New York State Department of Taxation and Finance

1992

Instructions for Forms CT-3 and CT-3-ATT CT-3-I

General Business Corporation Franchise Tax Return and Attachment

General Information

Who Must File

All general business corporations other than New York S corporations must file franchise tax returns on either Form CT-3 or Form CT-4. This includes both corporations organized under New York State law and foreign corporations (those organized under the laws of any other state or country) that do business, employ capital, own or lease property or maintain an office in New York State.

The definition of corporation, as used in Article 9-A of the Tax Law and in these instructions, has been expanded to include associations and publicly traded partnerships which are taxed as corporations under the Internal Revenue Code (Chapter 61, Laws of 1989). These associations and publicly traded partnerships must file Form CT-3 or CT-4 for periods beginning on or after January 1, 1989.

A general business corporation includes all corporations except:

— Banking corporations (Article 32)

— Insurance corporations (Article 33)

— Transportation and transmission corporations (Article 9)

— Utility companies (Article 9)

— Farmers and agricultural cooperatives (Article 9)

— Nonstock, not-for-profit corporations (these may be subject to an unrelated business income tax) (Article 13)

Exception: Foreign taxicab and foreign omnibus corporations, that annually conduct fewer than 12 trips into New York State, are exempt from filing Form CT-3. However, if the corporation fails to file Form CT-184-R and pay the required tax or files Form CT-184-R late, it will then be taxable under Article 9-A that tax year and must file Form CT-3 and pay the appropriate taxes, interest and penalties. See Form CT-184-R and TSB-M-88(8)C for more information.

New York S corporations: a general business corporation that has elected to be treated as an S corporation (by filing Form CT-6) must file either Form CT-3-S or Form CT-4-S, *New York S Corporation Franchise Tax Return*, instead of Form CT-3 or Form CT-4.

Which Form to File

Form CT-4, *General Business Corporation Franchise Tax Return*, is a simplified general business franchise tax return that will meet the filing needs of most small businesses.

You may use Form CT-4 (short form) if you meet all of the following:

- You are a qualified **small business taxpayer.** A corporation qualifies as a small business taxpayer if:

  Its entire net income (before allocation) is not more than $290,000; **and**

  The total amount of money and other property it received for stock, as a contribution to capital and as paid in surplus, is not more than $1 million as of the last day of its tax year; **and**

  The corporation is not part of an affiliated group, as defined in IRC section 1504, unless the group itself would have met the above criteria if it had filed a combined return;

- Your combined franchise tax and tax surcharge are less than $1,000;

- You have no federal adjustment or tax preference items except for a depreciation adjustment which would be used to compute the minimum taxable income base.

You must use Form CT-3 if your total franchise tax and tax surcharge is more than $1,000 or you do not meet all of the above conditions as a small business taxpayer. Even if you do meet the above qualifications, you must file Form CT-3 **if any** of the following conditions exist:

- You claim a deduction for a net operating loss, capital loss or optional depreciation.

- You claim any tax credits. Tax credits include eligible business facility tax credit, investment tax credit, employment incentive tax credit, special additional mortgage recording tax credit, research and development tax credit carryover, economic development zone credits, and minimum tax credit.

- You are a real estate investment trust, a taxable domestic international sales corporation (DISC) or a stockholder in a DISC (see *Special Instructions for DISCS*).

- You have business income or capital attributable to sources outside New York State, and you want to allocate this income or capital to avoid paying New York tax on the entire amount.

- You have investment income and capital, and you want to allocate the income or capital to avoid paying tax on the entire amount.

- You have a subsidiary (another corporation you control because you own more than half of its voting stock).

- You were involved in a merger, acquisition or consolidation in the current year.

- You are a new small business corporation (first or second year) and you want to claim an exemption from the tax based on business and investment capital. (See the instructions for Form CT-3, line 69.)

- You have any adjustments (other than for depreciation) or tax preference items used to compute the minimum taxable income base.

Other Forms You May Have to File

Form CT-3M/4M, *Metropolitan Transportation Business Tax (MTA Surcharge) Return*, must be filed by any corporation taxable under Article 9-A that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District.

Form CT-5, *Application for Automatic Six-Month Extension for Filing a Franchise or Business Tax Return,* is an application for a six-month extension of time to file a tax return for general business corporations. File it on or before the due date of the return.

Form CT-5.1, *Application for Additional Extension,* is a request for additional time to file a tax return. File it on or before the expiration date of the original extension.

Form CT-5.3, *Application for Automatic Six-Month Extension for Filing a Franchise Tax Return — Combined Filer*, must be used by a combined group to request a six-month extension of time to file a combined group tax return and to provide detailed information about the amounts and kinds of payments made by the members of the group.

Form CT-5.4, *Application for Automatic Six-month Extension for Filing Form CT-3-S or Form CT-4-S*, is an application for a six-month extension of time to file a *New York S Corporation Franchise Tax Return*. File it on or before the due date of the return with a payment of at least 90% of the franchise tax and tax surcharge.

Form CT-399, *Schedule for Depreciation Adjustments,* must be used to compute the allowable New York State depreciation deduction if you claim the federal Accelerated Cost Recovery System (ACRS) depreciation and Modified Accelerated Cost Recovery System (MACRS) deduction for certain property placed in service after December 31, 1980.

This form also contains schedules for determining a New York State gain or loss on the disposition of ACRS or MACRS property.

Form CT-222, *Underpayment of Estimated Tax by Corporations,* will help you determine if you have underpaid an estimated tax installment and, if so, compute the penalty due.

Form CT-3, Schedule F, *Acquisition, Merger and Consolidation Information Report,* must be filed by any corporation taxable under Article 9-A that is involved in an acquisition, merger or consolidation during any tax period ending after April 19, 1989.

Form CT-3-A, *Combined Franchise Tax Return for General Business Corporations,* should only be filed by corporations that have been granted permission or are required by the Commissioner of Taxation and Finance to file a combined return.

Request for permission to file a combined return must be submitted *no later than 30* days following the end of the tax year.

Form CT-3-B, *Tax Exempt DISC Information Return,* must be filed by domestic international sales corporations within 8½ months after the end of the tax year. See *Special Instructions for DISCS* (page 4 of these instructions).

Form CT-3-S or CT-4-S, *New York S Corporation Franchise Tax Return,* must be filed by a business corporation whose shareholders have made a valid election (by filing Form CT-6) to be treated as a New York S corporation.

Form CT-33-D, *Tax on Premiums Paid or Payable to an Unauthorized Insurer on Risks Located Within New York State,* must be filed if you have purchased or renewed a taxable insurance contract from an insurer not authorized to transact business in New York State. This return must be filed within 60 days following the end of the calendar quarter in which the contract was purchased or renewed.

Form CT-186-A, *Tax Return for Gross Operating Income,* must be filed by a corporation not supervised by the New York State Department of Public Service who engages in the sale or furnishing of gas, electricity, steam, water, refrigeration, telephony or telegraphy.

Form CT-240, *Report of License Fee,* must be filed by all corporations organized under the laws of any other state or country which do business in New York State. This report must be filed when you file your first franchise tax return, or if the capital stock employed in New York State has increased since the last license fee report was filed.

Form CT-400, *Declaration of Estimated Tax,* must be filed by any corporation whose New York State tax liability can reasonably be expected to exceed $1,000. See *Estimated Tax and Tax Surcharge.*

Form CT-3360, *Federal Changes Made by the IRS to Corporate Taxable Income,* must be used to report any correction made by the Internal Revenue Service in taxable income previously reported for any year, including changes based on the renegotiation of a government contract.

Forms for Requesting Refunds

Form CT-8, *Claim for Credit or Refund of Corporation Franchise Tax Paid,* is used to request a refund of other than an overpayment. To speed up processing of the claim, mail it separately from your annual returns. Claims for refund based on a net operating loss carryback must be filed within three years of the extended due date of the return for the loss year or within 27 months from the date of the federal credit or refund. A refund based on a federal change must be filed within two years from the date the federal change was required to be reported. All other claims for refunds must be received within three years from the date the return was filed, or two years from the date the tax was paid, whichever is later.

Request for refunds due to overpayment of tax must be made on Form CT-3, or CT-3-A, or CT-4.

Form CT-9, *Claim for Tentative Refund from Carryback of Net Operating Loss,* should be used by all corporations requesting refunds based on net operating loss carrybacks. Returns that are the basis for these refunds will be subject to review after the refunds have been processed. The claim must be filed within 90 days after the receipt of the federal refund. Federal 3 corporations must file a claim within 15 months from the end of the loss year. For full description of the limitation and requirements, see the instructions for Form CT-9.

When and Where to File

File your return within 2½ months after the end of your reporting period. If you are reporting for the 1992 calendar year, file your return on or before March 15, 1993.

Mail returns to:

NYS Corporation Tax
Processing Unit
P O Box 1909
Albany NY 12201-1909

If you cannot meet the filing deadline, ask for a six-month extension of time by filing Form CT-5.

You may be subject to other business taxes such as:

Sales and Use Tax — If you sell goods or services delivered in New York State you may have to collect and remit the New York State sales and use tax.

Employer's Withholding Tax — If you hire anyone to help operate your business in New York State you must withhold New York State (and New York City and Yonkers, if applicable) income taxes from the wages of your employees.

Motor Fuel Taxes — Motor fuel distributors and diesel motor fuel distributors or users in New York State must register with the Tax Department and file the appropriate tax returns.

Highway Use Taxes — Any motor vehicle having a maximum gross weight, alone or in combination with another motor vehicle of more than 18,000 lbs. is subject to this tax.

Independently Procured Insurance Tax — If you purchase or renew a taxable insurance contract from an insurer not authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Insurance, you will be liable for a tax of 3.6% of the premium. (See Form CT-33-D and TSB-M-90(9)C for more information.)

Tax on Importers of Natural Gas — Article 9, section 189, imposes a tax on gas importers who import or cause to be imported, gas for their own use. The tax is computed at the rate of 4¼% of the consideration given for the gas. (See Form CT-189, Form CT-189-R and TSB-M-91(5)C for more information.)

Tax on Utility Services (Article 9, section 186-a) — A corporation not supervised by the New York State Department of Public Service who engages in the sale or furnishing of gas electricity, steam, water, refrigeration, telephony or telegraphy must pay a tax of 3.5% of its gross operating income.

For more information, contact the Taxpayer Assistance Bureau. See the last page of these instructions for address and telephone numbers.

Tax Rates

The current tax rates are:

Entire net income base	.09
Entire net income base for qualified small business taxpayers	
Entire net income base of $200,000 or less	.08
Entire net income base of more than $200,000 but not more than $290,000	
1. $16,000 plus	
2. 9% of amount over $200,000 plus	
3. 5% of amount over $250,000	
Capital base	.00178
Minimum taxable income base	.05

For a corporation with a gross payroll of:	The fixed dollar minimum tax is:
— $6,250,000 or more	$1,500
— Less than $6,250,000 but more than $1,000,000	$425
— $1,000,000 or less	$325
Unless the following situation exists:	
— Gross payroll, total receipts and average value of gross assets are each $1,000 or less	$800
Subsidiary capital base	.0009
Qualified cooperative housing capital base	.0004

Tax Surcharge

(for periods ending after June 30, 1990, and before July 1, 1993)	15% (.15)
(for periods ending after June 30, 1993, and before July 1, 1994)	10% (.10)

Short periods - Fixed dollar minimum tax —

Gross Payroll for Short Periods — Annualize gross payroll for tax periods of less than 12 months by dividing the amount of gross payroll by the number of months in the short period and multiplying the result by 12.

