

**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF RULEMAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York New York City Charter and section 11-687(1) of the Administrative Code of the City of New York, I hereby promulgate the within amendments to the Rules Relating to the New York City General Corporation Tax. These rules were published in proposed form on October 19, 2006. A hearing for public comment was held on November 20, 2006.

/s/ Martha E. Stark
Commissioner of Finance

Note: Material to be deleted in [brackets]; New material is underlined.

Section 1. Clause (A) of subparagraph (ii) of paragraph 4 of subdivision (c) of section 11-63 of Title 19 of the Rules of the City of New York is amended by adding a new subclause (8) to read as follows:

(8) A business that engages in pre-production activities, but not in the creation of the final product, will be considered to be engaged in manufacturing only if the pre-production activities are extensive and constitute an integral part of the manufacturing process.

§ 2. Subparagraph (v) of paragraph 4 of subdivision (c) of such section 11-63 is amended by adding new example (14) to read as follows:

(14) X Corporation produces and sells apparel. X maintains a large staff including designers, graphic artists, pattern makers, computer operators, cutters, sewers and drapers. X's staff develops original ideas for garments, produces illustrations with the aid of computer systems, and selects certain of these ideas to be converted into finished samples. The creation of the samples involves selection of fabrics, cutting, sewing, testing of fabric quality and color and fitting the prototype garments. X then uses the computer systems to make style patterns, which it transfers electronically along with detailed instructions to third-party contractors to whom it also specifies or furnishes the fabrics and other raw materials used to produce the garments. The contractors, whose operations are overseen by X's employees, assemble the garments using the patterns and materials supplied by X. X then sells the garments to its wholesale customers.

X's extensive pre-production activities are considered an integral part of the manufacturing process. As a result X is considered to be engaged in the manufacture and sale of tangible personal property. If more than 50% of X Corporation's receipts are from the sale of garments produced as described above, X will be considered a manufacturing corporation.

§3. These amendments shall be effective immediately and shall apply to all open years.

BASIS AND PURPOSE OF AMENDMENTS

This amendment affects the portion of the Rules Relating to the New York City General Corporation Tax governing the definition of “manufacturing corporations” for purposes of the election to double-weight the receipts factor of the business allocation percentage. This amendment clarifies that extensive preproduction activities that are an integral part of the manufacturing process will qualify as manufacturing activities regardless of a corporation’s line of business. Prior to this amendment the rules contained only an example illustrating this principle in the context of a publishing corporation.