



# Instructions for Forms CT-183 and CT-184

## Transportation and Transmission Corporation Franchise Tax Returns

**CT-183/184-I**

### New for 2010

This year the Tax Department introduces new Form CT-1, *Supplement to Corporation Tax Instructions*. Changes for this year and general instructions related to your corporation tax return — previously found in individual return instructions — have been compiled in this single form.

See Form CT-1 for the following topics:

- Changes for the current tax year (general and by Tax Law Article)
- Business information (how to enter and update)
- Entry formats
  - Dates
  - Negative amounts
  - Percentages
  - Whole dollar amounts
- Third-party designee
- Use of reproduced and computerized forms
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

### 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.

**More collection options for New York State** — If you owe unpaid debt to New York State, we may 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.

**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

#### Filing requirements

With the exception of non-local telephone companies, every taxpayer required to file Form CT-183 must also file Form CT-184. Railroad and trucking corporations see *Filing requirements for railroad and trucking corporations*. Telephone companies see *Filing requirements for telephone businesses*.

For the purposes of Forms CT-183 and CT-184, the term *corporation* includes an association within the meaning of Internal Revenue Code (IRC) section 7701(a)(3) (including a limited liability company) and a publicly traded partnership treated as a corporation for purposes of IRC section 7704. This includes all domestic corporations (those incorporated in New York State), as well as any foreign corporations (those incorporated outside New York State) that are doing business, employing capital, owning or leasing property, or maintaining an office in New York State.

Generally, a corporation, joint-stock company, or association formed for or principally engaged in a transportation or transmission business (such as canal, ferry, express, navigation, transfer, delivery, household moving, or telegraph) must file Forms CT-183 and CT-184. For corporations not required to file these forms, see *The following corporations are not required to file Forms CT-183 and CT-184*.

#### Filing requirements for cable television operators

Cable television operators are subject to tax under Tax Law Article 9-A and are not required to file Forms CT-183 and CT-184, unless they can demonstrate that they are doing business in the same manner as described in the Appellate Division decision of the New York State Supreme Court *In the Matter of NewChannels et al v Tax Appeals Tribunal of the Department of Taxation and Finance of the State of New York et al*, 279 AD2d 164, 719 NYS2d 182 (3<sup>rd</sup> Dept 2001), lv denied 96 NY2d 711, 727 NYS2d 697 (2001). In that case, the cable operators collected television signals by various means, clarified the signals, assigned them a channel frequency, and transmitted the signals to subscribers through a system of coaxial cables and amplifiers. They had no control over the content of the signals received. They could not dictate the times at which the programs would be shown and they did not sell advertising on the local or premium channels they offered. Their largest capital investments consisted of equipment necessary to receive and transmit television signals to customers, and substantially all of their revenue was derived from subscriber fees.

For more information on the filing requirements under Article 9-A, see Form CT-3/4-I, *Instructions for Forms CT-4, CT-3, and CT-3-ATT*.

#### Filing requirements for railroad and trucking corporations

**Article 9 sections 183 and 184** — Railroad and trucking corporations may elect to be taxed under Article 9 sections 183 and 184, by filing Form CT-187, *Election or Revocation of Election by Railroad and Trucking Corporations To Be Taxable Under Article 9*, and marking an **X** in the *Election* box. This election must be made by the due date of the first franchise tax return due under Article 9, 9-A, or 32 after 1997.

**Article 9-A** — Railroad and trucking corporations that do not elect to be taxed under Article 9 must file under Article 9-A. New York C corporations must file Form CT-3, *General Business Corporation Franchise Tax Return*, or CT-4, *General Business Corporation Franchise Tax Return Short Form*, and CT-3M/4M, *General Business Corporation MTA Surcharge Return*, if applicable; and New York S corporations must file Form CT-3-S, *New York S Corporation Franchise Tax Return*, within 2½ months after the end of the tax year. These corporations, except New York S corporations, may also be included on a combined return on Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*.

#### Final year filing requirements when Article 9 revocations are in effect

Railroad or trucking corporations that have elected to be taxed under Article 9 sections 183 and 184, may make a one-time revocation of this election by filing Form CT-187 and marking an **X** in the *Revocation of election* box. The revocation of election must be filed by March 15 of the first year the corporation is not to be taxed under Article 9. (If March 15 falls on a Saturday, Sunday, or legal holiday, the revocation is due on the next business day.) Such revocation will be effective as of January 1 of that year. A revocation filed after March 15 will take effect the following January 1. The following filing requirements apply:

Revocation filed on or before March 15, 2011	Revocation filed after March 15, 2011, and before January 1, 2012
<p>Since the tax under section 183 is paid in advance, <b>do not file a Form CT-183 in 2011.</b></p> <p>If you are subject to the MTA surcharge, file a 2010 Form CT-183-M, due on March 15, 2011.</p> <p>File a final 2010 Form CT-184 (and if applicable, Form CT-184-M), due on March 15, 2011.</p> <p><b>Do not include a mandatory first installment</b> of estimated tax on your final Form CT-184, CT-184-M, or CT-5.9, <i>Request for Three-Month Extension to File</i>.</p>	<p>Since the tax under section 183 is paid in advance, <b>file a 2010 Form CT-183</b>, due on March 15, 2011.</p> <p>If you are subject to the MTA surcharge, file a 2010 Form CT-183-M, due on March 15, 2011.</p> <p>File a 2010 Form CT-184 (and if applicable, Form CT-184-M), due on March 15, 2011.</p> <p><b>Include a mandatory first installment</b> of estimated tax on your Form CT-184, CT-184-M, or CT-5.9.</p>

### Filing requirements for telephone businesses

Every corporation, joint-stock company, or association formed for or principally engaged in a telephone business must file Form CT-183, but only those corporations, joint-stock companies, or associations formed for or principally engaged in **local telephone business** must file Form CT-184. *Local telephone business* means the provision or furnishing of telecommunication services for hire where the service consists of carrier access service, or originates and terminates within the same local access and transport area (LATA) or LATA-like Rochester nonassociated independent area (LATA-like area). The LATAs and LATA-like areas are those areas that were essentially formed and defined under the Modification of Final Judgement in *United States v Western Electric Company* (Civil Action No. 82-0192) in the United States District Court for the District of Columbia.

