Instructions for Form NYC-1

Banking Corporation Tax Return

For fiscal years beginning in 2009 or for calendar year **2009**

Highlights of Recent Tax Law Changes for Banking Corporations

- Single factor allocation for certain banking corporations -- The law was amended to provide banking corporations described below a new single factor allocation percentage for use in allocating income and taxable assets to New York City. For tax years beginning on or after January 1, 2009, the receipts factor will be the allocation percentage for those 65% or more owned subsidiaries of banks and bank holding companies that
  - are subject to tax under the Banking Corporation Tax because of Administrative Code section 11-640(a)(9); and
  - substantially provide management, administrative, or distribution services to an investment company.

  This change will be phased in during a ten-year period beginning in 2009 by weighting of the three factors currently used to compute the allocation percentage. See Chapter 201of the Laws of 2009 and Administrative Code section 11-642(b)(1-a).
- Net operating loss deduction -- The Banking Corporation Tax was amended to allow a carryforward for net operating losses sustained in tax years beginning on or after January 1, 2009 See Chapter 201of the Laws of 2009 and Administrative Code section 11-641(k-1).
- Captive Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs) – For tax years beginning on or after January 1, 2009, the law has been amended concerning the tax treatment of "captive" REITs and RICs, that is, those where more than 50% of the voting stock is owned or controlled, directly or indirectly, by a single corporation. Under those amendments, if a banking corporation or bank holding company subject to the Banking Corporation Tax directly owns over 50% of the voting stock of a captive REIT or RIC or is the closest controlling shareholder of the voting stock of a captive REIT or RIC, the REIT or RIC may be subject to the Banking Corporation Tax and required to be included in a Banking Corporation Tax combined return with that bank or bank holding company. Chapter 201 of the Laws of 2009. For more information, see "Captive Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs)," below.
- For tax years beginning in 2008, taxpayers who have claimed a deduction pursuant to section 199 of the Internal Revenue Code (Income Attributable to Domestic Production Activities) must add this amount back in determining entire net income for purposes of the Banking Corporation Tax. See Part HH-1 of Chapter 57 of the Laws of 2008 and Administrative Code section 11-641(b)(15).
- Gramm-Leach-Bliley Act Transition Rules Extended – The transition rules for corporations affected by the enactment of the Gramm-Leach-Bliley Act of 1999 have been extended for tax years beginning before 2010. Ch. 60, Pt. H, §6, and amended by Ch. 96, §2 of the Laws of 2007 and Ch. 636, §2, of the Laws of 2008.
- Termination of GCT tax status under Gramm-Leach-Bliley transition rules -- The law was amended in 2009 to provide conditions under which corporations subject to tax under the General Corporation Tax (GCT) as a result of the transition rules relating to the Gramm-Leach-Bliley provisions will no longer be taxable under the GCT. If any of the conditions exist or occur in a tax year beginning on or after January 1, 2009, such a corporation will be taxable under the Banking Corporation Tax, rather than the GCT, as of the first day of the tax year in which the condition applied. Administrative Code section 11-640(m), added by Chapter 201 of the Laws of 2009, section 32.
- The law was amended in 2009 to add the Metropolitan Commuter Transportation Mobility Tax (the "MTA payroll tax") under new Article 23 of the New York State Tax Law. Taxpayers subject to the Banking Corporation Tax must add it back to entire net income to the extent it was deducted in computing federal taxable income. See Ad Code § 11-641(b)(16) as added by section 18 of Part C of Chapter 25 of the Laws of 2009.

GENERAL INFORMATION

Transitional provisions relating 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, "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 is 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. A corporation that was in existence prior to 2000 but first became subject to tax after 2000 is considered to have been subject to whichever tax, GCT or BCT, would have applied based on its activities had it been a taxpayer prior to 2000.

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.

Ad. Code §11-640 was amended to require a corporation that was in existence prior to January 1, 2003 to be taxed in years beginning after 2003 and before 2004 under the same tax, either GCT or BCT, that applied to it for the last year beginning before 2003. Ch. 62 of the Laws of 2003, Pt. G3, §6.

Ad. Code §11-640 was amended in 2004 to require a corporation that was in existence prior to January 1, 2004 to be taxed in years beginning after 2003 and before 2006 under the tax, either GCT or BCT, that applied to it for the last year beginning before 2004. Ch. 60, Pt. G, §6 of the Laws of 2004.

Ad. Code §11-640 was amended in 2006 to require a corporation that was in existence prior to January 1, 2006 to be taxed in years beginning after 2005 and before 2008 under the tax, either the GCT or the BCT, that applied to it for the last year beginning before 2006. Ad. Code §11-640(k), as added by Ch. 62, Pt. I, §6 of the Laws of 2006.

Ad. Code §11-640 was amended in 2007 to require a corporation that was in existence before January 1, 2008 to be taxed in years beginning after 2007 and before 2010 under the tax, either the GCT or the BCT, that applied to it for the last year beginning before 2008. It was also amended to provide that a corporation subject to tax under the BCT before 2008 would continue to be subject to the BCT. Code §11-640(l), as added by Ch. 60, Pt. H, §6, and amended by Ch. 96, §2 of the Laws of 2007 and Ch. 636, §2, of the Laws of 2008.

Newly-formed Corporations:

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

- the corporation was a financial subsidiary, or
- at least 65% of the corporation's voting stock was owned or controlled, directly or indirectly, by a financial holding company, and the corporation was 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 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 had to be 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.

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 its first tax year beginning after 2000 and before 2003 if it meets the requirements described above.

Ad. Code §11-640(i) permits a qualifying corporation formed on or after January 1, 2003 and before January 1, 2004 to make a comparable election for its first tax year beginning after 2002 and before 2004. Ch. 62 of the Laws of 2003, Pt. G3, §6

Ad. Code §11-640(j) permits a qualifying corporation formed on or after January 1, 2004 and before January 1, 2006 to make a comparable election for its first taxable year beginning after 2003 and before 2006. Ch. 60, Pt. G, §6 of the Laws of 2004.

Ad. Code §11-640(k) permits a qualifying corporation formed on or after January 1, 2006 and before January 1, 2008 to make a comparable election for its first taxable year beginning after 2005 and before 2008. Ch. 62, Pt. I, §6 of the Laws of 2006.

Ad. Code §11-640(l) permits a qualifying corporation formed on or after January 1, 2008 and before January 1, 2010 to make a comparable election for its first taxable year beginning after 2007 and before 2010. Ch. 60, Pt. H, §6, as amended by Ch. 96, §2 of the Laws of 2007 and Ch. 636, §2, of the Laws of 2008.

<u>Combined Filing under Transitional Provisions</u>

A bank holding company doing business in the City that, during a taxable year beginning after 1999 and before 2010, 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 2010 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. Ad. Code §11-646(f)(2)(iv).

<u>Termination of GCT Tax Status under Transitional Provisions</u>

The law was amended in 2009 to provide conditions under which corporations subject to tax under the GCT as a result of the transition rules relating to the Gramm-Leach-Bliley provisions (both existing and newly-formed corporations as described above) will no longer be taxable under the GCT. If any of the conditions set out below exist or occur in a tax year beginning on or after January 1, 2009, such a corporation will be taxable under the BCT, rather than the GCT, as of the first day of the tax year in which the condition applied:

- The corporation ceases to be a taxpayer under the GCT.
- The corporation becomes subject to the fixed dollar minimum tax under Ad. Code section 11-604(1)(E)(a)(4).
- The corporation has no wages or receipts allocable to New York City pursuant to Ad. Code section 11-604(1), or is otherwise inactive. However, this condition does not apply to a corporation that is engaged in the active conduct of a trade or business, or substantially all of the assets of which are stock and securities of corporations that are directly or indirectly controlled by it and are engaged in the active conduct of a trade or business.
- 65% or more of the voting stock of the corporation becomes owned or controlled directly by a corporation that acquired the stock in a transaction (or series of related transactions) that qualifies as a purchase within the meaning of Internal Revenue Code section 338(h)(3), unless both corporations, immediately before the purchase, were members of the same affiliated group (as such term is defined in IRC section 1504 without regard to the exclusions provided for in 1504(b)).
- The corporation, in a transaction or series of related transactions, acquires assets, whether by contribution, purchase, or otherwise, having an average value as determined in accordance with Ad. Code section 11-604(2) (or, if greater, a total tax basis) in excess of 40% of the average value (or, if greater, the total tax basis) of all assets of the corporation immediately before the acquisition and, as a result of the acquisition, the corporation is principally engaged in a business that is different from the business immediately before the acquisition (provided that such different business is described in Ad. Code section 11-640(a)(9)(i) or (ii)).

Ad. Code section 11-640(m).

Captive Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs).

