

Instructions for Form NYC-4S



General Corporation Tax Return For fiscal years beginning in 2018 or for calendar year **2018**

IMPORTANT INFORMATION REGARDING THE FILING OF NYC CORPORATE TAX RETURNS

Pursuant to section 11-602.1 of the Administrative Code of the City of New York as enacted by section 3 of Part D of Chapter 60 of the Laws of 2015, for taxable years beginning on or after January 1, 2015, the General Corporation Tax is only applicable to Subchapter S Corporations and Qualified Subchapter S Subsidiaries. Therefore, only these types of corporations should file this return. All other corporations should file a return on Form NYC-2 or Form NYC-2S or, if included in a combined return, on Form NYC-2A.

IMPORTANT INFORMATION CONCERNING FORM NYC-200V AND PAYMENT OF TAX DUE

Payments may be made on the NYC Department of Finance website at nyc.gov/eservices, or via check or money order. If paying with check or money order, do not include these payments with your New York City return. Checks and money orders must be accompanied by payment voucher form NYC-200V and sent to the address on the voucher. Form NYC-200V must be postmarked by the return due date to avoid late payment penalties and interest. See form NYC-200V for more information.

Highlights of Recent Tax Law Changes

- For taxable years beginning on or after January 1, 2015, federal or state tax base changes should be reported as an Amended Return. See Finance Memorandum 17-5, "Reporting Federal or State Changes", revised and dated October 10, 2018, for more information.
- Note that according to the federal Tax Cuts and Jobs Act of 2017, most net operating losses generated during or after 2018 may no longer be carried back. These losses may be carried forward indefinitely; however each year's deduction will be limited to 80% of taxable income (without regard to the deduction).

GENERAL INFORMATION

NOTE: This form may be used by federal Subchapter S Corporations and Qualified Subchapter S Subsidiaries only. If any instructions appear to apply to C Corporations, they should be read to apply only to S corps and qualified S subsidiaries.

S CORPORATIONS

An S Corporation is subject to the General Corporation Tax and must file Form 4S-EZ, if it is eligible to use that form, or Form NYC-4S or Form NYC-3L, whichever is applicable. Under certain limited circumstances, an S Corporation may be permitted or required to file a combined return (Form NYC-3A). See, e.g., *Finance Memorandum 99-3 for information regarding the treatment of qualified subchapter S subsidiaries.*

The income, gains, losses, deductions and capital of a qualified subchapter S subsidiary may not be included in the report of the parent S Corporation. A QSSS must file a separate report if it is subject to tax.

Federal S corporation taxpayers must complete the form NYC-ATT-S-CORP, Calculation of Federal Taxable Income for S Corporations and include it with their GCT filing. For more information see *Form NYC-ATT-S-CORP*.

CORPORATION DEFINED

Unincorporated entities electing to be treated as associations taxable as corporations for federal income tax purposes pursuant to the federal "check-the-box" rules under IRC §7701(a)(3) are treated as corporations for City tax purposes and are not subject to the Unincorporated Business Tax. Eligible entities having a single owner disregarded as a separate entity under the "check-the-box" rules and treated as either a sole proprietor-

ship or a branch for federal tax purposes will be similarly treated for City tax purposes. See *Finance Memorandum 99-1 for additional information.*

FORM FOR TAXPAYERS CLAIMING A NET OPERATING LOSS DEDUCTION

Taxpayers claiming a deduction for a Net Operating Loss must complete Form NYC-NOLD-GCT, Net Operating Loss Computation and include it with their GCT filing. For more information see *Form NYC-NOLD-GCT*.

FIXED DOLLAR MINIMUM TAX BASED ON RECEIPTS

For tax years beginning after 2008, there is a sliding scale fixed dollar minimum tax based on receipts allocated to New York City. The amount of City receipts for this purpose is the same as the amount used for determining the taxpayer's business allocation percentage. See *Ch. 201, § 17, of the Laws of 2009*. For taxpayers who use Form NYC-4S or NYC-4S-EZ, and, accordingly, allocate 100 percent of their income to the City, the amount of receipts used for this purpose is the total amount of all receipts the taxpayer has received in the regular course of business.

CORPORATIONS THAT MAY FILE FORM NYC-4S

Corporations (as defined in Section 11-602.1 of the New York City Administrative Code) doing business, employing capital, or owning or leasing property in a corporate or organized capacity, or maintaining an office in New York City must file a General Corporation Tax return. Corporations not required to file Form NYC-3L may file Form NYC-4S or Form NYC-4S-EZ.

