

**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 11-537(1) of the Administrative Code of the City of New York, I hereby promulgate the within amendment to the Rules Relating to the New York City Unincorporated Business Tax.

/S/Martha E. Stark
Commissioner of Finance

Section 1. Subparagraph (iv) of paragraph 2 of subdivision (d) of section 28-07 of Title 19 of the Rules of the City of New York is amended by adding a new example 12 to read as follows:

Example 12: Partnership X publishes and sells a magazine. X maintains a large staff of reporters, writers, editors, photographers, photo-editors, and graphic artists. This staff produces and assembles stories and photographs for the magazine using a variety of equipment including computers, photographic equipment, printers, scanners and file servers. Each week the staff culls through and edits a large number of stories and photographs and selects a number for inclusion in the magazine. The staff explores various layouts for the components of the magazine. As part of the process the layouts are examined in print form. The staff then finally produces a completed prototype of the magazine in electronic form. The prototype is delivered electronically to an unrelated printer who prints the magazine following Partnership X's detailed specifications, using raw materials including paper and ink supplied by Partnership X. The printer receives a fee for printing the magazine. The magazine is distributed by the printer to X's customers.

Partnership X's extensive preprinting activities leading to the production of the final product are considered an integral part of the manufacturing process. As a result X is considered to be engaged in the manufacture and sale of tangible personal property. If more than 50% of Partnership X's receipts are from the subscription and newsstand sales of the magazine, X will be considered a manufacturing business.

BASIS AND PURPOSE OF AMENDMENT

This amendment affects the portion of the Rules relating to the New York City Unincorporated Business Tax governing the allocation of entire net income for manufacturing businesses. Specifically, this amendment adds an example to illustrate the circumstances under which a publisher and seller of a magazine that performs a substantial portion of the publishing process can be considered to be engaged in the manufacture and sale of tangible personal property although the actual printing of the publication is done by a third party contractor.