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2009 New York State Corporate Tax Statistical Report

Franchise Tax on Business Corporations
Corporation and Utilities Tax
Franchise Tax on Banking Corporations
Franchise Tax on Insurance Corporations

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Overview

This publication is the seventeenth in a series of corporate tax statistical reports to be published by the Department of Taxation and Finance's Office of Tax Policy Analysis (OTPA). The reports are intended to provide a summary of corporate tax data to aid parties in their analysis of New York's corporate tax structure. The last report in this series was for the 2008 liability year.

The tables in this report present tax statistics for Article 9-A (the franchise tax on business corporations), Article 9 (the corporation and utilities tax), Article 32 (the franchise tax on banking corporations), and Article 33 (the franchise tax on insurance companies). This presentation enables data users to more easily understand the corporate tax population and liability.

Selected statistics presented in this publication may differ from data provided in prior reports and other published statistical documents. This is due to improvements in data collection and enhancements in data verification procedures. In certain tables, tax law confidentiality provisions prohibit the disclosure of data. The data are designated by "d/" but are included in the appropriate totals.

Terms and data used in tables and charts, as well as data sources used in this report, are explained in Appendix A. Appendix B contains descriptive charts of the calculation of tax liability for Articles 9-A, 32, and 33. Finally, Appendix C lists sources of tax return data for 2009.

Recent tax law changes have had an impact on the business population and the data presented in these reports. Some examples include:

- Adoption of a single sales factor apportionment formula in Article 9-A;
- Significant reductions in tax rates for all corporate taxes;
- Restructuring of the Article 9-A fixed dollar minimum tax; and
- Creation of new tax credits.

These law changes have changed the size of tax burdens, the distribution of the burden within industries, and the share each article represents of total State tax revenues.

For highlights of tax actions, see OTPA's *Summary of Tax Provisions*, published annually. *The New York State Tax Sourcebook*, also published by OTPA, contains both historical and current information on tax law changes.

Article 9-A: Corporate Franchise Tax

Tax Structure: Tax Law as of 2009

Article 9-A imposes a tax on corporations for the privilege of exercising a corporate franchise in the State. All domestic corporations (organized in New York State), all foreign corporations (organized in another state), and all alien corporations (organized in another country) doing business, employing capital, owning or leasing property in a corporate or organized capacity, or maintaining an office in the State are subject to the corporate franchise tax. Article 9-A applies to general business corporations other than those specifically exempt or subject to tax under other specified articles of the tax law.

C Corporations compute tax under four bases: entire net income (ENI); business and investment capital; alternative minimum taxable income (AMT); and fixed dollar minimum. The corporation pays the tax computed on the base that yields the highest liability. An additional tax applies to the value of the corporation's subsidiary capital allocated to the State.

Taxpayers operating in the Metropolitan Commuter Transportation District (MCTD) are also subject to a surcharge on the portion of tax liability allocable to the activities within the MCTD. This report does not include the surcharge in total tax liability. For a detailed explanation of the surcharge, see *Appendix A: Description of Terms and Data and Data Sources*.

The ENI base equals federal taxable income modified for income and deduction items that New York treats differently. For example, New York State's tax base does not include income from subsidiaries and does not allow for deductions directly and indirectly attributable to subsidiary capital. The tax rate on allocated ENI varies depending on the taxpayer's particular circumstances.

The capital base is a tax on the business and investment capital allocated to New York after deductions for short and long-term liabilities. There are different caps on liability for the capital base - one for manufacturers and qualifying emerging technology companies (QETCs) and one for all other taxpayers.

The AMT base equals ENI plus certain federal adjustments and tax preference items.

Corporations allocate income and capital using allocation percentages to proxy their economic presence in the State. Business income and capital is allocated based on New York receipts. Investment income and capital is allocated based on the New York presence of the issuer of the investment instrument. Allocated business and investment income comprise the ENI and AMT bases, and allocated business and investment capital comprise the capital base.

The fixed dollar minimum tax varies based on the taxpayer’s New York receipts. Certain fixed dollar minimum taxpayers are classified as “true” minimum taxpayers. A taxpayer is a “true” minimum filer if it:

1. files a CT-3 or CT-4;
2. has no tax credits earned or carried in;
3. has no subsidiary capital base or income;
4. has a 0 or 100 percent business allocation percentage (see below);
5. can pay the maintenance fee with or without the MTA; and
6. the largest tax amount is the fixed dollar minimum tax.

Tabs 1-13 include data for “true” minimum filers. Tabs 14-21 do not, as most of the items presented in these tables are not applicable or not verified for these filers. Therefore, the number of taxpayers and amount of tax liability presented in the latter tables will differ from that presented in the first set of tables.

Corporations that elect S corporation status for federal and New York tax purposes compute an entity level tax imposed by Article 9-A. The tax for S corporations is solely the Article 9-A fixed dollar minimum tax based on New York receipts. However, the S corporation tax amounts vary slightly from the C corporation amounts. S corporation data is only included in tabs 1-3.

For Article 9-A taxpayers, tax liability contained in this report includes the tax on subsidiary capital and the fixed dollar minimum tax on subsidiaries included in a combined return. In 2009, the total tax on subsidiary capital was $30.9 million and the fixed dollar minimum tax on $18.6 million.

For more information on the computation of tax liability and applicable tax rates, see *Appendix B: Descriptive Charts of the Calculation of Tax Liability for Articles 9-A, 32, and 33*.

Significant Tax Law Changes: 2008 and 2009

2008

- For tax years beginning on or after January 1, 2008, the capital base tax rate is reduced from 0.178 percent to 0.15 percent and the $1 million liability cap for non-manufacturers is temporarily increased to $10 million.

- For tax years beginning on or after January 1, 2008, the Article 9-A fixed dollar minimum tax is based on a corporation's New York receipts, instead of on payroll. The tax ranges from $25 to $5,000.

- The bioheat tax credit is reinstated for the period January 1, 2008 through December 31, 2011.

- For more details on these and other significant Tax Law changes in 2008, please see Corporation Tax Memo TSB-M-08(12)C *Summary of Corporation Tax Legislative Changes Enacted in 2008* and TSB-M-09(4)C *Supplemental Summary of Corporation Tax Legislative Changes Enacted in 2008.*

2009

- For tax years beginning on or after January 1, 2009, health maintenance organizations (HMOs) are taxable under Article 33 instead of Article 9-A.

- Overcapitalized captive insurance corporations are required to file a combined report under Article 9-A or 32 with the closest controlling stockholder for tax years beginning on or after January 1, 2009.

- For tax years beginning on or after January 1, 2009, the utilization of the Empire State film production credit is spread across several years, depending on the size of the credit.