CORPORATIONS REQUIRED TO FILE FORM NYC-3L

A corporation must file Form NYC-3L and not

Form NYC-4S or Form NYC-4S-EZ if:

- 1) for taxable years beginning after 6/30/96 it carries on business both inside and outside New York City;
- 2) it has subsidiary and/or investment capital;
- 3) it claims an optional deduction for expenditures relating to air pollution control facilities, as provided in Section 11-602.8(g) of the Ad. Code;
- 4) it claims a modification with respect to gain arising on the sale of certain property, as provided in Section 11-602.8(h) of the Ad. Code;
- 5) it entered into a "safe harbor" lease transaction under provisions of Section 168(f)(8) of the Internal Revenue Code as it was in effect for agreements entered into prior to January 1, 1984;
- 6) it claims a credit for increased real estate tax payments made to a landlord in connection with the relocation of employment opportunities to New York City, as provided in Section 11-604.13 of the Ad. Code;
- 7) it claims a credit for certain costs or expenses incurred in relocating employment opportunities to New York City, as provided in Section 11-604.14, 11-604.17, 11-604.17-b or 11-604.19 of the Ad. Code. See Instructions to Forms NYC-9.5, NYC-9.6 and NYC-9.8;
- 8) it claims a modification with respect to wages and salaries disallowed as a deduction for federal income tax purposes (work incentive/jobs credit provisions), as provided in Section 11-602.8(a)(7) of the Ad. Code;

- 9) either separately or as a member of a partnership, it is engaged in an insurance business as a member of the New York Insurance Exchange;
- 10) it is a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation;
- 11) it claims a credit for New York City Unincorporated Business Tax paid by a partnership in which it is a partner as provided in Section 11-604.18 of the Ad. Code;
- 12) it will be included in a combined report, Form NYC-3A;
- 13) it is required by Ad. Code section 11-602.8(n) to add back royalty payments made to related members;
- 14) it claims the biotechnology credit, a credit available under Ad. Code section 11-604.21 to certain qualified emerging technology companies for certain costs and expenses incurred;
- 15) It claims the Beer Production Credit available under Ad. Code §11-640(22);
- 16) any portion of its business interest expense deduction would have been disallowed under IRC section 163(j) if it had not made an election under Subchapter S of the IRC;
- 17) for federal purposes, it reports income under IRC §§951A or 965; or
- 18) it would have been eligible for a deduction pursuant to IRC section 250(a)(1)(A), i.e., FDII, if it had not made an election under Subchapter S of the IRC.

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

- a) A dormant corporation that did not at any time during its taxable year engage in any activity or hold title to real property located in New York City
- b) A nonstock corporation, organized and operated exclusively for nonprofit purposes and not engaged in substantial commercial activities, that has been granted an exemption by the New York City Department of Finance
- c) Corporations subject to taxation under Part 4 of Subchapter 3 of Chapter 6, Title 11 (Banking Corporations) or under Chapter 11, Title 11 (Utility Corporations) of the Ad. Code are not required to file General Corporation Tax returns. However, corporations that are subject to tax under Chapter 11 as vendors of utility services are subject to

the General Corporation Tax in accordance with Section 11-603.4 of the Ad. Code and must file a return.

- d) A limited profit housing corporation organized and operating pursuant to the provisions of Article Two of the Private Housing Finance Law
- e) Insurance corporations
- f) A Housing Development Fund Company (HDFC) organized and operating pursuant to the provisions of Article 11 of the Private Housing Finance Law
- g) Organizations organized exclusively for the purpose of holding title to property as described in Sections 501(c)(2) or (25) of the Internal Revenue Code
- h) An entity treated as a Real Estate Mortgage Investment Conduit (REMIC) for federal income tax purposes. (Holders of interest in a REMIC remain taxable on such interest or on the income therefrom.)
- i) Corporations principally engaged in the conduct of a ferry business and operating between any of the boroughs of the City under a lease granted by the City
- j) A corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, provided that all of the capital stock of such corporation is owned by a municipal corporation of New York
- k) Bank holding corporations filing on a combined basis in accordance with Section 11-646(f) of the Ad. Code
- l) Corporations principally engaged in the operation of marine vessels whose activities in the City are limited exclusively to the use of property in interstate or foreign commerce
- m) Foreign corporations that are exempt under the provisions of Public Law 86-272 (*See 19 RCNY Section 11-04 (b)(11).*)

NOTE:

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

WHEN AND WHERE TO FILE

The due date for filing is on or before March 15, 2019, or, for fiscal year taxpayers, on the 15th day of the third month following the close of the fiscal year.