*Telecommunication services* means telephony or telegraphy or any telephone or telegraph service including, but not limited to, any transmission of the following: voice, image, data, information, and paging, through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite, or similar media, or any combination thereof.

*Telecommunication services* also includes services that are not telecommunication services as such, but are: (1) ancillary to the provision of telephone service (for example, directory information, call forwarding, caller identification, call waiting, and supplementary services); and (2) services (of whatever nature) that are provided with telecommunication services. The receipts from equipment provided in connection with any telecommunication service (for example, equipment such as beepers, telephones, fax machines, and modems) are also subject to tax under section 184.

*Telecommunication services* does not include separately stated charges for a service that alters the substantive (information) content of the message received from that sent.

*Telecommunication services* excludes television or radio programming transmitted to subscribers by cable television service.

All telecommunication providers, whether organized in the corporate or individual form (including local telephone service providers) are subject to the excise tax under Tax Law, Article 9, section 186-e, *Excise Tax on Telecommunication Services*. Certain telecommunication providers may also be subject to tax under Article 9 section 186-a on receipts from sales of water, gas, electricity, steam, or refrigeration. For more details, see Form CT-186-E-I, *Instructions for Form CT-186-E*.

### The following corporations are not required to file Forms CT-183 and CT-184:

- Foreign taxicab and omnibus corporations, normally taxable under Article 9-A, that conduct fewer than 12 trips into New York State during the calendar year are taxable under Article 9 section 184, but not under Article 9 section 183, as long as they do not otherwise own or lease property or maintain an office in New York State. These corporations must file Form CT-184-R, *Foreign Bus and Taxicab Corporation Tax Return*, instead.
- Corporations **exclusively** engaged in the operation of vessels in foreign commerce are exempt from all state and local taxation on their capital stock, franchises, and earnings.

- Ferry companies that operate between any of the boroughs of the city of New York under a lease granted by New York City are exempt from taxation.
- Aviation corporations (including air freight forwarders acting as principal and like indirect air carriers) are subject to tax under Article 9-A and must file Form CT-3 or CT-4. See TSB-M-89(10)C, *Taxability of Aviation Corporations under Article 9-A*.
- Any corporation that is an organization defined by Tax Law section 186-e.2(b)(3) and that is principally engaged in providing telecommunication services for the purpose of air safety and navigation, is not subject to tax under section 184.
- Corporations principally engaged in the transportation, transmission, or distribution of gas, electricity, or steam are not subject to tax under sections 183 and 184.

Use **Form CT-183** to report and pay the franchise tax required by Article 9 section 183. This is an annual tax based on the corporation's allocated capital stock, or a minimum tax of \$75.

Use **Form CT-184** to report and pay the franchise tax required by Article 9 section 184. This tax is based on the corporation's gross earnings from all New York State sources.

Taxpayers subject to tax under Tax Law sections 183 and 184 must file both Forms CT-183 and CT-184 yearly. Unless excluded above, taxpayers who do not have taxable gross earnings must still file Form CT-184 to show that no tax is due under Tax Law, Article 9, section 184.

### When and where to file

The filing period for both forms must be based on a calendar year, regardless of your federal reporting period. This return is due on March 15, following the close of the tax year. If March 15 falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day. Mail 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 wish to extend the filing deadline, you may request a three-month extension by filing Form CT-5.9, *Request For Three-Month Extension To File*, on or before the original due date. An extension of time granted by the Internal Revenue Service (IRS) to file a federal return **does not** extend the date for filing a New York State return. You may make a request for an additional three-month extension of time by filing Form CT-5.1, *Request For Additional Extension of Time To File*.

### Tax basis

**Tax Law, Article 9, section 183**, provides for a franchise tax based on the net value of issued capital stock employed in New York State (see Form CT-183, Schedule D).

The net value of issued capital stock may be allocated within and outside New York State. Base the allocation on the gross assets employed in New York State (see Form CT-183, Schedule A).

The franchise tax required by section 183 is the highest of the three taxes computed by the following three methods:

- Allocated value of issued capital stock multiplied by the tax rate of 1.5 mills (.0015).

2. Allocated value of issued capital stock on which dividends are paid at a rate of 6% or more, multiplied by the tax rate of .375 mills (.000375) for each 1% of dividends paid. Apply a rate of 1.5 mills (.0015) to capital stock on which dividends are not paid, or are paid at a rate of less than 6%.
3. Minimum tax of \$75.

A combination of tax on capital stock using the tax rate of 1.5 mills and the dividend rate as computed in Schedule E is possible if a corporation has more than one kind of stock (see Form CT-183).

**Tax Law, Article 9, section 184**, provides for a tax at the rate of  $\frac{3}{8}\%$  (.00375) of the gross earnings received from business conducted in New York State during the tax year (see Form CT-184).

