return Information

If the corporation files as a member of a federal consolidated group, enter the information as it appears on its proforma federal return. If the corporation files a separate return, enter the information appearing on the Federal 1120 filed with the IRS.

**PREPAYMENTS SCHEDULE**

Enter the payment date and the amount of all prepayments made for this tax period. In the last column enter the Transaction ID Number. Every corporate estimated payment to New York City has been stamped with a twelve digit Transaction ID Code. (The number can be found on the face of your cancelled check.) Enter on line E the amount of any overpayment from the prior year that you elected to credit toward this year's tax. Do not include this amount on lines B through D.

**TAXPAYER ASSISTANCE**

For interest calculations and account information, contact Taxpayer Assistance at **(718) 935-6000**, Monday through Friday, 8:30am to 5:30 pm.

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

You can also visit our Internet website at **www.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.