<u>Captive REITs and RICs.</u>

For tax years beginning on or after January 1, 2009, the law has been amended to provide that a captive REIT or RIC must generally be included in a combined return under the General Corporation Tax (GCT) or Banking Corporation Tax (BCT). Under new Ad. Code 11-601.12, a REIT or RIC is a captive REIT or RIC if more than 50% of its voting stock is owned or controlled, directly or indirectly, by a single corporation. Any voting stock held in a segregated asset account of a life insurance corporation as described in Internal Revenue Code section 817 is not taken into account for the purpose of determining the percentage of stock ownership. As explained more below, if a corporation subject to the BCT directly owns over 50% of the voting stock of a captive REIT or RIC or is the “closest controlling shareholder” of a captive REIT or RIC, then the captive REIT or RIC must be included in a combined return under the BCT with that corporation. For these purposes, the "closest controlling stockholder" means the corporation: (a) that indirectly owns or controls over 50% of the voting stock of a captive REIT or RIC; (b) is subject to tax under the GCT or BCT or otherwise required to be included in a combined return or report under the GCT or BCT; and (c) is the fewest tiers of corporations away in the ownership structure from the captive REIT or RIC

If a captive REIT or RIC is required to be included in a combined return under the BCT, it will be subject to tax under the BCT and will not be subject to tax under the GCT, and, as a result, must file an NYC-1 return. Ad. Code section 11- 640(d). The Gramm-Leach-Bliley transitional provisions do not apply to a captive REIT or a RIC required to be included in a combined return under the BCT as provided by Ad. Code section 11-640(g)(4).

Requirement to be Included in a Combined Return under the BCT.

A captive REIT or RIC must be included in a combined return under the BCT under the following conditions:

(a) A captive REIT or a RIC must be included in a combined return with the banking corporation or bank holding company that directly owns or controls over 50% of the voting stock of the captive REIT or RIC if that banking corporation or bank holding company is subject to tax or required to be included in a combined return under the BCT.

(b) If over 50% of the voting stock of a captive REIT or RIC is not directly owned or controlled by a banking corporation or bank holding company that is subject to tax or required to be included in a combined return under the BCT, then the captive REIT or RIC must be included in a combined return or report under the BCT with the corporation that is the "closest controlling" stockholder of the captive REIT or RIC if it is subject to the BCT.

(c) If the corporation that directly owns or controls the voting stock of the captive REIT or captive RIC is a corporation organized under the laws of a foreign country and not permitted to make a combined return as provided in Ad. Code section 11-646(f)(4)(ii), then the captive REIT or captive RIC must determine the closest controlling shareholder under Ad. Code section 11-646(f)(2) to be included in a combined return with that corporation. If the corporation that is the closest controlling stockholder of the captive REIT or captive RIC is a corporation not permitted to make a combined return, then that corporation is deemed to not be in the ownership structure of the captive REIT or captive RIC, and the closest controlling stockholder will be determined under Ad. Code section 11-646(f)(2) without regard to that corporation.

(d) If a captive REIT owns the stock of a qualified REIT subsidiary (as defined in IRC section 856(i)(2)), then the qualified REIT subsidiary must be included in any combined return required to be made by the captive REIT that owns its stock.

(e) If a captive REIT or a RIC is required by any of the conditions set out herein to be included in a combined return with another corporation, and that other corporation is required to be included in a combined return with another corporation under other provisions of Ad. Code 11-646(f), the captive REIT or RIC must be included in that combined return with those corporations.

(f) A captive REIT or RIC must not be included in a combined return or report under the BCT or GCT if a banking corporation or bank holding company that directly or indirectly owns or controls over 50% of the voting stock of the captive REIT or RIC and is the closest controlling stockholder of the captive REIT or RIC is a member of an affiliated group (1) that does not include any corporation that is engaged in a business that a subsidiary of a bank holding company would not be permitted to be engaged in, unless the business is de minimus, and (2) whose members own assets the combined average of which does not exceed $8 billion. In that instance, the captive REIT or RIC is subject to the provisions of Ad. Code section 11-603.7 or 11-603.8. The term affiliated group is defined in IRC section 1504 without regard to the exceptions of 1504(b).

Computation of tax for Captive REITs and RICs.

In the case of a combined return under the BCT, the tax is measured by the combined entire net income, combined alternative entire net income, or combined taxable assets of all the corporations included in the return, including any captive REIT or RIC.

In the case where a captive REIT is required under Ad. Code section 11-646(f) to be included in a combined return, "entire net income" means real estate investment trust taxable income as defined in IRC section 857(b)(2) (as modified by section 858), plus the capital gains amount taxable under IRC 857(b)(3), subject to the modifications to entire net income required by Ad. Code section 11-641.

In the case where a RIC is required under Ad. Code section 11-646(f) to be included in a combined return, "entire net income" means investment company taxable income as defined in IRC section 852(b)(2) (as modified by section 855), plus the capital gains amount taxable under IRC section 852(b)(3), subject to the modifications to entire net income required by Ad. Code section 11-641.

Under new Ad. Code section 11-641(e)(16), a deduction is allowed in determining entire net income, to the extent not deductible in determining federal taxable income, for 100% of dividend income from subsidiary capital received during the taxable year. The dividend income must be directly attributable to a dividend from a captive REIT or RIC for which the captive REIT or RIC claimed a federal dividends paid deduction and that captive REIT or RIC is included in a combined return or report under the BCT.

In computing entire net income, the deduction under the IRC for dividends paid by the captive REIT or RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over 50% of the voting stock of the captive REIT or RIC must be included in the federal taxable income of the captive REIT or RIC. This added back will be phased in over three years. For tax years beginning on or after January 1, 2009 and before January 1, 2011, 75% of the amount deducted on the REIT or RICs federal return must be added back. For tax years beginning on or after January 1, 2011, 100% of the amount deducted on the REIT or REITs federal return must be added back. The term affiliated group is defined in IRC section 1504 without regard to the exceptions of 1504(b).

WHO MUST FILE

The Banking Corporation Tax Law imposes a tax on every banking corporation for the privilege of doing business in New York City in a corporate or organized capacity for all or any part of its taxable year. It also imposes the tax on bank holding companies, captive real estate investment trusts (REITs), and captive regulated investment companies (RICs) when included in a combined return.

Banking corporations that have made an election under Subchapter S of the Internal Revenue Code are subject to tax as if no S election were made. Ad. Code §11-641(a)(4) and (5).

Included as banking corporations are the following:

A. New York State banking corporations - Every corporation organized under the laws of New York State which is authorized to do or is doing a banking business is a banking corporation. Such corporations include, but are not limited to, commercial banks, trust companies, limited purpose trust companies, subsidiary trust companies, savings banks, savings and loan associations, agreement corporations, and the New York Business Development Corporation. Also included as a banking corporation is the New York State Mortgage Facilities Corporation.

B. **Banking corporations organized under the laws of another state or country -** Every corporation organized under the laws of another state or country which is doing a banking business is a banking corporation. Such corporations include, but are not limited to, commercial banks, trust companies, savings banks, savings and loan associations and agreement corporations.

C. **Banking corporations organized under the laws of the United States -** Every National Banking Association, Federal Savings Bank, Federal Savings and Loan Association and every other corporation or association organized under the authority of the United States (including an Edge Act corporation) which is doing a banking business, is a banking corporation. Also classified as a banking corporation is every production credit association organized under the Federal Farm Credit Act of 1933 which is doing a banking business and all of whose stock held by the Federal Production Credit Corporation has been retired.

D. **Corporations owned by a bank or a bank holding company -** Every corporation which is principally engaged in a business which:

1) might lawfully be conducted by a corporation subject to Article 3 of the New York State Banking Law or by a national banking association; or

2) is so closely related to banking or managing or controlling banks as to be a proper incident thereto as defined in Section 4(c)(8) of the Federal Bank Holding Company Act of 1956, as amended is a banking corporation, provided such corporation's voting stock is 65% or more owned or controlled directly or indirectly by a banking corporation described above or a bank holding company.

A 65% or more owned corporation which was subject to tax under Part II of Title R of Chapter 46 of the Administrative Code (the NYC General Corporation Tax) for its taxable year ending in 1984 and which had made a timely election to continue to be taxable under the General Corporation Tax (now codified as Subchapter 2 of Chapter 6 of Title 11 of the Administrative Code) for its taxable year ending in 1985, continues to be taxable under the General Corporation Tax Law until the election is revoked by the taxpayer. In no event can the election be revoked for part of the tax year. The revocation is made by the filing of a Banking Corporation Tax Return pursuant to Subchapter 3 of Chapter 6 of Title 11 of the Administrative Code.

DEFINITION OF DOING BUSINESS WITHIN NEW YORK CITY

The phrase "doing business" is used in a comprehensive sense and includes all activities which occupy the time or labor of people for profit. In determining whether or not a corporation is doing business in New York City consideration is given to such factors as: the nature, continuity, frequency and regularity of the activities of the corporation in New York City; the location of the corporation's offices and other places of business; the employment in New York City of agents, officers and employees of the corporation; and other relevant factors. Activities which constitute doing business in New York City include: operating a branch, loan production office, representative office or a bona fide office in New York City. Activities which do not constitute doing business in New York City include: occasionally acquiring a security interest in real or personal property located in New York City, occasionally acquiring title to property located in New York City through foreclosure of a security interest, or the mere holding of meetings of the board of directors in New York City.

See also Ad. Code 11-640(f) regarding Alien Corporations.