The fixed dollar minimum tax and maintenance fee may be reduced for short periods:

Period	Reduction
• A period of not more than 6 months	50%
• A period of more than 6 months but not more than 9 months	25%
• A period of over 9 months	None

Cooperative Housing Corporations

A qualified cooperative housing corporation is entitled to use a reduced tax rate of .0004 when computing its tax using the capital base.

A corporation that has only one class of stock which entitles the shareholder to live in a house or an apartment in a building owned or leased by the corporation, may be a cooperative housing corporation. For a complete definition, see IRC section 216 or 20 NYCRR 3-1.2. For more information, see line instructions for Forms CT-3 and CT-4, *Computation of Capital Base*.

Metropolitan Transportation Business Tax (MTA Surcharge)

Any corporation taxable under Article 9-A (except a New York S corporation) that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-3M/4M and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Foreign Corporations — Annual Maintenance Fee

A corporation organized outside of New York State that is authorized to do business in New York must pay an annual maintenance fee of $300. This fee may be claimed as a credit against tax due under Article 9-A. Full payment of the franchise tax due will satisfy the maintenance fee requirement. It is not necessary to file a separate return. If you claim nontaxability in New York State because you did not employ capital, maintain an office or otherwise do business in New York State, you must file Form CT-245 and pay the maintenance fee.

Foreign Corporations — License Fee

A foreign corporation must also pay a license fee, based on its issued capital stock. For details see Form CT-240. *Report of License Fee.*

Estimated Tax and Tax Surcharge

If your New York State franchise tax and tax surcharge liability can reasonably be expected to exceed $1,000, you must file a declaration of estimated tax.

If this expectation arises before the 1st day of the 6th month of your tax year, file this declaration on or before the 15th day of the 6th month of the fiscal or calendar year. Include with it a payment of ⅓ of the estimated tax liability. If you made an initial payment with the preceding year's tax return or applied an overpayment of the tax from that return, deduct this amount from the estimated tax before computing the ⅓ payment. Additional ⅓ payments are due on the 15th day of the 9th and 12th months. If you report for the calendar year, file a declaration of estimated tax on June 15, September 15 and December 15.

If the expectation of a tax liability of more than $1,000 arises on or after the first day of the 6th month of your tax year, see 20 NYCRR 7-2.3.

A declaration of estimated tax may be amended.

A penalty will be imposed if you fail to file a declaration of estimated tax or fail to pay all or any part of an installment payment of estimated tax. (See *Interest and Penalties*, below.)

Penalty will not be due on an installment if the total estimated franchise tax and tax surcharge payments made on or before an installment due date equals or exceeds the amount which would have been required to be paid on or before that date if the amount of the estimated tax and tax surcharge were the smallest of:

For large corporations — a corporation that had (or whose predecessor had) allocated entire net income of at least one million dollars for any of the three tax years immediately preceding the tax year involved:

1. Ninety-three percent (93%) of the current year's franchise tax and tax surcharge.
2. Ninety-three percent (93%) of the franchise tax and tax surcharge for the current year computed on an annualized basis.
3. Ninety-three percent (93%) of the franchise tax and tax surcharge for the current year computed on a recurring seasonal income basis.

For all other corporations:

1. Ninety percent (90%) of the current year's franchise tax and tax surcharge shown.
2. One hundred percent (100%) of the franchise tax and tax surcharge for the preceding tax year (if it was for a period of 12 months).
3. A franchise tax and tax surcharge computed using current tax rates applied to last year's facts and laws.
4. Ninety percent (90%) of the franchise tax and tax surcharge for the current year computed on an annualized basis.*
5. Ninety percent (90%) of the franchise tax and tax surcharge for the current year computed on a recurring seasonal income basis.*

* To avoid underpayment penalties, you must make up a reduction in an estimated franchise tax and tax surcharge payment resulting from using annualized income or seasonal income (exceptions 4 or 5) by increasing the amount of the next installment determined under exceptions 1, 2 or 3 by the amount of such reduction.

The above penalty provisions are also applicable if you fail to file a declaration of estimated MTA surcharge or fail to pay all or any part of an installment payment of MTA surcharge.

Interest and Penalties

You must pay the entire tax and tax surcharge due on or before the original due date of the return to avoid a late payment charge. An extension of time for filing the tax return does not extend the due date for payment of tax.

Late Payment - Interest

If you do not pay the tax and tax surcharge due on or before the due date, you must pay interest on the amount of the underpayment from the due date to the date paid. Exclude from the interest computation any amount shown on line 80a or 80b, first installment of estimated tax for next period. Interest is **always due**, without any exceptions, on any underpayment of tax.

Interest is compounded daily. You may call the Taxpayer Assistance Bureau for the current interest rate or to have the interest computed for you; call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829); from areas outside New York State, call (518) 438-8581.

Late Filing and Late Payment - Additional Charges

Additional charges for late filing and late payment are computed on the amount of tax and tax surcharge less any payment made on or before the due date. Exclude from the penalty computation any amount shown on line 80a or 80b, first installment of estimated tax for next period.

a. If you do not file a return when due or if the application for extension is invalid, add to the tax 5% per month, up to a total of 25% (section 1085(a)(1)(A)).

b. If you do not file a return within 60 days of the due date, the addition to tax cannot be less than the smaller of $100 or 100% of the amount required to be shown as tax (section 1085 (a)(1)(B)).

c. If you do not pay the tax shown on a return, add to the tax ½% per month, up to a total of 25% (section 1085 (a)(2)).

d. The total of the additional charges in *a* and *c* may not exceed 5% for any one month except as provided for in *b* (section 1085 (a)).

If you think you are not liable for these additional charges, attach a statement to your return explaining the delay in filing, payment, or both (section 1085).

Penalty for Understating Tax

If the tax you report is understated by 10% or $5,000, whichever is greater, you will have to pay a penalty of 10% of the amount of understated tax. You can reduce the amount on which you pay penalty by subtracting any item for which (1) there is or was substantial authority for the way you treated it, or (2) there is adequate disclosure on the return or in an attached statement (see Article 27, section 1085(k)).

Penalty for Underpaying Estimated Tax

If you can reasonably expect your New York State franchise tax and tax surcharge liability to exceed $1,000, you must file a declaration of estimated tax, Form CT-400. A penalty will be imposed if you fail to file a declaration of estimated tax or fail to pay the entire installment payment of estimated tax due. For complete details see *Estimated Tax and Tax Surcharge* on this page of these instructions and Form CT-222, *Underpayment of Estimated Tax by Corporations*.

Penalty for Failure to Provide Information Relating to Interest Paid to Shareholders

A penalty of $500 will be imposed if you fail to provide information about interest payments made to shareholders that were deducted in computing entire net income. See instructions for line 104 (Article 27, section 1085(n)).

Penalty for Failure to Provide Information Relating to Your Issuer's Allocation Percentage

A penalty of $500 can be imposed if you fail to provide information needed to compute your issuer's allocation percentage. See instructions for Form CT-3, line 40.

Omnibus Tax Equity and Enforcement Act

The Omnibus Tax Equity and Enforcement Act imposes strong civil and criminal penalties for negligence or fraud. For more information about this act contact the Taxpayer Assistance Bureau (address and telephone numbers on the last page of these instructions).

Net Operating Losses

You must determine a New York State net operating loss deduction as if you had elected under IRC section 172 to relinquish the carryback provisions, except for the first $10,000, which may be carried back to the three preceding years (section 208.9(f)).

In addition, there are special net operating loss provisions for aviation corporations and corporations involved with mergers, acquisitions or consolidations.

These rules apply:

- IRC section 172 federal losses must be adjusted in accordance with Article 9-A, section 208.9(a) and (b).
- You may carry net operating losses forward 15 years.
- If you have elected to carry back a net operating loss for federal tax, you may carry back only the first $10,000 of a net operating loss to the three preceding years. This is effective for losses sustained in tax periods ending after June 30, 1989.
- Any portion of the $10,000 NOL not used as a carryback may be carried forward.
- If you have elected for federal tax to relinquish the three-year carryback of a net operating loss, you may not carry back a net operating loss for state tax, and you must submit a copy of your federal election.
- A New York C corporation is not allowed a deduction for a net operating loss sustained during a New York S year.
- Make the net operating loss carryforward on Form CT-3, line 13.
- Attach a separate sheet to Form CT-3, providing details of both the federal and New York State net operating losses claimed.
- A real estate investment trust will be allowed a deduction for net operating losses incurred in tax years ending on or after December 31, 1980.
- These rules also apply to a federal S corporation not electing New York S corporation treatment and corporations included in a group reporting on a consolidated basis for federal tax. These corporations must carry losses to the same year and in the same manner as provided in these instructions with one exception: Instead of a copy of the federal election to relinquish the three-year carryback of a net operating loss, a request in writing to relinquish the carryback must be filed on or before the due date (or extended due date) of the return for the loss year. Any corporation that does not make a timely election with the Tax Department must carry the first $10,000 of the net operating loss back before the loss can be carried forward.

Aviation Corporations - Net Operating Losses

Corporations principally engaged in aviation are taxable under Article 9-A and are permitted to claim a net operating loss deduction in the same manner as other Article 9-A corporations. Air freight forwarders acting as principal and like indirect carriers are limited to net operating losses sustained in years that they were taxable under Article 9-A.

Aviation corporations (other than air freight forwarders acting as principal and like indirect air carriers) will be allowed to carry forward any net operating losses sustained during the federal tax periods covering the years 1985 through 1988 if they were taxable under Article 9, sections 183 and 184 during those periods.

The New York State net operating loss must be computed as if the corporation had filed Form CT-3 for the tax years 1985 through 1988 and treated as if the loss had been sustained in the tax year immediately preceding its first Article 9-A tax year. The 1985-1988 net operating loss must be carried forward.

Merger, Acquisition and Consolidation - Net Operating Losses

In general, in a highly leveraged transaction, any net operating loss of a target corporation, from prior years or a loss sustained in the year of merger, acquisition or consolidation occurring after April 19, 1989, cannot be used by the acquiring corporation. For complete details see Form CT-3, Schedule F-I, *Instructions for Form CT-3, Schedule F*, and TSB-M-89(17)C.

Special Instructions for DISCs

A domestic international sales corporation (DISC) is a corporation that meets the requirements of section 992(a) of the Internal Revenue Code. Investments in the stock of a DISC or debts of a DISC must be treated as business capital. Stockholders of DISCs must report all income from DISCs included in federal taxable income as business income and cannot make any adjustments to federal taxable income on lines 10 and 11 of Form CT-3, unless actual dividend distributions were paid out of other earnings and profits as provided in section 996 of the Internal Revenue Code.

Tax-Exempt DISCs

A DISC is exempt from tax under Article 9-A of the Tax Law if, during the year, it received more than 5 percent of its gross receipts from the sale or rental of property obtained from stockholders, or received more than 5 percent of its total receipts, other than sales or rentals, from its stockholders. It must file an information return on Form CT-3-B, within 8½ months after the end of the return year. Stockholders of tax-exempt DISCs must file an individual return on Form CT-3 and a consolidated return with the DISC on Form CT-3-C.

Taxable DISCs

A DISC not meeting the 5% test must file Form CT-3 within 8½ months after the end of the return year. It is subject to the tax on allocated capital or the fixed dollar minimum, whichever is higher, plus a tax on subsidiary capital.

Do not complete lines 1 through 25 or lines 42 through 68 of Form CT-3. Enter the initials *DISC* after the name of the corporation in the address section of the return.