- The QEZE real property tax credit is reduced by 25 percent for companies certified on or after April 1, 2009.

- For tax years beginning on or after January 1, 2009, taxpayers may no longer earn the fuel cell electric generating credit or the transportation improvement contribution credit.

- For more details on these and other significant Tax Law changes in 2009, please see Corporation Tax Memo TSB-M-09(10)C Summary of Budget Bill Corporation Tax Changes Enacted in 2009 and TSB-M-10(1)C Supplemental Summary of Corporation Tax Legislative Changes Enacted in 2009.

Article 9: Corporation and Utilities Tax

Tax Structure: Tax Law as of 2009

Article 9 contains several separate taxes that apply to various general and specialized businesses operating in New York State. These taxes appear in separate sections of Article 9.

Section 180, the organization tax on domestic (New York State) corporations, and Section 181, the license and maintenance fees on foreign (out-of-state) corporations, are not included in this report as these taxes are not reported on an annual basis and insufficient data is available for these taxpayers.

Section 183 imposes a franchise tax on corporations, joint stock companies, or associations *principally engaged* in transportation, telephone, or other transmission businesses. The tax equals the highest of the following calculations: (1) allocated value of issued capital stock multiplied by 1.5 mills; (2) allocated value of issued capital stock on which dividends are paid 6 percent or more, multiplied by 0.375 mills for each one percent of dividends paid; or (3) a fixed minimum tax of $75. Trucking and railroad companies are subject to the corporate franchise tax under Article 9-A unless they had elected to remain taxable under Article 9.

Section 184 imposes an additional franchise tax on corporations, joint stock companies, or associations *principally engaged* in transportation, local telephone business, or other transmission businesses. It applies a rate of 0.375 percent on gross earnings from all sources in the State. In January 1998, trucking and railroad companies formerly taxable under Section 184 became taxable under Article 9-A, unless they elected to remain taxable under Article 9.

Section 185 imposes a franchise tax on farmers, fruit growers, and other like agricultural corporations organized and operated on a cooperative basis. The tax is the highest amount computed under the following calculations: (1) allocated value of issued capital stock multiplied by one mill; (2) allocated value of issued capital stock on which dividends paid are six percent or more, multiplied by ¼ mill for each one percent of dividends paid; or (3) a fixed dollar minimum tax of $10.

Section 186, which was repealed effective January 1, 2000, provided for a franchise tax on waterworks companies, gas companies, electric or steam heating, lighting, and power companies. The tax was imposed at a rate of 0.75 percent on New York gross earnings and 4.5 percent on the amount of dividends paid which exceeded 4 percent of the amount of the taxpayer's paid-in capital employed in New York State. A minimum tax alternative of $125 applied, but only in case and to the extent that the tax computed under the primary method was less than $125. An additional excess dividends tax may have also applied. A company could have elected to remain a continuing Section 186 taxpayer, and be subject to the tax as it existed in 1999, if certain conditions applied.

Section 186-a provides for a gross receipts tax on the furnishing of utility services. The tax is imposed on receipts from transportation, transmission, distribution, or delivery of energy for residential customers at a rate of 2.0 percent. Utilities that provide telephone or telegraph services which are subject to the supervision of the Public Service Commission pay the tax on their gross receipts not derived from the sale of telecommunications services at a rate of 2.5 percent. Telecommunications service receipts are taxable under Section 186-e.

Section 186-e provides for an excise tax on telecommunications services at a rate of 2.5 percent on the gross receipts of all providers of telecommunications services. The tax applies to gross receipts from all intrastate services and interstate and international services that either originate or terminate in New York and are billed to a service address in the State. Providers of mobile telecommunication services source gross receipts to their customer's place of primary use.

Total tax liability reported for Article 9 represents the post-credit liability for all taxpayers filing a return. It does not include a separate tax on subsidiary capital or fixed dollar minimum tax on subsidiaries included in a combined report as those provisions do not exist in Article 9.

Significant Tax Law Changes: 2008 and 2009

2008

There were no significant Tax Law changes in Article 9 in 2008.

2009

There were no significant Tax Law changes in Article 9 in 2009.

Article 32: Franchise Tax on Banking Corporations

Tax Structure: Tax Law as of 2009

Article 32 levies a franchise tax on banking corporations doing business in the State. The bank tax is computed on the highest of four alternative bases:

- allocated entire net income (ENI);
- alternative income (ENI without regard to specified exclusions);
- taxable assets allocated to New York; or
- a minimum tax of $250.

Calculation of the tax based on allocated ENI begins with federal taxable income, to which certain exclusions and deductions are applied. Taxpayers then make several other modifications, and allocate their income to arrive at New York taxable income. These modifications include, for example, a deduction for the eligible net income of international banking facilities (IBFs), deductions for a portion of interest income from government obligations, and deductions for interest and dividend income from subsidiary capital.

Banks conducting business both inside and outside New York allocate their income and assets by applying a three-factor allocation formula consisting of payroll, deposits, and receipts. The receipts and deposits factors are double-weighted and the payroll factor is single-weighted.

Alternative entire net income differs from ENI in that it does not include deductions for portions of subsidiary interest and interest on government obligations. In addition, the factors of the alternative income allocation formula are single weighted.

The tax on allocated taxable assets starts with the taxpayer's total assets. Taxable assets equal total assets less assets attributable to the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Taxpayers then apply an allocation percentage, equivalent to the percentage used for allocating ENI. The tax rate imposed on allocated taxable assets varies depending on the bank's net worth ratio and the percentage of total assets that is mortgages.

Taxpayers may take credits against ENI, alternative ENI, and taxable assets bases. Banks are able to claim most of the same credits available to Article 9-A taxpayers.

Tax liability for Article 32 taxpayers includes the fixed dollar minimum tax on subsidiaries included in the combined group. It does not include a separate tax on subsidiary capital as the tax does not exist in Article 32.

For a more information of the computation of tax liability and applicable tax rates, see *Appendix B, Descriptive Charts of the Calculation of Tax Liability for Articles 9-A, 32, and 33.*

Banks are also allowed to form as S corporations under Article 32. They are subject only to the fixed dollar minimum tax. In 2009, there were only eleven bank S corporations and their total tax liability was $2,750. They are not included in this report.

Bank Classifications

Several of the tables and figures for Article 32 summarize data for four separate categories of banks: clearinghouse banks, commercial banks, foreign banks, and savings institutions. However, to protect taxpayer confidentiality, the clearinghouse and commercial bank categories were grouped together. Thus, each table and figure provides statistics profiling only three groups of taxpayers. Below is an explanation of each category of bank.

