

Instructions for Form NYC-1

FINANCE
NEW YORK



Banking Corporation Tax Return

For fiscal years ending in 1998 or for calendar year **1997**

GENERAL INFORMATION

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 and on every bank holding company when included in a combined return.

Banking corporations that have made an election under Subchapter S of the Internal Revenue Code, see Addendum to Instructions included with these forms.

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.

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.

INTERNATIONAL BANKING FACILITY (IBF) ELECTION

A corporation which has an International Banking Facility (IBF) located in New York State may, in lieu of the deduction for the adjusted eligible net income of such IBF, 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. Such election must be made within 45 days from the beginning of its taxable year. Such election must be in writing and addressed to:

NYC Department of Finance
I.B.F. Election - 7th Floor
345 Adams Street
Brooklyn, NY 11201

The election is required to be made on an annual basis and is binding for that taxable year and cannot be changed by filing an amended return.

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 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 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, 1998 or for fiscal year taxpayers, within 2 1/2 months after the close of the fiscal year. Mail returns to:

NYC Department of Finance
Box 3921 Church Street Station
New York, NY 10008

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-6B and pays the amount properly estimated as its tax.

A taxpayer with a valid six-month automatic extension filed on Form NYC-6B may request up to two additional three-month extensions by filing Form NYC-6.1B. A separate Form NYC-6.1B must be filed for each additional three-month extension.

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

SPECIFIC INSTRUCTIONS

SCHEDULE A

Computation of Tax

LINE 1 - ALLOCATED ENTIRE NET INCOME

Enter allocated taxable entire net income computed in Schedule B, line 37 and multiply by the tax rate of 9% (.09).

LINE 2 - ALLOCATED ALTERNATIVE NET INCOME

Enter allocated taxable alternative entire net income computed in Schedule C, line 8 and multiply by the tax rate of 3% (.03).

LINE 3a - 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 3b - ALLOCATED ISSUED CAPITAL STOCK

Corporations organized under the laws of a country other than the U.S. enter allocated issued capital stock computed in Schedule E, line 5 and multiply by the tax rate of .0026

LINE 5 - TAX

Enter the largest of the taxes computed at lines 1 through 4.

LINE 6 - UBT PAID CREDIT

Enter on line 6 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.

LINE 8a - AUTOMATIC EXTENSION

Use this line if you have filed an application for automatic extension on Form NYC-6B. Enter amount from line 2 of Form NYC-6B.

LINE 8b - FIRST INSTALLMENT PAYMENT

If the tax at line 7 exceeds \$1,000 and Form NYC-6B 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 tax on line 7.

LINE 10a - ENERGY COST SAVINGS CREDIT

An energy cost saving credit is available to certain energy users certified as eligible by the New York City Department of Business Services, and to certain suppliers of fuel services. Attach Form NYC-ECS if claiming this credit. If the total available ECS credit exceeds the amount shown on line 7 less line 10b, enter only that portion of the energy credit that reduces the balance to zero. The excess credit may be carried forward to future years or applied to other eligible taxes.

LINE 10b - REAP CREDIT

Corporations claiming the relocation and

employment assistance program (REAP) credit must enter the amount shown on line 2 of Form NYC-9.5.

LINE 10d - PREPAYMENTS

Enter on line 10d the sum of all prepayments and overpayments made for the calendar year 1997 or fiscal year ended in 1998. This figure should be obtained from the completed Composition of Prepayments Schedule on page 7 of this return.

LINE 14a - 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 as to the applicable rate of interest, call: (718) 935-6000.

LINE 14b - LATE PAYMENT - 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 (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, you will be subject to the **minimum late filing penalty**. This penalty is the lesser of (1) \$100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).
- c) A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.
- d) The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b.

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

LINE 16 - TOTAL REMITTANCE

After completing this return, enter the amount of your remittance on line A. This must be the full amount as shown on line 16. Remittances must be made payable to the order of:

NYC DEPARTMENT OF FINANCE

LINE 17 - 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.

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 the alternative entire net income allocation percentage computed on Form NYC-1, Schedule G, part 2, line 5.

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 the percentage determined by dividing gross income within New York City by worldwide gross income.

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 the percentage determined by dividing business and subsidiary capital allocated to New York City by total capital.

Additional information can be found in Banking Corporation Tax Policy Bulletin 2-86, promulgated November 14, 1986.

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 see Addendum to Instructions included with these forms.

LINE 2a - DIVIDENDS/INTEREST

Corporations organized under the laws of a country other than the US enter dividends (including IRC Section 78 gross-up 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

Corporations organized under the laws of a country other than the U.S. 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.

LINE 3 - NONTAXABLE DIVIDENDS/INTEREST

Corporations organized under the laws of the U.S. or any of its states, enter dividends (including IRC Section 78 gross-up dividends) and 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.

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

Enter total amount of federal depreciation from Schedule H, parts 1 and 2, column E.