Combined Returns

A combined return (Form CT-3-A) may be required by the tax commissioner for a taxpayer and a taxable DISC if the taxpayer beneficially owns substantially all of the DISC's issued and outstanding capital stock. A corporation which owns all of the capital stock of a taxable DISC will be allowed, at its election, to file combined returns with the DISC. Any other corporation may be required or permitted to file combined returns if the requirements described in Subpart 6-2 of the Regulations are met.

New York S Corporation - Termination Year

If your federal and New York S election terminates on a day other than the first day of a tax year, the tax year is divided into two tax periods (an S short year and a C short year). You must file Form CT-3-S or Form CT-4-S for the New York S short year and Form CT-3 or CT-4 for the New York C short year. See the instructions for Form CT-3-S and Form CT-4-S and TSB-M-90(11)C for more information.

The due date of the New York S short year return (Form CT-3-S and Form CT-4-S) is the same as the New York C short year even though they are treated as separate short tax years.

Change of Business Information

If there have been any changes in your business name, identification number, mailing address, business address, telephone number or owner/officer information, complete Form DTF-95, *Change of Business Information*. If you don't have a form, call toll free (from New York State only) **1 800 462-8100**. From areas outside New York State call (518) 438-1073 to request one. If your address has changed, check the box next to the name and address on Form CT-3.

Final Return

Do not mark a franchise tax return ***Final*** unless a *Certificate of Dissolution* or *Surrender of Authority* is attached and you are going out of business. If you do not legally dissolve the corporation and liquidate all assets, you will continue to be liable for the filing of corporation franchise tax returns and the payment of tax. For detailed information about the legal dissolution and surrender of authority see Publication 110, *Termination of Business Corporations*.

Whole Dollar Amounts

Amounts may be shown in whole dollars rather than dollars and cents. Round an amount from 50 cents through 99 cents to the next higher dollar and round any amount less than 50 cents to the next lower dollar. If you round to the nearest dollar, round for all amounts.

Processible Forms

Returns must be prepared in a manner that will permit their routine handling and processing. Interest will not be paid on an overpayment of taxes until the return is in a processible form.

See Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*. For information, write to:

NYS Tax Department
Taxpayer Assistance Bureau
W A Harriman Campus
Albany NY 12227

Use of Reproduced Forms

Photocopies of returns are acceptable if they are of good quality and are signed in the proper place *(see Publication 76)*.

Computerized Returns

Computer-produced corporation tax returns will be accepted if you have received permission to file them and if they meet our specifications *(see Publication 76)*.

Signature

The return must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the taxpayer.

The return of an association, publicly traded partnership or business conducted by a trustee or trustees must be signed by a person authorized to act for the association, publicly traded partnership or business.

If an outside individual or firm prepared the return, the signature of the person and the name, address and identification number of the firm must be included.

Privacy Notification

Our authority to require and maintain personal information, including identifying numbers (social security numbers, etc.), is found in sections 211, 213-a and 1096, Article 9-A in general of the Tax Law and Parts 6 and 7 of the Business Corporation Franchise Tax Regulations.

We will use this information primarily to determine New York State corporation tax liabilities under Article 9-A of the Tax Law. We will also use it for tax administration and as necessary under Tax Law section 211 and for any other purpose authorized by law, and when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access, limited or otherwise, to information contained in the return.

Your failure to provide the required information may result in civil penalties under sections 217 and 1085 of the Tax Law and Part 9 of the Business Corporation Franchise Tax Regulations or criminal penalties under Article 37 of the Tax Law, or both.

This information will be maintained by the Director, Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from outside New York State, call (518) 438-8581.

Resolving Tax Problems

The best ways to avoid tax problems are to keep accurate tax records and to stay on top of current tax requirements. We have free publications you can order and toll-free numbers you can call for answers to your specific questions.

Most tax problems can be resolved informally. If you receive a tax deficiency notice that you think is in error, promptly call the number listed on the notice.

Only a relative handful of tax problems fail to be resolved by informal means. However, if you are issued a *Notice of Deficiency* or a refund denial and you feel that the Tax Department has made a mistake, you still have a number of options available to you:

- You can request a **conciliation conference** through the Bureau of Conciliation and Mediation Services. The conference is conducted informally by a conferee who issues an order that is binding on the Tax Department but not on you (you can appeal by filing a petition for a formal hearing, as explained below). To set up a conference, get Form CMS-1, *Request for Conciliation Conference*, by calling toll free (from New York State only), 1 800 462-8100 from areas outside New York State, call (518) 438-8581 or by writing to the Bureau of Conciliation and Mediation Services, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

- You can request a **small claims hearing** before an impartial presiding officer if the disputed amount is within certain dollar limitations set by the *Rules of Practice and Procedure*. The presiding officer's decision is final, but at any time before the end of the small claims hearing, you can request a transfer to a formal hearing before an administrative law judge. A copy of the *Rules of Practice and Procedure* will be sent to you when you request a petition form as explained below.

- You can file a petition for a **tax appeals hearing**. The hearing is held before an administrative law judge, and both you and the Tax Department may appeal the judge's decision to the Tax Appeals Tribunal. The Tax Department cannot seek a review of the Tribunal's decision, but you can by instituting an Article 78 proceeding in the Appellate Division of the State Supreme Court. You can get the petition forms by writing to the Division of Tax Appeals, 500 Federal Street 4th Floor, Troy NY 12180-2893.

Regardless of which appeal option you exercise, you may appear on your own behalf or you may have an authorized representative present your case for review. An authorized representative must have Power of Attorney from you in order to appear on your behalf. Further, your representative must be in compliance with the Ethics in Government Act which restricts appearances by former department employees. A summary of these restrictions is included on the back of the Power of Attorney form DTF-14.1.

Instructions For Form CT-3

Reporting Period

Your tax year for New York State must be the same as your federal tax year. If you have a fiscal period beginning in 1992 and ending in 1993 or a short period ending before December 31, 1993, use this tax return. If your tax period is not a calendar year be sure to enter the correct reporting period at the top of the front page of your return.

Principal Business Activity

Enter the one activity that accounts for the largest percentage of total income. State the broad field of business activity as well as the specific product or service (e.g., mining copper; wholesale meat; retail men's apparel; real estate rental). Be sure to enter the business activity code number from your federal return.

Line A

Payment — After completing your return, enter the amount of your payment. This must be the full amount shown on line 87.

Line 1

Enter your federal taxable income (before net operating loss and special deductions) as required to be reported to the US Treasury Department.

- If you file federal Form 1120, use the amount from line 28.
- If you file federal Form 1120-A, use the amount from line 24.
- If you are a member of a federal affiliated group which files a consolidated return, complete a pro-forma 1120 reporting the federal taxable income you would have been required to report on a separate federal tax return and attach a copy of the federal consolidating workpaper indicating your separate taxable income before any elimination of intercorporate transactions included in the federal consolidated return.
- If you are an S corporation filing federal Form 1120S but you have not made an election to be treated as a New York State S corporation, you must determine the amount you would have had to report as federal taxable income (before net operating loss and special deductions) were you not a federal S corporation. Attach a separate sheet showing how you determined this amount. In general, the items affected are:

  Dividends — Form 1120, line 4

  Interest — Form 1120, line 5

  Gross rents — Form 1120, line 6

  Gross royalties — Form 1120, line 7

  Capital gain net income — Form 1120, line 8

  Contributions — Form 1120, line 19

- If you are exempt from federal income tax but subject to New York State franchise tax, you must determine the amount you would have had to report as federal taxable income (before net operating loss and

special deductions) were you not exempt. Attach a separate sheet showing how the amount was determined.

Lines 2 through 8 — Additions

Use lines 2 through 8 to add items that are not included in federal income but must be included in New York State entire net income.

Line 2

Enter all interest received or accrued from federal, state, municipal and other obligations that was exempt from federal income tax and is, therefore, not included on line 1. You may deduct from this amount any expenses attributable to that interest but denied deductibility under IRC section 265. Attach a list of items included on this line.

Line 3

Enter the amount deducted in computing federal taxable income for interest on indebtedness paid to a corporate stockholder owning more than 50% of your issued and outstanding capital stock. If you do not make this entry, such indebtedness will not constitute subsidiary capital in the hands of such corporate stockholder.

To the extent you do not make this entry, your parent corporation may not exclude such interest from its entire net income as income from subsidiary capital.

Lines 4 and 5 Subsidiaries

A subsidiary is a corporation (except a DISC) that you control because you own more than half of the voting stock issued and outstanding.

If you have a subsidiary, complete lines 4 and 5. Attach a list of all items included. If you do not have a subsidiary, enter "0" on lines 4 and 5.

"Subsidiary capital" is the value of certain assets reduced by attributable liabilities. These assets include all investments in the stock of subsidiary corporations plus all debts from subsidiary corporations (other than accounts receivable acquired for services rendered or property sold to customers in the ordinary course of business) whether or not evidenced by bonds or other written instruments, on which interest is not claimed and deducted by the subsidiary under Article 9-A, 32 or 33 of the New York State Tax Law.

If you have a subsidiary, you will also have to complete Form CT-3-ATT, Schedule E.

Line 4

Enter all amounts, including interest expense, deducted on your federal return that are directly attributable to subsidiary capital or to income, losses or gains from subsidiary capital. Include capital losses from sales or exchanges of subsidiary capital, all other losses, bad debts and any carrying charges attributable to subsidiary capital.

Line 5

Enter all amounts, including interest, which are indirectly attributable to subsidiary capital or to income, gains or losses from subsidiary capital. To determine these amounts, use the following formula:

$$\text{Total amount of deductions subject to indirect attribution} \times \frac{\text{Average value of assets included in subsidiary capital}}{\text{Average value of all assets}}$$

To determine the total amount of deductions subject to indirect attribution, use the following procedure:

(a) Subtract from the amount of federal deductions included on federal Form 1120, line 27, the following:

- Those federal deductions included in such line 27 amount which are required to be added back to federal taxable income in computing entire net income, **other than the amounts on lines 4 and 5,** deductions directly or indirectly attributable to subsidiary capital; and
- The New York excess depreciation add-back described in Tax Law, section 208.9(b)(11) (relating to the disposition of certain decoupled property) to the extent that such amount was included in (b), for prior tax years which began on or after January 1, 1987.

(b) Increase the amount arrived at in (a) by the following deductions which are subtracted from federal taxable income in computing entire net income.

- Interest expense attributable to interest income not includable in federal taxable income but required to be included in entire net income (e.g., municipal bond interest), to the extent such interest expense is not deducted for federal purposes (Tax Law, section 208.9(b)(2); see also Franchise Tax Regulations, 20 NYCRR 3-2.3(a)(2)).
- In the case of a taxpayer organized outside the United States, deductions attributable to income which is not included in federal taxable income but is required to be included in entire net income (e.g., foreign source income) (Tax Law, section 208.9(c); see also Franchise Tax Regulations, 20 NYCRR 3-2.3(a)(9)).
- The portion of wages and salaries paid or incurred for the tax year for which a deduction is not allowed pursuant to section 280C of the Internal Revenue Code (Tax Law, section 208.9(a)(7)).
- Depreciation deductions permitted under Article 9-A with respect to ***decoupled*** property pursuant to Tax Law, section 208.9(a)(11) and (12).
- Deductions arising from ***decoupling*** from federal safe harbor lease provisions pursuant to Tax Law, section 208.9(a)(10).

(c) Reduce the amount arrived at in (b) by these deductions included therein which are directly attributable to subsidiary, investment or business capital.

For more information see TSB-M-88(5)C.

