

Instructions for Form NYC-3A

FINANCE
NEW YORK



Combined General Corporation Tax Return for fiscal years beginning in 2002 or for calendar year 2002

GENERAL INFORMATION

(Additional instructions are on Form NYC-3L.)

Transitional provisions relation to the enactment of the Gramm-Leach-Bliley Act of 1999:

Existing Corporations:

Except for a banking corporation described in paragraphs (1) through (8) of Ad. Code section 11-640(a) (see, Form NYC-1, Instructions "Who Must File" items A through C), for taxable years beginning after 1999 and before 2001, a corporation that was in existence before January 1, 2000 was taxable under the same tax (either NYC General Corporation Tax (GCT) or NYC Banking Corporation Tax (BCT)) as applied to it for its last taxable year beginning before January 1, 2000. For this purpose, a corporation was considered to have been subject to a tax prior to 2000 if it was not a taxpayer but was properly included in a combined report filed by another corporation under that tax.

Ad. Code §11-640 was amended to similarly require a corporation that was in existence prior to January 1, 2001 to be taxed in years beginning after 2000 and before 2003 under the same tax, either GCT or BCT, that applied to it for the last year beginning before 2001. Ch. 383, Laws of 2001, Part P, §8.

Newly-formed Corporations:

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

- the corporation was a financial subsidiary, or
- at least 65% of the corporation's voting stock is owned or controlled, directly or indirectly, by a financial holding company, and the corporation is principally engaged in activities described in sections 4(k) 4 or 4(k)5 of the Bank Holding Company Act of 1956, as amended, or described in regulations promulgated under that section.

A financial subsidiary is a corporation whose voting stock is 65% or more owned or controlled directly or indirectly, by a banking corporation (including a corporation that has elected to be subject to the BCT under these transition rules) described in paragraphs (1) through (3) of Ad. Code section 11-640(a) and described in 12 USCS section 24a or section 46 of the Federal Deposit Insurance Act.

A financial holding company is a corporation that has filed with the Federal Reserve Board a written declaration of its election to be a financial holding company under section 4(i) of the Bank Holding Company Act of 1956, as amended, provided the Federal Reserve Board has not found that election to be ineffective.

An election by a newly-formed corporation under this provision had to be made on or before the due date for filing its return for the applicable year, including extensions, and was made by filing the return required under the appropriate tax. The election is irrevocable.

New Ad. Code §11-640(h) permits a corporation formed on or after January 1, 2001 and before January 1, 2003 to make a comparable election for tax years beginning after 2000 if it meets the requirements described above.

Combined Filing under Transitional Provisions

A bank holding company doing business in the City that, during a taxable year beginning after 1999 and before 2003, registers for the first time as a bank holding company under the Bank Holding Company Act of 1956, as amended, and elects to be a financial holding company, may file a combined report under the BCT for such year

with one or more banking corporations doing business in the City and 65% or more owned or controlled, directly or indirectly, by that bank holding company without seeking permission from the Commissioner. In addition, such bank holding company may, without seeking the Commissioner's permission: (i) include in a combined report filed for a subsequent year beginning after 1999 and before 2003 any eligible banking corporation that, for the first time in such subsequent year, either is doing business in the City or meets the above ownership requirements; and (ii) eliminate from a combined report filed in any such subsequent year any corporation no longer meeting the requirements for combination in such subsequent year. Except as provided above, the permission of the Commissioner is required for any such bank holding company to cease to file on a combined basis, elect to file on a combined basis or make any changes to the composition of the group of corporations filing on a combined basis for any subsequent year. Ch. 383, Laws of 2001, Part P, §9.

REQUIREMENTS FOR FILING ON A COMBINED BASIS

For tax periods ending on or after December 31, 1997, advance permission to file on a combined basis is not required. Provided all of the information required to be submitted on the Affiliations Schedule and the Combined Group Information Schedule is submitted, a group of corporations meeting the requirements set forth below is deemed to have tentative permission to file on a combined basis. However, the combined filing is subject to revision or disallowance on audit. This return will not be considered complete unless all of the information required is submitted.

A combined return may be required or permitted when all of the following requirements have been met:

A - Stock ownership or control:

- 1) A reporting corporation owns or controls, either directly or indirectly, substantially all of the capital stock of all the other corporations that are to be included in the combined return; or
- 2) Substantially all of the capital stock of the reporting corporation is owned or controlled, either directly or indirectly, by other corporations that are to be included in the combined return; or
- 3) Substantially all of the capital stock of the reporting corporation and substantially all of the capital stock of the other corporations that are to be included in the combined return are owned or controlled, either directly or indirectly, by the same interests.

"Substantially all" is ordinarily considered the actual or beneficial ownership or control of 80% or more of the voting stock of the issuing corporation throughout the taxable year.