All returns, except refund returns:

**NYC Department of Finance
P.O. Box 5564
Binghamton, NY 13902-5564**

Remittances - Pay online with Form NYC-200V at nyc.gov/eservices, or Mail payment and Form NYC-200V only to:

**NYC Department of Finance
P.O. Box 3933
New York, NY 10008-3933**

Returns claiming refunds:

**NYC Department of Finance
P.O. Box 5563
Binghamton, NY 13902-5563**

Certain 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.**

FEDERAL OR NEW YORK STATE CHANGES

For taxable years beginning on or after January 1, 2015, changes in taxable income or other tax base made by the Internal Revenue Service (“IRS”) and /or New York State Department of Taxation and Finance (“DTF”) will no longer be reported on form NYC-3360. Instead, taxpayers must report these federal or state changes to taxable income or other tax base by filing an amended return. This amended return must include the DOF tax worksheet that identifies each change to the tax base (“Tax Base Change”) and shows how each such Tax Base Change affects the taxpayer’s calculation of its New York City tax. Templates for the tax worksheets are available on the DOF website at nyc.gov/finance. This amended return must also include a copy of the IRS and/or DTF final determination, waiver, or notice of carryback allowance. Taxpayers that have federal and state Tax Base Changes for the same tax period may report these changes on the same amended return that includes separate tax worksheets for the IRS Tax Base Changes and the DTF Tax Base Changes. Note that for taxable years beginning on or after January 1, 2015, DTF Tax Base Changes may include changes that affect income or capital allocation.

The Amended Return checkbox on the return is to be used for reporting an IRS or DTF Tax Base Changes, with the appropriate box for the agency making the Tax Base Changes also checked. Taxpayers must file an amended return for Tax Base Changes within 90 days (120 days for taxpayers filing a combined report) after (i) a final determination on the part of the IRS or DTF, (ii) the signing of a waiver under IRC §6312(d) or NY Tax Law §1081(f), or (iii) the IRS’ allowance of a tentative adjustment based on an NOL carryback or a net capital loss carryback.

If the taxpayer believes that any Tax Base Change is erroneous or should not apply to its City tax calculation, it should not incorporate that Tax Base Change into its City tax calculation on its amended return. However, the taxpayer must attach: (i) a statement to its report that explains why it believes the adjustment is erroneous or inapplicable; (ii) the tax worksheet that identifies each Tax Base Change and shows how each would affect its City tax calculation; and (iii) a copy of the IRS and/or DTF final determination, waiver, or notice of carryback allowance.

For more information on federal or state Tax Base Changes, including a more expansive explanation of how taxpayers must report these changes as well as sample tax worksheets to be included within the amended return, see *Finance Memorandum 17-5, revised and dated 10/10/2018*.

To report changes in taxable income or other tax base made by the Internal Revenue Service and/or New York State Department of Taxation and Finance for taxable years beginning prior to January 1, 2015, the Form NYC-3360 should still be used.

ACCESSING NYC TAX FORMS

By Computer - Download forms from the Finance website at nyc.gov/finance

By Phone - Order forms by calling 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

OTHER FORMS YOU MAY BE REQUIRED TO FILE

FORM NYC-EXT - Application for Automatic 6-month Extension of Time to File Business Income Tax Return. File it on or before the due date of the return.

FORM NYC-EXT.1 - Application for Additional Extension is a request for an additional three months of time to file a return. A corporation with a valid six-month extension is limited to two additional extensions.

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

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

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

FORM NYC-399Z - Depreciation Adjustments for Certain Post 9/10/01 Property may have to be filed by taxpayers claiming depreciation deductions for certain sport utility vehicles or "qualified property," other than "qualified New York Liberty Zone property," "qualified New York Liberty Zone leasehold improvements" and "qualified resurgence zone property" placed in service after September 10, 2001, for federal or New York State tax purposes. See, Finance Memorandum 18-1, "Application of IRC §280F Limits to Sport Utility Vehicles."

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

FORM NYC-3360 - General Corporation Tax Report of Change in Taxable Income made by the U.S. Internal Revenue Service and/or New York State Department of Taxation and Finance is used for reporting adjustments in taxable income resulting from an audit of your federal corporate tax return and/or State audit of your State corporate tax return for taxable years beginning prior to January 1, 2015 only.

