New York State Department of Taxation and Finance

2009

Instructions for Form CT-185

Cooperative Agricultural Corporation Franchise Tax Return

Tax Law — Article 9, Section 185

CT-185-I

Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Up-to-date information affecting your tax return

Visit our Web site for tax law changes or forms corrections that occurred after the forms and instructions were printed (see *Need help?).*

Changes for 2009

Credit or refund form is obsolete — Effective January 1, 2009, and applicable to all open tax periods, Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*, can no longer be used. For further information, see Important Notice, N-09-2, *Form CT-8, Claim for Credit or Refund of Corporation Tax Paid, and Form CT-9, Claim for Tentative Refund Based Upon Carryback of Net Operating Loss, Are Obsolete.*

More collection options for New York State — If you owe unpaid debt to New York State, we are now able to collect your debt by taking money from, or offsetting, payments owed you by the federal government or by another state. Reciprocal offset agreements also allow the federal government, as well as other states, to collect delinquent non-tax debt by offsetting payments owed you by New York State.

Fuel cell credit expires — Effective for tax years beginning on or after January 1, 2009, the tax credit for fuel cell electric generating equipment expired. However, if you have unused carryforwards of previously-earned credits, you may use them until they are exhausted.

Transportation improvement contribution credit expires — Effective for tax years beginning on or after January 1, 2009, the tax credit for making a transportation improvement contribution expired.

Fee for payments returned by banks — A new law allows the Tax Department to charge a $50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee. If your payment is returned, we will send a separate bill for $50 for each return or other tax document associated with the returned payment.

Important information

Reporting requirements for tax shelters — The Tax Law requires taxpayers to report information about transactions that present the potential for tax avoidance (tax shelters). There are separate reporting requirements for those who use tax shelters and for those who promote the use of tax shelters. For the most recent information on these reporting requirements visit our Web site.

Voluntary Disclosure and Compliance Program — A Voluntary Disclosure and Compliance Program has been established. The program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities.

Electronic filing and electronic payment mandate — Certain tax preparers using tax software to prepare tax documents, and certain taxpayers preparing their own tax documents using tax software, must, for the applicable calendar year and all succeeding calendar years, e-file all documents authorized by the Commissioner to be e-filed. Any tax liability or other amount due required to be paid with a tax document that must be e-filed must also be e-paid.

General information

Who must file Form CT-185

Form CT-185 must be filed by farmers, fruit growers, and similar agricultural corporations organized and operated on a cooperative basis as described in Article 6 of the Cooperative Corporation Law of the State of New York. Receivers, liquidators, referees, trustees, assignees, and other fiduciaries, appointed by any court, who conduct the business of a cooperative agricultural corporation, must also file this form. Section 185 imposes a franchise tax on the net value of issued capital stock employed in New York State. The net value of issued capital stock may be allocated in and out of New York State, based on the gross assets employed in New York State (see Schedule D).

Tax rate

You must pay the highest tax computed by one of the following three methods:

- Allocated value of issued capital stock, multiplied by the tax rate of one mill (.001); **or**
- Allocated value of issued capital stock, multiplied by a rate based on dividends equal to or in excess of 6%; **or**
- Minimum tax of $10.

If a corporation has more than one kind of stock, a combination of tax on capital stock using the tax rate of one mill and the dividend rate, as computed in Schedule C, is possible.

Foreign corporations — maintenance fee

Foreign corporations authorized to do business in New York State must pay an annual maintenance fee of $300. The taxes due under Article 9 may be applied against this fee. If the total tax payable with your return for December 31, 2009, is $300 or more, you have satisfied the requirement to pay a maintenance fee. If the total tax payable is less than $300, add the difference to produce a total tax and fee of $300.

Foreign corporations — license fee

Foreign corporations doing business in New York State must also file Form CT-240, *Foreign Corporation License Fee Return,* whether or not they are authorized to do business in New York State. Form CT-240 must be filed with the corporation's first franchise tax return, or if the capital stock employed in New York State has increased since the last license fee return was filed.

When and where to file

This return is due on March 15 following the close of the calendar tax year. If March 15 falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day. Mail your return to:

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

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed 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?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered

by these instructions to: State Processing Center, 431C Broadway, Albany NY 12204-4836.

Extension of time for filing tax return

If you need more time to file your return, file Form CT-5.9, *Request for Three-Month Extension to File,* on or before March 15. An extension of time granted by the Internal Revenue Service (IRS) to file a federal return does not extend the due date for filing Form CT-185.

Business information

Enter the corporation's business information at the top of the first page. Be sure to enter the corporation's mailing name if different from its legal name.