A railroad not operated by steam, whose property is leased to another railroad, shall pay only a tax of 4.5% on dividends paid during the tax year that are in excess of 4% of the amount of its capital stock. The tax on gross earnings would not apply.

The tax under Article 9 section 184 does not apply to a foreign railroad, palace car, or sleeping car company, or to a navigation, canal, ferry, steamboat, or other corporation operating vessels if the corporation's only activities in New York State are (1) maintaining an office and employing capital, and (2) owning property used exclusively in interstate or foreign commerce.

### Foreign corporations

**Maintenance fee** — If you are a *foreign corporation* (a corporation organized outside of New York State) authorized to do business in New York State under the Business Corporation Law Article 13 or 15-A, you must pay an annual maintenance fee of \$300 until such time as your authority is surrendered to the Department of State, regardless of whether you are doing business. The fee may be reduced by 25% if the period for which the fee is imposed consists of more than six months but not more than nine months, and by 50% if the period for which the fee is imposed consists of not more than six months. If you do not pay this fee or its equivalent in New York State corporation taxes plus metropolitan transportation business taxes (MTA surcharges), your authorization to do business in New York State may be annulled. Payments of New York State corporation taxes (including the MTA surcharge) under Articles 9, 9-A, and 32 are counted as payments toward the \$300 annual maintenance fee. If the corporation is disclaiming tax liability, it must pay the \$300 maintenance fee by filing Form CT-245, *Maintenance Fee and Activities Return for a Foreign Corporation Disclaiming Tax Liability*. The license fee reported on Form CT-240, *Foreign Corporation License Fee Return*, is not considered corporation tax and cannot be considered as a payment toward the maintenance fee.

**License fee** — Foreign corporations doing business in New York State must also file Form CT-240, whether or not they are authorized to do business in New York State, for the privilege of exercising their corporate franchise or carrying on their 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 Form CT-240 was filed. Payment of the corporation franchise tax does not satisfy the license fee obligation.

### Penalty for underpaying estimated tax — Form CT-184

If you can reasonably expect your New York State franchise tax liability on Form CT-184 to exceed \$1,000, you must file a declaration of estimated tax on Form CT-400 or CT-400-MN, *Estimated Tax for Corporations*. We may impose a penalty 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-222-1, *Instructions for Form CT-222*.

**Late payment — Interest** — If you do not pay the 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 the underpayment from the original due date of the return to the date the tax is paid. Exclude from the interest computation any amount shown as the first installment of estimated tax for next period.

### Late filing and late payment — Additional charges

Compute additional charges for late filing and late payment on the amount of tax, minus any payment made on or before the due date (**with** regard to

any extension of time for filing). Exclude from the penalty computation any amount shown as the first installment of estimated tax.

- A. If you do not file a return when due, or if your request for extension is invalid, add to the tax 5% (.05) per month up to 25% (.25) (Article 27 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  $\frac{1}{2}\%$  (.005) per month up to 25% (.25) (section 1085(a)(2)).
- D. The total of the additional charges in items A and C above may not exceed 5% (.05) 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, or you may call and we will compute the penalty and interest for you (see *Need help?*).

### Penalty for failure to provide information relating to the issuer's allocation percentage — Tax Law section 1085(o)

provides for a penalty of \$500 for failure to provide information needed to compute your issuer's allocation percentage (Form CT-183, Schedule A).

### Final return

Mark an **X** in the *Final return* box on page 1 of the return, under the form number, only if filing a final tax return for one of the following reasons:

- voluntary dissolution of a New York corporation (New York Business Corporation Law, section 1001-1003);
- surrender of authority by a foreign corporation (New York Business Corporation Law, section 1310);
- merger or consolidation (New York Business Corporation Law, sections 904, 904-a, 905, and 907);
- disposition of assets of a New York corporation (New York Business Corporation Law, section 909(d));
- termination of existence of a foreign corporation (New York Business Corporation Law, section 1311); or
- liquidation under 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 for the proper procedures to follow in terminating your business.

In the case of a merger or consolidation, only the non-surviving corporation marks the *Final return* box.

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 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 mark the *Final return* box** if you are only changing the type of return that you file (for example, changing from Forms CT-183 and CT-184 to Form CT-3).

If you have terminated business since March 2010, do not file a final Form CT-183. The tax under section 183 is paid in advance.

### 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 tax year until it is formally dissolved with the Department of State. A *foreign corporation* (incorporated outside 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 State. In addition, a foreign corporation that is authorized to do business in New York State is also liable for payments of its annual maintenance fee until such time as it surrenders to 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. You may count the franchise tax as a payment against the maintenance fee.

For information on voluntary dissolution and surrender of authority, see Forms TR-125, *Instructions for Voluntary Dissolution of New York State Business Corporation*, and TR-199, *Surrender of Authority-Foreign Corporation*, on our Web site at [www.nystax.gov](http://www.nystax.gov).

## Completing your tax return

**Amended return** — If you are filing an amended return, mark an **X** in the *Amended return* box on the top of page 1.

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, Article 27, section 1087.

**Employer identification number, file number, and other identifying information** — For us to process your corporation tax forms it is important that we have the necessary identifying information including your current address. Keep a record of that information and include it on each corporation tax form mailed.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

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

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, all applicable entries in the paid preparer section must be completed, including identification numbers. Failure to sign the return will delay the processing of any refunds and may result in penalties. (For more information on paid preparer identification numbers, see *Changes for 2010* in Form CT-1.)

