THE CITY OF NEW YORK
DEPARTMENT OF FINANCE

NOTICE OF RULEMAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York New York City Charter and section 11-687(1) of the Administrative Code of the City of New York, I hereby promulgate the within amendment to the Rules Relating to the General Corporation Tax. .

/S/ Andrew S. Eristoff
Commissioner of Finance

Section 1. Title 19 of the Compilation of the Rules of the City of New York Relating to the General Corporation Tax, promulgated August 15, 1968 and last amended April 16, 1998, is amended to add a new section 11-50 to read as follows:

§11-50 Unincorporated Business Tax Paid Credit. Note: For simplicity, in this section the term "partnership" is used to refer to any unincorporated business in which a corporation owns an interest and the term "partner" or "corporate partner" is used to refer to the owner of an interest in an unincorporated business. (a)(1) For taxable years beginning on or after July 1, 1994, if a corporation is a partner in a partnership carrying on an unincorporated business in the City of New York and is required to include all or a portion of the income of the partnership in its entire net income or receives a guaranteed payment from the partnership includible in its entire net income, the corporate partner is allowed a credit against its general corporation tax liability, if determined on the entire net income basis ("ENI Basis") or alternative income-plus-compensation basis ("Alternative Basis"), for its share of the unincorporated business tax paid by the partnership, subject to certain limitations (the "UBT Paid Credit"). The UBT Paid Credit is not allowed to a corporate partner in a partnership for any unincorporated business tax paid by the partnership with respect to any taxable year of the unincorporated business beginning before July 1, 1994.

(2) For taxable years of a corporate partner beginning after 1995, the UBT Paid Credit **allowed** to the corporate partner may exceed the amount of UBT Paid Credit that the corporate partner may **take** in that year. In that event, the excess may be carried forward for up to seven years subject to certain limitations. See subdivision (c), *infra*, for a discussion of the carryover. However, for taxable years of a corporate partner beginning on or after July 1, 1994 but before 1996, the amount of UBT Paid Credit **allowed** to the corporate partner is the same as the amount of UBT Paid Credit that the partner may **take** against its general corporation tax liability that year and no carryover is available.

(3) *Application of credit to tax bases*. (i) For taxable years of a corporate partner beginning before January 1, 1996, the corporate partner is allowed the UBT Paid Credit only in a year in which it would be liable, in the absence of any credits allowed by section 11-604 of the Administrative Code, for the tax on the ENI Basis or the Alternative Basis. For those taxable years, a partner liable for the tax on capital or for the minimum tax is not allowed a UBT Paid Credit.

(ii) For taxable years of a corporate partner beginning after 1995, the corporate partner is **allowed** the UBT Paid Credit regardless of the tax base on which it is taxed. However, it may **take** the credit only in a year in which it pays tax on the ENI Basis or the Alternative Basis. For taxable years beginning after 1995, if a corporate partner is allowed the UBT Paid Credit in a year when it is liable for tax on capital or for the minimum tax, it may carry the UBT Paid Credit forward to the next seven succeeding taxable years. The corporation may take the credit in any of such seven years in which it is liable for tax on the ENI Basis or the Alternative Basis.

(iii) The UBT Paid Credit does not alter the basis upon which a taxpayer must pay tax (*e.g.*, on the basis of entire net income, alternative income-plus-compensation, capital, or minimum tax) even if the credit reduces the tax liability below the liability calculated on another basis.

(b) *Calculation of the UBT Paid Credit* (1) (i) *General*. A corporate partner's UBT Paid Credit allowed with respect to a specific partnership is the lesser of the amounts calculated in subparagraphs (i) ("Measure 1") and (ii) ("Measure 2") of paragraph (2) of this subdivision (b), subject to the limitation in subparagraph (iii) of paragraph (2) of this subdivision (b). Measure 1 is based on the corporate partner's share of the unincorporated business tax liability of the partnership for the partnership's taxable year ending within or with the corporate partner's taxable year. Measure 2 is based on the incremental effect on the general corporation tax liability of the corporate partner attributable to partnership items entering into the calculation of the corporate partner's general corporation tax liability. The incremental effect is modified to account for the rate differential between the unincorporated business tax and the general corporation tax. If a corporate partner is a partner in more than one partnership, Measures 1 and 2 must be determined and compared separately with respect to each partnership.

