New York State Department of Taxation and Finance

Instructions for Form CT-186

Utility Corporation Franchise Tax Return

Tax Law — Article 9, Section 186

CT-186-I

Who Must File

Anyone who is taxable under Article 9, section 186 must file Form CT-186. This includes corporations, joint-stock companies, associations taxable as corporations or publicly traded partnerships taxable as corporations formed for or principally engaged in the business of supplying electricity, water, steam, or gas when delivered through mains or pipes. The tax is computed on gross earnings received from the employment of capital plus a tax on dividends paid for the tax year January 1 to December 31, 1995. You must report income for the calendar year even if you maintain your records and report to the IRS using a fiscal accounting period.

If you import (or cause to be imported) natural gas to be used or consumed in New York State, you may also have to file Form CT-189. For more information refer to the instructions for Form CT-189 or call the Business Tax Information Center at 1 800 972-1233. The call is toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. You can also 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.

When and Where to File

Mail completed returns to **NYS Corporation Tax, Processing Unit, P O Box 1909, Albany NY 12201-1909** on or before March 15, 1996.

If you cannot meet the filing deadline, ask for a three-month extension of time by filing Form CT-5.9 and paying any tax and state tax surcharge due on or before March 15, 1996. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186.

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 and you have not previously notified us, 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.

Change of Address

If your address has changed, enter your new address on the label and check the box next to the name and address block at the top of your corporation tax return. Do not check this box for any change of business information other than address. You must still attach the preprinted label with the old address to enable us to update your account.

Real Property Gains Tax (Article 31-B, section 1449-a)

A corporation with an interest in real property located in New York 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 necessary for the enforcement of Article 31-B.

Controlling interest of a corporation 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.

If you answered *Yes* to both questions on page one, attach a separate sheet with 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; and
- location of real property.

Independently Procured Insurance Tax — Article 33-A

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 or TSB-M-90(9)C for more information).

Maintenance Fee - Foreign Corporations

A corporation organized outside of New York State (a foreign corporation) that is authorized to do business in New York State must pay an annual maintenance fee of $300. Failure to pay the annual maintenance fee or its equivalent in New York State corporation taxes (including state and MTA surcharges) under Article 9 (or Article 9-A or 32) will result in annulment of the authorization to do business in New York State. Payments of such taxes (but not a license fee reported on Form CT-240) are counted as payments toward the $300 annual maintenance fee. If the total of such taxes paid for 1995 is more than $300, the corporation has satisfied the requirement to pay the $300 annual maintenance fee. If the total of such taxes paid for 1995 is less than $300, enter $300 on Form CT-186, line 9 and make a payment of $300 with that form. In addition, on any other Article 9 returns indicate that a total tax and maintenance fee of $300 was paid with Form CT-186, and make no remittance of tax with the other returns. Article 9 returns include CT-186-M, 186-A, 186-A/M, 186-E, 186-P, 186-P/M and 189.

Foreign corporations must also file a report of license fee - see Form CT-240, *Foreign Corporation License Fee Report*.

Final Return

Check the *Final Return* box on the front of the return, under the form number, only if filing a final tax return for one of the following reasons:

- Voluntary Dissolution - New York Corporation (New York Business Corporation Law Section 1003)
- Surrender of Authority by a Foreign Corporation (New York Business Corporation Law Section 1310)
- Merger or Consolidation (New York Business Corporation Law Section 904, 905 and 907)
- Disposition of Assets - New York Corporation (New York Business Corporation Law Section 909(d))
- Termination of Existence - Foreign Corporation (New York Business Corporation Law Section 1311)
- Liquidation Under Internal Revenue Code (IRC Sections 332, 333, 334 and 337).

See the *Voluntary Dissolution and Surrender of Authority and Liability for Taxes and Fees* section of these instructions and also Publication 110, *Information and Instructions for Termination of Business Corporations*, for the proper procedures to follow in terminating your business.

In the case of a merger or consolidation, the *Final Return* check box would only be used by the non-surviving corporation.

The return will be treated as a final return if your business is terminated with the Department of State and the return covers the tax period from the last return filed to the date of the termination.

Foreign authorized corporations refer to Form CT-245 if you are disclaiming tax liability but want to continue to be authorized to do business in New York State.

Do not check the box if you are only changing the type of return that you file (e.g., CT-3 to CT-3-S or CT-4 to CT-3).

Voluntary Dissolution and Surrender of Authority and Liability for Taxes and Fees

A domestic corporation (incorporated in New York State) is generally liable for corporate franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, regardless of whether it carries on any activity. For example, a person who intends to go into business organizes a new corporation under the New York Business Corporation Law for the purpose of operating the new business as a corporation. However, the business is never started and the corporation never conducts any business. Under such circumstances, the corporation would usually be liable for franchise taxes for each taxable year until it is formally dissolved with the Department of State.

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it does business, employs capital, owns or leases property or maintains an office in New York. In addition, a foreign corporation which is authorized to do business in New York is also liable for payments of its annual maintenance fee until such time as it surrenders with the Department of State its authority to do business, regardless of whether it does business, employs capital, owns or leases property or maintains an office in the state. The maintenance fee may be taken as a credit against the franchise tax.

In order to voluntarily dissolve a domestic corporation or surrender the authority of a foreign corporation which is authorized to do business in this State, the Tax Law requires the consent of the Commissioner of Taxation and Finance. Such consent will be given only if the Commissioner ascertains that all fees, franchise taxes, and other taxes (e.g. sales tax) imposed under the Tax Law which have accrued against the corporation have been paid. The procedure for obtaining

such a consent and the forms that are required to be filed with this Department are set forth in Publication 110. You can request this publication by calling the Business Tax Information Center toll free from anywhere in the United States (including Alaska and Hawaii) and Canada at 1 800 972-1233.