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

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

FORM NYC-ATT-S-CORP - Calculation of federal Taxable Income for S Corporations must be included in the GCT filing of every federal S Corporation.

FORM NYC-NOLD-GCT - Net Operating Loss Computation must be included in the GCT filing of every GCT taxpayer claiming a net operating loss deduction.

ESTIMATED TAX

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

If, after filing a declaration, your estimated tax substantially increases or decreases as a result of a

change in income, deduction or allocation, you must amend your declaration on or before the next date for an installment payment. The procedure is as follows:

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

**NYC Department of Finance
P.O. Box 3922
New York, NY 10008-3922**

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

For more information regarding estimated tax payments and due dates, see Form NYC-400 (Declaration of Estimated Tax).

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 proper 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.

PENALTY FOR UNDERSTATING TAX

If there is a substantial understatement of tax (i.e., if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$5,000) for any taxable year, a penalty will be imposed equal to 10% of the amount of the understated tax. The amount on which you pay the penalty can be reduced by subtracting any item for which (1) there is or was substantial authority for the way in which the item was treated on the return, or (2) there is adequate disclosure on the return or in a statement attached to the return.

CHANGE OF BUSINESS INFORMATION

If there have been any changes in your business name, identification number, billing or mailing address or telephone number, complete Form DOF-1, Change of Business Information.

FINAL RETURNS

If a corporation ceases to do business in New York City, the due date for filing a final General Corporation Tax Return is the 15th day after the

date of the cessation (Section 11-605.1 of the NYC Administrative Code). Corporations may apply for an automatic six-month extension for filing a final return by filing Form NYC-EXT. Any tax due must be paid with the final return or the extension, whichever is filed earlier.

SIGNATURE

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

TAX PREPARERS

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

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

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

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

SPECIFIC INSTRUCTIONS

Check the box for 9/11/01 related federal tax benefits 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 Resurgence Zone property," regardless

of whether you are required to file form NYC-399Z, or (ii) 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 and 4797 to this return. See instructions to Schedule B, lines 4 and 6b.

Special Condition Codes

At the time this form is being published, there are no special condition codes for tax year 2018. Check the Finance website for updated special condition codes. If applicable, enter the two character code in the box provided on the form.

**SCHEDULE A
Computation of Tax**

LINES 2a AND 2b - TAX ON TOTAL CAPITAL

Enter the amount from Schedule C, line 7 in the left-hand column of line 2a or 2b. Multiply by the applicable percentage and enter the tax in the right-hand column. **If the tax amount exceeds \$1,000,000, enter \$1,000,000.**

For cooperative housing corporations as defined in the Internal Revenue Code, the rate of tax on capital is 4/10 mill (.04%) instead of 1 1/2 mills (.15%). For all other corporations subject to tax, including housing companies organized and operating pursuant to Article Four of the Private Housing Finance Law (other than cooperative housing corporations), the rate of tax on capital is 1 1/2 mills (.15%).

LINE 3b - ALTERNATIVE TAX

Every taxpayer that is eligible to file this form must calculate its alternative tax and enter its computation on line 3b. To compute the alternative tax, measured by entire net income plus compensation, you may use the following worksheet and attach the worksheet to the return. Professional corporations must calculate the alternative tax.

Alternative Tax Worksheet

Net income/loss (Schedule A, line 1)	1)	\$ _____
Compensation. See Instr.	2)	\$ _____
Total (line 1 plus line 2)	3)	\$ _____
Statutory exclusion. See Instr.	4)	\$ _____
Net amount (line 3 minus line 4)	5)	\$ _____
15% of net amount (line 5 x 15%)	6)	\$ _____
Tax rate	7)	8.85%
Alternative tax (line 6 x line 7) Transfer amount to page 1, Schedule A, line 3b	8)	\$ _____

Worksheet Instructions

LINE 2 - COMPENSATION

Include in the alternative tax computation 100% of all salaries and compensation, including commissions, paid to stockholders holding more than 5% of the corporation's stock, whether or not they are also officers, as deducted on the federal return and reported in Schedule D, line 2. For taxable years beginning after 6/30/99, no portion of officers' compensation is added back unless the officer is also a more than 5% shareholder.

