Department of Finance

NYC DEPARTMENT OF FINANCE

17-2 March 1, 2017

FINANCE MEMORANDUM

Tax on Capital: Calculating Liabilities Attributable to Categories of Business Capital

New York City's recently enacted Business Corporation Tax is an adaptation of the historic General Corporation Tax, and carries over the income, capital and receipts tax bases with several modifications. This memorandum addresses the alternative tax on capital (the "Capital Base") in this context, and describes the method the Department of Finance ("DOF") will use to attribute liabilities within net business capital to properly calculate the tax. Significant modifications to the Capital Base include:

- excluding net investment capital from tax, and making net business capital the entire base for tax;
- limiting the definition of investment capital[1] and therefore expanding the scope of business capital;
- reducing all tax calculations by $10,000 and then capping them at $10,000,000; and
- applying a new 0.075% tax rate to the portion of total business capital directly attributable to stock in a subsidiary that (A) would be taxable as a utility within the meaning of the New York City Utility Tax or (B) would have been taxable as an insurance corporation under the former New York City Insurance Corporation Tax ("Insurance and Utility Capital").

The historic 0.15% tax rate continues to apply to net business capital other than net Insurance and Utility Capital ("General Business Capital"), and cooperative housing corporations continue to use a 0.04% tax rate for the entire Capital Base, consistent with the General Corporation Tax. The introduction of a new tax rate means, however, that DOF must attribute liabilities between Insurance and Utility Capital and General Business Capital to determine the amount of net business capital taxable in each tax rate category.

Calculating Liabilities Attributable to Each Category of Business Capital:

For purposes of attributing liabilities within net business capital, DOF will extend the methodology that applies to attributing liabilities between particular items of investment capital both directly and indirectly. The worksheet below provides a framework for extending that methodology. If the value of all liabilities attributable to business capital exceeds the value of such capital for the year, net business capital is zero for purposes of the Capital Base, and no attribution between tax rate categories is necessary.

[1] For more information regarding investment capital, see Finance Memorandum 15-3, *Investment Capital Identification Requirements for the Corporate Tax of 2015* (July 17, 2015).

COMPUTATION OF LIABILITIES ATTRIBUTABLE TO INVESTMENT CAPITAL AND WITHIN BUSINESS CAPITAL

A. Total liabilities		
B. Liabilities directly attributable to investment capital		
C. Liabilities directly attributable to business capital		
D. Total liabilities directly attributable (add lines B and C)		
E. Total liabilities indirectly attributable (subtract line D from Line A)		
F. Average FMV of investment capital before subtraction of liabilities attributable		
G. Average FMV of adjusted total assets		
H. Investment capital factor (divide line F by line G)		
I. Liabilities indirectly attributable to investment capital (multiply line E by line H)		
J. Average FMV of business capital before subtraction of liabilities attributable (subtract line F from line G)		
K. Liabilities indirectly attributable to business capital (subtract line I from line E)		
L. Liabilities directly and indirectly attributable to business capital (add lines C and K, if this line L exceeds line J, STOP and do not go further)		
M. Liabilities directly attributable to Insurance and Utility Capital		
N. Liabilities directly attributable to General Business Capital		
O. Average FMV of Insurance and Utility Capital before subtraction of liabilities attributable		
P. Insurance and Utility Capital factor (divide line O by line J)		
Q. Liabilities indirectly attributable to Insurance and Utility Capital (multiply line P by line K)		
R. Liabilities attributable to Insurance and Utility Capital (add lines M and Q)		
S. Net Insurance and Utility Capital (subtract line R from line O, and add any negative value from line V, if this line S has a positive value without such addition)		
T. Allocated Insurance and Utility Capital (multiply line S by the business allocation percentage, from Schedule F, line 5 of Form NYC-2 or NYC-2A)		
U. Liabilities attributable to general business capital (subtract line B, line I, line M, and line Q from line A)		
V. Net general business capital (subtract line U from line J, and add any negative value from line S, if this line V has a positive value without such addition)		
W. Allocated General Business Capital (multiply line V by the business allocation percentage, from Schedule F, line 5 of Form NYC-2 or NYC-2A)		

INSTRUCTIONS

Line A	Enter the amount from Form NYC-2, Schedule C, column C, line 6 or from Form NYC-2A, Schedule C, column D, line 6.
Line B	Enter the total average FMV of all liabilities directly traceable to the items of investment capital reported in form NYC-2.1, Schedule E, Part 4, Column G, Line 4.
Line C	Enter the total average FMV of all liabilities directly traceable to business capital, including the lesser of: a) the sum of the total average FMV of repurchase agreements and stock lending agreements, or b) the sum of the total average FMV of reverse repurchase agreements and stock borrowing agreements.
Note:	Reverse repurchase agreements, securities borrowing agreements, and their underlying securities, are business capital. Repurchase agreements and stock lending agreements are liabilities directly traceable to business capital to the extent of the sum of the total value of reverse repurchase agreements and stock borrowing agreements.
Line F	Enter the average FMV of investment capital before subtraction of liabilities attributable from Form NYC-2.1, Schedule E, Part 4, column F, line 4.
Line G	Most taxpayers should enter the amount from Form NYC-2, Schedule C, column C, line 5, or from Form NYC-2-A, Schedule C, column D, line 5. However, if you have reverse repurchase agreements and/or stock borrowing agreements, you must reduce such amount by the lesser of: a) the sum of the total average FMV of reverse repurchase agreements and stock borrowing agreements, or b) the sum of the total average FMV of repurchase agreements and stock lending agreements. For more information, see Finance Memorandum 16-2.
Line M	Enter liabilities directly attributable to the portion of total business capital directly attributable to stock in a subsidiary that would be taxable as a utility within the meaning of the New York City Utility Tax or would have been taxable as an insurance corporation under the former New York City Insurance Corporation Tax.
Line T	Enter the result into the “Computation of tax on capital base” section of Schedule C, on Forms NYC-2 and NYC-2A, on the line to which the 0.075% tax rate applies.
Line W	Enter the result into the “Computation of tax on capital base” section of Schedule C, on Forms NYC-2 and NYC-2A, on the line to which the 0.15% tax rate applies.