(ii) Subparagraph (iii) of paragraph (2) of this subdivision limits the total amount of the UBT Paid Credit that a corporate partner may take in a taxable year to the corporate partner's general corporation tax liability for that year modified, when appropriate, to account for the rate differential between the unincorporated business tax and general corporation tax. In the case of a corporate partner that is a partner in more than one partnership, this limitation is not applied separately with respect to each partnership, but rather it is applied to the sum of the UBT Paid Credits from all partnerships.

(2) *Measures of the credit and limitations.* (i) *Measure 1. Partner's share of the partnership's unincorporated business tax liability plus certain credits.* Except as provided in subparagraph (i)(C) (applicable to corporations paying tax on the Alternative Basis for tax years beginning before 1996), Measure 1 is the product of the amount determined in subparagraph (i)(A) and the corporate partner's distributive share percentage determined in subparagraph (i)(B):

(A) *Partnership's tax liability plus certain credits.* The amount determined in this subparagraph (i)(A) is the sum of:

(a) the unincorporated business tax imposed on, and paid by, the partnership for its taxable year ending within or with the taxable year of the corporate partner, and

(b)(1) for taxable years of the corporate partner beginning on or after July 1, 1994, and before 1996, the amount of any UBT Paid Credit taken by the partnership for its taxable year ending within or with the taxable year of the corporate partner, or

(2) for taxable years of the corporate partner beginning after 1995, the sum of all credits taken by the partnership under section 11-503 of the Administrative Code other than subdivision (b) of that section, for its taxable year ending within or with the taxable year of the corporate partner, but only to the extent that those credits do not reduce the partnership's unincorporated business tax below zero. The amount determined under this subparagraph (i)(A)*(b)(2)* does not include the amount of any credit refundable to the partnership.

(B) *Partner's distributive share percentage. (a)* The corporate partner's distributive share percentage is the sum of the corporate partner's distributive shares of income, gain, loss, and deductions of the partnership and any guaranteed payment received from the partnership (the corporate partner's "net distributive share") divided by the sum of the net distributive shares of all partners of the partnership for whom such amounts are greater than zero. If the corporate partner's net distributive share is less than zero, the net distributive share is deemed to be zero and the corporate partner is not allowed a UBT Paid Credit for the taxable year with respect to that partnership.

(b) For purposes of this calculation, the net distributive shares should be based upon items of income, gain, loss and deductions and guaranteed payments as calculated by the partnership for purposes of computing its unincorporated business taxable income.

(c) In addition, for purposes of this calculation, the net distributive share of each corporate partner is considered separately regardless of whether that partner files its general corporation tax return as a member of a combined group with one or more other corporations.

(d) If a corporate partner owns more than one type of interest in a partnership, *e.g.*, a general and a limited partnership interest, the partner's distributive shares and guaranteed payments with respect to all such interests are combined in determining the partner's net distributive share.

(C) *Modification.* For corporations paying tax on the Alternative Basis for tax years beginning before 1996, Measure 1 is the product of the amount determined in subparagraph (i)(A) and the corporate partner's distributive share percentage determined in subparagraph (i)(B) above multiplied by a fraction, the numerator of which is 2.655 and the denominator of which is 4. Multiplication by this fraction adjusts for the differential between the unincorporated business tax rate and the approximate effective general corporation tax rate on the Alternative Basis.