Metropolitan Transportation Business Tax (MTA Surcharge)

Any corporation taxable under Article 9, section 186, that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-M 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, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Corporate Partners

Under Article 9, section 186, receipts of a partnership *pass through* to its corporate partners.

If a partnership is principally engaged in an Article 9, section 186, activity within New York State, each corporate general partner is engaged in the activity of the partnership and is deemed to be doing business in New York State. If the corporate general partner receives more than 50% of its gross earnings from section 186 activities or derives more than 50% of its gross earnings from the partnership, it is subject to tax under Article 9, section 186. To make this determination, the corporate general partner must take into account all of its receipts, including its proportionate share of the receipts from the partnership.

If a foreign corporation is a limited partner in a partnership engaged in an Article 9, section 186, activity within New York State and is subject to New York State tax jurisdiction pursuant to Article 9-A regulation (section 1-3.2), the limited foreign corporate partner is subject to section 186 taxation if more than 50% of its gross earnings (including its proportionate share of the gross earnings of the partnership) are derived from section 186 activity or if more than 50% of its gross earnings are derived from the partnership.

Identifying Information

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. **Keep a record of the label information for future use.** Please be certain to include your employer identification number and file number on each corporation tax form mailed. This will facilitate processing your return to the correct account. Without this information, we may not be able to process your return.

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

Line Instructions

Line A — After completing your return, enter the amount of your payment. Your payment should be the full amount shown on line 17.

Negative amounts, if any, should be shown in parentheses.

Line 6 — You may take a credit against your franchise tax for any special additional mortgage recording tax you paid. This credit may not reduce your tax below the minimum tax, or if you are an authorized foreign corporation, it may not reduce the tax below the $300 maintenance fee. You may carry any unused credit forward. Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit.*

Line 8 — The laws of 1994 amended the state tax surcharge.

The state tax surcharge rates are:

- 7½% (.075) for tax years beginning on 1/1/95 and ending on 12/31/95 (including a tax year of less than 12 months).
- 2½% (.025) for tax years beginning on 1/1/96 and ending on 12/31/96 (including a tax year of less than 12 months).

The state tax surcharge is computed on the tax **before** the deduction of gross earnings received from a financial resource asset.

The state tax surcharge is computed on the tax **after** the deduction of any tax credits.

Once computed, the state tax surcharge cannot be reduced by the special additional mortgage recording tax credit.

The state tax surcharge does not apply to the MTA surcharge.

Line 9 — Add the franchise tax on line 7 and the state tax surcharge on line 8. If you are an authorized foreign corporation, see *Maintenance Fee — Foreign Corporations.*

Line 10b — If you did not file Form CT-5.9 and the amount on line 9 (franchise tax plus state tax surcharge) is more than $1,000, you must pay a mandatory 25% first installment of estimated tax for 1996.

Use Form CT-400 to file and pay the additional installments of estimated tax for 1996. If the franchise tax plus tax surcharge for 1996 is expected to exceed $1,000, additional installments of estimated tax must be filed on June 15, September 15 and December 15.

Line 14 — If you can reasonably expect your franchise tax plus state tax surcharge on Form CT-186 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 more information see Form CT-222, *Underpayment of Estimated Tax by a Corporation.*

Line 15 — If you do not pay the franchise tax and state tax surcharge on or before the due date (without regard to any extension of time), 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 10. You may call the Taxpayer Assistance Bureau for the current rate or to have the interest computed for you. Refer to *Who Must File* on the front page for telephone numbers.

Line 16 — Additional charges for late filing and late payments are computed on the amount of franchise tax and state tax surcharge less any payment made on or before the due date. Exclude from the penalty computation any amount shown on line 10.

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 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 in item A above 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 25% (section 1085(a)(2)).

D The total of the additional charges in items A and C may not exceed 5% for any one month, except as provided for in item B above (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 and/or payment (section 1085).

Schedule A - Computation of Gross Earnings Tax and Allocation Percentage/Issuer's Allocation Percentage

On lines 23 through 26, enter gross earnings attributable to New York State in column A and total gross earnings everywhere in column B.

Gross earnings are all receipts from the employment of capital without any deductions.

Do not take a deduction relating to a financial resource asset unless you attach to Form CT-186 a certificate issued by the New York State Department of Public Service, verifying this deduction.

Your **issuer's allocation percentage** is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of New York State gross earnings compared to gross earnings everywhere.

Recent amendments to the Tax Law require most corporations doing business in New York State to provide the information needed to compute their issuer's allocation percentage. Section 1085 of the Tax Law provides for a $500 penalty for failure to provide this information.

Taxpayers paying the minimum tax must also complete this schedule and compute their issuer's allocation percentage.

Schedule B - Computation of Allocated Dividend Tax

Line 32 — The actual amount of paid-in capital is that part of the equity that was invested in the business enterprise by shareholders.

Line 33 — If dividends are paid once a year, include the value of the paid-in capital on the declaration date. If dividends are declared and paid more than once a year, the value of paid-in capital on which these dividends were paid must be averaged by computing the value of paid-in capital on each declaration date, and dividing by the number of dividend dates.

See TSB-M-82(8)C for additional information on the computation of the tax on dividends.

Line 38 — Multiply line 37 by .045. Also enter this amount on line 2.