

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

TSB-M-79 (5)C
Corporation Tax
June 27, 1979

Allocation of Broadcasting Receipts with respect to the Business
Allocation Percentage

The regulations pertaining to the receipts factor of the business allocation percentage have been amended. Subdivision (d) of Section 4-4.3 of the regulations with respect to Franchise Tax on Business Corporations imposed by Article 9-A of the New York State Tax Law has been renumbered (d)(1) and paragraph (d)(2) has been added as follows:

"(2) The broadcasting of radio and television programs and commercial messages by way of radio and television antenna pursuant to a license granted by the Federal Communication Commission is deemed to be a service. When a lump sum is received for such service, that lump sum shall be allocated to New York State and another state or states according to the number of listeners or viewers in each state."

A radio or television station that derives receipts from local stations advertisers and/or network advertisers must include such receipts in the receipts factor of the business allocation percentage. In order to determine the New York portion of the advertising receipts of stations granted a licence by the Federal Communication Commission, the following formula must be used:

$$\frac{\text{New York Audience*}}{\text{Total Audience* Reached}} \times \text{Local Advertising Receipts + Payments** From Network} = \text{New York Broadcast Advertising Receipts}$$

Where a network receives a lump sum for the service of broadcasting network radio and television programs and commercial messages, the New York portion of such receipts must be determined by the following formula:

$$\frac{\text{New York Audience*}}{\text{Total Audience* Reached}} \times \text{Network Advertising Receipts} = \text{New York Broadcast Network Advertising Receipts}$$

The "Total Audience* Reached" for both formulas can include audiences reached outside the United States based upon the June 27, 1979 Tax Commission meeting. At the same meeting, it was decided to allow the above formulas to be applied retroactively to all periods open by the statute.

* MUST BE MEASURED BY AN ESTABLISHED INDEPENDENT RATING SERVICE WHICH MEASURES ACTUAL VIEWING AND LISTENING AUDIENCE PARTICIPATION.

**Payments to each owned station must be computed as if actual payment were made.

A corporation may not use any alternative method of measuring audience participation without the prior consent of the State Tax Commission. An application to change to a different method of measuring audience participation must be in writing and must be submitted at least 6 months prior to the original due date of the calendar or fiscal year return for which the change is requested. The application must contain the following information:

1. An explanation of how the corporation proposes to allocate broadcasting receipts.
2. A schedule showing the computation of the allocated broadcasting receipts using the prescribed method and the corporation's proposed alternative method for the current taxable year.
3. A copy of Schedule G of form CT-3 (New York State Corporation Franchise Tax Report) for the current year.
4. A revised Schedule G in which the receipts factor was computed using the corporation's alternative method for allocating broadcasting receipts for the current year.
5. A schedule showing the computation of the tax due for the current year using the statutory method.
6. A schedule showing the computation of tax that would be due for the current year using the proposed method.

This request should be sent to:

State Tax Commission
c/o Director - Audit Division
State Campus
Building 9,
Albany, NY 12227

If the alternative method is approved, it is only tentative permission subject to revision or revocation on audit.