(ii) *Measure 2. Incremental tax effect of distributive share and guaranteed payments.* (A) *Tax Years beginning on or after July 1, 1994 and before 1996.* For tax years of a corporate partner beginning on or after July 1, 1994 and before 1996, Measure 2 is the excess of the amount determined in subparagraph (ii)(A)*(a)* below over the amount determined in subparagraph (ii)(A)*(b)* below, modified as provided in subparagraph (ii)(A)*(c)* below. For taxpayers liable for tax on the ENI Basis, the amounts in subparagraph (ii)(A)*(a)* and (ii)(A)*(b)* below are computed on the ENI Basis. For taxpayers liable for tax on the Alternative Basis, the amounts in subparagraph (ii)(A)*(a)* and (ii)(A)*(b)* below are computed on the Alternative Basis. See subparagraph (ii)(B) for the calculation of Measure 2 for years after 1995.

(a) Partner's general corporation tax liability. The amount determined in this subparagraph (ii)(A)*(a)* is the general corporation tax liability of the corporate partner determined on the ENI Basis or the Alternative Basis, whichever is applicable, without allowance of any of the credits allowed under section 11-604 of the Administrative Code.

(b) Partner's general corporation tax liability without distributive share. The amount determined in this subparagraph (ii)(A)*(b)* is the general corporation tax liability of the corporate partner determined on the ENI Basis or Alternative Basis, whichever is applicable, *(1)* excluding any partnership items entering into the calculation of the corporate partner's entire net income and any partnership allocation factors, if taken into account in calculating the corporate partner's allocation to the City, and *(2)* determined without allowance of any of the credits allowed under section 11-604 of the Administrative Code.

(c) Modification for taxpayers taxed on ENI Basis. For taxpayers liable for tax on the ENI Basis, the excess of the amount determined in subparagraph (ii)(A)*(a)* above over the amount determined in paragraph (ii)(A)*(b)* above must be multiplied by a fraction, the numerator of which is 4 and the denominator of which is 8.85. Multiplication by this fraction adjusts for the differential between the unincorporated business tax rate and the general corporation tax rate.

(B) *Tax years beginning after 1995.* For tax years of a corporate partner beginning after 1995, Measure 2 is the excess of the amount determined in subparagraph (ii)(B)*(a)* below over the amount determined in subparagraph (ii)(B)*(b)* below, such excess modified as provided in subparagraph (ii)(B)*(c)* below and multiplied by a fraction, the numerator of which is 4 and the denominator of which is 8.85. Multiplication by this fraction adjusts for the differential between the unincorporated business tax rate and the general corporation tax rate. For taxable years beginning after 1995, all taxpayers must compute Measure 2 as if they were liable for tax on the ENI Basis.

(a) Partner's general corporation tax liability. The amount determined in this subparagraph (ii)(B)*(a)* is the general corporation tax

liability of the partner determined on the ENI Basis without allowance of any credits under section 11-604 of the Administrative Code.

(b) Partner's general corporation tax liability without distributive share or guaranteed payments. The amount determined in this subparagraph (ii)(B)*(b)* is the general corporation tax liability of the corporate partner determined on the ENI Basis excluding any partnership items entering into the calculation of the corporate partner's entire net income, excluding partnership allocation factors, if taken into account in calculating the corporate partner's allocation to the City, and determined without allowance of any credits under section 11-604 of the Administrative Code.

(c) Partner's modified general corporation tax liability. For taxable years of the corporate partner beginning after 1995, the amounts in subparagraphs (ii)(B)*(a)* and (ii)(B)*(b)* above are computed with the following modifications:

(1) The amounts are computed without taking into account any deduction for a net operating loss carried to the taxable year of the partner.

(2) If, prior to taking into account any distributive share or guaranteed payments from the partnership or any net operating loss deduction, the entire net income of the partner is less than zero, the partner's entire net income is deemed to be zero.

(3) If the partner's net total distributive share of income, gain, loss and deductions of, and guaranteed payments from, any unincorporated business other than the partnership with respect to which the amount of credit is being calculated is less than zero, such net total distributive share is deemed to be zero.

