



Instructions for Form CT-33-NL

Non-Life Insurance Corporation Franchise Tax Return

Up-to-date information affecting your 2004 tax return.

Visit the *Corporation Tax Up-to-Date Information* page on our Web site at www.nystax.gov for Tax Law changes or forms corrections that occurred after the forms and instructions were printed.

New for 2004

Your refund may be applied to a city of New York tax warrant judgment debt

Due to a recent law change, your refund may be reduced by amounts owed for a city of New York tax warrant judgment debt. For additional information concerning these changes, see *Collection of debts from your refund* on page 2.

Long-term care insurance credit increased

For tax years beginning on or after January 1, 2004, the long-term care insurance credit has been increased to 20% of the premiums paid during the tax year for the purchase of qualifying long-term care insurance. For more information, see Form CT-249, *Claim for Long-Term Care Insurance Credit*.

Certified capital company (CAPCO) credits extended

Section 11 of the Tax Law was amended to provide for CAPCO program 4. This program provides \$60 million dollars of certified capital, which may be allocated and allowed as tax credits under sections 11 and 1511(k) of the Tax Law. Although investments in this program may begin in 2004, the credits may not be claimed until 2006. For more information, see Form CT-33.1, *Claim for CAPCO Credit*.

Non-life insurance corporations subject to a franchise tax based solely on premiums — For tax years beginning on or after January 1, 2003, non-life insurance corporations are subject to a franchise tax based solely on premiums under section 1502-a of the Tax Law.

The franchise tax is calculated in the same manner as the additional franchise tax based on premiums under section 1510(a) of the Tax Law, except that the tax rate is:

- 1.75% for accident and health premiums; and
- 2.00% for all other premiums.

The tax imposed under section 1502-a, before the application of tax credits, cannot be less than \$250.

Deduction for certain reinsurance premiums — Effective for tax years beginning on or after January 1, 1990, section 1510(c) of the Tax Law has been amended to allow a deduction from gross direct premiums for certain reinsurance premiums received from insurers not authorized by the Superintendent of Insurance to transact business in this state. For additional information, refer to TSB-M-03(3)C, *New Deduction Under Article 33 of the Tax Law for Certain Reinsurance Premiums, and Limited Opportunity for Refund of Tax Paid on These Premiums*.

Who must file Form CT-33-NL

- Domestic non-life insurance corporations for the privilege of exercising a corporate franchise.
- Foreign and alien non-life insurance corporations doing business, employing capital, owning or leasing property, or maintaining an office in this state.
- Non-life insurance corporations exempt from federal income tax but conducting business in New York State.
- An unauthorized non-life insurance corporation that is affiliated with an insurer licensed in New York State and is operating from an office within the state pursuant to sections 1101(b)(5) and 2117(i) of the New York State Insurance Law. See TSB-M-00(1)C, *Amended Definition of Insurance Corporation (Article 33)*, for additional information.
- Risk retention groups as defined in subsection (n) of section 5902 of the Insurance Law.

Exceptions: Insurance corporations specifically exempted by section 1512 of the Tax Law do not have to file Form CT-33-NL. Captive insurance companies must file Form CT-33-C, *Captive Insurance Company Franchise Tax Return*.

Definition of insurance corporation — An *insurance corporation* as defined by section 1500 of Article 33 of the Tax Law is any corporation, association, joint stock company or association, person, society, aggregation, or partnership doing an insurance business.

Definition of non-life insurance corporation — A *non-life insurance corporation* is any insurance corporation, other than a life insurance corporation, that is authorized to transact business in New York State under a certificate of authority from the superintendent of the New York State Insurance Department.

When and where to file

File your return within 2½ months after the end of your reporting period. If you are reporting for the calendar year, file your return on or before March 15. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

If you cannot meet this filing deadline, you may ask for a six-month extension of time by filing Form CT-5, *Request for Six-Month Extension to File*.

Mail your returns and attachments to:

**NYS CORPORATION TAX
PROCESSING UNIT
PO BOX 22038
ALBANY NY 12201-2038**

Also mail a copy to:

**NYS INSURANCE DEPARTMENT
AGENCY BUILDING 1
EMPIRE STATE PLAZA
ALBANY NY 12257**

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file your return and pay tax. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* on the last page of these instructions for information on ordering forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, address your return to: State Processing Center, 431C Broadway, Albany NY 12204-4836.

Computerized returns — We will accept computer-produced corporation tax returns if they meet our printing specifications. For information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

Specific instructions

Amended return — If you are filing an amended return, please mark an **X** in the *Amended return* box on the top of Form CT-33-NL.