B - Unitary business:

The corporations that are to be included in the combined return must be engaged in a "unitary business." A unitary business may exist when the activities of each corporation in the group are related to the activities of the other corporations in the group, e.g., manufacturing or acquiring goods or performing services for the other corporations in the group; selling goods acquired from corporations in the group; or financing sales of other corporations in the group. Another consideration is whether the corporation engages in the same or related lines of business as the other corporations in the group such as: the manufacture or sale of similar products, the performance of similar services, or the performance of services for the same customers.

C - Filing on Separate Basis Creates Distortion:

A combined return must be filed if filing on a separate basis would distort a corporation's activities, business, income or capital in New York City. Filing on a separate basis is presumed to be distortive when there are "substantial intercorporate transactions" among the corporations meeting the requirements in Section A above. The substantial intercorporate transaction test may be met where as little as 50 percent of a corporation's receipts or expenses are from

- manufacturing or acquiring goods or property or performing services for,
- selling goods acquired from or financing sales of, or
- performing related customer services using common facilities and employees with,

corporations meeting the requirements in Section A above. Only transactions directly connected with the business conducted by the corporation will be considered. Service functions (such as accounting, legal and personal services) are not considered when they are incidental to the business of the corporation providing the services.

Corporations not subject to tax will not be required to be included in a combined report unless the Department of Finance determines inclusion is necessary to properly reflect the tax liability in accordance with 19 RCNY Section 11-92(a).

Alien corporations, corporations that are taxable under Title 11, Chapter 6, Subchapter 3 or under Title 11, Chapter 11 (except a vendor of utility services that is taxable under both Chapter 11 and Subchapter 2 of Chapter 6), and insurance corporations may not be included in a combined report.

Effective for taxable years beginning on or after January 1, 1994, a corporation that elects the application of IRC Section 936 (Puerto Rico and U.S. possessions tax credit) with respect to a particular federal tax year is not required or permitted to be included in a combined report with respect to the same taxable year (or part thereof).

No taxpayer may file a report on a combined basis covering any other corporation where the taxpayer or the other corporation allocates in accordance with the special allocation provisions applicable to aviation corporations or corporations principally engaged in the operation of vessels and the taxpayer or other corporation does not allocate using the special allocation provisions.

In general, the parent corporation should act as the reporting corporation for the combined group. The reporting corporation must be the parent corporation if it is a member of the combined group. A parent corporation is the corporation that owns or controls, directly or indirectly, substantially all of the capital stock of each other member of the combined group. If the parent corporation is not part of the combined group, the combined group must then designate a member as its reporting corporation.

If the parent corporation is not part of the combined group, or if substantially all of the capital stock of a parent corporation that is a member of the combined group is owned or controlled, directly or indirectly, by a person or corporation that is not part of the combined group, enter the name of the non-member parent or that person or corporation and its Employer Identification Number (if any) in the box entitled "Name of Parent of Controlled Group" on page 1. The name entered should correspond to the person or corporation listed on line 3 or 4 on page 5 of Form NYC-3L.

OTHER FORMS AND MINIMUM TAX

Every corporation included in this combined return is required to file a separate return on Form NYC-3L.

Schedules B through H on the separate returns (Form NYC-3L) must be completed and the appropriate information transferred to Schedules I through M on Form NYC-3A to compute the combined tax. If any member of the combined group has elected to use optional depreciation, it must complete and attach a Form NYC-324 to its Form NYC-3L.

Payment must include the combined tax plus the minimum tax of \$300 for each corporation included in the combined report with the exception of any corporation not otherwise subject to the tax. The remittance must be payable in U.S. dollars drawn on a U.S. bank. Checks drawn on foreign banks will be rejected and returned.

Each General Corporation Tax Return (NYC-3L) attached to this return must be signed by a duly authorized officer of the corporation.

BUSINESS AND INVESTMENT ALLOCATIONS

Corporations that allocate must complete Schedules D and H of Form NYC-3L.

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

Special short-period returns: If this is **NOT** a final return and your Federal return covered a period of less than 12 months as a result of your joining or leaving a Federal consolidated group or as a result of a Federal IRC §338 election, this return generally will be due on the due date for the Federal return and not on the date noted on the return on page 3. **Check the box on the front of the return.**

IF MORE THAN SIX CORPORATIONS ARE INCLUDED IN THE COMBINED RETURN, ATTACH MULTIPLE COPIES OF PAGE 2 OF THIS FORM. DO NOT ATTACH MULTIPLE COPIES OF PAGE 3.

SCHEDULE A

Computation of Tax

LINE A - PAYMENT

After completing this form, enter the amount of your payment. Your payment should be the full amount as shown on line 23.

LINE 2 - ALLOCATED CAPITAL

The tax based on allocated combined capital is limited to \$350,000. Multiply the amount from Schedule M, line 10 by the applicable percentage, but do not enter more than \$350,000 in the right-hand column on line 2, Schedule A.