(iii) *Credit limited to partner's general corporation tax.* (A) For taxable years of a corporate partner subject to tax on the ENI Basis beginning on or after July 1, 1994 and before 1996, the sum of the UBT Paid Credits that the partner is **allowed and may take** in any given taxable year with respect to all partnerships in which it is a partner shall not exceed the tax computed on the ENI Basis without the allowance of any credits under section 11-604 of the Administrative Code, multiplied by a fraction, the numerator of which is 4 and the denominator of which is 8.85. This multiplication limits the credit that is allowed and may be taken to the corporate partner's general corporation tax calculated as if the general corporation tax rate were the same as the unincorporated business tax rate.

(B) For taxable years of a corporate partner subject to tax on the Alternative Basis beginning on or after July 1, 1994 and before 1996, the sum of the UBT Paid Credits that the partner **is allowed and may take** in any given taxable year with respect to all partnerships in which it is a partner shall not exceed the tax computed on the Alternative Basis without the allowance of any credits under section 11-604 of the Administrative Code.

(C) For taxable years of a corporate partner subject to tax on the ENI Basis beginning after 1995, the sum of the UBT Paid Credits that the corporate partner may **take** in any given taxable year with respect to all partnerships in which it is a partner shall not exceed the tax computed on the ENI Basis without the allowance of any other credits under section 11-604 of the Administrative Code, multiplied by a fraction, the numerator of which is 4 and the denominator of which is 8.85. This multiplication limits the UBT Paid Credit that may be taken to the corporate partner's tax calculated as if the general corporation tax rate were the same as the unincorporated business tax rate.

(D) For taxable years of a corporate partner subject to tax on the Alternative Basis beginning after 1995, the sum of the UBT Paid Credits that the partner may **take** in any given taxable year with respect to all partnerships in which it is a partner shall not exceed the amount of credit that will reduce the tax computed on the Alternative Basis to zero and each dollar of credit shall be applied so as to reduce the tax by sixty-six and thirty-eight one hundredths cents ($.6638). The purpose of applying the credit in this manner is to reflect the differential between the unincorporated business tax rate and the approximate effective general corporation tax rate under the Alternative Basis.

(c) *Carryover of UBT paid credit after 1995.* For taxable years beginning after 1995, if the amount of the UBT Paid Credit **allowed** to a corporate partner for a taxable year exceeds the amount of UBT Paid Credit that may be **taken** in that year, the corporate partner may carry the excess forward to each of its seven immediately succeeding taxable years. In applying the provisions of the preceding sentence, for each taxable year of a corporate partner, the UBT Paid Credit determined under this section for the current taxable year shall be taken before taking any credit carryforward pursuant to this subdivision (c), and the amount of any credit carryforward available under this subdivision (c) attributable to the earliest taxable year shall be taken before a credit carryforward attributable to a subsequent taxable year.

(d) *Multiple tiers of partnerships.* A corporate partner may only take a UBT Paid Credit with respect to distributive shares from partnerships in which it is a direct partner, *i.e.*, the corporation is identified as a partner in the partnership agreement and on Schedule K-1 of IRS Form 1065 filed by the partnership.

Example: Corporation C is a partner in partnership B, which, in turn, is a partner in partnership A. Corporation C calculates its UBT Paid Credit only with respect to partnership B and is not entitled to a UBT Paid Credit with respect to partnership A. **NOTE:** Because the calculation of the UBT Paid Credit allowed for corporation C with respect to partnership B reflects credits claimed by partnership B, including its UBT Paid Credit with respect to partnership A, corporation C will get the benefit of partnership B's UBT Paid Credit with respect to partnership A, subject to the limitations applicable in determining C's UBT Paid Credit allowed.