DEFINITION OF BANKING BUSINESS

The phrase "banking business" means the business a corporation may be created to do under Article 3 (Banks and Trust Companies), Article 3-B (Subsidiary Trust Companies), Article 5 (Foreign Banking Corporations and National Banks), Article 5-A (New York Business Development Corporation), Article 6 (Savings Banks) or Article 10 (Savings and Loan Associations) of the New York State Banking Law, or the business a corporation is authorized to do by such articles. With respect to a national banking association, federal savings bank, federal savings and loan association or production credit association, the phrase "banking business" means the business a national banking association, federal savings bank, federal savings and loan association or production credit association may be created to do or is authorized to do under the laws of the United States or the laws of New York State.

The phrase "banking business" also means such business as any corporation organized under the authority of the United States or organized under the laws of any other state or country has authority to do which is substantially similar to the business which a corporation may be created to do under Article 3, 3-B, 5, 5-A, 6 or 10 of the New York State Banking Law, or any business which a corporation is authorized to do by such article.

DEFINITION OF A BANK HOLDING COMPANY

The phrase "bank holding company" means:

- a corporation subject to Article 3-a of the New York State Banking Law;
- a corporation registered under the Federal Bank Holding Company Act of 1956, as amended; or
- a corporation registered as a savings and loan holding company (excluding a diversified savings and loan holding company) under the Federal National Housing Act, as amended.

DEFINITION OF AN ALIEN CORPORATION

The phrase "alien corporation" means a corporation organized under the laws of a country other than the United States.

DEFINITION OF AN INTERNATIONAL BANKING FACILITY (IBF)

The phrase "International Banking Facility" means an international banking facility located in New York State. The phrase has the same meaning as is set forth in the New York State Banking Law or regulations promulgated thereunder or as is set forth in the laws of the United States or regulations of the Board of Governors of the Federal Reserve System.

See Schedule F instructions for information on the IBF modification method and the IBF allocation method.

ALLOCATION

A corporation which is doing business both within and without New York City is entitled to allocate its entire net income, alternative entire net income, taxable assets, and issued capital stock within and without New York City. A corporation which is not doing business outside New York City must allocate its entire net income, alternative entire net income, taxable assets and issued capital stock 100% to New York City. However, a corporation that has an International Banking Facility (IBF) located in New York State may elect to reflect the results of its IBF operations in its entire net income allocation percentage and in its alternative entire net income allocation percentage.

COMBINED RETURN
In all cases where a combined return is permitted or required, a completed Form NYC-1 must be filed by each corporation included in the combined return.

COPY OF FEDERAL RETURN
Attach a copy of federal Form 1120 or 1120F, including all attachments, and any other returns or information requested in this return.

WHERE AND WHEN TO FILE
The due date for filing is on or before March 15, 2010 or for fiscal year taxpayers, on or before the 15th day of the 3rd month following the close of the fiscal year. Mail returns to:

NYC Department of Finance
P.O. Box 5120
Kingston, NY 12402-5120

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-EXT and pays the amount properly estimated as its tax. See the instructions for Form NYC-EXT for information regarding what constitutes a properly estimated tax for this purpose. Failure to pay a properly estimated amount will result in a denial of the extension.

A taxpayer with a valid six-month automatic extension filed on Form NYC-EXT may request up to two additional three-month extensions by filing Form NYC-EXT.1. A separate Form NYC-EXT.1 must be filed for each additional three-month extension.

Mail both NYC-EXT and NYC-EXT.1 to the address indicated on the form.

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.**

SIGNATURE
This report must be signed by an officer authorized to certify that the statements contained herein are true.

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

Check the box marked "yes" on page 1 of this form if, on your federal return: (i) you reported bonus depreciation and/or a first year expense deduction under IRC §179 for "qualified New York Liberty Zone property," "qualified New York Liberty Zone leasehold improvements," or "qualified Resurgence Zone property," regardless of whether you are required to file form NYC-399Z, (ii) you claimed a federal targeted jobs credit for Liberty Zone business employees, or (iii) you replaced property involuntarily converted as a result of the attacks on the World Trade Center during the five (5) year extended replacement period. You must attach Federal forms 4562, 4684, 4797 and 8884 to this return. See instructions for Schedule B, lines 8, 18, and 23 for more information.

Check the appropriate box on page 1 of this form, if you are a captive real estate investment trust (REIT) or a captive regulated investment companies (RIC).

SCHEDULE A
Computation of Tax

LINE 1 - ALLOCATED TAXABLE ENTIRE NET INCOME
Enter allocated taxable entire net income computed in Schedule B, line 35, and multiply by the tax rate of 9% (.09).

LINE 2 - ALLOCATED TAXABLE ALTERNATIVE ENTIRE NET INCOME
Enter allocated taxable alternative entire net income computed in Schedule C, line 6, and multiply by the tax rate of 3% (.03).

LINE 3 - ALLOCATED TAXABLE ASSETS
Corporations organized under the laws of the U.S. or any of its states enter allocated taxable assets computed in Schedule D, line 4, and multiply by the tax rate of .0001.

LINE 4 - ALLOCATED ISSUED CAPITAL STOCK
Alien corporations enter allocated issued capital stock computed in Schedule E, line 5, and multiply by the tax rate of .0026

LINE 5 -
Enter the fixed minimum tax of $125.

LINE 6 - TAX
Enter the largest of the taxes computed at lines 1 through 5.

LINE 7 - UBT PAID CREDIT
Enter on line 7 the credit against the Banking Corporation Tax for Unincorporated Business Tax paid by partnerships from which you receive a distributive share or guaranteed payment that you include in calculating Banking Corporation Tax liability on either the entire net income or alternative entire net income base. Attach Form NYC-9.7B.

LINE 8a - REAP CREDIT
Corporations claiming the relocation and employment assistance program (REAP) credit must enter the amount shown on line 11 of Form NYC-9.5.

LINE 8b - LMREAP CREDIT
Corporations claiming the Lower Manhattan relocation and employment assistance program (LMREAP) credit must enter the amount shown on line 11 of Form NYC-9.8.

LINE 10a - AUTOMATIC EXTENSION
Use this line if you have filed an application for automatic extension on Form NYC-EXT. Enter amount from line 2 of Form NYC-EXT.

LINE 10b -
If the tax at line 9 exceeds $1,000 and Form NYC-EXT was not filed, a mandatory first installment of estimated tax is required for the period following that covered by this return. Enter 25% of the amount on line 9.

LINE 12 - PREPAYMENTS
Enter on line 12 the sum of all prepayments and overpayments made for the calendar year 2008 or fiscal year beginning in 2008 credited to the current year's tax. This figure should be obtained from the completed Composition of Prepayments Schedule on page 6 of this return.

LINE 15a - LATE PAYMENT - INTEREST
If the tax due is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from the due date to the date paid. For information regarding interest rates, visit the Finance website at **nyc.gov/finance** or call 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

LINE 15b - 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 (determined with regard to extension), add to the tax (less any payments made on or before the due date) 5%, up to a total of 25%.

b) If this form is filed more than 60 days late, the above **late filing penalty** will not be less than the lesser of (1) $100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).

c) A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.

d) The total of the additional charges in *a* and *c* may not exceed 5% for any one month except as provided for in *b*.

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

LINE 19 - TOTAL REMITTANCE
If the amount on line 13 is greater than zero or the amount on line 17 is less than zero, enter on line 19 the sum of the amounts on line 13 and the amount by which line 16 exceeds the amount on line 14. After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 19. Remittances must be made payable to the order of **NYC DEPARTMENT OF FINANCE.**

LINE 20 - ISSUER'S ALLOCATION PERCENTAGE
Every corporation subject to tax under Part 4 of Subchapter 3, Chapter 6, Title 11 of the Administrative Code, including each corporation included in a combined return, must compute its issuer's allocation percentage on a separate basis. **The issuer's allocation percentage cannot be less than zero.**

A banking corporation, as defined in Section 11-640(a)(1) through (8) of Title 11 of the Administrative Code, organized under the laws of the United States, New York State, or any other state must enter as its issuer's allocation percentage on line 20, the alternative entire net income allocation percentage computed on Form NYC-1, Schedule G, part 2, line 5, rounded to the nearest one hundredth of a percentage point.

A banking corporation, as defined in Section 11-640(a)(2) of Title 11 of the Administrative Code, organized under the laws of a country other than the United States, must enter as its issuer's allocation percentage on line 20, the percentage determined by dividing gross income within New York City by worldwide gross income rounded to the nearest one hundredth of a percentage point.

A banking corporation, as defined in Section 11-640(a)(9) of Title 11 of the Administrative Code, or a bank holding company which is included in a combined return under the Banking Corporation Tax Law must enter as its issuer's allocation percentage on line 20 of NYC-1 the percentage determined by dividing business and subsidiary capital allocated to New York City by total worldwide capital rounded to the nearest one hundredth of a percentage point.

SCHEDULE B
Computation and Allocation of Entire Net Income

LINE 1 - FEDERAL TAXABLE INCOME
Enter federal taxable income before net operating loss and special deductions.

Corporations filing federal returns on a consolidated basis enter the federal taxable income (before net operating loss and special deductions) that would have been reported if a separate federal return had been filed.

Attach a copy of the consolidated federal return with spread sheets or work papers supporting the federal consolidated return.

Banking corporations electing under Subchapter S of the Internal Revenue Code must compute a federal taxable income for this purpose as if no S or QSSS election were made. See Ad. Code §11-641(a)(4) or (5).