## Instructions for Form CT-183

**Metropolitan transportation business tax (MTA surcharge)** — Any corporation taxable under Article 9 section 183, that does business, employs capital, owns or leases property, or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-183-M, *Transportation and Transmission Corporation MTA Surcharge Return*, and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region. 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 in the MCTD, disclaim liability for the MTA surcharge by answering *No* to the question above line A.

## Tax computation

**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 5

**Temporary deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred

to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

Mark an **X** in the appropriate box(es) in the summary of credits section on Form CT-183, above line 83. Enter on line 5 the total amount of tax credits that you are applying against this year's tax from the following forms (attach the form(s) to your return):

Form CT-40,	<i>Claim for Alternative Fuels Credit</i>
Form CT-41,	<i>Claim for Credit for Employment of Persons with Disabilities</i>
Form CT-43,	<i>Claim for Special Additional Mortgage Recording Tax Credit</i>
Form CT-243,	<i>Claim for Biofuel Production Credit</i>
Form CT-249,	<i>Claim for Long-Term Care Insurance Credit</i>
Form CT-259,	<i>Claim for Fuel Cell Electric Generating Equipment Credit</i>
Form CT-611,	<i>Claim for Brownfield Redevelopment Tax Credit, For Qualified Sites Accepted into the Brownfield Cleanup Program Prior to June 23, 2008</i>
Form CT-611.1,	<i>Claim for Brownfield Redevelopment Tax Credit, For Qualified Sites Accepted into the Brownfield Cleanup Program on or after June 23, 2008</i>
Form CT-612,	<i>Claim for Remediated Brownfield Credit for Real Property Taxes</i>
Form CT-613,	<i>Claim for Environmental Remediation Insurance Credit</i>
Form CT-631,	<i>Claim for Security Officer Training Tax Credit</i>
Form DTF-630,	<i>Claim for Green Building Credit</i>

If you are claiming a credit for which no specific box is provided, mark an **X** in the *Other credits* box and attach the appropriate form(s).

Do not include on line 5 any amount of credit that will be carried over, refunded, or applied as an overpayment to the next tax period. Credits for which you are requesting a refund are reported on line 16b. Credits that you are applying as an overpayment to the next tax period are reported on line 16c.

These credits may not reduce your tax below the minimum tax.

You may apply any unused credit that remains after applying the credit to your franchise tax against the tax due under section 184 (Form CT-184).

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 that are of limited duration
3. Carryover credits that are of unlimited duration
4. Refundable credits

The following credits are carryover credits of unlimited duration: alternative fuels; employment of persons with disabilities; special additional mortgage recording tax; long-term care insurance; fuel cell electric generating equipment; green building.

The brownfield redevelopment tax credit, the environmental remediation insurance credit, the remediated brownfield credit for real property taxes, the security officer training tax credit, and the biofuel production credit are refundable.

**Line 6 — Foreign authorized corporations only:** If the total due with your tax returns — Forms CT-183, CT-183-M, CT-184, CT-184-M, CT-184-R, CT-186-E and CT-186-EZ — for the current tax year is less than \$300, enter **300** on this line.

**Lines 9 and 10** — If you are not filing this return on time, you must pay interest and additional charges (see *Late payment — Interest* and *Late filing and late payment — Additional charges*).

**Line 16b** — If you are claiming a refund of tax credits, enter the total amount and attach the appropriate tax credit form(s). Do not include this amount on line 5.

**Line 16c** — If you are applying an amount of tax credits as an overpayment to the next tax period, enter that amount and attach the appropriate tax credit form(s). Do not include this amount on line 5.

**Schedule A — Allocation percentage/issuer's allocation percentage**

**Part 1 — General transportation and transmission corporations**

**Line 17** — Accounts receivable are considered located where controlled.

**Line 18** — 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 percentage of employment by the issuer of the stock.

**Line 19** — Bonds, loans, and other securities are considered located where employed.

**Line 22** — Enter the value of all other assets located in New York State that are reflected on your balance sheet, except the value of vehicles. Determine the value of vehicles allocated to New York State (column A) by multiplying the mileage allocation percentage from Form CT-184, line 21, by the total value of the vehicles. Cable television operators allocate the value of vehicles by using the ratio of gross receipts from providing cable service to service addresses within New York State, as reported on Form CT-184, line 46, to gross receipts from providing cable service to all service addresses.

**Line 23** — Add lines 17 through 22. The column B total must equal the amount of gross assets shown on your balance sheet, except for cash and investments in United States obligations.

**Part 2 — Corporations operating vessels not exclusively engaged in foreign commerce**

**Line 25** — *Working days* are days during which a vessel is sufficiently staffed for the transportation of persons or cargo, or when it has cargo aboard. Compute for each vessel the working time in New York State territorial waters and the working time everywhere in hours and minutes. At the end of the year, total the time for all vessels, and convert to days. Instead of records indicating actual time in New York State territorial waters, you may compute time from records showing when vessels passed the Ambrose Light Station on the way in and out of port.

**Schedules B and C** — Information required in these two schedules must be the same information that appears on your balance sheet. Attach a copy of your balance sheet.

**Schedule D — Computation of tax based on the net value of issued capital stock**

Tax based on net value as shown on your balance sheet is the largest of the three taxes, computed by the following three methods of valuing stock:

1. Total number of shares of stock outstanding as of December 31, 2010, multiplied by the net value per share of stock outstanding as of December 31, 2010, but not less than \$5 per share (lines 47 through 49).
2. Total number of shares of stock outstanding as of December 31, 2010, multiplied by the average price at which they were sold during the year (lines 50 through 52).
3. The difference between your assets and liabilities (lines 53 through 55).