Reporting period — Complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

Your tax year for New York State must be the same as your federal tax year. Use this tax return for both calendar and fiscal tax years beginning in 2004, and for short periods beginning in 2005 and ending before December 31, 2005.

Change of address — If your address has changed, please enter your new address in the appropriate area and mark an **X** in the box below the address so that we can update your address for this tax type. Do not mark an **X** in this box for any change of business information other than for your address.

Change in business information — You must report any changes in your business name, ID number, mailing address, physical address, telephone number, or owner/officer information on Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*, to correct your address for this and all other tax types. You can get these forms from our Web site, or by fax, or phone. See *Need help?* on the last page for the Web address and phone number.

NAICS code and principal business activity — Enter the six-digit NAICS business activity code number and principal business activity.

Metropolitan transportation business tax (MTA surcharge) section 1505-a — Any insurance corporation taxable under Article 33 that does business, employs capital, owns or leases property, or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-33-M, *Insurance Corporation MTA Surcharge Return*, and pay the MTA surcharge imposed by section 1505-a. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Corporations not doing business in the MCTD must disclaim liability for the tax surcharge by answering *No* to the question on the front of Form CT-33-NL. They are not required to file Form CT-33-M.

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

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

Whole dollar amounts — You may elect to show amounts in whole dollars rather than in dollars and cents. Round any amount from 50 cents through 99 cents to the next higher dollar. Round any amount less than 50 cents to the next lower dollar.

Negative amounts — Show any negative amounts with a minus (-) sign.

Percentages — When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Carry percentages to four decimal places.

Example: $5,000/7,500 = 0.6666666 = 66.6667\%$.

Line instructions

Line A — Make your payment in United States funds. We will accept a foreign check or foreign money order only if payable through a United States bank or if marked **Payable in U.S. funds**.

Computation of tax and installment payments of estimated tax

Line 1 — Enter the amount of accident and health premiums from line 34 in the first box. Multiply accident and health premiums by the tax rate of 1.75% (.0175) and enter the result here.

Line 2 — Enter the amount of other non-life insurance premiums from line 35 in the first box. Multiply other non-life insurance premiums by the tax rate of 2.0% (.02) and enter the result here.

Line 6 — Enter the total amount of tax credits claimed from line 47.

Line 7 — Subtract line 6 from line 5 and enter the result here. If you have a net recapture of tax credits, add that amount to the tax due.

Line 8b — If your tax on line 7 exceeds \$1,000 and you did not file Form CT-5, *Request for Six-Month Extension to File*, you must pay a mandatory first installment for the period following the one that is covered by this return. If your tax exceeds \$1,000, but does not exceed \$100,000, enter 25% (.25) of the tax shown on line 7. If your tax exceeds \$100,000, enter 30% (.3) of the tax shown on line 7.

Line 10 — Enter the total of all prepayments of estimated tax from line 46.

Line 12 — If you underpaid your estimated tax, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Enter **0** if no penalty is due.

Line 13 — If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment (line 7 minus line 10) from the original due date to the date paid. Exclude from the interest computation any amount shown on line 8a or 8b, *First installment of estimated tax for next period*.

Line 14 — Compute additional charges for late filing and late payments on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing) (line 7 minus line 10). Exclude from the penalty computation any amount shown on line 8a or 8b, *First installment of estimated tax for next period*.

- A If you do not file a return when due or if the request 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 above 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 reasonable cause for the delay in filing, payment, or both (section 1085).

Note: You may compute your penalty and interest by accessing our Web site at www.nystax.gov and clicking on *Electronic Services*, or you may call 1 800 972-1233, and we will compute the penalty and interest for you.

Line 21a — Include the amount of retaliatory tax credits from Form CT-33-R, *Claim for Retaliatory Tax Credits*, line 20, the amount of QEZE credit for real property taxes from Form CT-604, line 35 and the amount of ITC for the financial services industry (for qualified new businesses only) included in Form CT-44, line 36, that are being requested as a refund.

Line 21b — Include the amount of retaliatory tax credits from Form CT-33-R, line 19, the amount of QEZE credit for real property taxes from Form CT-604, line 36, and the amount of ITC for the financial services industry (for qualified new businesses only) included in Form CT-44, line 36, that are being requested as an overpayment to next year's return.

Collection of debts from your refund — We will keep all or part of your refund if you owe a past-due, legally enforceable debt to the Internal Revenue Service (IRS) or to a New York State agency or if you owe a New York City tax warrant judgement debt. A New York agency includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district. We will refund any amount over your debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to the IRS or to a state agency, or whether you owe a New York City tax warrant judgement debt, contact the IRS or that particular state agency, or New York City.

For New York State tax liabilities **only** call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800) or write to NYS Tax Department, Tax Compliance Division, W A Harriman Campus, Albany NY 12227.