If you are a captive REIT enter REIT taxable income as defined in IRC section 857(b)(2), as modified by IRC section 858, plus the amount under IRC section 857(b)(3). If you are a captive RIC enter investment company taxable income as defined in IRC section 852(b)(2), as modified by IRC section 855, plus the amount taxable under IRC section 852(b)(3).

LINE 2a - DIVIDENDS/INTEREST
Alien corporations enter dividends and interest on any kind of stock, securities or indebtedness which are effectively connected with the conduct of a trade or business in the U.S. pursuant to Section 864 of the IRC, but which are excluded from federal taxable income, and any other income not included on line 1 which would be treated as effectively connected with the conduct of a trade or business in the U.S. pursuant to Section 864 of the IRC were it not excluded from gross income pursuant to Section 103(a) of the IRC.

LINE 2b - OTHER INCOME
Alien corporations enter any other income not included on line 1 or line 2a which is effectively connected with the conduct of a trade or business in the U.S. pursuant to Section 864 of the IRC, but which is exempt from federal income tax under any treaty obligation of the U.S.

LINES 3a AND 3b - NONTAXABLE DIVIDENDS/INTEREST
Corporations organized under the laws of the U.S. or any of its states, enter on line 3a dividends (including IRC Section 78 gross-up dividends) and on line 3b interest on any kind of stock, securities or indebtedness which was excluded from federal taxable income. Include all interest on state and municipal bonds and obligations of the U.S. and its instrumentalities.

LINE 5 - INCOME TAXES
Enter any taxes on or measured by income or profit paid or accrued to the United States, any of its possessions or any foreign country, which were deducted in computing federal taxable income on line 1.

LINE 6 - NYS FRANCHISE TAX
Enter all New York State franchise taxes imposed under Articles 9, 9-A, 13-A and 32 which were deducted in computing federal taxable income. Include the New York State Metropolitan Transportation Business Tax surcharge and the MTA payroll tax (New York State Tax Law, Art. 23).

LINE 7 - NYC CORPORATION TAX
Enter all taxes imposed under the City Corporation Tax Law (Subchapters 2 and 3, Chapter 6 of Title 11 of the Administrative Code) deducted in computing federal taxable income.

LINE 8 - FEDERAL DEPRECIATION ADJUSTMENT
Enter total amount of federal depreciation adjustment from Forms NYC-399 and NYC-399Z, Schedule C, column A, line 8.

LINE 9 - SAFE HARBOR LEASES
Enter any amount claimed as a deduction in computing federal taxable income solely as a result of an election made pursuant to the provision of IRC Section 168(f)(8) (relating to Safe Harbor Leases) as it was in effect for agreements entered into prior to January 1, 1984.

LINE 10
Enter any amount which the taxpayer would have been required to include in the computation of its federal taxable income had it not made the election permitted pursuant to the provisions of IRC Section 168(f)(8) (relating to Safe Harbor Leases) as it was in effect for agreements entered into prior to January 1, 1984.

LINES 11 THROUGH 15 - OTHER ADDITIONS

LINE 11
Enter any amount claimed as a deduction in computing federal taxable income previously allowed as a deduction under Title 11, Chapter 6, Subchapter 3, Parts 1 and 2 of the Administrative Code.

LINE 12
Any amount allowed as a deduction for federal income tax purposes pursuant to Section 593(b)(1)(B) of the IRC. Effective for tax years after 1995, for thrift institutions the deduction allowable is according to sections 166 or 585 of the IRC.

LINE 13
The amount allowed as a deduction pursuant to Section 166 of the IRC in the case of a taxpayer subject to the provisions of IRC Section 585(c). (Pertains to nonthrift institutions)

LINE 14
In the case of a taxpayer that computes its bad debt deduction pursuant to Section 585(c) of the IRC, add back 20 percent of the excess of the amount determined allowable for NYC purposes over the amount which would have been allowable as a deduction had such institution maintained its bad debt reserves for all taxable years on the basis of actual experience. (Pertains to non-thrift institutions.)

LINE 15
A taxpayer that makes an adjustment to federal taxable income on line 28, must add any income the IBF received from foreign branches of the taxpayer which is included on line 5 of Schedule F that is not included in federal taxable income.

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 and gains from any such partnership, including their share of separately reported items, from their federal taxable income reported on line 1.

Add back payments for the use of intangibles made to related members as required by Ad. Code section 11-641(q). See "Highlights of Recent Tax Law Changes For Banking Corporations."

With respect to property placed in service in taxable years beginning before January 1, 1981, taxpayers using a different adjusted basis, or a different method of depreciation, for City tax purposes than for Federal tax purposes must make appropriate additions to Federal taxable income. Attach a schedule showing the adjustments. See subdivisions (c) and (j)(2) of Ad. Code section 11-641 for details.

For tax years beginning on or after January 1, 2008, any amounts deducted pursuant to section 199 of the Internal Revenue Code (Income Attributable to Domestic Production Activities) in computing federal income must be added back when computing NYC entire net income. See “Highlights of Recent Tax Law Changes” above.

LINE 17 - OTHER EXPENSES
Enter expenses not deducted on your federal return which are applicable to income shown on lines 2 and 3.

LINE 18 - NYC DEPRECIATION
Enter amount of New York City allowable depreciation adjustment from forms NYC-399 and NYC-399Z, Schedule C, column B, line 8.

LINE 19 - INSTALLMENT SALES
Enter any income or gain from installment sales included in federal taxable income which was previously includable in computing tax under Chapter 6, Subchapter 3, parts 1 and 2.

LINE 20 - DIVIDEND GROSS-UP
Enter the amount of IRC Section 78 dividend gross-up included at lines 1, 2a, 2b, 3a and 3b.

LINE 21 - SAFE HARBOR LEASES
Enter any amount included in federal taxable income solely as a result of an election made pursuant to the provisions of IRC Section 168(f)(8) (relating to Safe Harbor Leases) as it was in effect for agreements entered into prior to January 1, 1984.

LINE 22
Enter any amount which the taxpayer could have excluded from federal taxable income had it not made the election pursuant to IRC Section 168(f)(8) (relating to Safe Harbor Leases) as it was in effect for agreements entered into prior to January 1, 1984.

LINE 23
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. The New York Liberty Zone business employee credit is only available for wages paid or incurred during the current taxable year for work performed in 2002 or 2003.

LINE 24 - FDIC OR FSLIC AMOUNT
Enter any amount of money or other property (whether or not evidenced by a note or other instrument) received from the Federal Deposit Insurance Corporation under Section 13(c) of the Federal Deposit Insurance Act, as amended, or the Federal Savings and Loan Insurance Corporation under Section 406(f)(1), (2), (3) or (4) of the Federal National Housing Act, as amended.

LINE 25 - INTEREST INCOME FROM SUBSIDIARY CAPITAL
Attach a rider showing interest income from subsidiary capital.

“Subsidiary” means a corporation with respect to which more than 50% of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by the taxpayer.

“Subsidiary capital” means the total of the investment of the taxpayer in shares of stock of its subsidiaries, and the amount of indebtedness owed to the taxpayer by its subsidiaries, whether or not evidenced by written instrument, on which interest is not claimed and deducted by the subsidiary for purposes of any tax imposed by Subchapter 2 or 3, Chapter 6 of Title 11 of the Administrative Code.

Subsidiary capital does not include accounts receivable acquired in the ordinary course of trade or business either for services rendered or for sales of property held primarily for sale to customers. Each item of subsidiary capital must be reduced by any liabilities of the taxpayer (parent) payable by their terms on demand or not more than one year from the date incurred, other than loans or advances outstanding for more than a year as of any date during the year covered by the report which are attributable to that item of subsidiary capital.

LINE 26a - DIVIDEND INCOME FROM SUBSIDIARY CAPITAL
Attach a rider showing the names of each subsidiary and the amount of dividend income received from each subsidiary to the extent included in federal taxable income on line 1 and/or line 2b. Deduct from subsidiary dividend income any Section 78 dividends deduct-

ed on line 20 which are attributable to dividends from subsidiary capital.

LINE 26b - NET GAINS FROM SUBSIDIARY CAPITAL

Attach a rider showing the names of each subsidiary and the amount of gains or losses received from each subsidiary to the extent included in federal taxable income on line 1. Subsidiary gains must be offset by subsidiary losses. If subsidiary gains exceed subsidiary losses, the net gain is multiplied by 60%. If subsidiary losses exceed subsidiary gains, enter "0" on line 26b.

LINE 27 - INTEREST INCOME

Attach a rider showing a breakdown of interest income on obligations of New York State, its political subdivisions and obligations of the U.S. The term "obligation" refers to obligations incurred in the exercise of the borrowing power of New York State or any of its political subdivisions or of the United States. The term "obligation" does not include obligations held for resale in connection with regular trading activities or obligations which guarantee the debt of a third party. The following do not qualify under this provision: guaranteed student loans, industrial development bonds issued pursuant to Article 18-A of the New York State General Municipal Law, FNMA mortgage-backed securities and GNMA mortgage-backed securities.

LINE 28 - IBF ADJUSTMENT

Enter amount from line 34 of Schedule F if you elected to compute entire net income using the IBF modification method.

LINE 29 - RECAPTURED RESERVES

Any amount which is included in federal taxable income pursuant to Section 585(c) of the Internal Revenue Code.