Clearinghouse Banks
Clearinghouse banks are financial institutions that are members of the New York Clearing House Association. As members of the Association, their functions include handling daily fund exchanges from other clearinghouse banks and settling exchanges.

Commercial Banks
Commercial banks are institutions that are not classified as clearinghouse banks, foreign banks, or savings institutions. Banks included in this category are domiciled in the United States.

Foreign Banks
Foreign banks are commercial banks with nexus in New York that are headquartered outside of the United States or its possessions.

Savings Institutions

Savings institutions are depository financial institutions that receive deposits primarily from consumers, make mortgage and real estate loans, and invest in high-grade securities.

Significant Tax Law Changes: 2008 and 2009

2008

- For tax years beginning on or after January 1, 2008, the receipts factor will be the allocation percentage for certain taxpayers. This provision is limited to taxpayers that are 65 percent or more owned subsidiaries of banks and bank holding companies subject to tax under Article 32 by reason of Tax Law Section 1452(a)(9) and that substantially provide management, administrative, and/or distribution services to an investment company.

- For tax years beginning on or after January 1, 2008, certain credit card banks are subject to tax in New York if certain threshold tests based on customers, merchant locations, or receipts are met.

- For these and other significant Tax Law changes in 2008 please see Corporation Tax Memo TSB-M-08(12)C *Summary of Corporation Tax Legislative Changes Enacted in 2008* and TSB-M-09(4)C *Supplemental Summary of Corporation Tax Legislative Changes Enacted in 2008*.

2009

- Overcapitalized insurance corporations are required to file a combined report under Article 9-A or 32 with the closest controlling stockholder for tax years beginning on or after January 1, 2009.

- For more details on these and other significant Tax Law changes in 2009, please see Corporation Tax Memo TSB-M-09(10)C *Summary of Budget Bill Corporation Tax Changes Enacted in 2009*.

Article 33: Franchise Tax on Insurance Corporations

Tax Structure: Tax Law as of 2009

New York imposes a franchise tax on insurance corporations under Article 33 of the Tax Law. There are two components of the tax: (1) an income tax based on the higher of four bases plus a tax on subsidiary capital; and (2) a tax based on gross direct premiums written on risks or residents located in the State. Life insurance corporations are subject to both the income tax component and the premiums tax. Non-life insurance corporations are subject only to the tax on premiums.

The income base component is based on one of four alternative bases: allocated entire net income (ENI), allocated business and investment capital, ENI plus officers' salaries less specified deductions (alternative tax), and a fixed dollar minimum tax. The total income tax equals the alternative that results in the largest tax, plus an additional tax on subsidiary capital allocated to New York.

The second component of the Article 33 franchise tax is a tax on gross direct premiums, less return premiums thereon, written on risks located or resident in New York. The rate of the tax on premiums varies according to the type of risk covered and the type of insurer:

Type of Insurer	**Type of Premium and Tax Rate**	
	Accident & Health	Other
Life	0.70%	0.7%
Property & Casualty	1.75%	2.0%

For more information on the computation of tax liability and applicable tax rates, see *Appendix B: Descriptive Charts of the Calculation of Tax Liability for Articles 9-A, 32, and 33*.

Life insurance corporations doing business within and without the State allocate the entire net income, capital, and alternative bases to New York based on the ratios of premiums and wages earned or paid in New York to those earned or paid everywhere. Premiums are weighted nine times, wages once.

In computing tax before credits, life insurance corporations add the tax on gross premiums to the highest of the four alternative taxes. The limitation on tax provides that the total of the two components cannot be greater than 2 percent of taxable premiums. The floor limitation provides that the total of the two components cannot be less than 1.5 percent of taxable premiums.

Empire Zone and Zone Equivalent Area (EZ/ZEA) tax credits must be taken after the floor limitation is applied but before the cap limitation on tax is applied. All other credits are applied against the tax due after these limitations. Certain taxpayers may report tax due before the limitations, but have a limitation on tax of zero, and so report zero tax due before credits.

Tax before credits for non-life insurance corporations is the higher of the tax on gross premiums or the fixed dollar minimum tax. Tax liability includes the tax on subsidiary capital (life insurance corporations) and the fixed dollar minimum tax on subsidiaries included in a combined life insurance corporation group.

Classifications of Insurance Corporations

Several of the tables and figures for Article 33 summarize data for various categories of insurance corporations: domestic corporations, foreign corporations, life insurance corporations, property & casualty corporations, and other insurance corporations. Below is an explanation of each category of insurance corporation.

Domestic Corporations
Domestic insurance companies are companies incorporated or organized in New York.

Foreign Corporations
Foreign insurance companies are those incorporated or organized in any jurisdiction other than New York.

Life Insurance Corporations
Life insurance corporations include companies authorized by the Superintendent of Financial Services to conduct an insurance business consisting of either insuring the lives of human beings or providing annuity contracts.

Officers and employees of savings banks may be authorized by the Superintendent of Financial Services to negotiate, order, solicit, or procure applications or orders for life insurance or annuity contracts. Data for these taxpayers is presented under the category of life insurers.

Property & Casualty Insurance Corporations

Property & casualty insurance companies include companies authorized by the Superintendent of Financial Services to write insurance against the loss of, or damage to, property.

"Other" Insurance Corporations

The "other" category includes insurance companies authorized by the Superintendent of Financial Services to write accident and health, title, mortgage, financial guaranty, or reciprocal insurance.

Significant Tax Law Changes: 2008 and 2009

2008

There were no significant Tax Law changes in Article 33 in 2008.

2009

- For tax years beginning on or after January 1, 2009, health maintenance organizations (HMOs) are taxable under Article 33 instead of Article 9-A.
- Overcapitalized insurance corporations are required to file a combined report under Article 9-A or 32 with the closest controlling stockholder for tax years beginning on or after January 1, 2009.
- For more details on these and other significant Tax Law changes in 2009, please see Corporation Tax Memo TSB-M-09(10)C *Summary of Budget Bill Corporation Tax Changes Enacted in 2009*.

Appendix A: Description of Terms and Data and Data Sources

Appendix A describes selected terms and data used in the tables and charts, as well as the data sources used in this report.

Description of Terms and Data

Basis of Tax

For Articles 9-A and 32, the basis of tax is the tax base on which the taxpayer paid, after the application of all available credits.

For non-life insurance corporations taxed under Article 33, this is the basis of tax before the application of all available credits. The two bases are the fixed dollar minimum tax and the premiums tax.

For life insurance corporations taxed under Article 33, this is the basis on which the income tax component of the tax is determined, before the application of the cap and floor limitations on tax and all available credits.

