

**Executive Budget Language Re: Single Sales Factor Allocation  
for Article 9-A Manufacturing Taxpayers**

STATE OF NEW YORK

---

S. 6060--A

A. 9560--A

SENATE - ASSEMBLY

January 21, 2004

Page 23

21

PART I

22 Section 1. Paragraph (a) of subdivision 3 of section 210 of the tax  
23 law is amended by adding a new subparagraph 10 to read as follows:

24 (10) (A) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH,  
25 THE BUSINESS ALLOCATION PERCENTAGE OF A MANUFACTURER SHALL BE COMPUTED  
26 IN THE MANNER SET FORTH IN THIS SUBPARAGRAPH.

27 (I) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
28 SAND FIVE AND BEFORE JANUARY FIRST, TWO THOUSAND SIX, THE BUSINESS ALLO-  
29 CATION PERCENTAGE OF A MANUFACTURER SHALL BE DETERMINED BY ADDING  
30 TOGETHER THE FOLLOWING PERCENTAGES:

31 (I) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
32 SUBPARAGRAPH ONE OF THIS PARAGRAPH,

33 (II) THE PRODUCT OF SIXTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
34 SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

35 (III) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED  
36 UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

37 (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
38 SAND SIX AND BEFORE JANUARY FIRST, TWO THOUSAND SEVEN, THE BUSINESS  
39 ALLOCATION PERCENTAGE OF A MANUFACTURER SHALL BE DETERMINED BY ADDING  
40 TOGETHER THE FOLLOWING PERCENTAGES:

41 (I) THE PRODUCT OF FIFTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
42 SUBPARAGRAPH ONE OF THIS PARAGRAPH,

43 (II) THE PRODUCT OF SEVENTY PERCENT AND THE PERCENTAGE DETERMINED  
44 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

45 (III) THE PRODUCT OF FIFTEEN PERCENT AND THE PERCENTAGE DETERMINED  
46 UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

47 (III) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
48 SAND SEVEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHT, THE BUSINESS  
49 ALLOCATION PERCENTAGE OF A MANUFACTURER SHALL BE DETERMINED BY ADDING  
50 TOGETHER THE FOLLOWING PERCENTAGES:

51 (I) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
52 SUBPARAGRAPH ONE OF THIS PARAGRAPH,

53 (II) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
54 SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

1 (III) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
2 SUBPARAGRAPH THREE OF THIS PARAGRAPH.

3 (IV) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
4 SAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, THE BUSINESS  
5 ALLOCATION PERCENTAGE OF A MANUFACTURER SHALL BE DETERMINED BY ADDING  
6 TOGETHER THE FOLLOWING PERCENTAGES:

7 (I) THE PRODUCT OF FIVE PERCENT AND THE PERCENTAGE DETERMINED UNDER  
8 SUBPARAGRAPH ONE OF THIS PARAGRAPH,

9 (II) THE PRODUCT OF NINETY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
10 SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

11 (III) THE PRODUCT OF FIVE PERCENT AND THE PERCENTAGE DETERMINED UNDER  
12 SUBPARAGRAPH THREE OF THIS PARAGRAPH.

13 (V) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
14 SAND NINE, THE BUSINESS ALLOCATION PERCENTAGE OF A MANUFACTURER SHALL BE  
15 THE PERCENTAGE PROVIDED FOR IN SUBPARAGRAPH TWO OF THIS PARAGRAPH.

16 (B) FOR PURPOSES OF THIS SUBPARAGRAPH, SUBDIVISION THREE-A OF THIS  
17 SECTION AND SUBDIVISION TWO-C OF SECTION TWO HUNDRED NINE-B OF THIS  
18 ARTICLE, THE TERM "MANUFACTURER" SHALL MEAN A TAXPAYER WHICH DURING THE  
19 TAXABLE YEAR IS PRINCIPALLY ENGAGED IN ACTIVITIES DESCRIBED IN CLAUSE  
20 (A) OR (C), OR ANY COMBINATION THEREOF, OF SUBPARAGRAPH (I) OF PARAGRAPH  
21 (B) OF SUBDIVISION TWELVE OF THIS SECTION. MOREOVER, FOR PURPOSES OF  
22 COMPUTING A BUSINESS ALLOCATION PERCENTAGE IN A COMBINED REPORT, THE  
23 ENTIRE COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURER" FOR PURPOSES  
24 OF THIS SUBPARAGRAPH IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS  
25 PRINCIPALLY ENGAGED IN ACTIVITIES DESCRIBED IN CLAUSE (A) OR (C), OR ANY  
26 COMBINATION THEREOF, OF SUBPARAGRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION  
27 TWELVE OF THIS SECTION. A TAXPAYER OR A COMBINED GROUP SHALL BE "PRINCI-  
28 PALLY ENGAGED" IN ACTIVITIES DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARA-  
29 GRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF THIS SECTION IF,  
30 DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE TAXPAYER'S OR  
31 COMBINED GROUP'S GROSS RECEIPTS ARE DERIVED FROM SUCH ACTIVITIES. IN  
32 COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS  
33 SHALL BE ELIMINATED.