In determining whether a stockholder owns more than 5% of the issued capital stock, include all classes of voting and nonvoting stock, issued and outstanding.

LINE 4

Enter \$40,000. (If the return does not cover an entire year, the exclusion must be prorated based on the period covered by the return.)

LINE 6

Pursuant to NYC Administrative Code § 11-604(1)(H)(c) as added by Chapter 491 of the Laws of 2007, the amount on Line 5 is multiplied by 15% for tax years beginning on or after January 1, 2010.

LINE 4 - MINIMUM TAX

Enter the New York City Gross Receipts and Minimum Tax amount from the following table. The amount of New York City receipts for this purpose is the total amount of all receipts the taxpayer has received in the regular course of business from such sources as sales of personal property, services performed, rentals of property and royalties. This receipts amount would be the same as the amount that would have to be shown on Form NYC-3L, Schedule H, Column A, Line 2g if the taxpayer had filed Form NYC-3L.

For taxpayers who use Form NYC-4S, and, accordingly, allocate 100 percent of their income to the City, the amount of receipts used for this purpose is the total amount of all receipts the taxpayer has received in the regular course of business.

TABLE - FIXED DOLLAR MINIMUM TAX

For a corporation with New York City receipts of:

Not more than \$100,000:\$25
More than \$100,000 but not over \$250,000:\$75
More than \$250,000 but not over \$500,000:\$175
More than \$500,000 but not over \$1,000,000:\$500
More than \$1,000,000 but not over \$5,000,000:\$1,500
More than \$5,000,000 but not over \$25,000,000:\$3,500
Over \$25,000,000:\$5,000

SHORT PERIODS - FIXED DOLLAR MINIMUM TAX

Compute the New York City receipts for short periods (tax periods of less than 12 months) by dividing the amount of New York receipts by the number of months in the short period and multiplying the result by 12. The fixed dollar minimum tax may be reduced for short periods:

PERIOD REDUCTION

Not more than 6 months.....	50%
More than 6 months but not more than 9 months	25%
More than 9 months	None

LINE 6b - FIRST INSTALLMENT PAYMENT

Do not use this line if an application for automatic extension (NYC-EXT) has been filed. The payment of the amount shown at line 6b is required as payment on account of estimated tax for the 2018 calendar year, if a calendar year taxpayer, or for the taxable year beginning in 2018, if a fiscal year taxpayer.

LINE 8 - PREPAYMENTS

Enter the sum of all estimated tax payments made for this tax period, the payments made with the extension request, if any, and both the carryover credit and the first installment recorded on the prior tax period's return. This figure should be obtained from the completed Composition of Prepayments Schedule on page 2 of Form NYC-4S.

LINE 11a - LATE PAYMENT / INTEREST

If the tax is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from the due date to the date paid. For information as to the applicable rate of interest, see 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 11b - LATE PAYMENT OR LATE FILING/ADDITIONAL CHARGES

- a) A **late filing penalty** is assessed if you fail to file this form when due, unless the failure is due to reasonable cause. For every month or partial month that this form is late, add to the tax (less any payments made on or before the due date) 5%, up to a total of 25%.
- b) If this form is filed more than 60 days late, the above 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 11c - PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

A penalty is imposed for failure to file a declaration of estimated tax or for failure to pay the entire installment payment of estimated tax due. (*For more information, refer to Form NYC-222, Underpayment of Estimated Tax by Corporations.*) If you underpaid your estimated tax, use Form NYC-222 to compute the penalty. *Attach Form NYC-222.* If no penalty is due, enter "0" on line 11c.

LINE 15 - TOTAL REMITTANCE DUE NYC DEPARTMENT OF FINANCE

If the amount on line 9 is greater than zero or the amount on line 13 is less than zero, enter on line 15 the sum of line 9 and the amount, if any, by which line 12 exceeds the amount on line 10. If filing and *paying* electronically, enter the amount of your remittance on Line A. If not paying electronically, leave Line A blank.

All remittances must be payable in U.S. dollars drawn on a U.S. bank. Checks drawn on foreign banks will be rejected and returned. Remittance must be made payable to the order of:

NYC Department of Finance

LINE 16 - RENT DEDUCTED ON FEDERAL RETURN

Enter on this line total rent paid on business premises located inside New York City and deducted on federal return.