LINE 9 - NYC GAIN/LOSS

Enter total amount of New York City gain or loss from Schedule I, part 1, column D.

LINE 10a - 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 10b

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.

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 Section 585(c) of the code.

LINE 14

In the case of a taxpayer which 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.

LINE 15

Eligible energy users and suppliers of fuel services must add back the amounts required under Section 11-641(b)(8) and (9) of the Administrative Code.

A taxpayer which 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.

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 from Schedule H, line 4.

LINE 19 - FEDERAL GAIN/LOSS

Enter total amount of federal gain or loss from Schedule I, parts 1 and 2, column E.

LINE 20 - 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 21 - GROSS-UP DIVIDENDS

Enter the amount of IRC Section 78 gross-up dividends included at lines 1, 2, and 3.

LINE 22a - 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 22b

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 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 deducted at line 21 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 IBF election has not been made.

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 this section, 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 this subdivision, whichever is the larger, but the amount determined under this subparagraph shall in no case be greater than the larger of
 - (i) the amount determined under paragraph five of this subdivision, or
 - (ii) the amount which, when added to the amount determined under subparagraph (a) of this paragraph, 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 31st, 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 this subdivision. 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 subparagraphs (b) and (c) of this paragraph, 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 subparagraph (a) of this paragraph shall be reduced (but not below zero) by the amount determined under subparagraph (a) of paragraph 3 of this subdivision.
 - (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 subparagraph (b) of paragraph 8 of this subdivision.
 - (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) of this subparagraph of the combined group’s entire net income as adjusted pursuant to clauses (i) through (iii) of this subparagraph.
- 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 this section 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 subparagraph (b) of paragraph 3 of this subdivision exceeded the amount allowable under this paragraph.

- 5) (a) (i) Each taxpayer described in paragraph 1 of this subdivision 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 subsequent taxable years that this subdivision applies to the taxpayer.
- (ii) For purposes of this subdivision, 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) of this subparagraph, 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 subparagraph (b) of paragraph 3 of this subdivision, 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 subparagraph (b) of paragraph three of this subdivision and the New York reserve for losses on nonqualifying loans shall be increased by the amount determined under paragraph (a) of paragraph 3 of this subdivision.
- 6) (a) For purposes of this subdivision, 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, 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 subparagraph (b) of paragraph 1 of this subdivision. 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 (i) a government or political subdivision or instrumentality thereof, (ii) a banking corporation, or (iii) 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) For purposes of this subdivision, the term "nonqualifying loan" shall mean any loan which is not a qualifying real property loan.
- c) For purposes of this subdivision, 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 five of this subdivision,
- (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 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) of this subparagraph, second out of the amount referred to in clause (iii) of this

subparagraph, third out of the amount referred to in clause (i) of this subparagraph and then out of such other accounts as may be proper. This subparagraph 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 subparagraph (a) of this paragraph as having been made out of the reserves described in clauses (ii) and (iii) of such subparagraph, 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 clause (ii) of subparagraph (a) of this paragraph, 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 under this subdivision 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 subparagraph (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 paragraph 1 of this subdivision, must include in its entire net income for the last taxable year such paragraph 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 for 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 subdivision (i) of this section.
(As last amended by Chapter 18, Laws 1997, effective March 11, 1997, and applicable to taxable years beginning after December 31, 1995.)

LINE 31b - BAD DEBT DEDUCTIONS

- 1) A taxpayer subject to the provisions of Section 585(c) of the Internal Revenue Code may, in computing entire net income, deduct an amount equal to or less than the amount determined pursuant to subparagraph (a) or (b) of this paragraph, whichever is greater. However, in no event shall the deduction be less than the amount determined pursuant to subparagraph (a).
 - a) The amount determined pursuant to this subparagraph 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
 - 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 subparagraph 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 paragraph, the base year shall be the last taxable year beginning before 1988.
- 2) Each taxpayer described in paragraph (1) of this subsection 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 this subsection 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 subparagraph (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 subparagraph (b) of paragraph (1) shall not apply.

LINE 32 - OTHER SUBTRACTIONS

A taxpayer which makes an adjustment to federal taxable income on line 28, must subtract any expenses of the IBF which were paid to foreign

branches of the taxpayer which are included on line 18 of Schedule F that are not included in federal taxable income.

LINE 36 - OPTIONAL DEPRECIATION

A deduction for optional depreciation may be claimed at this line. Enter totals from Schedule H, part 1, column G and Schedule I, part 2, column D.

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 line 26 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

LINE 1 - ISSUED CAPITAL STOCK

Enter amount of issued capital stock 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

IBF (INTERNATIONAL BANKING FACILITY)

A corporation with an IBF located in New York State may exclude the adjusted eligible net income or add the adjusted eligible net loss of such IBF in computing its entire net income and alternative entire net income, or the corporation 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. For timely notification concerning the IBF election, see page 2 of these instructions. *Indicate whether the election has been made by checking the box on page 1, line 24.*

A corporation with an IBF located in New York State which *has not elected* to reflect the results of its IBF operations in its entire net income allocation percentage or alternative entire net income allocation percentage deducts from entire net income (at Schedule B, line 28) the adjusted eligible net income of such IBF or adds to entire net income (at Schedule B, line 28) the adjusted eligible net loss of such IBF. A corporation using this method is required to complete all of Schedule F to determine the adjusted eligible net income or loss of its IBF.