34 S 2. Paragraph (a) of subdivision 3-a of section 210 of the tax law,  
35 as amended by chapter 170 of the laws of 1994, is amended to read as  
36 follows:

37 (a) Multiply its alternative business income by an alternative busi-  
38 ness allocation percentage determined pursuant to the method prescribed  
39 in subdivision three of this section except that for taxable years  
40 beginning before nineteen hundred ninety-four the additional percentage  
41 (referred to in subparagraph four of paragraph (a) of such subdivision)  
42 equal to the percentage determined under subparagraph two of paragraph  
43 (a) of such subdivision shall be disregarded and not added together with  
44 the other percentages, and except that the percentages employed in such  
45 subdivision three shall be modified to reflect the factors utilized in  
46 computing minimum taxable income, provided, however, that a taxpayer  
47 principally engaged in the conduct of aviation (other than air freight  
48 forwarders acting as principal and like indirect air carriers) shall  
49 determine its alternative business allocation percentage pursuant to the

50 method prescribed in subparagraph seven of paragraph (a) of subdivision  
51 three of this section, PROVIDED FURTHER, HOWEVER, THAT A TAXPAYER WHICH  
52 IS A MANUFACTURER, AS DEFINED IN CLAUSE (B) OF SUBPARAGRAPH TEN OF PARA-  
53 GRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, SHALL DETERMINE ITS  
54 ALTERNATIVE BUSINESS ALLOCATION PERCENTAGE PURSUANT TO THE METHOD  
55 PRESCRIBED IN CLAUSE (A) OF SUCH SUBPARAGRAPH TEN.

S. 6060--A

25

A. 9560--A

1 S 3. Section 209-B of the tax law is amended by adding a new subdivi-  
2 sion 2-c to read as follows:

3 2-C. A TAXPAYER WHICH IS A MANUFACTURER AS DEFINED IN CLAUSE (B) OF  
4 SUBPARAGRAPH TEN OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO  
5 HUNDRED TEN OF THIS ARTICLE SHALL, NOTWITHSTANDING THE PROVISIONS OF  
6 SUBDIVISION TWO OF THIS SECTION, DETERMINE THE PERCENTAGE OF ITS BUSI-  
7 NESS ACTIVITY CARRIED ON WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION  
8 DISTRICT IN THE MANNER SET FORTH IN THIS SUBDIVISION.

9 (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
10 SAND FIVE AND BEFORE JANUARY FIRST, TWO THOUSAND SIX, THE PERCENTAGE OF  
11 A MANUFACTURER'S BUSINESS ACTIVITY CARRIED ON WITHIN THE METROPOLITAN  
12 COMMUTER TRANSPORTATION DISTRICT SHALL BE DETERMINED BY ADDING TOGETHER  
13 THE FOLLOWING PERCENTAGES:

14 (I) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
15 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION,

16 (II) THE PRODUCT OF SIXTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
17 PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, AND

18 (III) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED  
19 UNDER PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

20 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
21 SAND SIX AND BEFORE JANUARY FIRST, TWO THOUSAND SEVEN, THE PERCENTAGE OF  
22 A MANUFACTURER'S BUSINESS CARRIED ON WITHIN THE METROPOLITAN COMMUTER  
23 TRANSPORTATION DISTRICT SHALL BE DETERMINED BY ADDING TOGETHER THE  
24 FOLLOWING PERCENTAGES:

25 (I) THE PRODUCT OF FIFTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
26 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION,

27 (II) THE PRODUCT OF SEVENTY PERCENT AND THE PERCENTAGE DETERMINED  
28 UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, AND

29 (III) THE PRODUCT OF FIFTEEN PERCENT AND THE PERCENTAGE DETERMINED  
30 UNDER PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

31 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
32 SAND SEVEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHT, THE PERCENTAGE  
33 OF A MANUFACTURER'S BUSINESS ACTIVITY CARRIED ON WITHIN THE METROPOLITAN  
34 COMMUTER TRANSPORTATION DISTRICT SHALL BE DETERMINED BY ADDING TOGETHER  
35 THE FOLLOWING PERCENTAGES:

36 (I) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
37 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION,

38 (II) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
39 PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, AND

40 (III) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
41 PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

42 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-

43 SAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, THE PERCENTAGE  
44 OF A MANUFACTURER`S BUSINESS ACTIVITY CARRIED ON WITHIN THE METROPOLITAN  
45 COMMUTER TRANSPORTATION DISTRICT SHALL BE DETERMINED BY ADDING TOGETHER  
46 THE FOLLOWING PERCENTAGES:

47 (I) THE PRODUCT OF FIVE PERCENT AND THE PERCENTAGE DETERMINED UNDER  
48 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION,

49 (II) THE PRODUCT OF NINETY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
50 PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, AND

51 (III) THE PRODUCT OF FIVE PERCENT AND THE PERCENTAGE DETERMINED UNDER  
52 PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

53 (E) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
54 SAND NINE, THE PERCENTAGE OF A MANUFACTURER`S BUSINESS ACTIVITY CARRIED  
55 ON WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT SHALL BE THE

S. 6060--A

26

A. 9560--A

1 PERCENTAGE PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION TWO OF THIS  
2 SECTION.

3 S 4. This act shall take effect immediately.