Industry Group

The Internal Revenue Service (IRS) asks taxpayers to self-report their principal business activity using the North American Industrial Classification System (NAICS) codes appropriate for their industry groups. Beginning in 1998, New York required that taxpayers report their federal NAICS, instead of Standard Industrial Classification (SIC), code on the New York return. Given that the code is from the federal return, it may not be indicative of the activities actually being undertaken in New York. Therefore, report users are urged to take caution in using industry breakouts to infer industry activity in New York.

NAICS coding expands into much more detail by going as far as the six-digit level. This can be highly specific by activity or product classification. For purposes of this report, that level of detail is not required. Therefore, industries are grouped by two-digit industry sectors and three and four-digit subsectors in this report. Only data from certain selected industry subsectors has been presented in this report. As a result, data presented in tables for subsectors may not necessarily add to the appropriate two-digit industry sector totals.

For Article 9-A tables classified by industry group as reported by NAICS industry code, certain caveats apply regarding corporations not included in these tables. The Finance and Insurance sector excludes banks taxable under Article 32 and insurance companies taxable under Article 33. The utilities, transportation and warehousing, and information sectors exclude public utilities, transportation companies, and telecommunications companies taxable under Article 9 of the Tax Law.

The term "Industry Code Not Given" represents those corporations whose returns did not indicate an industry code and an appropriate code could not be assigned based upon the information submitted with the returns. For purposes of this report, only "true" minimum taxpayers in Article 9-A have values for "industry code not given." Given that some of the taxpayer universe remains unidentified, only general comparisons can be made between industry sectors for each particular tax. This caveat applies to both the number of taxpayers and liability data.

Liability Year

Liability year corresponds to the tax return filing period. A liability year includes returns filed by taxpayers with filing periods that begin between January 1st and December 31st of the current year. For example, the 2009 liability year data used in this analysis encompasses tax years for calendar and fiscal year taxpayers with filing periods beginning January 2009 through December 2009. Fiscal year filers are classified by the first day of their fiscal year as reported for tax purposes. All Article 9 taxpayers file on a calendar year basis.

Maintenance Fee

Most foreign corporations (businesses incorporated outside of New York State) that are authorized to do business in New York State are required to pay an annual $300 maintenance fee. Corporations exempt from the fee include:

- banking corporation as defined in section 1452(a), paragraphs 1 through 8;
- insurance corporations;
- a limited liability companies;
- limited liability partnerships; and
- public traded partnerships taxes as corporations under the Internal Revenue Code.

MTA Surcharge

The report does not include the 17 percent temporary franchise tax surcharge imposed on taxpayers operating in the Metropolitan Commuter Transportation District (MCTD). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Data users cannot determine the value of the MCTD surcharge from the statistical tables because tax liability data for business activity conducted in the MCTD is not readily available. The MTA Surcharge is effective through taxable years ending before December 31, 2013.

Number of Taxpayers

This represents the actual number of tax returns filed for each tax year, although this data may not include some late filed returns. This count refers to each filing entity as a single corporation, regardless of whether the corporation files a separate return or as part of a combined group. A single corporation may be liable for tax imposed under more than one section of Article 9 and therefore may be counted more than once. Combined returns are not permitted under Article 9.

Return Type

Article 9-A tables include data for the CT-3, CT-3-A, CT-3-S, and CT-4 forms. Article 32 tables include data for the CT-32 and the CT-32-A. Article 33 tables include data for the CT-33, CT-33-A, and the CT-33-NL.

The CT-3 is used by general business corporations to report franchise taxes. Corporations can claim optional depreciation deductions, tax credits, and income from outside the State or a subsidiary.

The CT-3-S is used by S corporations whose shareholders have made an election to be tax under the personal income tax law, rather than the corporation tax law.

The CT-4 is used by general business corporations that operate entirely in New York, do not have tax credits, and have no federal adjustments or tax preference items, other than depreciation, to compute the AMT base.

The CT-32 is used by banking corporations to report franchise taxes.

The CT-33 is used by life insurance corporations to report franchise taxes.

The CT-33-NL is used by non-life insurance corporations to report franchise taxes.

The CT-3-A, CT-32-A, and CT-33-A are used by corporations to report their franchise taxes on a combined basis.

Tax Credits Used

Detailed information on Article 9-A tax credits is not provided in this report. For detailed information on these credits, please see the *Analysis of Article 9-A General Business Corporation Franchise Tax Credits*, published annually by the Office of Tax Policy Analysis.

The tables contained in Article 32 and Article 33 report data for credits used by three or more taxpayers in both years. Credits that do not meet this criteria are grouped under the category of other credits. The credit data are limited to credits used on a taxpayer's return. They do not reflect credits earned but not used, balances of unused credits, or amount of credits refunded.

For a complete description and fiscal history of all credits available to corporate taxpayers, please see the *Tax Expenditure Report*. This report is published jointly by the Department of Taxation and Finance and the Division of the Budget as part of the annual Executive Budget.

Data Sources

C Corporations

Tax statistics provided for C corporations in Articles 9, 9-A, 32, and 33 come from the Office of Tax Policy Analysis (OTPA) study file for the respective article and the Article 9-A minimum tax file. These files include data collected from tax returns for the liability year to which the study and minimum tax files pertain. These data files include all timely filed and amended returns available at the time the study file is created. Although the presented data are prior to audit, OTPA staff may adjust taxpayer provided information for items failing the Office's verification program.