**Schedule E — Computation of tax if dividend rate is 6% or more on some or all classes of capital stock**

**Local telephone companies** — Local telephone companies with no more than 1 million access lines in New York State are not subject to the excess dividends tax imposed under Tax Law Article 9 section 183. Do not complete Schedule E if you are a local telephone company with no more than 1 million access lines in New York State.

**Part 1, 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 as of December 31, 2010. 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 as of December 31, 2010. Do not include any capital arising from appreciation of assets, amounts not contributed by the stockholder, or retained earnings.

**Part 2 — Tax computation**

If you paid a 6% or more dividend on all classes of issued capital stock, complete lines 61 through 69, and line 75. You do not need to complete lines 70 through 74.

If you did not pay a 6% or more dividend on all classes of stock, compute a tax on the dividend based on the value of the stock on which the dividend of 6% or more was paid by completing lines 57, 58, and 59, plus a tax at the capital-stock rate on the remaining value of all capital stock by completing lines 70 through 74. Also complete line 75.

**Lines 70 through 74** — 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 retained earnings plus common stock, as retained earnings are normally associated with common stock. Thus, in this instance, retained earnings would be included on line 70. See *Example 1*.

If the 6% or greater dividend was paid on common stock, the remaining value of all capital stock is preferred stock. Retained earnings would not be included on line 70. See *Example 2*.

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

**Example 1: Dividend paid on preferred stock**

Par value of common stock	\$10,000	
Par value of preferred stock	50,000	
Retained earnings	80,000	
Dividend paid on preferred stock	3,300	
Dividend rate (\$3,300 ÷ \$50,000)	6.6%	
6.6 × .000375 (tax rate of 3/4 mill)	.002475	
Tax (\$50,000 × .002475)		\$123.75
Remaining value of issued capital stock (common stock plus retained earnings: \$90,000 × .0015)		<u>135.00</u>
Total tax		<u>\$258.75</u>

**Example 2: Dividend paid on common stock**

Par value of common stock	\$10,000	
Par value of preferred stock	50,000	
Retained earnings	80,000	
Dividend paid on common stock	3,000	
Dividend rate (\$3,000 ÷ \$10,000)	30%	
30 × .000375 (tax rate of 3/4 mill)	.01125	
Tax (\$10,000 × .01125)		\$112.50
Remaining value of issued capital stock (preferred stock only; \$50,000 × .0015)		<u>75.00</u>
Total tax		<u>\$187.50</u>

**Parts 3 and 4**

Corporations operating vessels not exclusively engaged in foreign commerce must compute the dividend rate on paid-in capital for all classes of stock. This includes all amounts paid for the stock. It does not include capital from appreciation of assets, amounts not contributed by the stockholder, or retained earnings.

**Schedule F — Composition of prepayments**

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 7.

**Line 83** — Enter the amount of credits that are **refund eligible** claimed on line 5 against your current year's franchise tax. Do not include any amount of credits actually requested as a refund on line 16b or requested as an overpayment credited to next year's tax on line 16c.

## Instructions for Form CT-184

All transportation and transmission corporations and associations subject to tax under Article 9 section 184 must file Form CT-184 and pay the tax due on gross earnings or dividends, whichever is appropriate.

All transportation and transmission corporations and associations must file Form CT-184 even if no tax is due. Enter zeros where appropriate on lines 1 through 14 and file the signed return with Form CT-183.

**Metropolitan transportation business tax (MTA surcharge)** — Any corporation taxable under Article 9 section 184 that does business, employs capital, owns or leases property, or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-184-M, *Transportation and Transmission Corporation MTA Surcharge Return*, and pay an MTA surcharge on business done in the Metropolitan Transportation Authority region. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Answer the questions on page 1 of Form CT-184 by marking an **X** in the appropriate box(es). If you do not do business in the MCTD, disclaim liability for the MTA surcharge by answering *No* to the second question.

### Tax computation

**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 5

**Temporary deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

Mark an **X** in the appropriate box(es) in the summary of credits section on Form CT-184, above line 69. Enter on line 5 the total amount of tax credits that you are applying against this year's tax from the following forms (attach the form(s) to your return): Form CT-40, Form CT-41, Form CT-43, Form CT-243, Form CT-249, Form CT-259, Form CT-611, Form CT-611.1, Form CT-612, Form CT-613, Form CT-631, and Form DTF-630.

If you are claiming a credit for which no specific box is provided, mark the *Other credits* box and attach the appropriate form(s).

Do not include on line 5 any amount of credit that will be carried over, refunded, or applied as an overpayment to the next tax period. Credits for which you are requesting a refund are reported on line 19b. Credits that you are applying as an overpayment to the next tax period are reported on line 19c.

You may apply any unused credit that remains after applying the credit to your franchise tax under section 183 against the tax due under section 184 (Form CT-184).

When claiming more than one credit, you must apply them against your tax in the order specified in the instruction for Form CT-183, line 5.

**Line 7b** — If the total tax on line 6 exceeds \$1,000, but is not greater than \$100,000, enter 25% (.25) of line 6. If line 6 exceeds \$100,000, enter 40% (.40) of line 6.

**Line 8 — Foreign authorized corporations only:** See instructions for Form CT-183, line 6.

**Line 11** — Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax pursuant to Tax Law section 1085(d).

**Line 12** — Interest — see *Late payment — Interest* information. Compute on amount from line 10 minus line 7a or 7b.

**Line 13** — See *Late filing and late payment — Additional charges*. Compute on amount from line 10 minus line 7a or 7b.