LINE 30 - RECOVERIES OF LOANS

Any amount which is included in federal taxable income as a result of a recovery of a loan in the case of a taxpayer subject to the provisions of Section 585(c) of the IRC.

LINE 31a - BAD DEBT DEDUCTIONS

1) A thrift institution must exclude from the computation of its entire net income any amount allowed as a deduction for federal income tax purposes pursuant to section 166, 585 or 593 of the Internal Revenue Code.

2) a thrift institution shall be allowed as a deduction in computing entire net income the amount of a reasonable addition to its reserve for bad debts. This amount shall be equal to the sum of:

   (a) the amount determined to be a reasonable addition to the reserve for losses on nonqualifying loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under paragraph one of subdivision (i) of Ad. Code §11-641, plus

   (b) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph four or five of Ad. Code §11-641(h), whichever is the larger, but the amount determined under Ad. Code §11-641(h)(3)(B) shall in no case be greater than the larger of

      (i) the amount determined under paragraph four, or

      (ii) the amount which, when added to the amount determined under clause (a) of this paragraph 2, equals the amount by which twelve percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951).

      The taxpayer must include in its tax return for each year a computation of the amount of the addition to the bad debt reserve determined under Ad Code §11-641(h). The use of a particular method in the return for a taxable year is not a binding election by the taxpayer.

3) (a) Subject to clauses (b) and (c) of this paragraph 3, the amount determined under this paragraph for the taxable year shall be an amount equal to 32% of the entire net income for such year.

   (b) The amount determined under clause (a) of this paragraph shall be reduced (but not below zero) by the amount determined under clause (a) of paragraph 2.

   (c) The amount determined under this paragraph shall not exceed the amount necessary to increase the balance at the close of the taxable year of the reserve for losses on qualifying real property loans to 6% of such loans outstanding at such time.

   (d) For purposes of this paragraph, entire net income shall be computed

      (i) by excluding from income any amount included therein by reason of clause (b) of paragraph 7

      (ii) without regard to any deduction allowable for any addition to the reserve for bad debts and

      (iii) by excluding from income an amount equal to the net gain for the taxable year arising from the sale or exchange of stock of a corporation or of obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code.

      (iv) Whenever a thrift institution is properly includable in a combined return, entire net income, for purposes of this paragraph, shall not exceed the lesser of the thrift institution's separately computed entire net income as adjusted pursuant to clauses (i) through (iii) above or the combined group's entire net income as adjusted pursuant to clauses (i) through (iii).

4) The amount determined under this paragraph for the taxable year shall be computed in the same manner as is provided under paragraph 1 of subdivision (i) of Ad. Code §11-641 with respect to additions to reserves for losses on loans of banks, provided, however, that for any taxable year beginning after 1995, for purposes of such computation, the base year shall be the later of (a) the last taxable year beginning in 1995 or (b) the last taxable year before the current year in which the amount determined under the provisions of clause (b) of paragraph 2 exceeded the amount allowable under this paragraph.

5) (a) (i) Each thrift institution shall establish and maintain a New York reserve for losses on qualifying real property loans, a New York reserve for losses on nonqualifying loans and a supplemental reserve for losses on loans. Such reserves shall be maintained for all taxable subsequent years that Ad. Code §11-641(h) applies to the taxpayer.

      (ii) Such reserves shall be treated as reserves for bad debts, but no deduction shall be allowed for any addition to the supplemental reserve for losses on loans.

      (iii) Except as noted below, the balances of each such reserve at the beginning of the first day of the first taxable year beginning after December 31, 1995 shall be the same as the balances maintained for federal income tax purposes in accordance with section 593(c)(1) of the Internal Revenue Code as in existence on December 31, 1995 for the last day of the last tax year beginning before January 1, 1996. A taxpayer which maintained a New York Reserve for loan losses on qualifying real property loans in the last tax year beginning before January 1, 1996 shall have a continuation of such New York reserve balance in lieu of the amount determined under the preceding sentence.

(iv) Notwithstanding clause (ii), any amount allocated to the reserve for losses on qualifying real property loans pursuant to section 593(c)(5) of the Internal Revenue Code as in effect immediately prior to the enactment of the Tax Reform Act of 1976 shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in clause (b) of paragraph 2, and for such purpose such amount shall be treated as remaining in such reserve.

(b) Any debt becoming worthless or partially worthless in respect of a qualifying real property loan shall be charged to the reserve for losses on such loans and any debt becoming worthless or partially worthless in respect of a nonqualifying loan shall be charged to the reserve for losses on nonqualifying loans, except that any such debt may, at the election of the taxpayer, be charged in whole or in part to the supplemental reserve for losses on loans.

(c) The New York reserve for losses on qualifying real property loans shall be increased by the amount determined under clause (b) of paragraph 2 and the New York reserve for losses on nonqualifying loans shall be increased by the amount determined under clause (a) of paragraph 2.

6) (a) The term "qualifying real property loan" shall mean any loan secured by an interest in improved real property or secured by an interest in real property which is to be improved out of the proceeds of the loan. Such term shall include any mortgage-backed security which represents ownership of a fractional undivided interest in a trust, the assets of which consist primarily of mortgage loans, and any collateralized mortgage obligation, the security for which consists primarily of mortgage loans, provided that the real property which serves as security for the loans is (or from the proceeds of the loan, will become) the type of property described in clauses (i) through (v) of Ad. Code section 11-641(h)(1)(B). See Ad. Code §11-641(h)(7).

However, such term shall not include: (i) any loan evidenced by a security (as defined in section 165(g)(2)(c) of the Internal Revenue Code); (ii) any loan, whether or not evidenced by a security (as defined in such section 165(g)(2)(c)), the primary obligor of which is (a) a government or political subdivision or instrumentality thereof, (b) a banking corporation, or (c) any corporation 65% or more of whose voting stock is owned or controlled, directly or indirectly, by the taxpayer or by a bank holding company that owns or controls, directly or indirectly, 65% or more of the voting stock of the taxpayer; (iii) any loan, to the extent secured by a deposit or share of the taxpayer; or (iv) any loan which, within a 60-day period beginning in one taxable year of the creditor and ending in its next taxable year, is made or acquired and repaid or disposed of, unless the transactions by which such loan was made or acquired and then repaid or disposed of are established to be for bona fide business purposes.

b) The term "nonqualifying loan" shall mean any loan which is not a qualifying real property loan.

c) The term "loan" shall mean debt, as the term "debt" is used in section 166 of the Internal Revenue Code.

d) A regular or residual interest in a REMIC, as such term is defined in section 860D of the Internal Revenue Code, shall be treated as a qualifying real property loan, except that if less than 95% of the assets of such REMIC are qualifying real property loans (determined as if the taxpayer held the assets of the REMIC), such interest shall be so treated only in the proportion which the assets of such REMIC consist of such loans. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMICS are part of a tiered structure, they shall be treated as one REMIC for purposes of this paragraph.

7) a) Any distribution of property (as defined in section 317(a) of the Internal Revenue Code) by a thrift institution to a shareholder with respect to its stock, if such distribution is not allowable as a deduction under section 591 of such code, shall be treated as made:

(i) first out of its New York earnings and profits accumulated in taxable years beginning after December 31, 1951, to the extent thereof,

(ii) then out of the New York reserve for losses on qualifying real property loans, to the extent additions to such reserve exceed the additions which would have been allowed under paragraph 4,

(iii) then out of the supplemental reserve for losses on loans, to the extent thereof,

(iv) then out of such other accounts as may be proper. This paragraph 7 shall apply in the case of any distribution in redemption of stock or in partial or complete liquidation of a thrift institution, except that any such distribution shall be treated as made first out of the amount referred to in clause (ii), second out of the amount referred to in clause (iii), third out of the amount referred to in clause (i) and then out of such other accounts as may be proper. This clause (a) shall not apply to any transaction to which section 381 of such code (relating to carryovers and certain corporate acquisitions) applies, or to any distribution to the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation in redemption of an interest in an association or institution, if such interest was originally received by the Federal Saving and Loan Insurance

Corporation or the Federal Deposit Insurance Corporation in exchange for financial assistance pursuant to section 406(f) of the Federal National Housing Act or pursuant to subsection (c) of section 13 of the Federal Deposit Insurance Act.

b) If any distribution is treated under clause (a) of this paragraph as having been made out of the reserves described in subclauses (ii) and (iii) of clause (a), the amount charged against such reserve shall be the amount which, when reduced by the amount of tax imposed by the Internal Revenue Code and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution; and the amount so charged against such reserve shall be included in the entire net income of the taxpayer.

c) (i) For purposes of subclause (ii) of clause (a), additions to the New York reserve for losses on qualifying real property loans for the taxable year in which the distribution occurs shall be taken into account.

(ii) for purposes of computing the amount of a reasonable addition to the New York reserve for losses on qualifying real property loans for any taxable year, the amount charged during any year to such reserve pursuant to the provision of clause (b) of this paragraph shall not be taken into account.