If you need to update your corporation tax address or phone information, you can do so online. Visit our Web site at *www.nystax.gov* and look for the change my address option. Otherwise, enter your new address and/or phone number in the appropriate area of your return and mark an ***X*** in the box under the address. Do not mark an ***X*** in this box if your address and/or phone number is new since your last filing but was already updated online, or for any change of business information other than your address and/or phone number. Once your corporation tax information is updated online, you do not need to indicate a change of address on any corporation tax forms submitted to the Tax Department (or for any forms for tax types you select to be updated in addition to corporation tax).

If you prefer to change this information by form, use Form DTF-96, *Report of Address Change for Business Tax Accounts*. You must report other changes (such as business name or ID number) on Form DTF-95, *Business Tax Account Update*. You can get these forms from our Web site, by fax, or by phone (see *Need help?*).

Amended return

If you are filing an amended return, mark an ***X*** in the *Amended return* box.

An amended New York State return requesting a credit or refund must be filed within three years of the time the original return was filed or within two years of the time the tax was paid, whichever is later; or, if no return was filed, within two years of the time the tax was paid. For additional limitations on credits or refunds, see Tax Law section 1087.

Final return

Mark an ***X*** in this box if it is the last return you intend to file because you have ceased doing business.

Whole dollar amounts — You may elect to show amounts in whole dollars rather than 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. Round percentages out to four decimal places. Example: *5,000/7,500 = 0.6666666 = 66.6667%*.

Entering dates — Unless you are specifically directed to use a different format, enter dates in the *mm-dd-yy* format (using dashes and not slashes).

Specific instructions

Line A — Make your check or money order payable 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.***

Line 6 — Enter the amount from line 3, 4, or 5, whichever is largest. If you are an authorized foreign corporation, see *Foreign corporations – maintenance fee*.

Line 7 — Enter any alternative fuels credit, employment of persons with disabilities credit, special additional mortgage recording tax credit, long-term care insurance credit, fuel cell electric generating equipment credit, empire zone (EZ) wage tax credit, EZ investment tax credit, EZ employment incentive credit, qualified empire zone enterprise (QEZE) credit for real property taxes, brownfield redevelopment tax credit, brownfield credit for real property taxes, environmental remediation insurance credit, green building credit, security officer training tax credit, or biofuel production credit. Check the claim forms for any limitations. Attach the forms to your Form CT-185.

When claiming more than one credit, you must apply them against your tax in the following order:

1. Noncarryover credits that are not refundable
2. Carryover credits of limited duration
3. Carryover credits of unlimited duration
4. Refundable credits

Line 11 — If you do not pay the franchise tax 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 from the original due date to the date paid.

Line 12 — Compute additional charges for late filing on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing).

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 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, payment, or both (section 1085).

Note: You may compute your penalty and interest by accessing our Web site and clicking on *Online Tax Center,* or you may call and we will compute the penalty and interest for you (see *Need help?*)

Line 14 — Collection of debts from your refund or overpayment

We will keep all or part of your refund or overpayment if you owe a past-due, legally enforceable debt to a New York State agency, or if you owe a New York City tax warrant judgment debt. We may also keep all or part of your refund or overpayment if you owe a past-due legally enforceable debt to another state, provided that state has entered into a reciprocal agreement with New York State. If we keep your refund or overpayment, we will notify you.

A New York State 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 or apply as an overpayment any amount over your debt.

The Tax Department is authorized to charge the taxpayer, as part of the taxpayer's tax debt, any cost or fee imposed or charged by the United States, or any state, for the payment or remittance of a taxpayer's overpayment to satisfy a New York State tax debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to a state agency, or to another state, or whether you owe a New York City tax warrant judgment debt, contact the state agency, the other state, or the New York City Department of Finance.

For New York State tax liabilities only, call (518) 457-5434 (in-state callers without free long distance call 1 800 835-3554) or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

Schedule B — Part 1

Column B — Enter for each class of stock the number of shares issued and outstanding at year end. Do not include stock authorized but not issued or stock not outstanding.

Note: If the corporation did not sell any stock during the tax year, enter ***0*** on Schedule B, Part 1, column E. However, you will be required to complete Schedule B, Part 1, column B, and enter the number of shares of stock issued and outstanding at year end in Schedule B, Part 2.

Schedule C

Column B — Compute the value of each class of par value stock by multiplying the par value by the number of shares of such stock issued and outstanding at the end of the year. Do not include any additional paid-in capital, premium, or discount on the issuance of par value stock, or any capital arising from appreciation of assets, amounts not contributed by the stockholder, or retained earnings.

Compute the value of each class of stock without nominal or par value by multiplying the amount paid for the no-par-value stock, including any additional paid-in capital, premium, or discount on the issuance of the stock, by the number of shares issued and outstanding at the end of the year. Do not include any capital arising from appreciation of assets, amounts not contributed by the stockholder, or retained earnings.