**Line 19b** — If you are claiming a refund of tax credits, enter the total amount and attach the appropriate tax credit form(s). Do not include this amount on line 5.

**Line 19c** — If you are applying an amount of tax credits as an overpayment to the next tax period, enter that amount and attach the appropriate tax credit form(s). Do not include this amount on line 5.

### Schedule A — Mileage allocation — Transportation over the road

Taxpayers subject to tax under section 184, **except** telephone corporations, telegraph corporations, and cable television operators, complete Schedule A and Schedule D to allocate gross earnings.

**Telephone corporations** complete Schedule B and Schedule D.

**Telegraph corporations** complete Schedule C and Schedule D.

**Cable television operators** complete Schedule D.

**Transportation over the road** — If no allocation is claimed, enter 100% on line 21. Your gross receipts must be allocated using the mileage allocation. The mileage allocation is a percentage based on the number of revenue miles traveled within New York State compared to the total revenue miles traveled everywhere (do not include nonrevenue miles, such as deadheading).

### Schedule B — Corporations principally engaged in local telephone business

**Line 22** — Enter gross revenue from all telephone services, including receipts of cash, credits, and property of any kind or nature, without any deductions for the cost of property sold, the cost of materials used, labor, services, or other costs, interest, or discount paid, or any other expense. Examples of telephone services receipts include the following:

- All charges for carrier access services provided in New York State.
- Local services receipts from subscriber's stations, public telephones, service stations, local private lines, and other local service receipts.
- Intrastate toll service receipts, toll private line services, and other toll service receipts for calls that originate and terminate in New York State, and any other telephone receipts, including receipts from the transmission of voice, data, image, information, and paging, where the transmission originates and terminates in New York State.
- Interstate and international toll service receipts, toll private line services, and other toll service receipts for calls that originate or terminate in New York State, and any other telephone receipts, including receipts from the transmission of voice, data, image, information, and paging, where the transmission originates or terminates in New York State.
- Receipts from services that are ancillary to the provision of telecommunication services, such as directory information, call forwarding, caller identification, call waiting, and supplementary services provided in New York State.
- Receipts from equipment provided in connection with any telecommunication service in New York State.
- Receipts from incidental services provided in connection with any telecommunication service provided in New York State.

*Gross operating revenue from telephone services* does not include taxes imposed by New York State or its municipalities or the federal government, where you are collecting the taxes for the taxing authority (for example, state and local sales taxes or federal excise taxes). Deductions allowed from receipts comprising gross operating revenue include uncollectible accounts.

### Schedule C — Allocation of gross operating revenue from telegraph corporations

Telegraph companies that sell or furnish telegraph transmission services in New York State must complete Schedule C and compute gross operating revenue.

*Gross operating revenue* includes the following:

- intrastate gross operating revenue
- interstate gross operating revenue allocated to New York State
- foreign gross operating revenue allocated to New York State

*Intrastate gross operating revenue* includes receipts from the sale or furnishing of intrastate telegraph services.

Compute interstate and foreign gross operating revenue allocated to New York State by using either the accounting rule method or the formula rule method. *Interstate and foreign gross operating revenue* includes revenues (that is, receipts) allocated to New York State from the sale or furnishing of interstate and foreign telegraph services.

In determining gross operating revenue, receipts include cash, credits, and property of any kind or nature, without any deductions for the cost of property sold, the cost of materials used, labor, services, or other costs, interest or discount paid, or any other expense.

*Gross operating revenue from telegraph services* includes receipts such as the following:

- miscellaneous receipts from commissions, rent receipts, general service receipts, license receipts, and other miscellaneous receipts
- any other transmission receipts

Deductions allowed from receipts comprising gross operating revenue include uncollectible accounts, as well as taxes imposed by New York State or its municipalities or the federal government, when you are collecting taxes for the taxing authority (for example, state and local sales taxes, or federal excise taxes).

**Line 27** — Enter 100% of receipts that comprise intrastate gross operating revenue from telegraph services wholly within New York State. If you employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes, enter the amount of receipts that comprise gross operating revenue as reflected in these accounts.

**Lines 28 and 29** — Use the accounting rule method to allocate interstate and foreign gross operating revenue if you employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes, and these accounts reflect the amount of gross operating revenue from interstate and foreign services attributable to New York State. Enter the amount of receipts that comprise interstate and foreign gross operating revenue from those accounts.

### Formula rule allocation method

**Lines 31 through 38** — Use the formula rule method to allocate interstate and foreign gross operating revenue if you do not employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes, or if the accounting rule method does not properly reflect the amount of gross operating revenue from interstate and foreign transmission services attributable to New York State.

**Line 31** — Enter the average value of real property you owned and used in connection with interstate or foreign telegraph services. In column A, enter the average value of property physically located in New York State. In column B, enter the average value of all property wherever located. *Average value* is the cost of real property without allowance for depreciation or amortization. It is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly, or daily. Use the same method of valuation for real property within New York State and everywhere.

**Line 32** — Enter the average value of real property rented to you that you used in connection with interstate or foreign telegraph services. In column A, enter the average value of property physically located in New York State. In column B, enter the average value of all property wherever located. Determine the average value of real property rented to you by multiplying gross rents payable during the period covered by this return by eight. *Gross rents* include any amount payable as rent or in lieu of rent, such as interest, insurance, taxes, and repairs, plus amortization of leasehold improvements that revert to the lessor at the termination of the lease.