To compute the value of an asset, real property and marketable securities should be valued at fair market value and all other property should be included at the value shown on your books in accordance with generally accepted accounting principles (GAAP).

Line 6

Enter the amount deducted on your federal return for New York taxes imposed under Article 9, sections 183, 183-a, 184, 184-a, and Articles 9-A and 32. This includes the franchise tax surcharge and metropolitan transportation business tax (MTA surcharge). However, do not include New York City taxes. Include the amount deducted for taxes paid or accrued to other US states, their political subdivisions and the District of Columbia if they are on or are measured by profits or income or include profits or income as a measure of tax, including taxes expressly in lieu of the foregoing.

Line 7

Before making any entry on this line, complete Form CT-399. Include from Form CT-399, line 4, the amount of your federal deduction that must be added back to federal taxable income, or if you disposed of property this year use the amount from line 12, column A. (Enter your recomputed deduction on line 14.)

Line 8

If you have any of the following other additions to federal taxable income, enter the total amount of those additions and attach a list.

A-1 Optional depreciation: If you have claimed optional depreciation in prior years on certain property acquired from January 1, 1964, through December 31, 1968, you must include on this line any depreciation and any federal losses on the disposition of that property that you deducted from gross income when determining federal taxable income. The adjustment for New York gain or loss on qualified New York State property is made on line 23. See additional instructions for line 15, S-1. Attach Form CT-324.

A-2 Worldwide net income and losses: A corporation organized outside the United States must include on this line all income from sources outside the United States, less all allowable deductions attributable to it, that was not included in federal taxable income.

A-3 If you are claiming a special additional mortgage recording tax credit (section 210.17), you must include on this line the amount claimed as a credit and used as a deduction in the computation of federal taxable income.

The gain on the sale of real property on which the special additional mortgage recording tax credit was claimed must be increased when all or any part of the credit was also used in the basis for computing the federal gain.

A-4 If you are a corporation participating in business on the New York Insurance Exchange, you must include the following:

— Your distributive or pro rata share of any item of loss or deduction for federal income tax or which you are required to take into account separately for federal income tax.

— Your distributive or pro rata share of the net loss, if any.

— Your distributive or pro rata share of the allocated entire net income of such business as determined on Forms CT-33 or CT-33-X under Article 33 of the Tax Law.

See additional instructions for line 15, S-5.

A-5 If your corporation has a safe harbor lease you must include:

— Any amount you claimed as a deduction in computing federal taxable income solely as a result of an election made under section 168(f)(8) of the IRC as it was in effect on December 31, 1983.

— Any amount you would have been required to include in the computation of your federal taxable income if you had not made the election permitted under section 168(f)(8) of the IRC as it was in effect on December 31, 1983.

A-6 Any windfall profit tax (imposed by IRC section 4986(a)) deducted in the computation of federal taxable income must be included on this line.

A-7 In general, you must include on this line up to 5% of certain interest paid by an acquiring corporation, in the year of an acquisition, and for the next three years. Use Form CT-3, Schedule F, to determine if you are liable for this addition and to compute the amount to be entered on this line.

A-8 Combined filers only - When a member of a selling consolidated group, as defined in IRC section 338(h)(10), has made an election under such section, any loss on the sale or exchange of stock of a target corporation must be included on this line. (NYCRR 20 3-2.2(c)).

Line 9

Add lines 1 through 8.

Lines 10 through 16 — Subtractions

Use lines 10 through 16 to subtract items that are included in federal taxable income but should not be included in New York entire net income.

Line 10

If you have a subsidiary, complete Schedule E on Form CT-3-ATT and enter the amount from Part I, line 46. This amount must include capital gains and any other income and gain from subsidiary capital that was included as part of federal taxable income. Do not include foreign dividend gross-up under IRC section 78. A DISC does not qualify as a subsidiary.

Effective for periods beginning on or after January 1, 1989, if a subsidiary's stock or assets (excluding cash and assets disposed of by the subsidiary in the regular course of business) are sold within eighteen months after the date of acquisition, subsidiary capital treatment will not be allowed the parent.

Line 11

Enter 50% of dividends received from nonsubsidiary stock. Do not include the following: (1) ***grossed-up*** dividends, pursuant to section 78 of the IRC, (2) dividends from stocks not meeting the holding period requirement set forth in section 246(c) of the IRC, (3) subsidiary dividends treated as investment income pursuant to Article 9-A, section 208.9(b)(12). For more information about item 2 dividends, see TSB-M-89(14)C and for item 3 dividends, see TSB-M-89(17)C.

Regulated investment companies do not qualify for this deduction.

Line 12

Enter foreign dividend gross-up pursuant to section 78 of the IRC (see federal Form 1120, Schedule C, line 15). Entire net income **does not include** any amount treated as dividends pursuant to section 78 of the IRC (section 208.9(a)(6)).

Line 13

Enter any New York State net operating loss carried forward from prior years. Attach a separate sheet with full details of both federal and New York State net operating losses claimed. For detailed information on net operating losses, see page 4 of these instructions.

Line 14

In place of the disallowed ACRS and MACRS deduction entered on line 7, you may compute a depreciation deduction by any method permitted under IRC section 167 (as it would have applied to property placed in service on December 31, 1980). For more information see Form CT-399, *Schedule for Depreciation Adjustments*. Enter the amount from Form CT-399, line 5, column I, or if you have disposed of property this year use the amount from Form CT-399, line 12, column B, and attach the form.

Line 15

If you have any of the following other subtractions from federal taxable income, enter the total amount of those subtractions and attach a list.

S-1 Optional depreciation: If you claimed optional depreciation in prior years on certain property acquired from January 1, 1964, through December 31, 1968, include on this line any federal gain on the disposition of qualified property that was included in federal taxable income. The adjustment for New York State gain or loss on qualified New York property is made on line 23. See additional instructions for line 8, A-1. Attach Form CT-324.

S-2 Receipts from the operation of school buses: Include all receipts from the transportation of pupils, teachers and others acting in a supervisory capacity to and from school or school activities, less any deductions allowed in computing federal taxable income that are directly or indirectly attributable to those receipts.

S-3 Include any refund or credit of a tax imposed under sections 183, 183-a, 184 and 184-a of the Tax Law, or Article 9-A, 13-A or 32 of the Tax Law for which no deduction was allowed in computing your entire net income in any prior year. Do not include refunds or credits received for taxes imposed under Article 13-A (Petroleum Business Tax) for periods after June 1, 1990.

S-4 Include the amount of wages disallowed in the computation of your federal taxable income because you claimed a federal jobs credit. Attach a copy of federal Form 5884.

S-5 If you are a corporation participating in business on the New York Insurance Exchange, include the following items:

— Any item of income or gain from the business which you are required to take into account separately for federal income tax.

— Your distributive or pro rata share of the income or gain of the business for federal income tax.

S-6 If your corporation has a safe harbor lease, include the following items:

— Any amount included in your federal taxable income solely as a result of an election made under IRC section 168(f)(8) as it was in effect on December 31, 1983.

— Any amount you could have excluded from federal taxable income if you had not made the election provided for in IRC section 168(f)(8) as it was in effect on December 31, 1983.

Leases for qualified mass-commuting vehicles as defined in IRC section 103(b)(9) are exempt from these adjustments.

S-7 Combined filers only - If you are a member of a selling consolidated group, as defined in IRC section 338(h)(10), and have made an election under this section, you must include any gain on the sale or exchange of stock of a target corporation on this line. (NYCRR 20 3-2.2(c)).

Line 17

Subtract line 16 from line 9 to determine your entire net income. Show a loss by using parentheses.

Lines 18 through 24 — Entire Net Income Base

The entire net income base is the portion of your entire net income allocated to New York State with certain adjustments. It may consist of both business and investment income.

Use Schedule A, Part I or II, to compute your business allocation percentage.

Use Form CT-3-ATT, Schedules C and D, to compute your investment capital, investment allocation percentage and investment income.

Line 18

Complete Form CT-3-ATT, Schedule C and enter the amount of your investment income from line 38. Do not enter more than the amount on line 17. If you had no investment income, enter "0" and do not use Schedule C.

Line 19

Subtract line 18 (investment income) from line 17 (entire net income) to determine your business income.

Line 20

Multiply line 18 by your investment allocation percentage from Form CT-3-ATT, Schedule D, line 40.

Line 21

Multiply line 19 by your business allocation percentage from Schedule A, line 115 or 135. If your property, payroll and sales were entirely within New York State, enter the full amount from line 19, and do not use Schedule A.

Line 23

You may claim a deduction for optional depreciation on this line. Include any gain or loss on the disposition of property on which optional depreciation was claimed. Attach Form CT-324.

Line 24

If line 23 is a gain, add lines 22 and 23. If line 23 is a loss, subtract line 23 from line 22. This is your entire net income base.

Line 25

Entire Net Income Base Tax Computation

If you do not qualify as a small business taxpayer, multiply line 24 by 9% (.09). Enter the amount on line 25 and line 68, then continue with line 26.

A corporation qualifies as a small business taxpayer if:

- Its entire net income (before allocation) is not more than $290,000, and
- The total amount of money and other property it received for stock, as a contribution to capital and as paid-in surplus, is not more than $1 million as of the last day of its tax year, and
- The corporation is not part of an affiliated group, as defined in IRC section 1504, unless the group itself would have met the above criteria if it had filed a combined return.

Complete lines 106 and 107 if you use the small business taxpayer tax rate.

Small business taxpayers: If you are a qualified small business taxpayer and your entire net income base is $200,000 or less, multiply line 24 by 8% (.08) and enter the amount on line 25 and line 68.

If your entire net income base is more than $200,000 your effective tax rate will be between 8% and 9%. The closer the entire net income base comes to $290,000 the closer the effective tax rate comes to 9%. Your tax is:

1. $16,000 ($200,000 times 8%) **plus**
2. 9% of any amount over $200,000 but not over $290,000 **plus**
3. 5% of any amount over $250,000 but not over $290,000

Use the worksheet below to compute your tax.

Worksheet

Entire net income from line 24			16,000	A
Subtract	200,000			
Multiply balance		by .09 =		B
Subtract	50,000			
Multiply balance		by .05 =		C
Tax: Add boxes A, B, and C. Enter this amount on lines 25 and 68.				

A small business taxpayer's tax on entire net income base will never be more than $26,100.

Lines 26 through 39 — Computation of Capital Base

To determine the value of your assets for the capital base computations, you must include real property and marketable securities at fair market value. All other property must now be included at the value shown on your books in accordance with generally accepted accounting principles. Use lines 26 through 30 to adjust the value of the assets you reported on your federal return.

On lines 26 through 31, enter the values at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. **Average value** is generally computed quarterly if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average value results.

Line 26

Enter your total assets from the balance sheet of your federal tax return.

Line 27

Enter the federal balance sheet value of any real property and marketable securities included on line 26.

Line 29

Enter the fair market value of real property and marketable securities included on line 27. The **fair market value** of an asset is the price (without deduction of an encumbrance whether or not the taxpayer is personally liable) at which a willing seller will sell and a willing purchaser will buy. You can generally find the fair market value of marketable securities from price quotes in financial newspapers. To determine fair market value of real property, you might consider recent sales of similar property, and insurance value where fully insured, disregarding any co-insurance provisions.

A cooperative housing corporation may determine the fair market value of its real estate, when only its assessed value for real property tax is known, by dividing the assessed value by the equalization rate. The equalization rate may be obtained from the State Board of Equalization and Assessment. Once a method of determining average fair market value is adopted by the taxpayer and is accepted by the Commissioner of Taxation and Finance, the method may not be changed on any subsequent return without the prior consent of the commissioner. For more information see TSB-M-85(18)C.

