



Article 9-A Tax Rates for Eligible Qualified New York Manufacturers

Chapter 56 of the Laws of 2011 reduced the tax rates for *eligible qualified New York manufacturers* for taxable years beginning on or after January 1, 2012, and before January 1, 2015. This memorandum explains the guidelines and criteria an Article 9-A taxpayer must meet in order to be classified as an *eligible qualified New York manufacturer*.

Reduced tax rates

Article 9-A taxpayers that qualify as *eligible qualified New York manufacturers* can use reduced tax rates for tax years 2012 through 2014. The rates have been reduced as follows:

- The rate on the entire net income base has been reduced from 6.5% to 3.25%.
- The tax rate on the minimum taxable income base has been reduced from 1.5% to 0.75%.
- The amount of the fixed dollar minimum tax will be one-half of the amounts set in the law.

Eligibility requirements

Chapter 56 directed the Tax Department to establish guidelines and criteria to specify the requirements to be classified as an *eligible qualified New York manufacturer*.

To meet the eligibility requirements to qualify for the reduced tax rates for a particular tax year, a taxpayer must:

- satisfy the property and receipts tests described below for that year;
- have a Metropolitan Commuter Transportation District (MCTD) allocation percentage of less than 15% for that year; and
- have an average of 100 or fewer full-time equivalent employees in New York State during the tax year.

Property test. A taxpayer must have tangible property in New York State that is principally used by the taxpayer in the production of goods by manufacturing, processing,

assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, and either:

- the adjusted basis of that property for federal income tax purposes is at least \$1 million at the close of the tax year; or
- all of its real and personal property is located in New York State.

Receipts test. A taxpayer must be principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing during the tax year. A taxpayer is *principally engaged* in manufacturing activities if during the tax year more than 50% of its gross receipts are derived from receipts for the sale of goods produced by these activities. The generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are not qualifying activities.

MCTD allocation percentage. A taxpayer must have a MCTD allocation percentage of less than 15%. The MCTD allocation percentage is calculated using a single-weighted property factor, a single-weighted receipts factor, and a single-weighted payroll factor.

Note: A taxpayer that has no property, payroll, and sales in the MCTD region, and therefore has a zero MCTD allocation percentage, satisfies this criterion.

For information on how to compute the MCTD allocation percentage, see the instructions for Form CT-3M/4M, *General Business Corporation MTA Surcharge Return*.

Employment threshold. To compute the average number of full-time employees, a taxpayer will add its full-time employees in New York State on March 31, June 30, September 30, and December 31 and divide the total by 4. General executive officers are excluded from the computation.

An *employee* includes every individual, except a general executive officer, whose relationship with the taxpayer is that of employee and employer. This relationship exists when the taxpayer has the right to control and direct the individual not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. If the relationship of employer and employee exists, the designation or description of the relationship, and the measure, method, or designation of the compensation are immaterial.

Full-time employee means an employee in a job consisting of at least 35 hours per week, or two or more employees who are in jobs that together constitute the equivalent of a job of at least 35 hours per week (full-time equivalent). A seasonal employee in a job that meets these requirements constitutes a full-time employee if the job is continuous for at least three months.

Employees within New York State include all employees regularly connected with or working out of an office or place of business of the taxpayer within New York State.

Combined filers

A combined group will qualify as an *eligible qualified New York manufacturer* if the combined group meets all four eligibility requirements. In computing a combined group's gross receipts, intercorporate receipts are eliminated.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.