**Line 33** — Enter the average value of tangible personal property you owned that you used in connection with interstate or foreign telegraph services. In column A, enter the average value of property physically located in New York State. In column B, enter the average value of all property wherever located. *Tangible personal property* is physical personal property, such as machinery, tools, implements, goods, wares, and merchandise. It does not include money, deposits in banks, shares of stock, bonds, notes, credits, or evidences of an interest in property or debt, or intangible assets. *Average value* is the cost of tangible personal property without allowance for depreciation or amortization. It is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly, or

daily. Use the same method of valuation for tangible personal property both within New York State and everywhere.

**Line 34** — Enter the average value of tangible personal property rented to you that you used in connection with interstate or foreign telegraph services. In column A, enter the average value of property physically located in New York State. In column B, enter the average value of all property wherever located. Determine the average value of tangible personal property rented to you by multiplying gross rents payable during the period covered by this return by eight. See line 32 instructions for definition of *gross rents*.

**Line 35** — Enter the average value of intangible assets owned within New York State and everywhere that are used in connection with interstate or foreign telegraph services. *Intangible assets* include, but are not limited to, such items as patents, franchises, and copyrights. *Average value* is the cost of intangible assets without allowance for depreciation or amortization. It is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly, or daily. However, you must use the same method of valuation for intangible assets within New York State and everywhere. Determine intangible assets to be within or outside New York State by allocating them to your home office.

**Line 36** — Enter the average value of extraterrestrial property within New York State and everywhere that is used in connection with interstate or foreign telegraph services. *Extraterrestrial property* refers to property such as communication satellites whether owned, rented, or leased. *Average value* is the cost without allowance for depreciation or amortization or, if rented, the gross rental times eight. To determine the average value of extraterrestrial property within New York State, multiply the average value of extraterrestrial property everywhere by a percentage determined as follows:

Average value of satellite repeater facilities, earth stations, or other satellite communication facilities within New York State used in connection with interstate or foreign transmission services.

divided by

Average value of satellite repeater facilities, earth stations, or other satellite communication facilities everywhere used in connection with interstate or foreign transmission services.

**Line 39** — Enter the amount of receipts that comprise gross operating revenue from interstate telegraph transmission services, and multiply by the formula rule allocation percentage from line 38.

**Line 40** — Enter the amount of receipts that comprise gross operating revenue from foreign telegraph transmission services, and multiply by the formula rule allocation percentage from line 38.

### Schedule D — Tax computation based on gross earnings from business in New York State

**Line 44** — Enter total gross receipts earned from trucking services everywhere, and multiply by the mileage allocation percentage computed on line 21. Cost of materials subsequently resold to customers may be deducted from gross receipts.

**Line 46** — Cable television operators: If all of your subscribers are in New York State, enter your gross receipts from all subscribers. If you provide cable service to service addresses outside of New York State, enter only your gross receipts from service addresses within New York State.

**Line 49** — Enter gross receipts from water transportation business both originating and terminating within New York State. Allocate receipts from business beginning and ending in New York State but passing through another state or country (loop traffic). To allocate, multiply revenue from water transportation by a percentage, where the numerator is miles in New York State and the denominator is miles everywhere. Attach your computation.

**Line 50** — Enter gross receipts from railroad transportation business both originating and terminating within New York State. Allocate receipts from business beginning and ending in New York State but passing through another state or country (loop traffic). To allocate, multiply revenue from railroad transportation by a percentage, where the numerator is miles in New York State and the denominator is miles everywhere. Attach your computation.

**Line 51** — Enter rental income received from use of real or tangible personal property within New York State. If tangible personal property is rented in New York State but used outside the state, include the rental income as gross earnings in New York State.

**Line 52** — Enter the amount of interest and dividends received from investments in other corporations and interest-bearing cash accounts. Allocate the interest and dividends to the home office where the item is held, managed, and controlled.

**Line 53** — Compute the profit on the sale or exchange of real and personal property on the basis of the original cost minus any expenses incurred in making the sale (such as advertising), not book value. Gain is allocated based on where the property is located or used.

**Line 54** — Enter the gains from the sale or exchange of United States and New York State government securities. Compute gain on the basis of original cost. You may deduct brokerage expenses. You **may not** reduce capital gains by capital losses. You may not use capital losses to reduce other receipts. Allocate gains to the home office unless the security is held, managed, and controlled by an office outside the home office's state.

**Line 55** — Include on this line gross receipts from all other sources within New York State, including gross receipts received by freight forwarders. Attach a statement showing the method of allocation.

### **Schedule F — Composition of prepayments**

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 9.

**Line 69** — Enter the amount of credits that are **refund eligible** claimed on line 5 against your current year's franchise tax. Do not include any amount of credits actually requested as a refund on line 19b or requested as an overpayment credited to next year's tax on line 19c.

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## Up-to-date information affecting your tax return

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

## Contents of this form

Form CT-1 contains both changes for the current tax year and general instructional information, serving as a supplement to corporation tax instructions.

This form contains information on the following topics:

- Changes for the current tax year (non-legislative and legislative)
- Business information (how to enter and update)
- Entry formats
  - Dates
  - Negative amounts
  - Percentages
  - Whole dollar amounts
- Third-party designee
- Use of reproduced and computerized forms
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

## Changes for 2010

### Non-legislative changes

**Web File** — You can Web File Form CT-400, *Estimated Tax for Corporations*, on our Web site (see *Need help?*). You'll need to create an *Online Services* account or log into your existing one, and select the corporation tax estimated payment option.

You can also Web File the following extension requests:

- Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*
- Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*
- Form CT-5.9, *Request for Three-Month Extension To File (for Article 9 tax return, MTA surcharge, or both)*

Benefits of Web filing include:

- direct payment from your bank account or by ACH credit
- instant confirmation

For more information, visit our Web site and select the corporation tax Web File option.