Line 31

Enter the amount of all liabilities (both long and short term) when computing the capital base.

Use the same method of averaging used to determine average value of assets.

Line 33

Enter subsidiary capital from CT-3-ATT, Schedule E, Part II, line 48. If you have no subsidiary capital, enter "0."

Line 35

Enter total investment capital from CT-3-ATT, Schedule D. line 42. column E. If you have no investment capital, enter "0."

Line 37

Multiply line 35 by the investment allocation percentage from CT-3-ATT, Schedule D, line 40. This is your allocated investment capital.

Line 38

Multiply line 36 by the business allocation percentage from line 115 or 135. This is your allocated business capital. If your property, payroll and sales were entirely within New York State, enter the full amount from line 36 (you do not need to use Schedule A).

Line 40

Your **issuer's allocation percentage** represents the amount of your capital employed within New York State compared to the total amount of capital employed everywhere. Every taxpayer using Form CT-3 should compute an issuer's allocation percentage. If you do not supply the information needed to compute your issuer's allocation percentage you may have to pay a $500 penalty.

To determine the percentage, add line 39 (capital base) and CT-3-ATT, Schedule E, line 49 (subsidiary capital base), then divide by line 32 (total capital). If you have no subsidiaries. divide line 39 by line 32.

Combined filers must compute a combined issuer's allocation percentage by using amounts from Form CT-3-A. The combined issuer's allocation percentage should be entered on Form CT-3-A, Schedule K, line 90.

The issuer's allocation percentage used to compute subsidiary capital allocated to New York and investment capital allocated to New York is the percentage determined on the New York State tax return filed by the issuing corporation for the preceding year. You may obtain some of these percentages from Tax Service Publications.

Issuers' allocation percentages will also be supplied by this department upon written request (in duplicate) to:

NYS Tax Department
Taxpayer Assistance Bureau
W A Harriman Campus
Albany NY 12227

Call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

Line 41

Capital base tax computation: Multiply line 39 by the tax rate of .00178. Enter the amount on line 69 but do not enter more than $350,000. If you have been taxable in New York State for less than two years read the instructions for line 69 to see if you qualify as a new small business corporation.

Cooperative housing corporations multiply line 39 by .0004.

Lines 42 through 67 Computation of Minimum Taxable Income Base and Minimum Taxable Income Tax

The calculation of minimum taxable income requires the addition to entire net income of three federal tax preference items, the addition or subtraction of certain federal adjustments used to compute federal alternative minimum taxable income and the addition of the New York State net operating loss deduction. Minimum taxable income is allocated by the use of an alternative business allocation percentage and investment allocation percentage. See Article 9-A, sections 208.8B, 210.1(c) and 210.3-a and TSB-M-90(13)C.

The tax law also provides for a minimum tax credit, available for use against tax computed on the entire net income base. The credit is designed to prevent double-counting of income which might otherwise arise because of timing items of tax preference and adjustments. Article 9-A section 210.13 see CT-3-ATT.

You must determine a minimum taxable income base and tax, whether or not you file federal Form 4626.

Line 42

Enter the amount from Form CT-3, line 17, entire net income before allocation.

Lines 43 through 50 Adjustments

Enter "0" on any line that does not apply to you.

Line 43

Enter an amount determined by recomputing the adjustment from line 2a of federal Form 4626 to include only property that is included in the line 2a computation and that is:

a. property subject to Internal Revenue Code section 280F,

b. property placed in service in New York State in tax years beginning after 1984, or

c. 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 tax years beginning in 1989.

If your alternative minimum tax depreciation adjustment on federal Form 4626, line 2a, includes only property placed in service **in** New York State, enter that amount.

If your depreciation adjustment on federal Form 4626, line 2a, includes only property placed in service **outside** New York State and does not include property described in *a* and *c* above, enter zero.

If you were not required to file Form 4626, compute the figure called for on line 2a including only property described in *a*, *b* and *c* above. Use Form CT-399, lines 13, 14 and 15 to compute the depreciation adjustment. Attach a copy of Form CT-399 or federal Form 4626 to your return.

Line 44

Enter federal item of adjustment for mining exploration and development costs as determined in section 56(a)(2) of the Internal Revenue Code (from federal Form 4626, line 2c).

Line 45

Enter federal item of adjustment for circulation expenditures of personal holding companies as determined under section 56(b)(2) of the Internal Revenue Code (from federal Form 4626, line 2d).

Line 46

Enter federal item of adjustment for adjusted basis as determined under section 56(a)(7) of the Internal Revenue Code (from federal Form 4626, line 2e), modified as follows.

Do not include any basis adjustment made in determining the gain or loss from the sale or exchange of pollution control facilities.

Enter the difference between the gain or loss reported on your tax return for regular tax purposes and your recomputed gain or loss for minimum taxable income purposes. If the latter is larger than the former, enter the difference as a negative amount.

Line 47

Enter federal item of adjustment for the treatment of certain long-term contracts as determined under section 56(a)(3) of the Internal Revenue Code (from federal Form 4626, line 2f).

Line 48

Enter federal item of adjustment for installment sales of certain property as determined under section 56(a)(6) of the Internal Revenue Code (from federal Form 4626, line 2g).

Line 49

Enter federal item of adjustment for merchant marine capital contruction funds as determined under section 56(c)(2) of the Internal Revenue Code (from federal Form 4626, line 2h).

Line 50

Enter federal item of adjustment for disallowance of passive activity loss as determined under section 58(b) of the Internal Revenue Code (from federal Form 4626, line 2k).

Lines 52 through 54 Tax Preference Items

Enter "0" on any line that does not apply to you.

Line 52

Enter federal item of preference for depletion as determined under section 57(a)(1) of the Internal Revenue Code (from federal Form 4626, line 3a).

Line 53

Enter federal item of preference for appreciated property charitable deduction as determined under section 57(a)(6) of the Internal Revenue Code (from federal Form 4626, line 3c).

Line 54

Enter federal item of preference for intangible drilling costs as determined under section 57(a)(2) of the Internal Revenue Code (from federal Form 4626, line 3d).

Line 56

Enter net operating loss deducted in the computation of the entire net income base. This is the amount on Form CT-3, line 13. Include only the maximum amount permitted on Form CT-3, line 13. See page 4 of these instructions.

Do not add back losses that were generated in the tax year for which this return will be filed.

Line 58

Enter investment income from Form CT-3-ATT, line 38.

Line 59

Enter any amounts from lines 43 through 56 that represent income from investment capital that was not included on line 42. This would include (1) the portion of your New York net operating loss deduction which is attributable to investment income (from Form CT-3-ATT, line 37), and (2) the portion of the income from installment sales of property constituting investment capital which is included in alternative minimum taxable income by reason of the adjustment for installment sales of certain property.

Line 60

Combine lines 58 and 59 to determine the alternative investment income available for allocation. Alternative investment income is the sum of investment income (line 58 amount) and that portion of minimum taxable income that consists of income from investment capital and which was not included in entire net income (line 59 amount).

Line 61

Determine the alternative business income by subtracting the alternative investment income from the minimum taxable income on line 57.

Line 62

Multiply line 61 by the alternative minimum taxable income business allocation percentage determined on line 115 or line 154.

Line 63

Multiply line 60 by the same investment allocation percentage determined on Form CT-3-ATT, line 40 to compute the allocated alternative investment income.

Lines 68 through 93 — Computation of Tax

Line 69

Enter the tax computed on your capital base from line 41. Do not enter more than $350,000.

A new small business corporation may claim an exemption from the tax on the capital base for its first two tax years if it meets the requirements below. If you are claiming this exemption, enter "0" on line 69 and check the box indicating which year the exemption is for. You will continue to be liable for the highest tax computed on lines 67, 68, or 70, in addition to the tax on line 72. Attach a separate sheet covering all points listed below. If you do not supply the information, the exemption will be disallowed.

Do not confuse this definition with the definition of a small business taxpayer on line 25.

To qualify, the corporation must meet the federal definition of a small business corporation (Internal Revenue Code section 1244(c)(3) disregarding the second sentence of subparagraph (A)). The requirements are:

— The total amount of money and other property the corporation received for stock, as a contribution to capital and as paid-in surplus, may not be more than $1 million on the last day of its tax year.

- It cannot be similar in ownership and operations to a business now taxable or previously taxable under New York State Tax Law, Article 9 (section 183, 184, 185 or 186), 9-A, 22, 32 or 33 (or a business entity which had income or losses includable under Article 22 or which would have been taxable under Article 23 had that article not been repealed).
- 90% of the corporation's assets and 80% of its employees must be located in New York State.
- It cannot have as a shareholder a corporation that owns over 50% of its voting stock, and that is taxable under Article 9 (section 183, 184, 185 or 186), Article 9-A, 32 or 33, unless the corporation itself qualifies as a small business corporation.

Line 70

Fixed dollar minimum tax

The fixed dollar minimum tax consists of four levels and is determined by the corporation's gross payroll, total receipts and average value of gross assets.

For a corporation with a gross payroll of:	The fixed dollar minimum tax is:
— $6,250,000 or more	$1,500
— less than $6,250,000 but more than $1,000,000	$425
— $1,000,000 or less	$325
— Gross payroll, total receipts and average value of gross assets are each $1,000 or less	$800

Enter your gross payroll, total receipts and gross assets in the appropriate boxes.

To avoid an erroneous assessment or a delay in your refund, you **must** enter an amount in each of the three boxes provided on Form CT-3, line 70. If you do not have gross assets, gross payroll or total receipts, enter "0" in the appropriate boxes.

Gross payroll — The total wages, salaries, and other personal services compensation of all employees including general executive officers wherever located. For a period of less than 12 months, annualize gross payroll by dividing it by the number of months in the short period and multiplying the result by 12.

Use the total amounts shown on federal Form 1120 or Form 1120-A, lines 12 and 13a, plus any wages included in the cost of goods sold, Form 1120, Schedule A, line 3.

Total receipts — Receipts from the sales of tangible personal property, services performed, rentals, royalties, receipts from the sales of rights for closed circuit and cable television transmissions and all other business receipts received in the regular course of business. These items can be found on federal Form 1120 or 1120-A Income Section, lines 1c, 6, 7 and 10.

Do not include any nonbusiness dividends, nonbusiness interest, or business or investment gains or losses.

Average value of gross assets — The average fair market value of real property and marketable securities plus all other property at the value shown on your books, in accordance with generally accepted accounting principles. Use the amount from Form CT-3, line 30, column C.

Line 71

Enter the amount from line 67, 68, 69 or 70, whichever is largest. Small business taxpayer exception: if line 69 (tax on capital base) is larger than line 68 (tax on entire net income base) only because of the reduced rate applicable to small business taxpayers, enter the largest amount from line 67, 68 or 70.

Taxable DISCs must enter the larger of lines 69 or 70. Real estate investment trusts and regulated investment companies must enter the amount from line 67, 68 or 70, whichever is largest.

Line 72

Enter the subsidiary capital base and tax from Form CT-3-ATT, lines 49 and 50.

Line 73

Add lines 71 and 72. This is the total amount of tax due before the application of any tax credits.

Line 74

Complete line 94 and enter the total amount of the tax credit that you are claiming. When claiming more than one credit you must apply them against your tax in the order listed below.

Tax credits cannot reduce your tax below the higher of the fixed dollar minimum tax or the tax on the minimum taxable income base.