8) A taxpayer which maintains a New York reserve for losses on qualifying real property loans and which ceases to meet the definition of a thrift institution as defined in Ad. Code §11-641(h)(1), must include in its entire net income for the last taxable year such paragraph (1) applied to the excess of its New York reserve for losses on qualifying real property loans over the greater of (a) its reserve for losses on qualifying real property loans as of the last day of the last taxable year such reserve is maintained for federal income tax purposes or (b) the balance of New York reserve for losses on qualifying real property loans which would be allowable to the taxpayer for the last taxable year such taxpayer met such definition of a thrift institution if the taxpayer had computed its reserve balance pursuant to the method described in subparagraph (A) of paragraph 1 of Ad. Code §11-641(i).

LINE 31b - BAD DEBT DEDUCTIONS

1) A taxpayer subject to the provisions of Section 585(c) of the Internal Revenue Code, other than a thrift institution, may, in computing entire net income, deduct an amount equal to or less than the amount determined pursuant to clause (a) or (b) of this paragraph, whichever is greater. However, in no event shall the deduction be less than the amount determined pursuant to clause (a).

a) The amount determined pursuant to this clause shall be the amount necessary to increase the balance of its New York City reserve for losses on loans (at the close of the taxable year) to the amount which bears the same ratio to loans outstanding at the close of the taxable year as

i) the total bad debts sustained during the taxable year and the five preceding taxable years (or, with the approval of the Department of Finance, a shorter period), adjusted for recoveries of bad debts during such period bears to

ii) the sum of the loans outstanding at the close of such six or fewer taxable years.

b) i) The amount determined pursuant to this clause (b) shall be the amount necessary to increase the balance for its New York City reserve for losses on loans (at the close of the taxable year) to the lower of

I) the balance of the reserve at the close of the base year, or

II) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

ii) For purposes of this clause, the base year shall be the last taxable year beginning before 1988.

2) Each taxpayer described in paragraph (1) shall establish and maintain a New York City reserve for losses on loans. Such reserve shall be maintained for all subsequent taxable years. The balance of the New York City reserve for losses on loans at the beginning of the first day of the first taxable year the taxpayer becomes subject to Ad. Code section 11-641(i) shall be the same as the balance at the beginning of such day of the reserve for losses on loans maintained for federal income tax purposes. The New York City reserve for losses on loans shall be reduced by an amount equal to the deduction allowed, but not more than the amount allowable, for worthless debts for federal income tax purposes pursuant to Section 166 of the Internal Revenue Code plus the amount, if any, charged against its reserve for losses on loans pursuant to Section 585(c)(4) of such code.

3) The determination and treatment of the New York City reserve balance, including any additions, subtractions or recapture, for

a) any banking corporation which was subject to tax for federal income tax purposes but not subject to tax under Subchapter 3 of Chapter 6 of Title 11 of the Administrative Code for prior taxable years,

b) any taxpayer which ceases to be subject to tax under Subchapter 3 of Chapter 6 of Title 11 of the Administrative Code, or

c) any other unusual circumstances shall be determined by the Department of Finance, provided, however, any banking corporation which was subject to tax for federal income tax purposes but not subject to tax under Subchapter 3 of Chapter 6 of Title 11 of the Administrative Code for prior taxable years shall have as its opening New York City reserve for losses on loans the amount determined by applying the provisions of clause (a) of paragraph (1) to loans outstanding at the close of its last taxable year for federal income tax purposes ending prior to the first taxable year for which the taxpayer is subject to tax under Subchapter 3 of Chapter 6 of Title 11 of the Administrative Code and provided further that the provisions of clause (b) of paragraph (1) shall not apply.

LINE 31C - NEW YORK CITY NOL DEDUCTION

A net operating loss (NOL) deduction is allowed under the Banking Corporation Tax for NOLs sustained in tax years beginning on or after January 1, 2009 (Ad. Code section 11-641(k-1)).

Enter any New York City NOL carried forward from tax years beginning on or after January 1, 2009. Attach a separate sheet with full details of both federal and New York City NOLs claimed.

The following rules apply:

(a) No deduction is allowed for a NOL incurred during any tax year beginning before January 1, 2009.

(b) No deduction is allowed for a NOL incurred during any tax year in which the corporation was not subject to tax under the Banking Corporation Tax.

(c) IRC section 172 federal losses must be adjusted to reflect the inclusions and exclusions from ENI required by the provisions of Ad. Code section 11-641 (other than the NOL deduction provision).

(d) The New York City NOL deduction is computed as if the corporation elected under IRC section 172 to relinquish the carryback provisions.

(e) The New York City NOL deduction may not exceed the allowable deduction for the tax year under IRC section 172, as augmented by the excess of the amount allowed as a New York City bad debt deduction over the federal bad debt deduction in each loss year (except to the extent such excess was previously deducted in computing ENI).

(f) The NOL may be carried forward for 20 years.

These rules also apply to any corporation included in a consolidated group for federal purposes, but filing on a separate basis for New York City purposes. Those corporations should compute their NOLs and NOL deductions as if filing on a separate basis for federal income tax purposes.

LINE 32 - OTHER SUBTRACTIONS

A taxpayer which makes an adjustment to federal taxable income on line 28, must subtract any expenses of the IBF included on line 18 of Schedule F which were paid to foreign branches of the taxpayer and not included in federal taxable income.

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 losses and deductions from any such partnership, including their share of separately reported items, from their federal taxable income reported on line 1.

Subtract income such as royalties from related members for the use of intangibles as described in section 11-641(q) of the Administrative Code. See "Highlights of Recent Tax Law Changes For Banking Corporations."

With respect to property placed in service in taxable years beginning before January 1, 1981, taxpayers using a different adjusted basis, or a different method of depreciation, for City tax purposes than for Federal tax purposes must make appropriate subtractions from Federal taxable income. Attach a schedule showing the adjustments. See subdivisions (c) and (j)(2) of Ad. Code section 11-641 for details.

SCHEDULE C
Computation and Allocation of Alternative Entire Net Income

LINE 1 - ENTIRE NET INCOME

Entire net income must be the same as that reported on line 34 of Schedule B. Whatever election the taxpayer makes concerning the IBF modification to entire net income applies to the computation of alternative entire net income.

LINE 2 - INTEREST INCOME FROM SUBSIDIARY CAPITAL

Enter the amount subtracted on line 25 of Schedule B.

LINE 3 - DIVIDEND INCOME FROM SUBSIDIARY CAPITAL

Enter the amount subtracted (or, in the case of a loss, added) on lines 26a and 26b of Schedule B.

LINE 4 - INTEREST INCOME

Enter the amount subtracted on line 27 of Schedule B.

SCHEDULE D
Computation and Allocation of Taxable Assets

A taxpayer is not subject to the tax on taxable assets for that portion of the taxable year:

1) in which it was a qualified institution as defined in Section 406(f)(5)(B) of the Federal National Housing Act, as amended, or Section 13(i)(2) of the Federal Deposit Insurance Act, as amended, and

2) in which it had outstanding net worth certificates issued to the Federal Savings and Loan Insurance Corporation (FSLIC) in accordance with Section 406(f)(5) of the Federal National Housing Act, as amended, or outstanding net worth certificates issued to the Federal Deposit Insurance Corporation (FDIC) in accordance with Section 13(i) of the Federal Deposit Insurance Act, as amended, provided it would have been exempt from any tax determined on the basis of the deposits held by it or the interest paid on such deposits pursuant to Section 406(f)(5)(I) of the Federal National Housing Act, as amended, or Section 13(i)(9) of the Federal Deposit Insurance Act, as amended.

LINE 1 - AVERAGE VALUE OF TOTAL ASSETS

Compute the average value of total assets, which includes money or other property received from the FSLIC or FDIC and interbank placements. The average value of total assets is computed on a quarterly basis, or, at the option of the taxpayer, on a more frequent basis, such as monthly, weekly or daily.

Total assets means the average value of those assets which are properly reflected on a balance sheet, the income or expenses of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed or depreciated or expensed to a nominal amount) in the computation of the taxpayer's alternative entire net income for the taxable year or in the computation of the eligible net income of the taxpayer's IBF for the taxable year.

Real and tangible personal property, such as buildings, land, machinery and equipment, is to be valued at cost. Intangible property, such as loans, investments, coin and currency, is to be valued at book value.

LINE 2 - FDIC OR FSLIC AMOUNT

Include any amount of money or other property (whether or not evidenced by a note or other instrument) received from or attributable to amounts received from the FDIC pursuant to Section 13(c) of the Federal Deposit Insurance Act, as amended, or the FSLIC pursuant to Section 406(f)(1),(2),(3) or (4) of the Federal National Housing Act, as amended.

SCHEDULE E
Computation and Allocation of Issued Capital Stock

LINES 1a and 1b - ISSUED CAPITAL STOCK

Enter the amount of issued common stock and issued preferred stock on lines 1a and 1b, respectively, at its face value on the last day of the taxable year. In the case of shares without par value, use actual or market value on the last day of the taxable year. If actual or market value is less than five dollars per share, a five dollar per share value must be used. A corporation which does not have issued capital stock must enter the amount by which its average total assets exceeds its average total liabilities.

LINE 2 - NYC GROSS INCOME

Enter amount of gross income derived from business carried on within New York City during the period covered by the return.

LINE 3 - TOTAL GROSS INCOME

Enter amount of total gross income derived from all business both within and without New York City during the period covered by the return.