**Form CT-200-V, Payment Voucher for E-Filed Corporation Tax Returns and Extensions** — This form is a payment voucher for taxpayers who e-file their forms but cannot e-pay and need to pay with a paper check or money order. Form CT-200-V is for use only for returns or extensions that were e-filed and should never accompany a paper-filed return.

**Paid preparer identification numbers** — New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. For 2010, the paid preparer section on corporation tax forms has been updated accordingly. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site (see *Need help?*.) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number (SSN). (PTIN information is available at [www.irs.gov](http://www.irs.gov).)

## Legislative changes

### Articles 9, 9-A, 13, 32, and 33

#### Chapter 242, Laws of 2010

**Amended definition of tax return preparer under Tax Law, Article 1, section 32** — Enrolled agents, employees of enrolled agents, and those preparing returns under the supervision of enrolled agents are no longer included in the definition of *tax return preparer*.

### Article 9

#### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Biofuel tax credit cap** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

### Article 9-A

#### Chapter 24, Laws of 2010

**Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended** — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

#### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Biofuel tax credit cap** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

**Qualified emerging technology company (QETC) facilities, operations, and training tax credit** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit limit imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$250,000.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

**Empire State film production tax credit** — Numerous amendments impacting the credit were made. For more information concerning the amendments, visit the Governor's Office for Motion Picture and Television Development Web site at [www.nylovesfilm.com](http://www.nylovesfilm.com).

**Empire State film post-production tax credit** — Effective August 11, 2010, a new tax credit is available for the film and television post-production industry. The amount of credit allowed is allocated by the Governor's Office for Motion Picture and Television Development. For more information, refer to Form CT-261, *Claim for Empire State Film Post-Production Credit*, and its instructions.

**Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent** — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

**Updated definition of captive REIT** — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

**Clarifying New York source income** — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

## Chapter 59, Laws of 2010

**Excelsior Jobs Program tax credit** — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit that must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at [www.empire.state.ny.us](http://www.empire.state.ny.us) and select *Business Programs*.

## Chapter 297, Laws of 2010

**Farmers' school property tax credit** — For tax years beginning on or after January 1, 2011, the farmers' school property tax credit was amended to maintain eligibility for the credit when farmers receive payments for the sale of their development rights under the state's Farmland Protection Program. This change will allow payments from the Farmland Protection Program to be treated as excess gross income from farming.

## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## Article 32

### Chapter 24, Laws of 2010

**Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended** — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Elimination of bad debt modifications when computing entire net income** — For tax years beginning on or after January 1, 2010, Article 32 was amended to eliminate the bad debt adjustments previously required by the Business Tax Reform and Rate Reduction Act of 1987 (see TSB-M-87(17)C, *Business Tax Reform and Rate Reduction Act of 1987 Article 32 - Franchise Tax on Banking Corporations*), and as amended by Chapter 411 of the Laws of 1996 (see TSB-M-96(1)C, *Important Notice: Summary of 1996 Corporation Tax Law Changes*).

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

**Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent** — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

**Updated definition of captive REIT** — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

**Clarifying New York source income** — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

## Chapter 59, Laws of 2010

**Excelsior Jobs Program tax credit** — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit which must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at [www.empire.state.ny.us](http://www.empire.state.ny.us) and select *Business Programs*.

## Chapter 67, Laws of 2010

**Bank tax extender** — For tax years beginning before January 1, 2011, certain provisions of the franchise tax on banking corporations have been extended.

## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## Article 33

### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

**Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent** — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

**Updated definition of captive REIT** — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

### Chapter 59, Laws of 2010

**Excelsior Jobs Program tax credit** — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit which must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at [www.empire.state.ny.us](http://www.empire.state.ny.us) and select *Business Programs*.

## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## How to fill out your tax return

### 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 (see *Need help?*) 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 your address 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?*).

### Entry formats

**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).

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

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

**Example:**  $5,000/7,500 = 0.6666666 = 6.6667\%$ .

**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.

### 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 Yes box in the *Third-party designee* 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 *No* box.

If you mark the Yes 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, 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, *Power of Attorney*, making that designation with the Tax Department. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) 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.

**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.

## Use of reproduced and computerized forms

Photocopies of returns are acceptable if they are of good quality and have an original signature in the proper place. We will accept computer-produced corporation tax returns if they meet our printing specifications. For more information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

## General information

### 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 or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

### Fee for payments returned by banks

The 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.

### Tax shelter penalties

The Tax Law provides penalties for failure to disclose certain transactions and related information regarding tax shelters and for the underpayment of taxes due to participation in these shelters. For more information, refer to TSB-M-05(2)C, *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*.

## Voluntary Disclosure and Compliance Program

The Voluntary Disclosure and Compliance Program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities. For more information, see TSB-M-08(11)C, *Voluntary Disclosure and Compliance Program*.

## Your rights under the Tax Law

The Taxpayer Bill of Rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when you appeal a departmental decision, and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the department to obtain payment. For a complete copy of the information contained in all of these statements, you may obtain Publication 131, *Your Rights and Obligations Under the Tax Law*, by visiting our Web site or by calling (see *Need help?*).

### Need help?



**Internet access:** [www.tax.ny.gov](http://www.tax.ny.gov)  
(for information, forms, and publications)



**Telephone assistance** is available from 8:30 A.M. to 4:30 P.M. (eastern time), Monday through Friday.

**Corporation Tax Information Center:** (518) 485-6027

To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. 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.