1. Eligible business facility tax credit (Form CT-45)
2. Economic development zone capital corporation tax credit (Form DTF-602)
3. Economic development zone wage tax credit (Form DTF-601)
4. Investment tax credit carryforward - pre 1987 (Form CT-46)
5. Additional investment tax credit carryforward - pre 1987 (Form CT-46)
6. Research and development tax credit carryforward - pre 1987 (Form CT-42)
7. Additional investment tax credit (Form CT-46)
8. Investment tax credit (1987) (Form CT-46)
9. Employment incentive tax credit (1988) (Form CT-46)
10. Economic development zone investment tax credit (Form DTF-603)
11. Economic development zone employment incentive tax credit (Form DTF-601)
12. Special additional mortgage recording tax credit (Form CT-43)
13. Minimum tax credit (CT-3-ATT, Schedule B, Part II).

Aviation Corporations - A corporation principally engaged in aviation (including air freight forwarders acting as principal and like indirect air carriers) that qualifies for an investment tax credit (item #8 above) cannot apply the credit against its tax due for a tax year ending in 1989. However, the investment tax credit can be carried over to the next seven tax years.

Mergers, Acquisitions and Consolidations - In general, the tax credits of a target corporation cannot be used by the acquiring corporation. See Form CT-3, Schedule F.

For more information about the order of application of credits see TSB-M-89(4)C.

Indicate which credits you are claiming on line 94. Attach copies of all forms and schedules used.

Line 75

Subtract line 74 from line 73. If your tax credits are more than the tax shown on line 73, enter "0."

Line 76

Enter the amount from line 67 (minimum taxable income base tax) or line 70 (fixed dollar minimum tax), whichever is larger.

Line 77

Enter the amount from line 75 or line 76, whichever is larger. This is your tax after the deduction of tax credits. Use it to compute the tax surcharge.

Line 78

Enter the appropriate tax surcharge rate in the box on line 78 and multiply the tax from line 77 by that rate.

If your reporting period has not changed and your return covers a full year (calendar year 1992 or fiscal periods ending on or before June 30, 1993), multiply the tax shown on line 77 by 15% (.15).

If your reporting period ends after June 30, 1993, multiply the tax shown on line 77 by 10% (.10).

Short Period Computation for Periods Ending On or Before June 30, 1993

If your reporting period has changed, resulting in a tax period of less than 12 months on any return filed since July 31, 1990 (including this return), compute your tax surcharge as follows:

First, use your prior year returns to determine the number of months for which you have been liable for the 15% tax surcharge. Subtract the number of months for which you have been liable from 36 (the total number of months for which you must pay the 15% tax surcharge). The result will be the number of months still subject to the 15% surcharge. Then to determine the amount of the surcharge, follow one of the three steps below.

1. If your current return covers a full year and the number of months still subject to the 15% tax surcharge is 12 or more, multiply the tax on line 77 by 15% (.15).
2. If your current return is for a period of less than 12 months and the number of months still subject to the tax surcharge is more than the number of months covered by the return, multiply line 77 by 15% (.15).
3. If the number of months in your current return is more than the number of months still subject to the tax surcharge, prorate the tax. Divide the number of months still subject to the 15% surcharge by the total number of months covered by the return. Prorate the tax by multiplying it by the percentage obtained. Then to figure your tax surcharge, multiply the prorated tax by 15% (.15).

Example:

Limitation of 15% tax surcharge		36 months
Return filed for		
8/1/89 thru 7/31/90	12 months	
8/1/90 thru 7/31/91	12 months	
8/1/91 thru 12/31/91	5 months	
Total number of months of 15% tax surcharge paid		29 months
Remaining months subject to 15% tax surcharge		7 months
Current return 1/1/92 thru 12/31/92. Since your current return covers 12 months, and the number of months that you are still subject to the surcharge is less, follow Step 3		
Tax reported on return		$1,000
7/12 of the tax	$583.30	
Tax surcharge rate	15%	
Tax surcharge		87.50
Total tax and tax surcharge due		$1,087.50

Line 79

Add lines 77 and 78.

Line 80a

If you have filed an application for extension (Form CT-5), enter the amount from line 5 of Form CT-5.

Line 80b

If you did not file Form CT-5 and the amount on line 79 (tax and surcharge) is more than $1,000, you must pay a mandatory 25% first installment for the period following that covered by the return.

Line 82

Enter total prepayments from line 100.

Line 83

If line 82 is smaller than line 81, subtract line 82 from line 81. This is the balance of tax due. If line 82 is larger than line 81, enter "0" on line 83.

Lines 84 and 85

If you are not filing this return on time, you must pay interest and additional charges. (See *Interest and Penalties* on page 3.)

Line 86

If you underpaid your estimated tax, use Form CT-222, *Underpayment of Estimated Tax by Corporations,* to compute the penalty. Attach Form CT-222 and check box. If no CT-222 penalty is due, enter "0" on line 86.

Line 87

If you had a balance due on line 83, add lines 83, 84, 85 and 86. This is the amount you owe. Enter your payment on line A. If you entered "0" on line 83, compute your overpayment on lines 88 through 93.

Lines 88 through 92

Overpayment. If line 81 is smaller than line 82, subtract line 81 from line 82 (you must also subtract any amounts on lines 84, 85 and 86). This is the amount of your overpayment. You may apply an overpayment or part of an overpayment of tax as a credit to your next tax period, or to your metropolitan transportation business tax (MTA surcharge) or you may have it refunded. Indicate on lines 89 through 92 the amounts you wish transferred as credits or refunded.

Line 93

If you can claim a refund of unused investment tax credit, check box, enter the total amount claimed, and attach Form CT-46.1, *Claim for Refund of Investment Tax Credit*. Do not include this amount in the total tax credits claimed on lines 74 and 94.

Line 94

Enter in the appropriate space the amount of any tax credits that you are claiming. Enter the total amount of tax credits claimed in the space provided on line 94 and on line 74.

Lines 95 through 100 Prepayments

Enter all prepayments you have made on lines 95 through 99 and total them on line 100. Enter total amount of prepayments on line 82.

Line 101

Metropolitan Transportation Business Tax (MTA Surcharge)

Every corporation taxable under Article 9-A that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must also file Form CT-3M/4M and pay a business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

If you do not do business, employ capital, own or lease property in the MCTD, you must disclaim liability for the MTA surcharge by answering *No*.

Lines 102 and 103

Real Property Gains Tax

Every corporation with an interest in real property located in New York State must keep a record of the transfer of its stock and report annually every transfer of a controlling interest in its stock and any other information that may be required for the enforcement of this tax (Article 31-B, section 1449-a, Tax on Gains Derived from Certain Real Property Transfers).

Controlling interest is either 50% or more of the total combined voting power of all classes of stock or 50% or more of the capital, profits or beneficial interest in that voting stock.

Answer both questions. If you answer *Yes* to both questions, attach a separate sheet providing the following information:

— Name, address and identification number of the new controlling stockholder (use social security number for individuals and federal employer identification number for corporations).

— Date transfer was made.

— Location of real property.

— Whether the corporation is a cooperative housing corporation.

Lines 104 and 105

Interest Paid to Shareholders

Corporations that made interest payments, deducted in computing entire net income, to a shareholder or shareholders owning, directly or indirectly, individually or in the aggregate, more than 50% of its issued capital stock must provide the information requested in this section (section 211.2-a). A penalty of $500 is imposed for failure to provide this information (section 1085(n)).

Lines 106 and 107

Small Business Taxpayer

If you used the small business tax rate on line 25 you must complete this line to show that your corporation qualifies for the lower tax rate. Use the worksheet below to determine the amount to enter on line 107.

	No. of Shares	Amount
Par value stock		
No par stock		
Contributions to capital & paid-in surplus		
Total Capital Contributions - Enter on line 107		

A corporation qualifies if:

- Its entire net income (before allocation) is not more than $290,000
- The total amount of money and other property it received for stock, as a contribution to capital and as paid-in surplus, is not more than $1 million on the last day of its tax year, and
- The corporation is not part of an affiliated group, as defined in IRC section 1504, unless the group itself would have met the above criteria if it had filed a combined return.

If you qualify, provide the information requested in this section. Use your balance sheet amounts for stock and other paid-in capital.

Federal Returns

Indicate which type of federal return you filed and list any years during the past five for which you were audited by the IRS.

Interest Deducted

Enter the total amount of interest deducted on your federal return that you used in computing your federal taxable income on line 1.

Do you need a tax packet?

If you use a paid preparer, or if you use computer software to prepare your return, or if for any other reason you do not need a tax packet mailed to you for next year's taxes, please check the box above your signature, on page 3. When you check the box, we will send you a mailing label that you or whoever prepares your return should use on your 1993 return. By checking this box, you will help us reduce printing and mailing costs.

Signature

This return must be signed by an officer of the corporation or in the case of an association, publicly traded partnership or business conducted by a trustee, a person authorized to act for the association, partnership, or business. Failure to sign the return will delay the processing of any refunds or may result in penalties.

Schedule A — Computation of Business Allocation Percentage and Business Allocation Percentage for Minimum Taxable Income Base

Use Schedule A to allocate your business income (a component of entire net income) and business capital.

The election to allocate all income and capital as either investment or business was repealed, effective for periods beginning on or after January 1, 1989. If you have both types of income or capital, you must complete Schedule A and Form CT-3-ATT Schedules C and D.

If your property, payroll and sales were entirely within New York State, you do not need to complete Schedule A.

You allocate by multiplying business income or business capital by your business allocation percentage.

Part 1 is used by aviation corporations to compute the business allocation percentage. Three factors are averaged: aircraft arrivals and departures, revenue tons handled, and originating revenue. This percentage is used to allocate business income, when determing both the entire net income base and the minimum taxable income base, and business capital when computing the capital base.

In Part II the business allocation percentage is computed by averaging four factors: property, payroll and business receipts (the business receipts factor is included twice). This percentage is used to allocate business income when computing the entire net income base and is used to allocate business capital when computing the capital base.

In Part III the alternative business allocation percentage is computed by averaging three factors: property, payroll and business receipts. The factors are determined using the same rules that apply to Part II, except that any factor used to determine the alternative business allocation percentage must be adjusted to reflect modifications made in the computation of minimum taxable income (lines 42 through 57), which may change an amount used in a particular factor. For example, a depreciation modification would change the amounts used in computing the property factor. The Part III alternative business allocation percentage is used to determine the minimum taxable income base only.

The property factor is the percentage of the average value of your real and tangible personal property, whether owned or rented, that is located within New York State. The business receipts factor is the percentage of your business receipts attributable to New York State. The payroll factor is the percentage of your payroll that is attributable to New York State.

You must value real and tangible personal property owned by the corporation at the adjusted basis used for federal income tax. However, you may make a one-time, revocable election to value real and tangible personal property at fair market value. You must make this election on or before the due date (or extended due date) for filing the franchise tax return for your first tax year. This election does not apply to corporations included in a combined return unless all of the corporations included in the return make the election.

If you are attributing property or wages outside New York State, attach a separate sheet listing:

— Number, location and duties of your employees located outside New York State.

— Location of real and/or tangible personal property and a description of how that property is used.

If you are claiming a business allocation percentage, you must complete Schedule A.

Schedule A, Part I — Computation of Business Allocation Percentage for Aviation Corporations

Line 108

Aircraft arrivals and departures — Enter the number of landings and takeoffs of an aircraft of an aviation corporation and the number of pickups and deliveries by the aircraft. Arrivals and departures for maintenance, repair, refueling (where no debarkation or embarkation of traffic occurs), training, emergencies, and nonrevenue flights should not be included.

Line 110

Revenue tons handled — Enter the weight, in tons, of revenue passengers (at 200 pounds per passenger) and revenue cargo first received as originating or connecting traffic or finally discharged at an airport.

