

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-81(6)C (Revised)
Corporation Tax
December 25, 1981

This memorandum supersedes memorandum TSB-M-81(6)C, dated July 29, 1981, which should be destroyed. The new material has been underlined for quick reference.

1981 Legislation

Exemption of New Small Business Corporations from the Tax on Capital

Section 12 of Chapter 103, as amended by Chapter 1043, of the Laws of 1981 added a new section 210.1-c to Article 9-A of the New York State Tax Law.

For taxable years commencing on or after January 1, 1981, the tax on business and investment capital will not apply to certain corporations for the first two taxable years of a taxpayer which, for one or both such years, is a "Small Business Concern".

A "Small Business Concern" must meet the following requirements:

1. is a small business corporation as defined by Section 1244 of the Internal Revenue Code. Section 1244(c)(3) states that a corporation will qualify as a small business if the total amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid in surplus, does not exceed \$1,000,000.
2. is not a corporation which is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32 or Article 33 of Chapter 60; Article 23 of Chapter 60 or which would have been subject to the tax under Article 23 (as such article was in effect on January 1, 1980) or the income (or losses) of which is (or was) includable under Article 22 of Chapter 60 of the Tax Law.
3. is not a corporation which over 50% of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer which:
 - a. is subject to the tax under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32 or Article 33 of the Tax Law

AND

- b. does not qualify as a small business corporation as defined by section 1244(c)(3) of the Internal Revenue Code.
4. At least 90% of the assets of the corporation, valued at original cost, are located and employed in New York State during the taxable year.
5. At least 80% of the employees of the corporation, are principally employed in New York State during the taxable year.