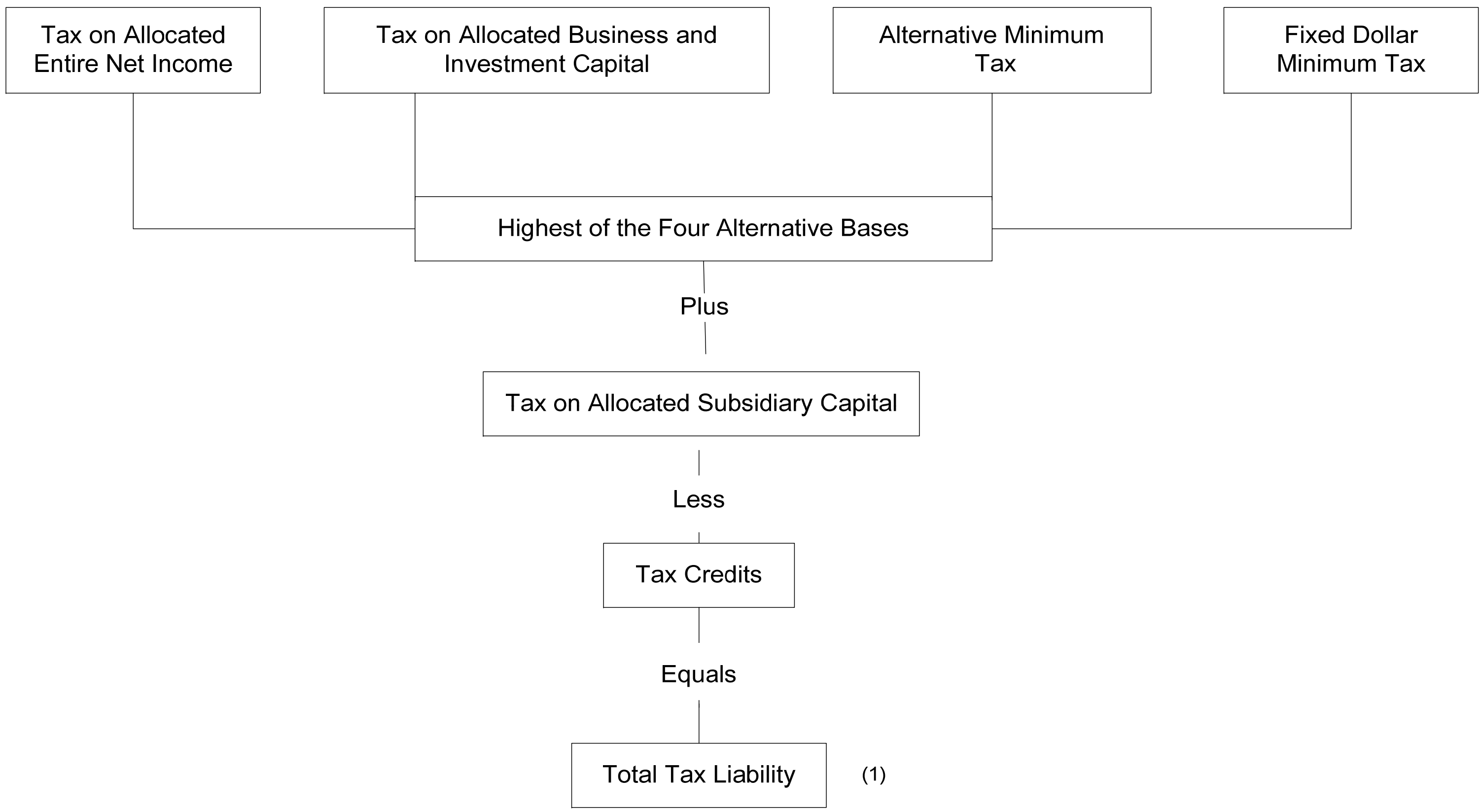
S Corporations (Articles 9-A and 32)

The data come from the Department of Taxation and Finance's corporation master files. A contracted processing bank provided the original data. These data are not subject to the Office's verification procedures. Therefore, these data are less reliable than those available from OTPA's other tax liability study files. Also, these data are extracted from the Department's master file as the file existed at a point in time and may not include audit adjustments or amended or late filed returns.

Appendix B: Descriptive Charts of the Calculation of Tax Liability for Articles 9-A, 32, and 33

The charts on the following pages reflect the Tax Law as of January 1, 2009. Article 9 has not been included due to its complexity and the taxation of different sections under the Tax Law. For more information on the taxation of these Articles, see *New York State Tax Sourcebook* issued by OTPA.

Corporation Franchise Tax on General Business Corporations
Article 9-A

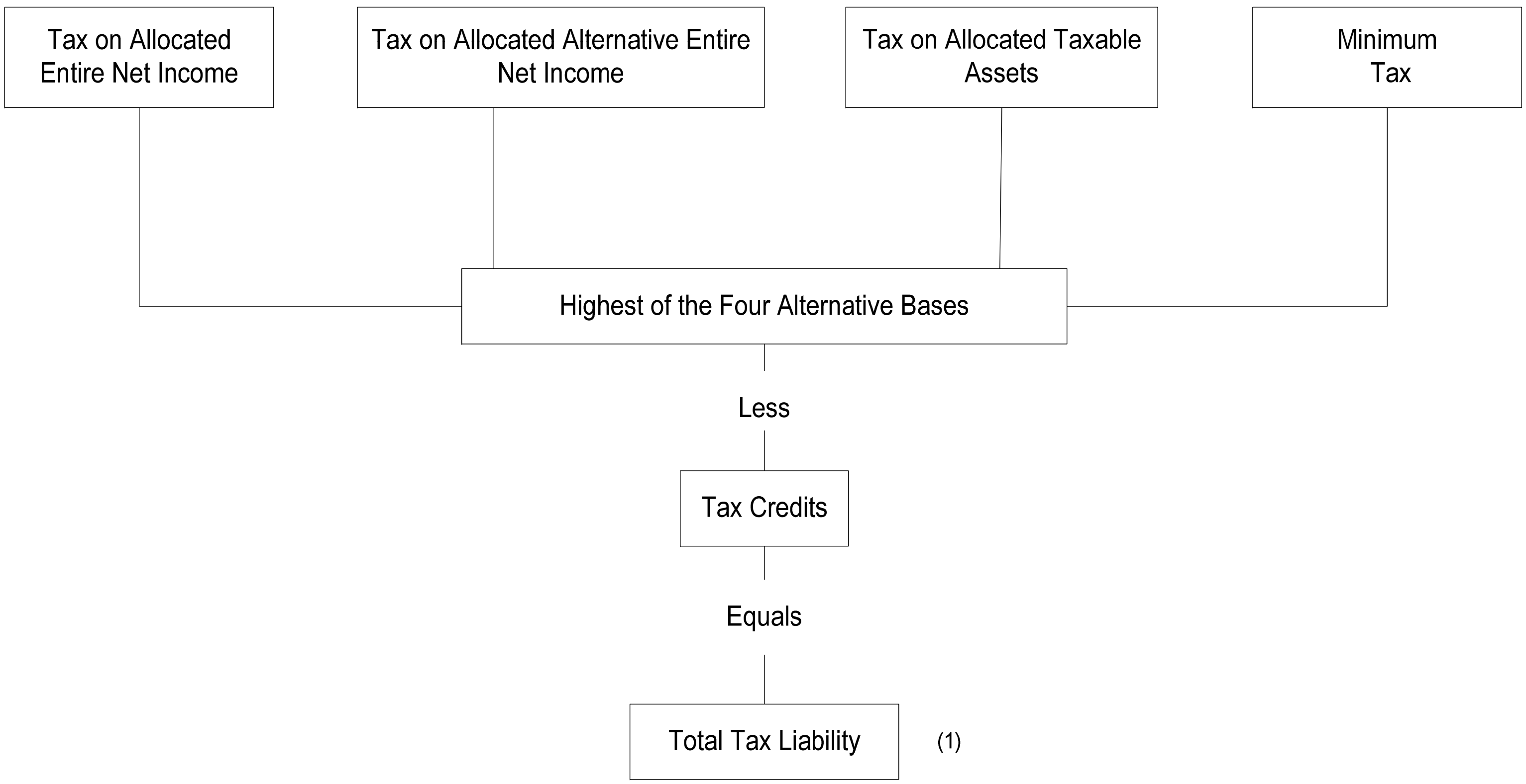


(1) Corporations doing business in the Metropolitan Commuter Transportation District (MCTD) are subject to a 17 percent surcharge on the portion of total tax liability allocable to activities within the MCTD.

