

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

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Corporation Tax  
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Computation of Minimum Taxable Income Base and Minimum Tax Credit

For tax years beginning in and after 1990 the Article 9-A tax on the pre-1990 minimum taxable income base is replaced by a more extensive minimum taxable income base computation. The tax rate for tax years beginning in 1990 is 5% of the minimum taxable income base, which is defined as the portion of minimum taxable income allocated to New York, subject to the modifications prescribed by Tax Law, § 210.3(d) & (e). The rate will drop to 4 1/2% for tax years beginning in 1991, and to 3 1/2% for subsequent years.

The term "minimum taxable income" means (1) entire net income, plus (2) certain federal items of tax preference (IRC, § 57), plus or minus (3) certain federal adjustments (IRC, §§ 56 and 58), plus (4) the New York net operating loss deduction otherwise allowed under Tax Law section 208.9(f).

The Federal items of tax preference included in the computation of New York minimum taxable income are:

- (1) Depletion (IRC, § 59(a)(1))
- (2) Intangible drilling costs (IRC, -5 59(a)(2))
- (3) Appreciated property charitable deduction (IRC, § 57(a) (6)) .

The Federal adjustments which are included in the computation of New York minimum taxable income are:

- (1) "Depreciation" as determined under IRC, § 56 (a) (1), except that the depreciation item of adjustment does not include any amount attributable to property with respect to which the tax benefits of the ACRS method of depreciation are not available per Tax Law section 208.9(b)(10), (e.g., Property not located within New York State. )
- (2) "Mining exploration and development costs" per' IRC, § 56(a) (2) .
- (3) "Treatment of certain long-teem contracts" per IRC, § 56(8) (3) .
- (4) "Installment sales of certain property" per IRC, § 56(a) (6) .
- (5) "Circulation expenditures of personal holding companies" per IRC § 56 (b) (2) (C).

- (6) "Merchant marine capital construction funds" per IRC, § 56 (c) (2).
- (7) "Disallowance of passive activity loss" per IRC, § 58 (b).
- (8) "Adjusted basis", as it appears in IRC, § 56 (a) (7) , but taking into account the reference to IRC, § 56(a) (5).

The portion of minimum taxable income to be allocated within New York is computed as follows:

- (1) Multiply the alternative business income by the alternative business allocation percentage (BAP) (3 fac tor formula consisting of property, wages and receipts, without double weighing of receipts; for aviation firms in place of such formula utilize the formula set forth in Tax Law § 210.3(a) (7))
- (2) Multiply the alternative investment income by the investment allocation percentage,
- (3) Add the products shown above to arrive at the minimum taxable income allocated to New York State.

Alternative business income means minimum taxable income less alternative investment income. Alternative investment income is the sum of investment income, is defined in Tax Law section 208.6, plus any income from investment capital which is not included in entire net income for the year at issue but which is included in minimum taxable income.

Where necessary, the allocation factors entering into the computation of the alternative BAP must be modified to reflect the items utilized in computing minimum taxable income. For example, if certain receipts are added to entire net income by reason of the application of the completed contract method for alternative minimum tax purposes, such receipts must be included in the receipts factor utilized in computing the alternative BAP.

#### EXAMPLE

##### COMPUTATION OF MINIMUM TAXABLE INCOME BASE

Entire net income	\$400,000
(Business income \$300,000 + Investment Income \$100,000)	
Tax preference item (from Federal form 4626)	
Appreciated property charitable deduction	50,000

Adjustments	
Long term contracts (from Federal form 4626)	30,000
Depreciation (see discussion following this example for explanation of this item of adjustment)	10,000
New York Net Operating Loss Deduction (NOLD)	<u>40,000</u>
Minimum Taxable Income (before allocation to New York)	\$530,000