SCHEDULE F

Computation of International Banking Facility Adjusted Eligible Net Income or Loss

INTERNATIONAL BANKING FACILITY (IBF)

A corporation with an IBF located in New York State may do one of the following:

- deduct from entire net income on Schedule B, line 28, the adjusted eligible net income of the IBF computed on Schedule F, line 34 (*i.e.*, to make the IBF modification). The decision to use the IBF modification for a tax year is made with the filing of the return for the tax year. Check the IBF modification boxes on Schedule F and Schedule G, Part I. You may change your decision to use the IBF modification by filing an amended return for the tax year. A corporation that uses the IBF modification must complete Schedule F, lines 1 through 34; or
- elect not to deduct from entire net income on Schedule B, line 28, the adjusted eligible net income of the IBF (*i.e.,* to use the IBF formula allocation method). The election to use the IBF formula allocation method for a tax year is made with the filing of the return for the tax year. Check the formula allocation method boxes on Schedule F and Schedule G, Part I. You may change your election to use the IBF formula allocation method by filing an amended return for the tax year. A corporation that uses the IBF formula allocation method must complete Schedule F, lines 1 through 18.

A taxpayer must modify federal taxable income to recognize the income and expenses included in the computation of the IBF eligible net income of its New York IBF when such income and expenses are not otherwise included in such federal taxable income or in the other modifications contained in Schedule B.

SCHEDULE G

Allocation Percentages

A corporation which is doing business both within and without New York City is entitled to allocate its entire net income, alternative entire net income, taxable assets, and issued capital stock within and without New York City. A corporation which is not doing business without New York City must allocate its entire net income, alternative entire net income, taxable assets, and issued capital stock 100% to New York City. However, a corporation that has an IBF located in New York State may elect, on an annual basis, to reflect the results of its IBF operations in its entire net income allocation percentage and in its alternative entire net income allocation percentage.

A corporation which is not doing business without New York City and which has made the IBF allocation method election must allocate taxable assets 100% to New York City.

In determining whether a corporation is doing business without New York City, consideration is given to the same factors used to determine if business is being carried on within New York City. *(Refer to "Definition of Doing Business Within New York City" in these instructions.)* A corporation which claims to be doing business without New York City must attach a rider describing the activities of the corporation within and without New York City.

Each allocation percentage (except the issued capital stock allocation percentage) is determined by a formula consisting of a payroll factor, a receipts factor and a deposits factor.

The receipts factor shall include only receipts which are included in the computation of alternative entire net income for the taxable year. The deposits and payroll factors shall include only deposits and payroll, the expenses of which are included in the computation of alternative entire net income for the taxable year. Each factor is computed on a cash or accrual basis according to the method of accounting used by the taxpayer for the taxable year in computing its alternative entire net income.

For Schedule G, Part 1, Line 7, Part 2, Line 5, and Part 3, Line 7, if a factor is missing, add the remaining factors and divide by the number of factors present. A factor is missing only if both the numerator (column A) and the denominator (column B) are zero.

The instructions that follow contain general allocation information. Corporations that answered "yes" to both questions at the beginning of Schedule G must follow the instructions under "Weighted Factor Allocation for Certain Banking Corporations," below. Corporations with an IBF located in New York State must also follow the instructions noted under "Allocation Percentage for Taxpayers with an IBF located in New York State," *below*.

PAYROLL FACTOR

The percentage of a corporation's payroll allocated to New York City is determined by dividing 80% (100% when computing the alternative entire net income allocation percentage) of the wages, salaries and other personal service compensation of the corporation's employees, except general executive officers, within New York City during the period the corporation is entitled to allocate by the total amount of wages, salaries and other personal service compensation of the corporation's employees, except general executive officers, both within and without New York City during the period the corporation is entitled to allocate.

The term "employees" includes every individual, except general executive officers, where the relationship existing between the corporation and the individual is that of employer and employee. The phrase "employees within New York City" includes all employees regularly connected with or working out of an office of the corporation within New York City, irrespective of where the services of such employees were performed.

The phrase "general executive officer" includes every officer of the corporation charged with and performing general executive duties of the corporation who is elected by the shareholders, elected or appointed by the board of directors, or whose appointment, if initially made by another officer, is ratified by the board of directors. A general executive officer must have company-wide authority with respect to his assigned functions or duties or must be responsible for an entire division of the company.

RECEIPTS FACTOR

The percentage of the taxpayer's receipts allocated to New York City is determined by dividing 100% of the taxpayer's receipts from loans (including the taxpayer's portion of a participation in a loan) and financing leases and all other business receipts earned within New York City during the period the taxpayer is entitled to allocate by the total amount of the taxpayer's receipts from loans (including the taxpayer's portion of a participation in a loan) and financing leases and all other business receipts within and without New York City during the period the taxpayer is entitled to allocate.

INTEREST INCOME FROM LOANS AND FINANCING LEASES

Interest income from loans and financing leases is allocated to New York City if such income is attributable to a loan or financing lease which is located in New York City. Interest income from a loan or financing lease does not include repayments of principal. A loan or financing lease is located where the greater portion of income-producing activity relating to the loan or financing lease occurred. Except for a production credit association and a corporation described on page 1 of these instructions under "Who Must File," item D, a loan or financing lease attributed by the taxpayer to a branch without New York City shall be presumed to be properly so attributed, provided that such presumption may be rebutted if the Department of Finance demonstrates that the greater portion of income-producing activity related to the loan or financing lease did not occur at such branch. In the case of a loan or financing lease which is recorded on the books of a place of business without New York City which is not a branch, it shall be presumed that the greater portion of income-producing activity related to such loan or financing lease occurred within New York City if the taxpayer had a branch within New York City at the time the loan or financing lease was made. The taxpayer may rebut such presumption by demonstrating that the greater portion of income-producing activity related to the loan or financing lease did not occur within New York City.

In the case of a production credit association and a corporation described in "Who Must File," item D, a loan or financing lease attributed by the taxpayer to a bona fide office without New York City shall be presumed to be properly so attributed, provided that such presumption may be rebutted if the Department of Finance demonstrates that the greater portion of income-producing activity related to the loan or financing lease did not occur without New York City.

Income-producing activity includes such activities as, solicitation, investigation, negotiation, approval and administration of the loan or financing lease. A loan or financing lease is made when such loan or financing lease is approved. The term "loan" means any loan, whether the transaction is represented by a promissory note, security, acknowledgment of advance, due bill or any other form of credit transaction, if the related asset is properly recorded in the financial accounts of the taxpayer. Loans include the taxpayer's portion of a participation in a loan. The term "financing lease" means a lease where the taxpayer is not treated as the owner of the property for purpose of computing alternative entire net income.

OTHER INCOME FROM LOANS AND FINANCING LEASES

Other income from loans and financing leases includes, but is not limited to, arrangement fees, commitment fees and management fees, but does not include repayments of principal. Other income from loans and financing leases is allocated to New York City when the greater portion of income-producing activity relating to such income is within New York City.

LEASE TRANSACTIONS AND RENTS

Receipts from real property and tangible personal property leased or rented from the corporation are allocated to New York City if such property is located in New York City. Receipts from rentals include all amounts received by the corporation for the use of or occupation of property, whether or not such property is owned by the taxpayer. Gross receipts received from real property and tangible personal property which is subleased must be included in the receipts factor.

INTEREST FROM BANK, CREDIT, TRAVEL, ENTERTAINMENT & OTHER CARD RECEIVABLES

Interest, fees in the nature of interest, and penalties in the nature of interest from bank, credit, travel, entertainment and other card receivables are allocated to New York City if the card holder's domicile is in New York City. It is presumed that the domicile of a card holder is the card holder's billing address.

SERVICE CHARGES & FEES FROM BANK, CREDIT, TRAVEL, ENTERTAINMENT AND OTHER CARDS

Service charges and fees from bank, credit, travel, entertainment and other cards are allocated to New York City if the card is serviced within New York City. A card is serviced at the place where the records pertaining to such account are kept and managed.

RECEIPTS FROM MERCHANT DISCOUNTS

Receipts from merchant discounts are allocated to New York City if the merchant is located within New York City. In the case of a merchant with locations both within and without New York City, only receipts from merchant discounts attributable to sales made from locations within New York City are allocated to New York City. It shall be presumed that the location of the merchant is the address of the merchant shown on the invoice submitted by the merchant.

INCOME FROM TRADING ACTIVITIES AND INVESTMENT ACTIVITIES

The portion of total net gains and other income from trading activities (including but not limited to foreign exchange, options and financial futures) and investment activities which is attributed within New York City shall be ascertained by multiplying such total net gains and other income by a fraction the numerator of which is the average value of trading assets and investment assets attributed to New York City and the denominator of which is the average value of all trading and investment assets. A trading asset or investment asset is attributed to New York City if the greater portion of income producing activity related to the trading asset or investment asset occurred within New York City.

FEES OR CHARGES FROM LETTERS OF CREDIT, TRAVELER'S CHECKS AND MONEY ORDERS

Fees or charges from the issuance of letters of credit, traveler's checks, and money orders are allocated to New York City if such letters of credit, traveler's checks, or money orders are issued within New York City.

PERFORMANCE OF SERVICES

Receipts from services performed by the taxpayer's employees regularly connected with or working out of a New York City office of the taxpayer are allocated to New York City if such services are performed within New York City.

When allocating receipts from services performed, it is immaterial where such receipts are payable or where they are actually received.