(e) *Combined Reports*. (1) For corporations that file a report on a combined basis pursuant to §11-91 of these rules, the UBT Paid Credit shall be computed as if the combined group were the partner in each partnership from which any of the members of such group receives a distributive share or guaranteed payments, provided, however, if more than one member of the combined group is a partner in the same partnership, for purposes of the calculation of the distributive share percentage of the combined group, the net distributive share of the combined group shall be the sum of the net distributive shares of all of the partners in the partnership who are members of the combined group for which such net distributive share (as separately determined for each partner) is greater than zero. The combined group's distributive share percentage is the combined group's net distributive share divided by the sum of the net distributive shares of all partners in the partnership (including the separate members of the combined group that are partners in the partnership) for whom or which such net total (as separately determined for each partner) is greater than zero. The combined group's distributive share percentage should be the same as the sum of the distributive share percentages calculated by the partnership on its unincorporated business tax return for each member of the partnership that is a member of the combined group. *See* example 2, *infra.*

(2) *Carryovers on combined reports.* (i) For corporations that file a report on a combined basis pursuant to section 11-91 of these rules, if the amount of UBT Paid Credit allowed to the combined group, as determined under this subdivision exceeds the amount of UBT Paid Credit taken in a taxable year, as determined under such subdivision, each corporate partner receiving a distributive share or guaranteed payment to which the credit was originally attributable may carry such excess forward to each of its seven immediately succeeding taxable years, as provided in subdivision (c) of this section, regardless of whether such corporate partner or partners files a report on a separate or combined basis. A combined group allowed a UBT Paid Credit may take a UBT Paid Credit carried over from a prior year only if the member of the combined group that received the distributive share or guaranteed payment to which the credit was originally attributable is a member of the combined group in the year to which the credit is to be carried.

(ii) If more than one member of a combined group received a distributive share or guaranteed payment from a partnership to which a credit carryover is attributable, for purposes of subparagraph (i), the amount of the carryover available to each such member shall be a portion of the carryover that bears the same ratio to the full amount of the carryover as the distributive share percentage of that member of the combined group with respect to that partnership bears to the sum of the distributive share percentages of all such members with respect to that partnership.

(iii) If the UBT Paid Credit carryover of a combined group for a taxable year is attributable to more than one partnership, for purposes of subparagraph (i), the amount of such credit carryover attributable to each partnership shall be a portion of such carryover which bears the same ratio to the full amount of such carryover as the amount of the UBT Paid Credit allowed for the taxable year attributable to that partnership bears to the total amount of UBT Paid Credit allowed to the combined group for that taxable year.

(f) *Order of credits.* The UBT Paid Credit shall be taken before any other credit allowed by section 11-604 of the Administrative Code.

(g) The provisions of subdivisions (a) through (f) of this section are illustrated by the following examples. The facts in the following examples have been simplified and do not reflect the deduction allowed by section 11-509(a) of the Administrative Code or the exemption allowed by section 11-510(a)(1) of the Administrative Code. See §28-03(d) of these rules for additional examples illustrating the calculation of the UBT Paid Credit. The examples that follow illustrate only those aspects of the UBT Paid Credit that relate specifically to the general corporation tax.

Example 1: *Credit calculation.* ABC is a calendar year partnership doing business in New York City. ABC has a business allocation percentage of 100 percent. ABC has three partners, Corporation A, Corporation B and Corporation C, all of which are calendar year taxpayers and have a 100 percent business allocation percentage.

ABC's unincorporated business taxable income ("UBTI") for each of the taxable years 1995 and 1996 is $3,000,000. ABC pays unincorporated business tax of $120,000 each year. For both 1995 and 1996, ABC's Form NYC-204 indicates that A, B and C each has a distributive share from ABC of $1,000,000 and a distributive share percentage of 33.33 percent.

A is subject to the general corporation tax on the ENI Basis for each of its taxable years 1995 and 1996. In each of 1995 and 1996, A has entire net income of $400,000 without regard to its distributive share of income, gain, loss or deduction from ABC ("Separate ENI").

B is subject to general corporation tax on the Alternative Basis for 1995 and 1996. In each of 1995 and 1996, B's Separate ENI is a net loss of ($985,000) after a $1,000,000 deduction for the salary paid to its sole shareholder.

C is a capital base taxpayer for 1995 and 1996. In each of 1995 and 1996 C's Separate ENI is a loss of ($1,000,000).