Allocation of Minimum Taxable Income

Investment income included in computing ENI	\$100,000
N.Y. NOLD attributable to investment income (NOLD) apportioned between investment and business income; Tax Reg § 3-8.8)	10,000
Portion of minimum taxable income which consists of income from investment capital and which is <u>not</u> included in ENI: Appreciated property charitable deduction for contributed stock, treated as an item of tax preference	50,000
Alternative investment income	\$160,000
Allocated alternative investment income \$ 160,000 x 20% ( Investment allocation percentage for purposes of this example)	32,000
Alternative business income for allocation (Minimum Taxable Income-Alternative Investment Income (\$530,000 - \$160,000) )	370,000

Alternative BAP

	New York	Everywhere	Factor
Property Factor	\$ 25,000	\$ 100,000	25%
Payroll Factor	15,000	100,000	15%
Receipts Factor*	150,000	300,000	50%

(receipts factor for alternative BAP must be modified to reflect the long term contract item of adjustment ; thus, \$30,000 must be added to the New York receipts of \$120,000 and world-wide receipts of \$270,000, which figures were utilized in computing the receipts factor for the regular BAP)

Alternative BAP:  $25\% + 15\% + 50\% = 90\%$  divided by 3 (receipts factor single weighted) = 30%

Allocated alternative Business Income:  $\$370,000 \times 30\% = \$111,000$

Allocated Minimum taxable income  
(alternative business income(\$111,000) +  
alternative investment income (\$32,000)) \$143,000

Optional Depreciation 0

Tax on minimum taxable income base \$ 7,150  
( $\$143,000 \times 5\%$ )

#### Depreciation Adjustment

The AMT depreciation adjustment for Federal purposes generally requires that the IRC § 168 depreciation deduction (e.g. MACRS) for property placed in service after 1986 must be recomputed. New York State allows the IRC § 168 depreciation deduction only for :

- 1) property subject to IRC § 280F which is placed in service within and without New York State,
- 2) property placed in service within New York in taxable years beginning after 1984, and
- 3) property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which was placed in service before taxable years beginning in 1989, whether within or without New York.

The New York minimum taxable income base depreciation adjustment is thus the difference between the total depreciation for the taxpayer's property included in the three categories listed above, recomputed in accordance with IRC § 56(a)(1), and the total depreciation For such property for entire net income purposes. Thus, for a taxpayer which has filed Federal form 4626, the amount of its New York depreciation adjustment may be derived From its Federal AMT depreciation adjustment (Federal form 4626 line 2a), as illustrated below.

#### NEW YORK MINIMUM TAXABLE INCOME BASE DEPRECIATION ADJUSTMENT USED IN PRIOR EXAMPLE (the taxpayer has filed Federal form 4626)

Federal AMT depreciation adjustment \$40,000  
(amount on Federal Form 4626 line 2a)

NEW YORK PROPERTY INCLUDED WITHIN THE FEDERAL AMT DEPRECIATION  
ADJUSTMENT (\$40,000)

Category of Property	Federal Adjustment Pursuant to § 56(a)(1)
1. IRC § 280F property	\$ 5,000
2. Property placed in service in New Jersey in 1990	6,000
3. Property placed in service in New York in 1989	3,000
4. Aviation property placed in service in 1988	2,000
5. Aviation property placed in service in a calendar 1989 taxable year	<u>6,000</u>
FEDERAL AMT DEPRECIATION ADJUSTMENT	\$22,000
NEW YORK MINIMUM TAXABLE INCOME BASE DEPRECIATION ADJUSTMENT (Federal adjustment recomputed taking into account only items 1, 3 & 4 )	10,000

Taxpayers which are not required to determine their AMT for Federal purposes (not required to file Federal form 4626), are nevertheless to compute their Federal AMT for New York purposes. Thus, since such taxpayers did not compute their Federal alternative depreciation adjustment they must recompute the depreciation amount for the property included in the three categories listed above in accordance with the rules set forth in IRC § 56(a)(1). The New York depreciation adjustment is the difference between the total depreciation for such property recomputed in accordance with IRC § 56(a) (1) and the total depreciation for such property for entire net income purposes.