LINE 7 - MINIMUM TAX

Each corporation included in the combined return, other than the corporation paying the combined tax and any corporation included in the combined return that would not be subject to the General Corporation Tax if filing on a separate company basis, is required to pay the \$300 minimum tax.

LINE 9 - UBT PAID CREDIT

Enter on line 9 the credit against the General Corporation tax for unincorporated business tax paid by partnerships from which any corporation included in this return receives a distributive share or guaranteed payment that is included in calculating General Corporation Tax liability on either the entire net income or income plus compensation base. Attach Form(s) NYC-9.7 (UBT Paid Credit).

LINE 10

Attach Form NYC-9.5 (Claim for Credit Applied to General Corporation Tax).

NOTE: This credit may only be taken for sales tax paid in the current year for certain purchases in certain prior periods.

LINE 11

Attach Form NYC-9.6 (Claim for Credit Applied to General Corporation Tax).

LINE 13b

Note: Recent legislation has changed the calculation of the first installment of estimated tax so that it is based on the prior year's tax after applicable credits. The first installment is required if the preceding year's tax (calculated after applicable credits) exceeded \$1,000. The first installment is equal to 25% of the prior year's tax after applicable credits. Enter on line 13(b) 25% of the amount on line 12.

LINE 14

There is no addback for current refunds of sales tax paid on purchases of electricity or electric service used in the production of certain tangible property for which the taxpayer took a credit in a prior period under former Adm. Code §11-604.15.

LINE 16 - PREPAYMENTS

Enter the sum of all estimated payments made for this tax period, the payment made with the extension request, if any, and both the carryover credit and the first installment recorded on the prior tax period's return.

LINE 23

If the amount on line 21 is not greater than zero, enter on line 23 the sum of line 17 and the amount by which line 20 exceeds the amount on line 18, if any.

SCHEDULE J

Business allocation from Form NYC-3L

The amount entered on line 12, column C, should be rounded to the nearest one hundredth of a percentage point.

For taxable years beginning after 6/30/96, a manufacturing business may elect to use a double-weighted receipts factor. An election must be made on a timely filed original return. The election is irrevocable except with special permission of the Commissioner under certain circumstances. For purposes of this election, a corporation is engaged in a manufacturing business if it is primarily engaged in the manufacturing and sale of tangible personal property. Manufacturing includes assembly, work-

ing raw materials into wares, and giving new shapes, qualities or combinations to matter that has already gone through some artificial process, through the use of machinery, tools, appliances or other similar equipment. A corporation is primarily engaged in manufacturing if more than 50% of its gross receipts for the year are attributable to manufacturing. If a corporation that is otherwise eligible to elect to use a double-weighted receipts factor is permitted or required to file on a combined basis with one or more corporations, the corporation may elect to use a double-weighted receipts factor only if the requirements for the election would be met if all of the corporations included in the combined report were treated as a single corporation. If the corporation included in a combined report properly makes an election to use a double-weighted receipts factor, each of the other corporations in the combined group will be treated as having made a proper election to use a double-weighted receipts factor. If each member of a combined report is treated as having elected to use a double-weighted receipts factor, enter on line 7 the amount from line 6. If you make an election, add the percentages in column C and divide the sum by 4 and enter the result on line 12. If one or more of the other factors is missing, add the remaining percentage(s) and divide by the number of percentages so added. If you do not wish to make the election, do not enter an amount on line 7.

SCHEDULE K - LINE 3

Enter in Column C, page 3, the amount from line 1 divided by the amount from line 2, rounded to the nearest one hundredth of a percentage point.

SCHEDULE M

Summary

The amount of unused optional depreciation that may be carried over is determined by limiting the combined taxable New York City income to zero.

SCHEDULE M - LINE 12

Enter on line 12 and on Schedule A, line 24, the amount from line 10 plus the amount from line 11 divided by the amount from Schedule I, line 6, Column C, rounded to the nearest one hundredth of a percentage point.

COMBINED GROUP INFORMATION SCHEDULE

All of the information required on this Schedule must be submitted for this return to be considered complete. Failure to provide any information requested will result in correspondence and may result in the filing on a combined basis by this group of corporations being revised or disallowed.

AFFILIATIONS SCHEDULE

List names of all affiliated corporations, including those not included in this combined report, their federal Employer Identification Number, if any, and principal business activity. In addition, list the entity that directly owns the corporation, the Employee Identification Number and the number of shares of voting capital stock owned and outstanding at the beginning of the year. An affiliated corporation for purposes of completing the schedule is a corporation that satisfies the stock ownership or control requirements set forth in Section A, "Stock Ownership or Control," on page 1 of these instructions, without regard to any limitation that may otherwise exclude the corporation from the combined report.

You may attach a completed federal Form 851 for any domestic corporations that would otherwise be included on the Affiliations Schedule.