For New York City liabilities only, call (212) 232-3550.

Schedule A — Allocation of reinsurance premiums when location of risks cannot be determined

Complete this schedule to allocate reinsurance premiums to New York State when the location or residence of the property or risks covered by the reinsurance cannot be determined. This schedule must be completed for premiums assumed from authorized companies.

Column C — Enter the percentage each ceding corporation's New York premiums bear to its total premiums for the preceding tax year (reinsurance allocation percentage). You may obtain this percentage from tax service publications or by applying, in duplicate, to the address shown on the last page. If the ceding corporation did not do business in New York State during the preceding year and therefore did not file a New York State tax return, the percentage is zero.

Schedule B — Computation of reinsurance allocation percentage

For both the numerator and denominator of the reinsurance allocation percentage, the term *premium* includes all amounts received as consideration for insurance, reinsurance and annuity contracts, including premium deposits, assessments, policy fees, membership fees, and all other compensation for such contracts.

Line 25 — Enter the total New York taxable premiums from lines 34 and 35, plus any additional premiums on these types of policies that were written, procured, or received in New York on business that cannot be specifically assigned as located or resident in any other state or states that were not included on lines 34 and 35 (attach schedules for such additional premiums). Do not include in this amount any separate costs assessed by the insurance corporation upon its policyholders. See section 1504(b)(2)(A) of the Tax Law. Include any New York premiums for long-term care insurance policies under Chapter 90, Title 5, of the United States Code, and any New York premiums for federal group life insurance policies under Chapter 87, Title 5, of the United States Code, when computing the premium percentage.

Line 26 — Enter the total ocean marine premiums written, procured, or received on property or risks located or resident in New York State, plus ocean marine premiums written within New York State on property or risks that cannot be specifically assigned as located or resident in any other state or country. See section 1504(b)(2)(C) of the Tax Law.

Line 27 — Enter the total of premiums for annuity contracts and insurance for the elderly that are written, procured, or received on risks located or resident in New York State, and those premiums for annuity contracts and insurance for the elderly written, procured, or received in New York State on business that cannot be specifically assigned as located or resident in any other state or states.

Line 28 — Enter the total New York premiums on reinsurance assumed from authorized companies. Include reinsurance premiums from unauthorized companies that relate to transactions authorized under section 2105 of the Insurance Law and that are subject to the premiums tax on excess-lines brokers under section 2118 of the Insurance Law. Also, include premiums allocated to New York State where the location of the risk cannot be determined and premiums from risks located in New York State.

Line 30 — Enter the total amount of New York premiums included on line 29 that were ceded to other insurance companies.

Attach a separate schedule showing the computation of New York premiums included in lines 25 through 31.

Line 32 — You must report total premiums on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Insurance.

Attach a separate schedule showing the computation of total premiums included on line 32.

First, determine total gross premiums, deposit premiums, and assessments, less returns thereon, on **all** policies, annuity contracts, certificates, renewals, policies subsequently canceled, and insurance and reinsurance executed, issued, or delivered on property or risks, including premiums for reinsurance assumed. Include **only** those special risk premiums written, procured, or received in New York State on risks located or resident in New York State.

From the total amount determined, deduct dividend on total premiums and premiums on reinsurance ceded. When computing the dividend deduction, include unused or unabsorbed portions of premium deposits paid or credited to policyholders, but not deferred dividends paid in cash to policyholders on maturing policies or cash surrender values.

Schedule C — Computation of taxable premiums

Use Schedule C to compute premiums taxable under section 1502-a and transfer them to the appropriate boxes on page 2 of Form CT-33-NL. Report direct premiums on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Insurance. For purposes of computing taxable premiums, the term *premium* includes all amounts received as consideration for insurance or reinsurance contracts (except annuity contracts), including premium deposits, assessments, policy fees, membership fees, any separate costs by carriers assessed upon their policyholders, and all other consideration for such contracts. Exclude premiums for federal long-term care insurance policies under Chapter 90, Title 5, of the United States Code, and any premium under Chapter 87, Title 5, of the United States Code.

Taxable premiums include gross direct premiums minus return premiums, reinsurance premiums, and dividends paid or credited.