Where services are performed both within and without New York City, the portion of the receipts attributable to services performed within New York City is determined on the basis of the relative value of, or amount of time spent in performance of, such services within New York City, or by some other reasonable method. Full details must be submitted with the taxpayer's return.

Receipts from management, administration or distribution services provided to a regulated investment company (RIC) must be allocated based upon the percentage of the RIC's shareholders domiciled in New York City. (Attach rider showing computation.) See Ad. Code §11-642(a)(2)(G) added by Ch. 63, Laws of 2000, Part AA, §7.

ROYALTIES

Receipts of royalties from the use of patents, copyrights and trademarks are allocated to New York City if the taxpayer`s actual seat of management or control is located in New York City. Royalties include all amounts received by the taxpayer for the use of patents, copyrights or trademarks, whether or not such patents, copyrights or trademarks were issued to the taxpayer.

Do not include as receipts royalties from related members that were subtracted on Schedule B, line 32. Ad. Code section 11-641(b)(14).

ALL OTHER BUSINESS RECEIPTS

Income from securities used to maintain reserves against deposits to meet federal and State reserve requirements shall be allocated to New York City based upon the ratio that total deposits in New York City bear to total deposits everywhere. All other business receipts earned by the taxpayer in New York City are allocated to New York City. A receipt from the sale of a capital asset is not a business receipt and is not included in the receipts factor.

DEPOSITS FACTOR

The percentage of the taxpayer's deposits allocated to New York City is determined by dividing the average value of deposits maintained at branches of the taxpayer within New York City during the period the taxpayer is entitled to allocate by the average value of all deposits maintained at branches of the taxpayer both within and without New York City during the period the taxpayer is entitled to allocate.

The term "deposit" means:

- the unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the bank, or a letter of credit or a traveler's check on which the bank is primarily liable; provided that, without limiting the generality of the term "money or its equivalent," any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts or other instruments forwarded to such bank for collection;

- trust funds received or held by such bank, whether held in the trust department or held or deposited in any other department of such bank;
- money received or held by a bank, or the credit given for money or its equivalent received or held by a bank, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including, without being limited to, escrow funds, funds held as security for an obligation due to the bank or others (including funds held as dealers' reserves) or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes; provided that there shall not be included funds which are received by the bank for immediate application to the reduction of an indebtedness to the receiving bank, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness; and
- outstanding drafts (including advice or authorization to charge a bank's balance in another bank), cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the bank itself.

The term "maintained" refers to the branch of the taxpayer at which a deposit is properly booked.

A deposit, the value of which at all times during the taxable year was less than $100,000, that is booked by a taxpayer at a branch without New York City is presumed to be properly booked, provided that such presumption may be rebutted if the Department of Finance demonstrates that the greater portion of contact relating to the deposit did not occur at such branch. Where such presumption has been rebutted by the Department of Finance, the deposit shall be presumed to be maintained within New York City if the taxpayer had a branch within New York City at the time the deposit was booked. However, the taxpayer may rebut such presumption by demonstrating that the greater portion of contact relating to the deposit did occur at a branch outside New York City. A deposit, the value of which at any time during the taxable year was $100,000 or more, is considered to be properly booked at the branch with which it has a greater portion of contact.

In determining whether a deposit has a greater portion of contact with a particular branch, consideration is given to such activities as:

- whether the deposit account was opened at or transferred to that branch by or at the direction of the depositor or by a broker of deposits, regardless of where subsequent deposits or withdrawals may be made;
- whether employees regularly connected with that branch are primarily responsible for servicing the depositor's general banking and other financial needs;
- whether the deposit was solicited by an employee regularly connected with that branch, regardless of where such deposit was actually solicited;
- whether the terms governing the deposit were negotiated by employees regularly connected with that branch, regardless of where the negotiations were actually conducted; and
- whether essential records relating to the deposit are kept at that branch and whether the deposit is serviced at that branch.

The value of deposits maintained at branches of the taxpayer is the total of the amounts credited to depositors, including the amount of any interest so credited. The average value of deposits is to be computed on a daily basis. However, if the taxpayer's usual accounting practices do not permit the computation of average value on a daily basis, a computation on a weekly basis will be permitted. The Department of Finance will not permit the computation of average value of deposits on a basis less frequent than weekly, unless the taxpayer demonstrates that requiring it to use a weekly computation would produce an undue hardship.

WEIGHTED FACTOR ALLOCATION FOR CERTAIN BANKING CORPORATIONS

For tax years beginning on or after January 1, 2009, and before January 1, 2010, corporations that are 65% or more owned subsidiaries of banks and bank holding companies that are subject to tax under the Banking Corporation Tax as a result of Administrative Code section 11-640(a)(9), and that substantially provide management, administrative, or distribution services to an investment company must weight the three factors as follows: 18% for payroll; 46% for receipts; and 36% for deposits. Those corporations using weighted factors must make the adjustments on Schedule G described below:

Adjustments to Part 1 of Schedule G. Corporations utilizing the weighted factors do not complete lines 3, 5, and 6

Corporations using the weighted factors complete the following worksheet. Enter the figures from lines 1c, 2m, and 4d, exactly as they appear on those lines (without percentage symbols).

WORKSHEET - PART 1

A. Enter figure from line 1c . A.__________________

B. Multiply line A by 18 .... B.__________________

C. Enter figure from line 2m . C.__________________

D. Multiply line C by 46 .... D.__________________

E. Enter figure from line 4d .. E.__________________

F. Multiply line E by 36 .... F. __________________

G. Add lines B, D, and F ... G.__________________

H. Divide line G by 100 if no factors are missing. If a factor is missing, divide line G by the total of the weights of the factors present. Round to four decimal places .... H.__________________

Enter the line H amount on line 7, on Schedule B, next to line 35, and on Schedule A, line 27.

Adjustments to Part 3 of Schedule G. Corporations utilizing the weighted factors do not complete lines 3, 5, and 6.

Corporations using the weighted factors complete the following worksheet. Enter the figures from lines 1c, 2m, and 4d, exactly as they appear on those lines (without percentage symbols).

WORKSHEET: PART 3

A. Enter figure from line 1c ... A.__________________

B. Multiply line A by 18 .... B.__________________

C. Enter figure from line 2m .. C.__________________

D. Multiply line C by 46 .... D. __________________

E. Enter figure from line 4d ... E.__________________

F. Multiply line E by 36 .... F. __________________

G. Add lines B, D, and F ... G.__________________

H. Divide line G by 100 if no factors are missing. If a factor is missing, divide line G by the total of the weights of the factors present. Round to four decimal places .... H.__________________

Enter the line H amount on line 7, and on Schedule D, next to line 4.

ALLOCATION PERCENTAGE FOR TAXPAYERS WITH AN IBF LOCATED IN NEW YORK STATE

A corporation with an IBF located in New York State which *has not elected the IBF allocation method*, must, when computing its entire net income allocation percentage and its alternative entire net income allocation percentage:

- exclude from the numerator and denominator of the payroll factor the wages, salaries, and other personal service compensation of employees of the IBF.
- exclude from the numerator and denominator of the receipts factor those receipts which are attributable to the production of eligible gross income of the IBF.
- exclude from the numerator and denominator of the deposits factor those deposits whose expenses are attributable to the production of eligible gross income of the IBF.

A corporation which has an IBF located in New York State and which *has made* the IBF allocation method election, must, when computing the entire net income allocation percentage and the alternative entire net income allocation percentage make the following adjustments:

- To properly reflect the allocation percentage for the receipts and deposits factors, corporations must include gross receipts generated from IBF assets placed with offshore facilities in the numerator (deemed New York City receipts) and include in the numerator for deposits, liabilities placed with an IBF by the offshore facilities (deemed New York City deposits). - See Update on Audit Issues - IBF June 2006.
- Exclude from the numerator of the payroll factor the wages, salaries and other personal service compensation of employees, the expenses of which are attributable to the production of eligible gross income of the IBF. Include in the denominator of the payroll factor the wages, salaries and other personal service compensation of employees, except general executive officers, the expenses of which are attributable to the production of eligible gross income of the IBF.
- Exclude from the numerator but include in the denominator of the receipts factor those receipts which are attributable to the production of eligible gross income of the IBF.
- Exclude from the numerator but include in the denominator of the deposits factor deposits, the expenses of which are attributable to the production of eligible gross income of the IBF.

Every corporation which has an IBF located in New York State must compute its taxable assets allocation percentage as follows:

- Include in the numerator and denominator of the payroll factor wages, salaries and personal service compensation of employees, except general executive officers, the expenses of which are attributable to the production of eligible gross income of the IBF.
- Include in the numerator and denominator of the receipts factor receipts which are attributable to the production of eligible gross income of the IBF.
- Include in the numerator and denominator of the deposits factor deposits, the expenses of which are attributable to the production of eligible gross income of the IBF.

For the purpose of these adjustments, eligible gross income does not include transactions between the taxpayer's foreign branches and its IBF.

SCHEDULE H (Intentionally Omitted)

SCHEDULE I (Intentionally Omitted)

SCHEDULES K and L

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 or 1120F filed with the IRS.

COMPOSITION OF PREPAYMENTS

Do not include any UBT Paid Credit carryover from a preceding year.