SCHEDULE B

Computation of New York City Taxable Income

LINE 1 - FEDERAL TAXABLE INCOME S Corporations and qualified subchapter S subsidiaries (QSSS) must file as ordinary corporations. Federal S Corporation taxpayers must complete form NYC-ATT-S-CORP, Calculation of Federal Taxable Income for S Corporations and include it with their GCT Form 3L, 4S or 4S-EZ.

For tax years beginning on or after August 1, 2002, corporations that are partners in partnerships that receive at least eighty percent of their gross receipts from providing mobile telecommunications services must exclude their distributive share of income, gains, losses and deductions from any such partnership, including their share of separately reported items, from their federal taxable income reported on line 1.

NOTE:

The charitable contribution deduction from federal Form 1120S, Schedule K, line 12a may not exceed 10% of the sum of lines 1 through 12d (other than line 12a) of Schedule K, subject to any exception provided in the IRC with respect to C corporations.

LINES 3a AND 3b - STATE AND LOCAL TAXES

On line 3a, enter the amount deducted on your federal return for business taxes paid or accrued to any state, any political subdivision of a state or to the District of Columbia if they are on or measured by profits or income or include profits or income as a measure of tax, including taxes expressly in lieu of any of the foregoing taxes. Include the New York State Metropolitan Transportation business tax surcharge and the MTA Payroll Tax (New York State Tax Law, Art. 23).

On line 3b, enter the amount of New York City General Corporation Tax and Banking Corporation Tax deducted on your federal return.

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

LINES 4 AND 6b - DEPRECIATION

The federal depreciation deduction computed under the Accelerated Cost Recovery System or Modified Accelerated Cost Recovery System (IRC Section 168) is not allowed for the following types of property:

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

ACRS and MACRS may not be allowed for property placed in service outside of New York State in taxable years beginning before January 1, 1994 (except property subject to the provisions of Internal Revenue Code Section 280-F). For information regarding depreciation deductions for property placed in service outside New York after 1984 and before 1994, see Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and Before 1994."

In place of the federal depreciation deduction, a depreciation deduction using pre-ACRS or MACRS rules (IRC Section 167) is allowed. Enter on line 4 the ACRS or MACRS adjustment from Form NYC-399, Schedule C, line 8, Column A. Enter on line 6b the ACRS or MACRS adjustment from Form NYC-399, Schedule C, line 8, Column B.

The federal bonus depreciation allowed for "qualified property," as defined in the Job Creation and Worker Assistance Act of 2002, is not allowed for General Corporation Tax purposes except for such deductions allowed with respect to "qualified New York liberty zone property," "qualified New York liberty zone leasehold improvements" and "qualified property" placed in service in the Resurgence Zone (generally the area in the borough of Manhattan south of Houston Street and north of Canal Street). For City tax purposes, depreciation deductions for all other "qualified property" must be calculated as if the property was placed in service prior to September 11, 2001. See, Finance Memorandum 02-3 (Revised) "New York City Tax Consequences of Certain Retroactive Federal and New York Tax Law Changes" for more information.

Section 13201(b) of the Tax Cuts and Jobs Act of 2017 ("TCJA") extended the bonus depreciation deduction to cover property placed in service before January 1, 2027 (except for aircraft and long-production period property have to be placed into service before January 1, 2028.) Previously, Section 143 of the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No.114-113, Div Q (December 18, 2015) ("2015 PATH Act") had extended bonus depreciation so that it was available for property acquired and placed in service during 2015-2019; bonus depreciation was extended through 2020 for certain property with a longer production period. Under the 2015 PATH Act, the bonus depreciation is 50% for property placed in service during 2015-2017, 40% for property placed in service during 2018, and 30% for property placed in service during 2019.

Pursuant to section 13201(a) of the TCJA, for property placed in service after September 27, 2017, the bonus depreciation rate was raised to 100% with the phase-down to begin in 2023. The taxpayer can elect to apply a 50% depreciation rate for property placed in service in the taxpayer's first tax year ending after September 27, 2017. The phase-down of the bonus depreciation enacted under the 2015 PATH Act is still applicable to property acquired before September 28, 2017. Thus, for property acquired before September 28, 2017 and placed in service in 2018, the bonus depreciation is 40% and 30% for property placed in service in 2019 with no bonus depreciation for property placed in service after 2019. Under the TCJA the first year depreciation limit increase of \$8,000 for passenger automobiles under §280(F)(a)(1)(A) is extended to include automobiles placed in service on or before December 31, 2026. Prior to that, in order to qualify for the \$8,000 increase in bonus depreciation, the passenger automobile would had to have been placed into service on or before December 31, 2019. This extension of the placed in service deadline only applies to automobiles acquired on or after September 28, 2017. However, if the passenger automobile was acquired before September 28,

2018, the first year additional depreciation is phased down to \$6,400 in the case of an automobile placed in service during 2018 and to \$4,800 in the case of automobile placed in service during 2019.