Line 112

Originating revenue — Enter revenue from the transportation of revenue passengers and revenue property first received as originating or connecting traffic.

Schedule A, Part II — Computation of Business Allocation Percentage

Lines 116 through 132

Enter the New York State amounts in column A and the total amounts in column B.

Line 116

Enter the average value of real property you owned. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

Line 117

Enter the average value of real property you rented. The value of rented real property is generally eight times the gross rent payable during the year covered by this return. Gross rent includes any amount payable as rent or in lieu of rent (such as taxes, repairs, etc.) and amortization of leasehold improvements that revert to the lessor at the end of the lease.

Line 118

Enter the average value of inventories.

Line 119

Enter the average value of tangible personal property you owned such as machinery, tools, and implements. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property or evidences of credit.

Line 120

Enter the average value of tangible personal property you rented. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

Line 121

Add lines 116 through 120.

Line 122

Divide line 121, column A, by line 121, column B, to determine the property factor.

Lines 123 and 124

Enter receipts from the sale of tangible personal property.

Line 125

Enter receipts for services performed, based on where they are performed. Corporations engaged in broadcasting or the publication of newspapers and periodicals must allocate to New York State receipts from the sale of advertising to the extent that the broadcasts or publications are delivered to the ultimate purchasers, subscribers, listeners or viewers in New York State.

Receipts for Services to Regulated Investment Companies - For tax periods beginning in 1989, 100% of the receipts received from an investment company for the sale of management, administration or distribution services must be allocated based on the domicile of the shareholders of the investment company (section 210.2(a)(6)(A)(ii)). For more information see TSB-M-88(9)C.

Receipts for services performed by air freight forwarders acting as principal and like indirect air carriers are allocated to New York State as follows.

Receipts from:	Allocate Receipts
— Pickup and delivery both made in NYS	100% to NYS
— Pickup only made in NYS	50% to NYS
— Delivery only made in NYS	50% to NYS

Line 126

Enter receipts from all property you rented to others.

Line 127

Enter receipts from royalties, allocated where earned.

Line 128

Enter all other business receipts, allocated where earned.

Line 129

Add lines 123 through 128.

Line 130

Divide line 129, column A, by line 129, column B, to determine the receipts factor.

Line 131

An additional receipts factor must be included in the computation of the business allocation percentage. Enter the same percentage computed on line 130 (section 210.3(a)(4)).

Line 132

Enter the total amount of all wages and compensation of employees other than general executive officers.

General executive officers include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either inside or outside New York State is not a general executive officer. Employees within New York include all employees regularly connected with or working out of an office or other place of business you maintained within New York State, no matter where the services of the employees were performed.

Line 133

Divide line 132, column A, by line 132, column B, to determine payroll factor.

Line 134

Add the factors on lines 122, 130, 131, and 133.

Line 135

Divide line 134 by four or by the number of factors. This is your business allocation percentage. Enter this amount on Form CT-3, lines 21 and 38. If a factor is missing, add the remaining factors and divide by the total number of factors present. If all but one factor are missing, the remaining factor is the allocation percentage. A factor is missing only if both column A and column B are zero.

Example

Computation of allocation percentage for business income and capital:

	CORP. A	CORP. B	CORP. C
Property factor (line 122)	80%	60%	60%
Receipts factor (line 130)	20%	30%	30%
Add'l receipts factor (line 131)	20%	30%	30%
Payroll factor (line 133)	60%	0%	None*
Total	180%	120%	120%
Divided by	4	4	3
Allocation percentage for business income and capital	45%	30%	40%

*In the examples above, Corporation C has no payroll factor since it has no employees either inside or outside New York State. Corporation B has no employees in New York State but has employees outside New York State.

Schedule A, Part III — Computation of Business Allocation Percentage for Minimum Taxable Income Base

If you entered zeros on lines 43 through 50 and 52 through 54 you may use the same percentages determined in Schedule A, Part II.

If you made entries on lines 43 through 54 that altered an item used to compute the property or receipts factors in Schedule A, Part II, you must make appropriate changes when determining the alternative business allocation percentage for allocating the alternative business income on line 62 and Form CT-3-ATT, Schedule B, Part I, line 10.

Line 154

Divide line 153 by three or by the number of factors if fewer than three. This is your alternative business allocation percentage for minimum taxable income. If a factor is missing, add the remaining factors and divide by the total number of factors present. If all but one factor are missing, the remaining factor is the allocation percentage. A factor is missing only if both column A and column B are zero. Enter this percentage on line 62 and on Form CT-3-ATT, Schedule B, Part I, line 10.

Example

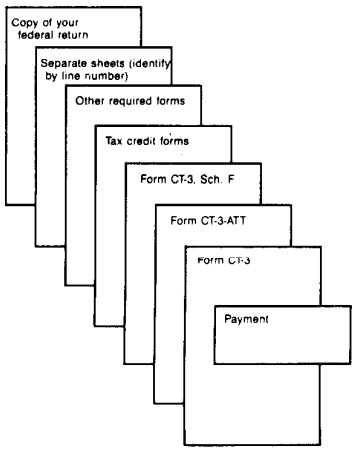
Computation of allocation percentage for minimum taxable income base:

	CORP. A	CORP. B	CORP. C
Property factor (line 142)	80%	60%	60%
Receipts factor (line 150)	10%	30%	30%
Payroll factor (line 152)	60%	0%	None*
Total	150%	90%	90%
Divided by	3	3	2
Allocation percentage for minimum taxable income	50%	30%	45%

*In the examples above, Corporation C has no payroll factor since it has no employees either inside or outside New York State. Corporation B has no employees in New York State but has employees outside New York State.

When preparing and mailing your 1992 corporate franchise tax return, please remember the following:

- Use the preaddressed label. It will ensure the proper recording of your franchise tax return.
- If you are not using the label, include your employer identification number and file number on each form filed. These numbers can be copied directly from the label.
- Have the appropriate individuals sign the return.
- Make your check payable to: ***New York State Corporation Tax.***
- Attach a complete copy of your federal return.
- Attach Forms CT-3-ATT, CT-3, Schedule F, and any other schedules and tax credit claim forms used to compute your tax.
- Assemble your return and attachments this way:



Mail to: NYS Corporation Tax Processing Unit P O Box 1909 Albany NY 12201-1909

Instructions for Form CT-3-ATT — Schedules B, C, D and E

Computation and Application of Minimum Tax Credit

Schedule B, Part I — Computation of Adjusted Minimum Tax

Complete lines 1 through 22 only if your tax due, shown on Form CT-3, line 77, is based on the minimum taxable income base. The amounts used in Part I will be found in other schedules throughout Forms CT-3 and CT-3-ATT except for line 7. The figure entered on line 22, may be used to compute your minimum tax credit in future years. If your tax due is not based on the minimum taxable income, enter "0" on line 22.

Line 7

Enter any portion of the amounts from lines 2, 3 or 4 that represents income from investment capital. See instruction for CT-3, line 59.

Schedule B, Part II — Application of Minimum Tax Credit

The minimum tax credit can be used to reduce your franchise tax only if the tax is based on your entire net income base. The amount of credit is the adjusted minimum tax computed in Schedule B, Part I, for all prior tax years beginning after December 31, 1989, less any amount used as a minimum tax credit in prior tax years.

Complete lines 23 through 28 only if you computed adjusted minimum tax in a prior year tax return.

Line 23

Enter the date and amount of each prior year adjusted minimum tax. If you only have one prior year adjusted minimum tax amount, enter that amount on line 24.

Line 25

Enter any amount you have used as a minimum tax credit in a prior year. Otherwise, enter "0" on this line.

Line 27

If your franchise tax for this tax year is based on your entire net income base, enter the amount (or portion of the amount on line 26) that will, after applying all other tax credits, reduce your tax on your entire net income base to the higher of the fixed dollar minimum tax or the tax on the minimum taxable income base.

Schedule C — Computation of Investment Income for Allocation

Complete this schedule if you are allocating part of your entire net income using an investment allocation percentage from Schedule D. Investment income is income from investment capital to the extent it is included in entire net income, less any deductions allowable in computing entire net income that are attributable to investment capital or investment income, and less a portion of any net operating loss deduction allowable in computing entire net income.

Income from investment capital includes dividends (other than from a subsidiary or a DISC), interest, and capital gains and losses from sales or exchanges of investment capital that are included in the computation of entire net income.

Professional service corporations (Article 15 or 15-A BCL) must use an investment allocation percentage of 100% (section 210.3(b)(3)).

Line 29

Enter the balance of dividends not excluded on Form CT-3, line 11. This includes 100% of the dividends disallowed for federal tax under section 246(c) and 50% of all other nonsubsidiary dividends. Include dividends from money market mutual funds that were treated as cash on line 41. See TSB-M-89(14)C for more information.

Line 30

Enter interest income from corporate and government bonds, corporate debentures, notes and certificates of indebtedness that have many of the essential characteristics of bonds.

If the investment allocation percentage is zero, interest from bank accounts (cash) must be allocated by the business allocation percentage.

Line 31

Enter interest received from a bond or other debt instrument of a subsidiary in which you own more than 50% but less than 80% of the capital stock and the subsidiary claims any part of the interest as a New York State franchise tax deduction on any return under Article 9-A, 32 or 33 for any period ending within the tax year of the parent, if the bond or other debt instrument constitutes investment capital.

Line 32

You may treat cash on hand or on deposit as either business or investment capital. However, you may **not** treat part as business capital and part as investment capital. Enter interest on bank accounts only if you have elected to treat cash as investment capital and have entered the amount on line 41.

You may not treat cash as investment capital if you have no other investment capital.

Line 33

Do not include any net capital gains or (losses) from the sales and exchanges of securities constituting investment capital, that were not used in computing federal taxable income.

Line 35

Enter deductions directly or indirectly attributable to investment income or investment capital. To determine the amount of deductions indirectly attributable, use the following formula:

$$\text{Total amount of deductions subject to indirect attribution} \times \frac{\text{Average value of assets included in investment capital}}{\text{Average value of all assets}}$$

To compute the value of an asset, real property and marketable securities should be valued at fair market value and all other property should be included at the value shown on your books in accordance with generally accepted accounting principles (GAAP).

To determine the total amount of deductions subject to indirect attribution, use the following procedure:

(a) Subtract from the amount of federal deductions included on federal Form 1120, line 27 the following:

- Those federal deductions included in the line 27 amount which are required to be added back to federal taxable income in computing entire net income, **other than** the amount of deductions directly or indirectly attributable to subsidiary capital; and
- The New York excess depreciation add-back described in Tax Law, section 208.9(b)(11) (relating to the disposition of certain

decoupled property) to the extent that the amount was included in (b), for prior tax years which began on or after January 1, 1987.

(b) Increase the amount arrived at in (a) by the following deductions which are subtracted from federal taxable income in computing entire net income:

- Interest expense attributable to interest income not includable in federal taxable income but required to be included in entire net income (e.g., municipal bond interest), to the extent you did not deduct this interest expense on your federal return, (Tax Law, section 208.9(b)(2); see also Franchise Tax Regulations, 20 NYCRR 3-2.3(a)(2).)
- In the case of a taxpayer organized outside the United States, deductions attributable to income which is not included in federal taxable income but is required to be included in entire net income (e.g., foreign source income). (Tax Law, section 208.9(c); see also Franchise Tax Regulations, 20 NYCRR 3-2.3(a)(9).)
- The portion of wages and salaries paid or incurred for the tax year for which a deduction is not allowed pursuant to section 280C of the Internal Revenue Code. (Tax Law, section 208.9(a)(7).)
- Depreciation deductions permitted under Article 9-A with respect to "decoupled" property pursuant to Tax Law, section 208.9l(a)(11) and (12).
- Depreciation arising from "decoupling" from federal safe harbor lease provisions pursuant to Tax Law, section 208.9(a)(10).

