



**Department of Finance**

Legal Affairs Division  
375 Pearl Street, 30<sup>th</sup> Floor  
New York, NY 10038  
Tel. 212-748-4680  
Fax. 212-748-6981

May 18, 2023

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX

**RE: Request for Letter Ruling  
Unincorporated Business Tax  
FLR 22-5025**

Dear XXXXXXX:

This letter is in response to your request dated November 2, 2022, inquiring whether the income of XXXXXXXXXXXX (“Taxpayer”) would be subject to New York City (“City”) Unincorporated Business Tax (“UBT”).

**FACTS**

The facts presented are as follows: the Taxpayer is an IT consulting service that involves analysis and programming. The partners that own the firm reside in the City and work from their home located within the City. The employees of the company reside in various other states and countries and work from their own homes. The clients of the company are state and local government agencies located in other states within the United States.

**ISSUE**

Is the Taxpayer subject to the UBT and, if so, to what extent?

**DISCUSSION**

Under the New York City Administrative Code (the “Code”) § 11-503(a) the UBT is imposed on the taxable income of every unincorporated business carried on within the City. An unincorporated business is, “any trade, business, profession, or occupation conducted...by an

individual or unincorporated entity....” Code § 11-502(a). The Taxpayer is a partnership engaged in an IT consulting service, which is a trade or business. As the partners of the Taxpayer work in the City on the behalf of the Taxpayer, the Taxpayer is conducting an unincorporated business within the City and is subject to the UBT. For tax years beginning in 2009 or later, an unincorporated business that is conducted wholly or partly within the City and has a total gross income from all business of more than \$95,000 must file an Unincorporated Business Tax Return. Code §§ 11-514(a)(4) and 11-506(a)(1). This threshold amount applies regardless of whether part of the unincorporated business is located outside the City. Accordingly, the Taxpayer must file a UBT tax return, because its business is conducted wholly or partly within the City, and its total gross income from all business is greater than \$95,000.

An unincorporated business carried on both within and outside the City must allocate to the City a fair and equitable portion of its business income. Code § 11-508(a). The Taxpayer must calculate how much of its income is connected with the conduct of a trade or business within the City by multiplying its adjusted business income by a business allocation percentage described in Code §11-508(c)(3) called the “Gross income percentage.” Code § 11-508(i)(10). If due to unique factual circumstances, either the Taxpayer or the Department believes that this calculation does not result in a fair and equitable allocation to the City, the Department may consider the use of a different method. Particular methods of allocating income would require a factual determination, which is properly an audit function and beyond the scope of a letter ruling. Rules of the City of New York, Tit. 19, §16-01(c)(5). Calculations of allocated income must be supported by detailed documents and will be carefully reviewed during audit.

The Department reserves the right to verify the information submitted. Please advise the Department of any material change in the facts presented.

Sincerely,

Dara Jaffee  
Assistant Commissioner for Legal Affairs

SV:sv