The Administrative Code limits the depreciation for "qualified property" other than "Qualified Resurgence Zone property" and "New York Liberty Zone property" to the deduction that would have been allowed for such property had the property been acquired by the taxpayer on September 10, 2001, and therefore, except for Qualified Resurgence Zone property, as defined in the Administrative Code and "New York Liberty Zone property," the City has decoupled from the federal bonus depreciation provision. Qualified Resurgence Zone property is qualified property described in section 168(k)(2) of the internal revenue code substantially all of the use of which is in the Resurgence Zone (which is generally in the borough of Manhattan south of Houston Street and north of Canal Street), is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the Resurgence Zone commences with the taxpayer after September 10, 2001. The Administrative Code also requires appropriate adjustments to the amount of any gain or loss included in entire net income or unincorporated business entire net income upon the disposition of any property for which the federal and New York City depreciation deductions differ. For further information, see the instructions to Form NYC-3L and use Form NYC-399Z for this calculation. For tax years beginning on or after January 1, 2004, other than for eligible farmers (for purposes of the New York State farmers' school tax credit), the amount allowed as a deduction with respect to a sport utility vehicle that is not a passenger automobile for purposes of section 280F(d)(5) of the Internal Revenue Code is limited to the amount allowed under section 280F of the Internal Revenue Code as if the vehicle were a passenger automobile as defined in that section. For SUVs that are qualified property other than qualified Resurgence Zone property and other than New York Liberty Zone property, the amount allowed as a deduction is calculated as of the date the SUV was actually placed in service and not as of September 10, 2001. Note that for General Corporation Tax purposes:

- An SUV cannot qualify as either Qualified Resurgence Zone Property or as New York Liberty Zone property. See Administrative Code section 11-602(8)(o).
- An SUV cannot qualify for the additional first year depreciation available under the recent federal legislation described above.

On the disposition of an SUV subject to the limitation, the amount of any gain or loss included in income must be adjusted to reflect the limited deductions allowed for City purposes under this

provision. Enter on Schedule B, lines 4 and 6b the appropriate adjustments from form NYC-399Z. See *Finance Memorandum 18-1, "Application of IRC §280F Limits to Sports Utility Vehicles."*

LINE 6a - NET OPERATING LOSS

Enter New York City net operating loss carryforward from prior years. A deduction may *only* be claimed for net operating losses sustained in taxable years during all or part of which the corporation was subject to the General Corporation Tax. New York City allows net operating losses to be used in the same manner as provided by Section 172 of the Internal Revenue Code. **Losses incurred during taxable years ending after December 31, 2017, can be carried forward indefinitely for federal purposes. The deduction for losses incurred during taxable years beginning after December 31, 2017, is limited to 80% of federal taxable income calculated as if the corporation had not made the election pursuant to subchapter S of the IRC (without regard to the deduction).** However, the amount of any federal loss must be adjusted in accordance with Section 11-602.8(f) of the NYC Administrative Code. *Attach a copy of Form NYC-NOLD-GCT, Net Operating Loss Computation.*

NOTE:

The deduction of a net operating loss carryforward from prior years may not exceed and is limited to the amount of the current year's federal taxable income. A net operating loss may not be claimed as a deduction if Schedule B, line 1 reflects a loss.

In addition, the deduction shall not exceed the deduction allowed for federal purposes or the deduction which would have been allowed if the taxpayer had not made an election to be (a) an S Corporation under the rules of the Internal Revenue Code or (b) included in a group reporting on a consolidated basis for federal income tax purposes. *Attach a copy of Form NYC-NOLD-GCT, Net Operating Loss Computation.*

Losses incurred during taxable years ending after December 31, 2017, may not be carried back. For prior year losses, the New York City net operating loss deduction was determined as if the taxpayer had elected to relinquish the carryback provision *except for the first \$10,000* of each of such losses. Losses which were not permitted to be carried back could generally be carried forward and used to offset income for the period permitted for federal tax purposes. In addition, any portion of the \$10,000 NOL permitted to be carried back but not used could be carried forward.