A corporation with an IBF located in New York State which *has elected* to reflect the results of its IBF operations in its entire net income allocation percentage and in its alternative entire net income allocation percentage must complete lines 1 through 18 of Schedule F.

Whatever election the corporation makes concerning the IBF modification to entire net income applies to the computation of alternative entire net income. The election is binding on the taxpayer for that taxable year and cannot be changed by filing an amended return.

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. For timely notification concerning the IBF election, see page 2 of these instructions.

A corporation which is not doing business without New York City and which has made the IBF 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" on page 1 of 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.

The instructions that follow contain general allocation information. Corporations with an IBF located in New York State must also follow the instructions on pages 9 and 10.

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 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 his or its 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.

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.

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. For example, the receipt from the sale of a capital asset as scrap or at a gain 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.

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 made* the IBF election, 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 election, must, when computing the entire net income allocation percentage and the alternative entire net income allocation percentage:

- 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 (whether or not it has made the IBF election) 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

Depreciation of Certain Property When Method Differs From Federal

PART 1

DEPRECIATION ON QUALIFIED NYC PROPERTY ACQUIRED BETWEEN 1/1/66 AND 12/31/67

At the election of the taxpayer, up to double the amount of federal depreciation on qualified tangible property (except personal property leased to others) may be deducted in lieu of the amount of normal depreciation. The original use of such property must commence with the taxpayer and the property must be:

- 1) depreciable tangible property as defined in Section 167 of the Internal Revenue Code
- 2) constructed or acquired after December 31, 1965, and on or before December 31, 1967, and
- 3) have a situs in New York City.

The total deduction for all years with respect to any unit of property may not exceed the cost of such property. Any unused optional depreciation may be carried forward to succeeding years. The amount of carryover is determined by limiting allocated entire net income (Schedule B, line 35) to zero.

PART 2

OTHER PROPERTY ON WHICH DEPRECIATION DIFFERS FROM FEDERAL

Include property on which the method of depreciation under Chapter 6, Subchapter 3, Parts 1 and 2 was different than that used for federal purposes.

Adjustments to entire net income resulting from Accelerated Cost Recovery System (ACRS) property.

COLUMN E

Include in part 2 the following items:

- 1) the ACRS deduction on property which was placed in service outside New York City during a taxable year beginning on or after January 1, 1985. Do not include the ACRS deduction on property subject to the provisions of Section 280F of the IRC, regardless of where placed in service. (Complete Schedule B of Form NYC-399.)
- 2) the ACRS or MACRS deduction on property which was placed in service outside New York State in taxable years beginning after December 31, 1984, and before January 1, 1994
- 3) the ACRS deduction on property which was placed in service during taxable years beginning in 1982, 1983, and 1984 on which the depreciation deduction for New York City is computed under Section 167 of the IRC. (Complete Schedule B of Form NYC-399.)
- 4) any adjustments on the disposition of ACRS property where New York City depreciation

exceeded Federal depreciation. (Complete Schedule C of Form NYC-399.)

COLUMN G

Include in part 2 the following items:

- 1) the allowable New York City depreciation deduction computed under Section 167 of the IRC on ACRS property which was placed in service outside New York City during a taxable year beginning on or after January 1, 1985. Do not include the ACRS deduction on property subject to the provisions of Section 280F of the IRC regardless of where placed in service. (Complete Schedule B of Form NYC-399.)
- 2) the allowable New York City depreciation deduction computed under Section 167 of the IRC on property which was placed in service during taxable years beginning in 1982, 1983 and 1984. (Complete Schedule B of Form NYC-399.)
- 3) the allowable New York City depreciation deduction computed under Section 167 of the IRC for property placed in service outside of New York State in taxable years beginning after December 31, 1984, and before January 1, 1994
- 4) any adjustment on the disposition of ACRS property where federal depreciation exceeded New York City depreciation. (Complete Schedule C of Form NYC-399.)

SCHEDULE I

Computation of NYC Gain (Loss) on Disposition of Certain Property

In computing gain, enter the higher of cost or fair market price or value on January 1, 1966. In computing loss, enter the lower of cost or fair market price or value on January 1, 1966.

Upon sale or disposition, the net gain or loss thereon should be computed by adjusting the Federal basis of such property to reflect the total deductions allowed for all years, including years covered by Chapter 6, Subchapter 3, Parts 1 & 2.

COMPOSITION OF PREPAYMENTS

Every corporate estimated payment to New York City has been stamped with a twelve digit Transaction ID Code; the number can be found on the face of your canceled check.

Do not include any energy cost savings credit carryover from a preceding year.