Determination of the Credit for A (ENI Basis taxpayer):

A's UBT Paid Credit for 1995 is determined as follows:

Measure 1: A's distributive share percentage is 33.33 percent. Measure 1 is $40,000, equal to ABC's unincorporated business tax of $120,000 multiplied by A's distributive share percentage (33.33%).

Measure 2: A's entire net income is $1,400,000, on which the general corporation tax would be $123,900 before any UBT Paid Credit. The general corporation tax on A's separate ENI of $400,000 would be $35,400. Thus the incremental tax effect on A's total taxable income of A's distributive share from ABC is $88,500 ($123,900-$35,400=$88,500.) This amount is multiplied by the fraction 4/8.85, equaling $40,000. See subdivision (b)(2)(ii)(A)*(c)*, supra.

Therefore, A's UBT Paid Credit for 1995 is $40,000.

A's UBT Paid Credit for 1996 is the same as for 1995.

Determination of the Credit for B (Alternative Basis taxpayer)

B's UBT Paid Credit for 1995 is determined as follows:

Measure 1: B's distributive share percentage is 33.33 percent. Measure 1 is $26,550, equal to ABC's unincorporated business tax of $120,000 multiplied by B's distributive share percentage (33.33%) and by the fraction 2.655/4. See subdivision (b)(2)(i)(C), supra.

Measure 2: B's alternative tax base is $300,000 calculated as follows: B's ENI is $15,000 (Separate loss of ($985,000) + distributive share of $1,000,000.) To this is added the shareholder's salary of $1,000,000 less $15,000 equaling $1,000,000, which is multiplied by 30 percent to arrive at the tax base of $300,000. (Ad. Code §11-604.1(E)(3). See also Ad. Code §11-604.1(H) for modifications of the alternative tax calculation for years beginning on or after July 1, 1996.) The tax on the Alternative Basis is $26,550. Excluding B's distributive share from ABC, B's alternative tax liability would be $0. (Separate loss of ($985,000) + shareholder's salary of $1,000,000 less $15,000 multiplied by 30% = $0. $0 multiplied by 8.85% = $0.) The incremental tax effect of the distributive share from ABC is $26,550 ($26,550 -$0 = $26,550).

Therefore, B's UBT Paid Credit for 1995 is $26,550.

B's UBT Paid Credit **allowed** for 1996 is determined as follows:

Measure 1: B's distributive share percentage is 33.33 percent. Measure 1 is $40,000, equal to ABC's unincorporated business tax of $120,000 multiplied by B's distributive share percentage (33.33%).

Measure 2: For tax years beginning after 1995, Measure 2 is calculated as if the taxpayer were on the ENI Basis. ENI, however is modified in making the calculation. B's separate ENI is a loss of ($985,000). This is treated as zero. As a result, B's modified ENI is $1,000,000 (separate modified ENI of $0 plus distributive share of $1,000,000) on which the general corporation tax would be $88,500. Excluding B's distributive share from ABC, B's modified ENI would be zero on which there would be no tax. Thus, the incremental tax effect on B of B's distributive share from ABC is $88,500 ($88,500 - 0 = $88,500.) This is multiplied by the fraction 4/8.85. See subdivision (b)(2)(ii)(B) supra. Thus, Measure 2 is $40,000.

Therefore, B's UBT Paid Credit **allowed** for 1996 is $40,000.

Calculation of the amount of UBT Paid Credit that B may **take** in 1996.

B's general corporation tax liability on the Alternative Basis is $26,550, the same as in 1995. B's allowed UBT Paid Credit of $40,000 is available to offset B's general corporation tax liability at a rate of $1 of credit for every $.6638 of tax. See subdivision (b)(2)(iii)(D), supra. B may use $39,997 of its allowed credit to reduce its tax liability to zero ($26,550/.6638 = $39,997.) The remaining credit **allowed** of $3 is eligible to be carried over by B to the next seven taxable years.