Article 9-A Tax Rates in 2009

Tax Base	Tax Rates	
ENI base for general business taxpayers		7.1%
ENI base for qualified small business taxpayers ENI base of $290,000 or less ENI base more than $290,000 but not more than $390,000		6.5% $18,850 plus 7.1% of the amount over $290,000 plus 4.35% of the amount over $350,000 $350,000
ENI base for qualified New York Manufacturers and QETCs		6.5%
Capital base		0.15%
Minimum taxable income base		1.5%
Fixed dollar minimum tax		
NY receipts of:	*S Corporations*	*C Corporations*
not more than $100,000	$25	$25
$100,001 - $250,000	$50	$75
$250,001 - $500,000	$150	$175
$500,001 - $1,000,000	$300	$500
$1,000,001 - $5,000,000	$1,000	$1,500
$5,000,001 - $25,000,000	$3,000	$3,500
Over $25,000,000	$4,500	$5,000
Subsidiary capital base		0.09%

Corporation Franchise Tax on Banking Corporations
Article 32



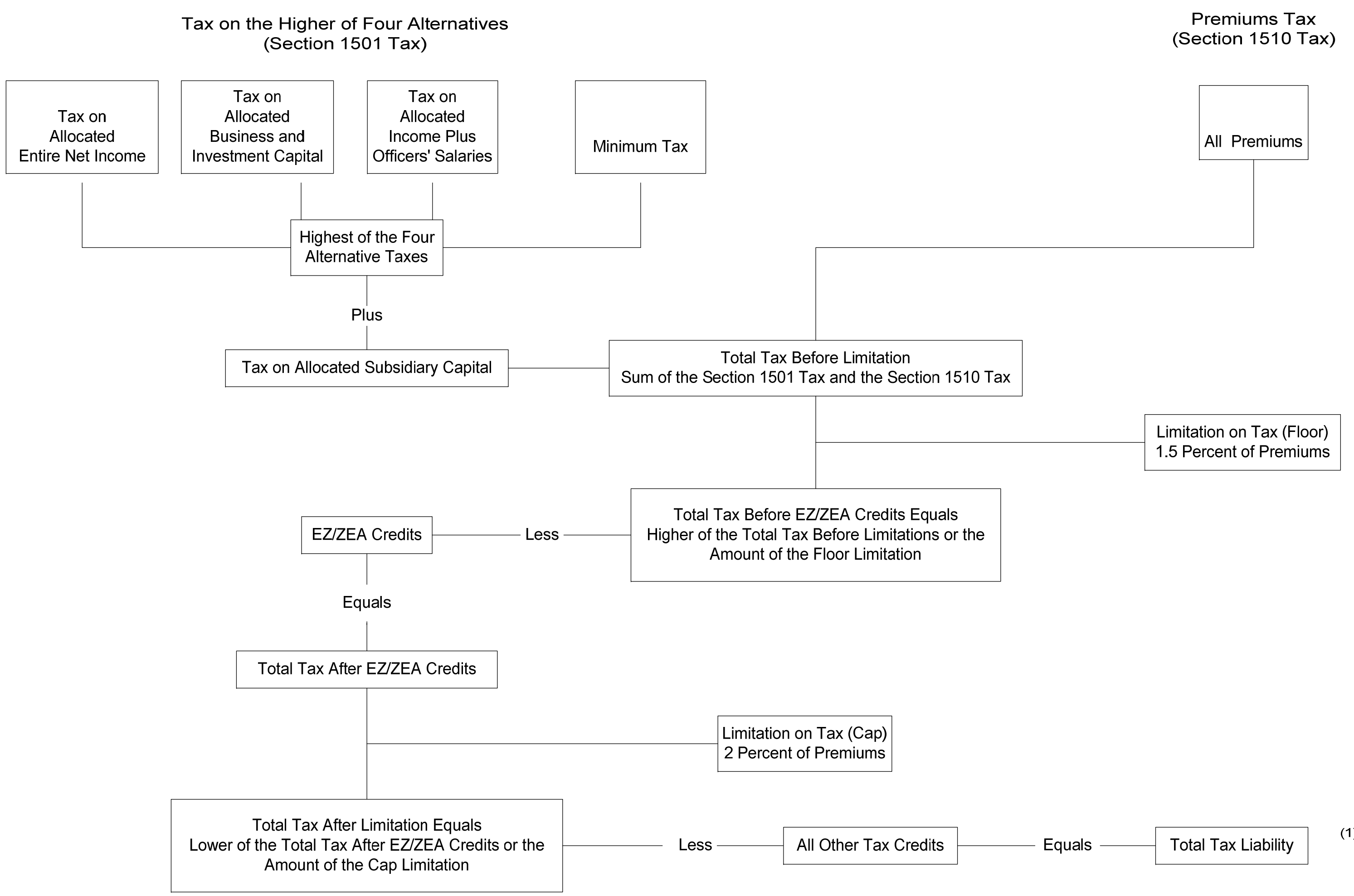
(1) Corporations doing business in the Metropolitan Commuter Transportation District (MCTD) are subject to a 17 percent surcharge on the portion of total tax liability allocable to activities within the MCTD.