(c) Reduce the amount arrived at in (b) by any deductions included in (b) which are directly attributable to subsidiary, investment or business capital.

For more information see TSB-M-88(5)C.

To compute the value of an asset, real property and marketable securities should be valued at fair market value and all other property should be included at the value shown on your books in accordance with generally accepted accounting principles (GAAP).

Line 37

Apportion any net operating loss deduction claimed on Form CT-3, line 13, between business income and investment income. Divide investment income before deduction of any net operating loss by entire net income before deduction of any net operating loss. Multiply the result by the net operating loss deduction. Enter this amount on line 37.

Schedule D — Computation of Investment Capital and Investment Allocation Percentage

Parts 3 and 4 of the Business Corporation Franchise Tax Regulations were substantially amended to update provisions concerning the nature and treatment of investment capital and investment income. These amendments are effective for periods beginning on or after January 1, 1990. For complete information about these changes see TSB-M-90(4)C and NYCRR Title 20, Chapter 1, Subchapter A, Parts 3 and 4.

Investment capital is defined as the corporation's investments (including items held in book entry form) in stocks, bonds and other securities issued by a corporation or by any governmental entity.

Stocks, bonds and other securities include: stocks and similar corporate equity instruments such as units in certain publicly traded partnerships, debt instruments issued by a government entity, qualifying corporate debt instruments, options on the foregoing or on a stock or bond index or on a futures contract on such an index unless the option hedges the taxpayer's business or subsidiary capital, and stock rights and stock warrants.

The amended regulations include a change that allows certain debt instruments to be treated as cash. Cash may be treated at the taxpayer's election as either investment capital or business capital, but only if the taxpayer has other (noncash) investment capital.

Investment Capital is the average value of your investments in stocks, bonds and other corporate or govermental securities, less liabilities, both long-term and short-term, directly or indirectly attributable to such stocks, bonds and securities.

The election to allocate all income or capital as either investment or business was repealed effective for periods beginning on or after January 1, 1989. If you have both types of income or capital you must complete Schedules C and D and CT-3, Schedule A.

Column A — List all stocks, bonds and other securities issued by a corporation (other than the taxpayer, a subsidiary or a DISC) or by governmental units, either foreign or domestic, and their instrumentalities. For periods beginning on or after January 1, 1990, do not include money market mutual funds (now treated as cash) or bonds or other debt instruments issued by a member of the taxpayer's affiliated group or a subsidiary at least 80% or more of the stock of which is owned by the taxpayer. See TSB-M-90(4)C or applicable regulation for other restrictions.

Column C — Enter the average fair market value of each item listed in column A. On any date, the fair market value of stocks, bonds and other regularly traded securities is the mean between the highest and lowest selling prices. The average value generally is computed quarterly if your usual accounting practice permits it, but you may use a monthly, weekly, or daily average. If your usual accounting practice does not permit a quarterly or more frequent computation of average fair market value, you may use a semiannual or annual computation if no distortion of average fair market value results. If the security is not marketable, value it using generally accepted accounting principles (GAAP).

Column D. Deduct all liabilities, both long-term and short-term, directly or indirectly attributable to investment capital. Use the same method of averaging used to determine the average value of assets in column C. Enter for each item of investment capital listed in column A the sum of the liabilities directly or indirectly attributable to it. Liabilities directly attributable to an asset are those that were incurred to acquire that asset.

Use the following worksheet to determine the amount of liabilities indirectly attributable to a particular asset.

Worksheet

Total liabilities	A	
Liabilities directly attributable to:		
Subsidiary capital	B	
Investment capital	C	
Business capital	D	
Add lines **B, C and D**	E	
Subtract line **E** from line **A**	F	
Enter amount from Schedule D, line 42, column C	G	
Enter amount from Form CT-3, line 30, column C	H	
Divide line **G** by line **H**	I	%
Multiply line **F** by line **I**	J	
Value of the particular asset	K	
Enter amount from line **G**	L	
Divide line **K** by line **L**	M	%
Enter amount from line **J**	N	
Multiply line **M** by line **N**	O	

In column D, on the line for the asset in question, include the sum of the amount from line O of this worksheet and the amount of liabilities directly attributable to that asset.

Column E — Determine the net average value of each item listed in column A by subtracting column D from column C. The net average value of any item cannot be less than zero.

Column F — Enter the issuer's allocation percentage for each investment listed in column A. For information, see the instructions for Form CT-3, line 40.

Issuer's allocation percentages will be supplied by this department upon written request (in duplicate) to:

NYS Tax Department
Taxpayer Assistance Bureau
W A Harriman Campus
Albany NY 12227

Call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

Column G — Determine the value of each investment in column A by multiplying each item in column E by the issuer's allocation percentage listed in column F. The issuer's allocation percentage for all governmental securities is 0%.

Line 40

Determine your investment allocation percentage by dividing line 39, column G, by line 39, column E.

Line 41

You may elect to treat cash on hand or on deposit as investment capital if you have investment capital or as business capital if you have business capital. You may not elect to treat part of your cash as business capital and part as investment capital. No election to treat cash as investment capital may be made if you have no other investment capital. Cash

includes cash on hand and on deposit, shares in a money market mutual fund and certain debt instruments. See TSB-M-90(4)C or applicable regulations for a description of such qualifying short term debt instruments.

Line 42

Add lines 39 and 41, columns C, D and E. The total of column E is your investment capital. Enter this amount on Form CT-3, line 35.

Schedule E

Complete Schedule E if you have any subsidiaries. A subsidiary is a corporation which is controlled by the taxpayer, because the taxpayer owns more than 50% of the total number of shares of the corporation's voting capital stock, issued and outstanding. A DISC is not a subsidiary.

Schedule E, Part I — Income Attributable to Subsidiary Capital

Lines 43 through 45

Enter interest, dividends and capital gains. In addition, include on line 45 items such as collapsible corporation gain and sale of subsidiary capital which is not a capital asset for federal tax.

Line 46

Add lines 43, 44 and 45. Enter this amount on Form CT-3, line 10.

Schedule E, Part II — Computation and Allocation of Subsidiary Capital Base and Tax

Subsidiary capital is the taxpayer's total investment in shares of capital stock of its subsidiaries and the amount of indebtedness owed to the taxpayer by its subsidiaries (whether or not evidenced by written instruments) on which interest is not claimed and deducted by the subsidiary against any tax imposed by Article 9-A, 32 or 33, less liabilities directly or indirectly attributable to subsidiary capital.

Subsidiary capital does not include accounts receivable acquired in the ordinary course of trade or business either for services rendered or for the sale of property primarily held for sales to customers. Each item of subsidiary capital must be reduced by any of the parent's liabilities which are directly or indirectly attributable to that item of subsidiary capital.

Column A — Enter the full name and federal employer identification number of each subsidiary.

Column C — Enter the average value of each item of your investment in subsidiaries. Average value is generally computed quarterly if your usual accounting practice permits. However, you may use a more frequent basis such as a monthly, weekly or daily average. If your usual accounting practice does not permit a quarterly or more frequent computation of average value, you may use a semiannual or annual computation if no distortion of average value results. Value marketable securities at fair market value and other property using generally accepted accounting principles.

Column D — Deduct all liabilities, both long-term and short-term, directly or indirectly attributable to subsidiary capital. Use the same method of averaging used to determine the average value of assets in column C. Enter for each item of subsidiary capital listed in column A the liabilities directly or indirectly attributable to it. Liabilities directly attributable to an asset (stock or debt) are those that were incurred to acquire that asset.

Use the following worksheet to determine the amount of liabilities indirectly attributable to a particular asset.

Worksheet

Total liabilities	A	
Liabilities directly attributable to:		
Subsidiary capital	B	
Investment capital	C	
Business capital	D	
Add lines **B, C and D**	E	
Subtract line **E** from line **A**	F	
Enter amount from Schedule E, Part II, line 47, column C	G	
Enter amount from Form CT-3, line 30, column C	H	
Divide line **G** by line **H**	I	%
Multiply line **F** by line **I**	J	
Value of the particular asset	K	
Enter amount from line **G**	L	
Divide line **K** by line **L**	M	%
Enter amount from line **J**	N	
Multiply line **M** by line **N**	O	

In column D, on the line for the asset in question, include the sum of the amount from line *O* of this worksheet and the amount of liabilities directly attributable to that asset.

Column E — Determine the net average value of each item listed in column A by subtracting column D from column C. The net average value of any item cannot be less than zero.

Column F — Enter the issuer's allocation percentage for each item listed in column A. See instructions for Form CT-3, line 40.

Column G — Multiply net average value, column E, of each item listed in column A by its issuer's allocation percentage in column F. This is the value of subsidiary capital allocated to New York State.

Line 47

Add the amounts in columns C and D.

Line 48

Add the amounts in column E. This is the total net average value of subsidiary capital. Enter this amount on Form CT-3, line 33.

Line 49

Add the amounts in column G. Enter this amount in the box on Form CT-3, line 72.

Line 50

Multiply line 49 by the tax rate of .0009. This is your subsidiary capital base tax. Enter this amount in the money column on Form CT-3, line 72.

When preparing and mailing your 1992 General Business Corporation Franchise Tax Return, please remember the following:

- Read the instructions.
- Use the correct forms.
- Use the preaddressed label. It will ensure the proper recording of your franchise tax return.
- If you are not using the label, include your employer identification number and file number on each form filed.
- If you do not need forms mailed to you next year, check the box located above the signature area on Form CT-3.
- Have the appropriate individuals sign the return.
- Make your check payable to: ***New York State Corporation Tax***.
- Attach Form CT-3-ATT and all other schedules you are required to file.
- Attach Form CT-3, Schedule F, if the corporation was involved in a merger, acquisition or consolidation.
- Attach a complete copy of your federal return to Form CT-3.
- Attach appropriate tax credit forms to substantiate Form CT-3, line 74 and line 93 entries.
- Mail your return to: NYS Corporation Tax, Processing Unit, P O Box 1909, Albany NY 12201-1909

Mailing Label

Use the mailing label provided by the Tax Department.

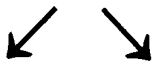
The preprinted mailing label contains the account identification information necessary for correct and effective processing of your tax form.

Check your label to see that the information is complete and correct. If it is incorrect, make any corrections directly on the label. (You must also file Form DTF-95, *Change of Business Information,* with the Tax Department as soon as possible.) If the address has changed, check the box next to the name and address on Form CT-3.

Remove the peel-off label from the front cover of your packet and place it in the **name and address box** at the top of your corporation tax return or application for extension.

To ensure that your corporation tax forms are processed as quickly and efficiently as possible, it is important that we have the necessary identifying information from your preprinted label. If you are not using the label, please include your **employer identification number** and **file number** on each form filed.

These numbers can be copied directly from the label:



Employer ID number		File number
Name		
Number and Street		
City and Town	State	ZIP code

If you use a paid preparer or accounting firm, make sure they use the mailing label or the label information when completing all forms prepared for you.

Mail all returns to: NYS Corporation Tax, Processing Unit, P O Box 1909, Albany NY 12201-1909

Need Help?

Phone	For forms and publications, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.
	For information, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.
	Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday.
Write	If you need to write, please address your letter to:
	NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227