Computation of the credit for C (a capital base taxpayer):

Because C is subject to the tax on capital, C is not allowed a UBT Paid Credit in 1995. There is no carryover of a UBT Paid Credit for 1995 to any other year.

C's UBT Paid Credit that is **allowed** for 1996 is determined as follows:

Measure 1: C's distributive share percentage is 33.33 percent. Measure 1 is $40,000, equal to ABC's unincorporated business tax of $120,000 multiplied by C's distributive share percentage (33.33%).

Measure 2: Measure 2 is calculated as if C were on the ENI Basis. ENI, however, is modified in making the calculation. C's separate ENI is a loss of ($1,000,000). This is treated as $0. As a result, C's modified ENI is $1,000,000 (separate modified ENI of $0 plus distributive share of $1,000,000), on which there would be general corporation tax of $88,500 on the ENI Basis. Excluding C's distributive share from ABC, C's modified ENI would be zero on which there would be no tax. Thus, the incremental tax effect of C's distributive share from ABC is $88,500 ($88,500 - 0 = $88,500.) This is multiplied by the fraction 4/8.85. Thus, Measure 2 is $40,000.

Therefore, C 's UBT Paid Credit **allowed** for 1996 is $40,000. Because C is on the capital base C can not take a UBT Paid Credit in 1996. The entire credit allowed of $40,000 is eligible to be carried over by C to the next seven taxable years but may only be used in a year in which C is taxed on the ENI Basis or the Alternative Basis.

Example 2: Calculation of the credit for a combined group

ABCD is a partnership doing business in New York City. ABCD allocates 100 percent of its unincorporated business income to the City. ABCD has no investment income. ABCD has four partners, A, B, C and D. Partner A is an individual who does not independently do business in New York City. Partners B, C and D are all corporations that are members of a combined group (CG) that files a combined general corporation tax return. CG has a 100 percent business allocation percentage. Partners B, C, and D do not have any separate income.

ABCD's UBTI for calendar year 1996 is $500,000. ABCD pays unincorporated business tax of $20,000. ABCD's four partners share equally in income of $800,000 from ABCD. In addition, Partner D has a special allocation of a loss of ($300,000) from ABCD. Therefore, D's net total distributive share is a net loss of ($100,000).

Calculation of Distributive Share Percentage ("DSP")

The distributive share percentages of the partners are indicated in the following table:

	Distributive Share (DS)	DS--Modified for Calculation of DSP	DSP
A	$200,000	$200,000	33.33%
B	$200,000	$200,000	33.33%
C	$200,000	$200,000	33.33%
D	($100,000)	$0	0%

Total	$500,000	$600,000	100%

CG's distributive share percentage, 66.66 percent may be determined by adding the distributive share percentages of its members, B and C, that have net distributive shares greater than zero.

Calculation of CG's UBT Paid Credit.

Measure 1: ABCD's unincorporated business tax of $20,000 is multiplied by CG's distributive share percentage (66.66%). Thus, Measure 1 is $13,332.

Measure 2: CG's separate ENI is 0. The distributive shares of its members total $300,000 ($200,000 + $200,000 - $100,000). The general corporation tax on that amount would be $26,550. Thus, the incremental tax effect of CG's distributive share from ABCD is $26,550 ($26,550 -0 = $26,550.) This is multiplied by the fraction 4/8.85. Thus, Measure 2 is $12,000. Note: While D's net loss is not taken into account in calculating CG's distributive share percentage or in determining Measure 1, it is taken into account in determining Measure 2.

Therefore, CG's UBT Paid Credit is equal to $12,000.

BASIS AND PURPOSE OF AMENDMENTS

These amendments affect the portion of the Rules Relating to the New York City General Corporation Tax by adding a new section to those rules governing the calculation of the credit available against the tax for a portion of the New York City Unincorporated Business Tax paid by a partnership in which the taxpayer is a partner. The purpose of this amendment is to reflect the enactment of that credit by Ch. 485 of the Laws of 1994.

/S/ Andrew S. Eristoff
Commissioner of Finance