If the taxpayer elected to relinquish the entire carryback period for federal purposes, then the taxpayer could not carry back any amount for City purposes. Corporations that have elected to

relinquish the carryback of a net operating loss must submit a copy of the federal election.

Because an S corporation does not carry over NOLs, it would not have made an election to relinquish any or all of its carryback period. Therefore, for City tax purposes for losses arising in taxable years ending in or after 2002 and prior to years ending after 12/31/17, it was presumed that, unless the taxpayer S corporation attached a statement to this return indicating that the taxpayer intended to carry back a net operating loss reported on this return, the taxpayer was presumed to have elected to relinquish the entire carryback period.

LINE 6c - CITY / STATE REFUNDS

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

LINE 8 - TAXABLE NET INCOME

If the entry on this line is a loss, a request to carry it back as a net operating loss deduction in any prior year must be made separately on an amended return. Do not attach or mail an amended return with this tax return. This request must be submitted within three years of the due date of the return for the loss year or within the period prescribed in Section 11-678 of the NYC Administrative Code.

SCHEDULE C

Total Capital

LINES 1 THROUGH 4

AVERAGE VALUE OF TOTAL ASSETS

To determine the value of your assets for business *capital* purposes, you must include real property and marketable securities at fair market value. The fair market value of any asset is the price, without any encumbrance, at which a willing seller, not compelled to sell, will sell, and a willing buyer, not compelled to buy, will buy.

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

On Schedule C, lines 1 through 5, enter the values at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. *Attach a schedule showing the computation of the average value.*

On line 2 enter the value of real property and marketable securities included in line 1. Enter on line 4 the fair market value of real property and marketable securities.

Average value is generally computed on a quarterly basis where the taxpayer's usual accounting practice permits. A more frequent basis may be used. If the taxpayer's usual accounting practice does not permit computation of average value on a quarterly or more frequent basis, a semiannual or annual basis may be used if no distortion of average values results.

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

LINE 6 - TOTAL LIABILITIES

Title 11, Chapter 6 of the NYC Administrative Code permits the deduction of all liabilities (both long and short term) when computing business capital for purposes of the tax measured by capital. Use the same method of averaging as is used in determining average value of total assets.

LINE 7 - If the period covered by this report is other than a period of twelve calendar months, after completing lines 1 through 6 but before entering any amount on line 7, multiply the excess of the amount on line 5 over the amount on line 6 by a fraction, the numerator of which is the number of months or major parts thereof included in such period and the denominator of which is twelve. Enter the resulting amount on line 7 of Schedule C and on Schedule A, line 2a or 2b. Attach a separate schedule showing computation.

SCHEDULE E

Additional Required Information

LINES 2 & 3

If you answer "Yes" to line 2, attach a separate sheet providing the street address, borough, block and lot number of such property and answer question 3b.

A controlling interest in the case of a corporation means:

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

LINE 4

No portion of the income, gain, loss, deduction or capital of a QSSS is permitted to be included in a report filed by the S corporation parent except if both the parent corporation and the QSSS are included in a combined report Form NYC-3A. Otherwise, the parent should file Form NYC-3L (See "Corporations Required to

File Form NYC-3L," item 2, supra.) The QSSS must file a separate general corporation tax report.

COMPOSITION OF PREPAYMENTS SCHEDULE

Enter the payment date and the amount of all prepayments made for this tax period.

LINE D

Include on this line the amount of any overpayment from the prior year credited toward your tax liability for the current tax year. Do not include this amount on Lines B or C.

For interest calculations and account information, call 311. If calling from outside of the five NYC boroughs, please call 212-NEW-YORK (212-639-9675).

You can also visit the Finance website at nyc.gov/finance.

PRIVACY ACT NOTIFICATION

The Federal Privacy Act of 1974, as amended, requires agencies requesting Social Security Numbers to inform individuals from whom they seek this information as to whether compliance with the request is voluntary or mandatory, why the request is being made and how the information will be used. The disclosure of Social Security Numbers for taxpayers is mandatory and is required by section 11-102.1 of the Administrative Code of the City of New York. Such numbers disclosed on any report or return are requested for tax administration purposes and will be used to facilitate the processing of tax returns and to establish and maintain a uniform system for identifying taxpayers who are or may be subject to taxes administered and collected by the Department of Finance, and, as may be required by law, or when the taxpayer gives written authorization to the Department of Finance for another department, person, agency or entity to have access (limited or otherwise) to the information contained in his or her return.