Article 32 Tax Rates in 2009

Tax Base		Tax Rates
ENI base		7.1%
Alternative ENI		3%
Taxable Assets		
*Net Worth Ratio**	*Mortgage as a Share of Total Assets*	
Less than 4%	33% or more	0.002%
At Least 4% but less than 5%	33% or more	0.004%
All others	All others	0.01%
Fixed Dollar Minimum		$250

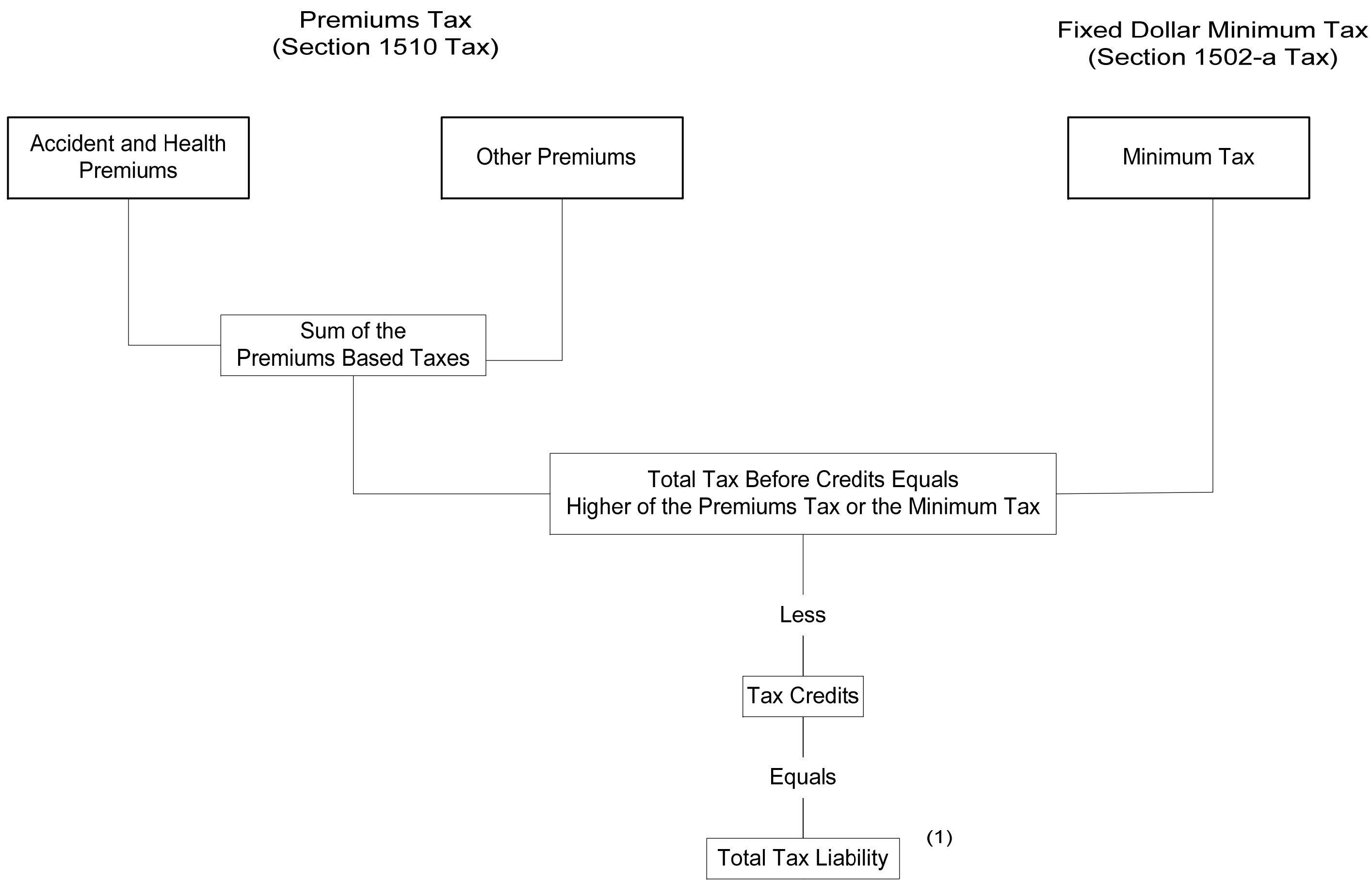
* The net worth ratio equals the taxpayer's net worth on the last day of the tax year divided by total assets on the last day of the tax year.

Corporation Franchise Tax on Life Insurance Companies
Article 33



(1) Corporations doing business in the Metrolpolitan Commuter Transportation District (MCTD) are subject to a 17 percent surcharge on the portion of the total tax liability allocable to activities within the MCTD.

Corporation Franchise Tax on Non-Life Insurance Companies
Article 33



(1) Corporations doing business in the Metrolpolitan Commuter Transportation District (MCTD) are subject to a 17 percent surcharge on the portion of the total tax liability allocable to activities within the MCTD.

Article 33 Tax Rates in 2009

Life Insurance Corporations	
Tax Base	Tax Rates
ENI base	7.1%
Capital	0.16%
Alternative Tax	9%
Fixed Dollar Minimum	$250
Subsidiary Capital	0.08%
Life Insurance Premiums (including accident and health premiums written by life insurance corporations)	0.7%
Limitation on Tax (Floor)	1.5% of Premiums
Limitation on Tax (Cap)	2.0% of Premiums

Non-Life Insurance Corporations	
Tax Base	Tax Rates
Accident and Health Premiums	1.75%
Other Premiums	2.0%
Minimum Tax	$250

Appendix C: Sources of Tax Return Data

Appendix C lists the sources of tax return data used by the Office of Tax Policy Analysis (OTPA) in compiling the study files for Articles 9-A, 32, and 33 for the 2009 tax year. Tax return line items for which data is presented in this report are listed along with the associated line on the 2009 tax return(s).

Table C-1: Sources of Data for Article 9-A Tax Return Items

	Line Number		
	CT-3	CT-3A	CT-4
Federal Taxable Income Before Net Operating Loss (NOL)	1	1E	1
Interest on Federal, State, and Municipal Obligations	2	2E	2
Interest Paid to Stockholders	3	3E	3
Interest Deductions Directly Attributable to Subsidiary Capital	4a	4a E	NA
Noninterest Deductions Directly Attributable to Subsidiary Capital	4b	4b E	NA
Interest Deductions Indirectly Attributable to Subsidiary Capital	5a	5a E	NA
Noninterest Deductions Indirectly Attributable to Subsidiary Capital	5b	5b E	NA
NYS, Other State and Local Taxes Deduction	6	6E	4
ACRS/MACRS Deduction	7	7E	5
Other Additions	8	8E	NA
Income from Subsidiary Capital	10	10E	NA
50% of Dividends from Nonsubsidiaries	11	11E	NA
Foreign Dividends Gross-Up	12	12E	NA
NY NOL	13	13E	7
Allowable NYS Depreciation	14	14E	8
Other Subtractions	15	15E	9
Entire Net Income Base	17	17E	NA
Investment Income Before Allocation	18	18E	NA
Business Income Before Allocation	19	19E	NA
Allocated Investment Income	20	20E	NA
Allocated Business Income	21	21E	NA
Optional Depreciation Adjustment	23	23E	NA
Entire Net Income (ENI) Base	24	24E	11
Tax on ENI Base	72	72	28
Total Capital	32	32E	NA
Subsidiary Capital	33	33E	NA
Investment Capital	35	35E	NA
Business Capital	36	36E	NA
Allocated Investment Capital	37	37E	NA
Allocated Business Capital	38	38E	NA
Capital Base	39	39E	19
Tax on Capital Base	73	73	29
Depreciation of Tangible Property	43	43E	22
Amortization of Mining Costs	44	44E	NA
Amortization of Circulation Expenditures	45	45E	NA
Basis Adjustments	46	46E	NA
Long Term Contracts	47	47E	NA
Installment Sales	48	48E	NA
Merchant Marine Capital Construction Funds	49	49E	NA
Passive Activity Loss	50	50E	NA
Depletion	52	52E	NA
Appreciated Property Charitable Deduction	53	53E	NA
Intangible Drilling Costs	54	54E	NA
NY NOL	56	56E	23
Alternative NY NOL (ANOLD)- Alternative Minimum Tax (AMT)	58	58E	25
Minimum Taxable Income	59	59E	NA