- **Gross direct premiums.** Include total gross premiums, deposit premiums and assessments, less returns thereon, on all policies, certificates, renewals subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State, and premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums or which have not been used as a measure of a tax on business of any other state or states. Also include special risk premiums written, procured, or received in New York State on risks located or resident in New York State. When computing taxable premiums, do not include premiums on annuity contracts, ocean marine insurance, and policies issued under section 4236 of the Insurance Law. Also exempt from the tax on premiums are premiums on risks located outside the United States that were written, procured, or received in New York State, **except** for insurance written by foreign and alien title insurance corporations and accident and health insurance.
- **Deductions from gross direct premiums**
 - **Reinsurance premiums** — When computing gross direct premiums, you may deduct (1) reinsurance premiums, minus return premiums, that have been received by way of reinsurance from corporations or other insurers authorized to transact business in this state; and (2) reinsurance premiums from unauthorized companies that relate to transactions authorized under section 2105 of the Insurance Law and that are subject to the premiums tax on excess-lines brokers under section 2118 of the Insurance Law.
 - **Dividends paid or credited** — You may deduct dividends on direct premiums and unused or unabsorbed portions of premium deposits paid or credited to policyholders. This deduction does not include deferred dividends paid in cash to policyholders on maturing policies or cash surrender values.

Schedule D — Computation of issuer's allocation percentage

Complete this schedule by entering New York gross direct premiums on line 36 and total gross direct premiums on line 37 as reported in your annual statement filed with the Superintendent of Insurance for the tax year.

Section 1085(a) of the Tax Law provides for a penalty of \$500 for failure to provide information needed to compute your issuer's allocation percentage.

Composition of prepayments

Lines 39 through 46 — If you need more space, write **see attached** in this section and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to line 10.

Line 44 — Include overpayment credited from prior years. You may also include from last year's return any amount of refundable tax credits you chose to be credited as an overpayment.

Summary of tax credits claimed against current year's franchise tax

Ordering of credits — Tax credits under Article 33 must be applied in the following order:

1. EZ capital tax credit.
2. EZ and ZEA wage tax credits.
3. Noncarryover credits that are not refundable.
4. Carryover credits that are of limited duration.
5. Carryover credits that are of unlimited duration.
6. Refundable credits.

Line 47 — Enter the total tax credits claimed that were used to reduce the tax due. Generally, these credits may not reduce the tax below the \$250 minimum tax. However, the retaliatory tax credits and the fire insurance premiums tax credit may further reduce the tax due to zero. Enter in the appropriate boxes the total amount of each tax credit claimed.

Fire insurance premiums tax credit — Credit for taxes on premiums for any insurance on loss or damage by fire under sections 9104 and 9105 of the Insurance Law or under the charters of the cities of Buffalo or New York. These taxes must have been paid or accrued during the tax year covered by this return. The fire insurance premiums tax credit is limited to the amount reported on line 5 less the EZ capital tax credit, EZ or ZEA wage tax credits, and any noncarryover credits that are not refundable that are being claimed before this credit. The credit cannot be carried over to any other year. Attach the *Report of Premiums*, including *Supplementary Schedules I and II*, when claiming this credit.

Retaliatory tax credits — Attach Form CT-33-R, *Claim for Retaliatory Tax Credits*, to claim these credits. Do not claim the MTA surcharge retaliatory tax credit on this form.

CAPCO credit — Attach Form CT-33.1, *Claim for CAPCO Credit*.

Credit for employment of persons with disabilities — Attach Form CT-41, *Claim for Credit for Employment of Persons with Disabilities*.

Special additional mortgage recording tax credit — Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

Investment tax credit for the financial services industry — Attach Form CT-44, *Claim for Investment Tax Credit for the Financial Services Industry*.

Long-term care insurance credit — Attach Form CT-249, *Claim for Long-Term Care Insurance Credit*.

Defibrillator credit — Attach Form CT-250, *Credit for Purchase of an Automated External Defibrillator*.

Empire zone wage tax credit — Attach a copy of Form CT-601, *Claim for EZ Wage Tax Credit*.

ZEA wage tax credit — Attach a copy of Form CT-601.1, *Claim for ZEA Wage Tax Credit*.

Empire zone capital tax credit — Attach a copy of Form CT-602, *Claim for EZ Capital Tax Credit*.

QEZE credit for real property taxes — Attach Form CT-604, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit*.

QEZE tax reduction credit — Attach Form CT-604, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit*.

Low-income housing credit — Attach Form DTF-624, *Claim for Low-Income Housing Credit*.

Green building credit — Attach Form DTF-630, *Claim for Green Building Credit*.

Enter in the *Other credits* box any credits being claimed on line 6 that are not specifically listed above and attach the appropriate form(s).

Line 48 — Enter the total amount of refund eligible tax credits claimed on line 47. The retaliatory tax credits, QEZE real property tax credit, and the ITC for the financial services industry (for qualified new businesses only) are the only refund-eligible credits.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications:	1 800 462-8100
Business Tax Information Center:	1 800 972-1233
From areas outside the U.S. and outside Canada:	(518) 485-6800



Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.