MINIMUM TAX CREDIT

The Tax Law provides for a minimum tax credit, available for use against tax compute on the entire net income base. The credit is designed to prevent double-counting of income (or to ensure the full allowance of appropriate deductions) which might otherwise arise because of timing items of tax preference and adjustment (Tax Law section 210.13).

The minimum tax credit for any taxable year is the excess (if any) of the "adjusted minimum tax" imposed for all prior taxable year's beginning after December 31, 1989 over the amount allowed as minimum tax credits for such prior years.

The adjusted minimum tax is in essence the minimum tax determined solely with regard to timing items. It is computed, for any taxable year, as the excess of (A) the amount of the minimum tax for such taxable year, reduced by the highest of the tax amount computed on the entire net income base, the tax amount computed on the capital base and the fixed dollar minimum for such year, over (B) the amount which would be the minimum tax for such taxable year if the only adjustments and items of tax preference taken into account were the items of tax preference relating to depletion and appreciated property charitable deductions, reduced (but not below zero) by the highest of the tax amount computed on the entire net income base, the tax amount computed on the capital base and the fixed dollar minimum for such year.

The following examples show how the minimum tax credit is computed.

EXAMPLE

FACTS: (For corporation with a taxable year ending December 31, 1990 computes the following amounts:)

Tax on Entire Net Income Base	\$1,200
Tax on Capital Base	500
Fixed Dollar Minimum Tax	425
Tax on Minimum Taxable Income Base	5,000

Accordingly, the taxpayer pays a tax of \$5,000 on the minimum taxable income base. A minimum tax credit may not be applied against such a tax; it is available only against a tax based on the entire net income base. The "adjusted minimum tax," a figure which will be utilized in a later year in the computation of the minimum tax credit for such later year, is computed as follows:

COMPUTATION OF MINIMUM TAX CREDIT

Tax on Minimum Taxable Income Base	\$5,000
Tax on Entire Net Income Base (highest of the other tax bases)	<u>1,200</u> 3,800
Modified Minimum Tax (This is the minimum tax recomputed as if the only adjustments and items of tax preference taken into account were the items of tax preference for depletion and appreciated property charitable deductions; see CT-3 ATT, schedule A, part II and accompanying instructions) .	3,000
Tax on Entire Net Income Base	<u>-1,200</u> 1,800
Adjusted Minimum Tax for tax year 1990 (3,800-1,800=2,000)	<u>2,000</u>

No minimum tax credit is available for 1990, because that credit is available only against a tax computed on the entire net income base, and the taxpayer in this example pays tax computed on the minimum taxable income base. However, the taxpayer's adjusted minimum tax For 1990 may be utilized in the computation of a minimum tax credit in the future, as follows.

For its taxable year ending December 31,1991 , the taxpayer computed the following amounts:

Tax on Entire Net Income Base	\$11,500
Tax on Capital Base	500
Fixed Dollar Minimum	425
Tax on Minimum Taxable Income Base	10,000

Since tax is computed on the entire net income base, a minimum tax credit may be deducted from the tax otherwise due. The credit is computed as follows:

Adjusted minimum tax for all <u>prior</u> taxable years beginning after 12/31/89 (in the case, for calender 1990)	2,000
Minimum tax credit allowed for all <u>prior</u> taxable years beginning after 12/31/89	- <u>0</u>
Minimum Tax Credit for 1991	\$2,000

The \$2,000 minimum tax credit is available for use against the tax on the entire net income base (\$11,500). However, the tax on the entire net income base may not be reduced by the application of credits to an amount less than the higher of the tax computed on the minimum taxable income base (\$10,000) and the fixed dollar minimum (\$450). Thus, only \$1,500 of the minimum tax credit may be applied against the tax otherwise due. For purposes of computing the minimum tax credit in future years, only \$1,500 worth of such credit will be treated as having been allowed for the taxpayer's 1991 taxable year.