Schedule D — Allocation percentage/issuer's allocation percentage

Your issuer's allocation percentage is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of your issued capital stock employed within New York State compared to the total amount of issued capital stock employed everywhere. This percentage is also used to compute the amount you enter on line 2.

The Tax Law requires most corporations doing business within New York State to provide the information needed to compute their issuer's allocation percentage. Section 1085(o) of the Tax Law provides for a penalty of $500 for failure to provide information needed to compute your issuer's allocation percentage.

If you have assets outside New York State, complete Schedule D using the amounts shown on the balance sheet of your federal return. If all of your assets are located in New York State, enter ***100*** on line 30.

Line 23 — Accounts receivable are considered located where controlled.

Line 24 — If the assets of any company whose stock is owned by this corporation are employed both within and outside New York State, you may apportion your holdings on the basis of the percentage of employment by the issuer of the stock.

Line 25 — Bonds, loans, and other securities are considered located where employed.

Schedule E

Complete this schedule only if any dividend rate from Schedule C, column D, is 6% or more. If you paid a 6% or more dividend on **all** classes of issued capital, complete lines 31-39 and line 45. Do not complete lines 40-44.

Line 31 — Enter the value of common stock from Schedule C, column B. If the common stock dividend rate in Schedule C, column D, is less than 6%, enter ***0*** on lines 31, 32, and 33.

Line 34 — Enter the value of preferred stock from Schedule C, column B. If the preferred stock dividend rate in Schedule C, column D, is less than 6%, enter ***0*** on lines 34, 35, and 36.

Line 37 — Enter the value of no-par-value stock from Schedule C, column B. If the no-par-value dividend rate in Schedule C, column D, is less than 6%, enter ***0*** on lines 37, 38, and 39.

Lines 40 through 44 — Complete these lines only if you did not pay dividends of 6% or more on **all** classes of issued capital stock.

Line 40 — If you did not pay dividends of 6% or more on all classes of stock, compute a tax on the dividends based on the value of the stock on which dividends of 6% or more were paid, **plus** a tax at the *capital stock* rate on the remaining value of all capital stock, by completing lines 40-44. Also complete line 45.

The class of capital stock on which the dividend was paid determines the remaining value of all capital stock. If the 6% or greater dividend was paid on preferred stock, the remaining value of all capital stock is common stock plus retained earnings, because retained earnings are normally associated with common stock. Therefore, in this instance, retained earnings would be included on line 40. See *Example 1*.

If the dividend was paid on common stock, the remaining value of all capital stock is preferred stock. Therefore, in this instance, retained earnings would **not** be included on line 40. See *Example 2*.

The following examples show how the dividend rates and remaining value of capital stock are computed.

Example 1 — *Dividend paid on preferred stock*

Par value, common stock	*$10,000*
Par value, preferred stock	*50,000*
Retained earnings	*80,000*
Dividends paid on preferred stock	*3,300*
Dividend rate ($3,300 ÷ $50,000)	*6.6%*
6.6 x .00025 (tax rate)	*.00165*
Tax ($50,000 x .00165)	*82.50*
Remaining value of issued capital stock (common stock plus retained earnings $90,000 x .001)	*90.00*
Total tax	*$172.50*

Example 2 — *Dividend paid on common stock*

Par value, common stock	*$10,000*
Par value, preferred stock	*50,000*
Retained earnings	*80,000*
Dividends paid on common stock	*3,000*
Dividend rate ($3,000 ÷ $10,000)	*30%*
30 x .00025 (tax rate)	*.0075*
Tax ($10,000 x .0075)	*75*
Remaining value of issued capital stock (preferred stock only, $50,000 x .001)	*50*
Total tax	*$125*

Third-party designee

If you want to authorize another person (third-party designee) to discuss this tax return with the New York State Tax Department, mark an ***X*** in the box in the area of your return. Also **print** the designee's name, phone number, and any five-digit number the designee chooses as his or her personal identification number (PIN). If you want to authorize the paid preparer who signed your return to discuss the return with the Tax Department, **print** the preparer's name in the space for the designee's name and enter the preparer's phone number in the space for the designee's phone number. You do not have to provide the other information requested. If you do not want to authorize another person, mark an ***X*** in the box.

If you mark the box, you are authorizing the Tax Department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from your return;
- call the Tax Department for information about the processing of your return or the status of your refund or payment(s); and
- respond to certain Tax Department notices that you shared with the designee about math errors, offsets, and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to receive your refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file

Form POA-1, making that designation with the Tax Department. Copies of statutory tax notices or documents (such as a) will only be sent to your designee if you file Form POA-1.

You cannot change the PIN. The authorization will automatically end on the due date (without regard to extensions) for filing your next year's tax return.

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.

Corporation Tax Information Center: (518) 485-6027
In-state callers without free long distance: 1 888 698-2908

To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, 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, call the information center.

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 5-a, 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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.