

Part AA-1 of Chapter 57 of the Laws of 2008 restructures the member based filing fees for limited liability companies (LLCs) and limited liability partnerships, and changes the basis for the fixed dollar minimum tax on New York Article 9-A C and S corporations. The new structure is outlined in the table below.

NY Source Gross Income or Receipts

| | <i>LLC Fee</i> | <i>S Corp</i> | <i>C Corp</i> |
|----------------------------|----------------|---------------|---------------|
| Not more than \$100,000 | \$25 | \$25 | \$25 |
| \$100,001 - \$250,000 | \$50 | \$50 | \$75 |
| \$250,001 - \$500,000 | \$175 | \$175 | \$175 |
| \$500,001 - \$1,000,000 | \$500 | \$300 | \$500 |
| \$1,000,001 - \$5,000,000 | \$1,500 | \$1,000 | \$1,500 |
| \$5,000,001 - \$25,000,000 | \$3,000 | \$3,000 | \$3,500 |
| \$25,000,001 - Over | \$4,500 | \$4,500 | \$5,000 |

C and S Corporations

The old fixed dollar minimum tax on these corporations ranges from \$100 for payrolls of \$250,000 or less to \$1,500 for payrolls of \$6.25 million or more. The new fixed dollar minimum will vary depending on the amount of New York receipts as outlined in the table above. The current fixed dollar minimum of \$800 for corporations with total receipts, assets, and payroll all \$1,000 or less, is eliminated, with these entities paying \$25 under the new structure. The fixed dollar minimum tax is only one of four tax bases that a C corporation may pay tax under. Therefore, it is possible that this new structure will allow C corporations to pay tax on their entire net income, capital, or minimum taxable income.

Foreign C and S corporations whose total tax liability (including MTA surcharge) is less than \$300 must still raise their payment to this amount to satisfy the maintenance fee requirement.

The new fee and fixed dollar minimum structure will apply to taxable years beginning on or after January 1, 2008.

Liability Companies (and Limited Liability Partnerships)

The reform converts the current filing fee of \$50 per member (\$325 minimum and \$10,000 maximum) to a fee based on New York source gross income as shown in the table. Additionally, single member LLCs, which are disregarded entities for Federal income tax purposes, are now required to remit a filing fee of \$25 beginning in 2008.