Table C-1: Sources of Data for Article 9-A Tax Return Items (Con't)

	Line Number		
	CT-3	CT-3A	CT-4
Investment Income Before ANOLD	62	62E	NA
Apportioned NY ANOLD	63	63E	NA
Alternative Business Income Before Allocation	65	65E	NA
Allocated Alternative Business Income	66	66E	NA
Allocated Alternative Investment Income	67	67E	NA
Minimum Taxable Income Base	70	70E	26
Tax on Minimum Taxable Income Base	71	71E	27
Tax on Fixed Dollar Minimum Base	74b	74b	30
Largest of Four Bases	75	75	32
Subsidiary Capital Base	76	223	NA
Tax on Allocated Subsidiary Capital	77	76	NA
Tax Credits: Total	79	78	NA
Tax Due	82	81	32
Fixed Dollar Minimum Tax on Subsidiaries	NA	83a + 83b	NA
Total Tax Liability	82	84	32

NA: Not Applicable

Table C-2: Sources of Data for Article 32 Tax Return Items

	Line Number	
	CT-32	CT-32A
Federal Taxable Income (FTI) Before Net Operating Loss (NOL)	22	24
Dividends & Interest Effectively Connected with the US not Included	23	25
Income Effectively Connected with the US Not Included in FTI	24	26
Dividends and Interest Not Included in FTI	25	27
Income Taxes Paid	26	28
NYS Franchise Taxes	27	29
Federal Depreciation	28	30
NY Gains (Loss)	80	190
Federal Safe Harbor Lease	30	NA
Amount Required Except for Safe Harbor Lease	31	NA
Special Additional Mortgage Recording Tax	32	32
Other Federal Deduction	33	33
Bad Debt Deduction - IRC 166 or 585	34	34
20% Excess Bad Debt Deduction	35	35
Other Additions	36	36
Interest and Other Expenses Not Deducted at the Federal level	38	38
NY Depreciation	39	39
Federal Gain (Loss)	81 and 83	191 and 193
Federal Income or Gain from Installment Method Transactions	41	41
IRC Section 78 Gross-Up	42	42
Amount Deducted as Result of a Safe Harbor Lease	43	NA
Amount Deducted Except for a Safe Harbor Lease	44	NA
Wages Not Deducted Due to Jobs Credit	45	43
Money Received from FDIC/FSLIC/RTC	46	44
17% of Interest Income from Subsidiary Capital	47	45
60% of Dividend Income from Subsidiary Capital	48	46
60% of Net Gains from Subsidiary Capital	49	47
22 1/2% of Interest Income on Government Obligations	50	48
Adjusted Eligible Net Income of an IBF	51	49
Recaptured Reserves on Losses - IRC 585(c)	52	50
Recoveries of Charged Off Loans - IRC 585	53	51
Bad Debt Deduction - 1453(h)	54	52
Bad Debt Deduction - 1453(i)	55	53
NYS NOL	56	54
Other Subtractions	57	55
Entire Net Income (ENI)	59a	57a
Optional Depreciation	77 and 82	187 and 192
Allocated Taxable ENI	1	1
Tax on ENI	1	1
Allocated Taxable Alternative ENI	2	2
Tax on Alternative ENI Base	2	2
Total Assets - Average Value	70	69
Money or Other Property Received from FDIC	71	70
Allocated Taxable Assets	3	3
Tax on Allocated Taxable Assets	3	3
Largest of 4 Bases	5	5
Tax Credits	6	6
Tax Due	7	7
Fixed Dollar Minimum on Subsidiaries	NA	8
Total Tax Liability	7	9

NA: Not Applicable

Table C-3: Sources of Data for Article 33 Tax Return Items

	Line Number		
	CT-33	CT-33-A	CT-33-NL
Federal Taxable Income (FTI) Before Net Operating Loss (NOL)	62	64E	NA
Dividends Received Deduction	63	65E	NA
Dividends or Interest Income Not Included in FTI	64	66E	NA
Interest to Stockholders	65	67E	NA
Adjustments for Gains or Losses	66	68E	NA
Deductions Attributable to Subsidiary Capital	67	69E	NA
NYS Franchise Taxes	68	70E	NA
Safe Harbor Lease Deduction	69a	71E	NA
Amount Required Except for Safe Habor Lease	69b	72E	NA
ACRS/MACRS Deduction	70	73E	NA
Other Additions	71	74E	NA
Income from Subsidiary Capital	73	76E	NA
50% of Dividends from Nonsubsidiaries	74	77E	NA
Gain on Installment Sales	75	78E	NA
NY NOL	76	79E	NA
Amount Included as Result of a Safe Habor Lease	77a	80E	NA
Amount Deducted Except for a Safe Habor Lease	77b	81E	NA
Depreciation Allowed by Section 1503(b)(10)	78	82E	NA
Other Subtractions	79	83E	NA
Entire Net Income (ENI)	81	85E	NA
Allocated ENI	1	1	NA
Tax on ENI	1	1	NA
Total Capital	53	58E	NA
Subsidiary Capital	46E	51E	NA
Business and Investment Capital	55	60E	NA
Adjusted Business and Investment Capital	57	62E	NA
Allocated Business and Investment Capital	2	2	NA
Tax on Business and Investment Capital	2	2	NA
Alternative Tax Base	3	3	NA
Tax on Alternative Base	3	3	NA
Allocated Subsidiary Capital	5	5	NA
Tax on Subsidiary Capital	5	5	NA
Llife Insurance Companies - Life Insurance Premiums	83	93	NA
Life Insurance Companies - Accident and Health Insurance Premiums	84	94	NA
Life Insurance Companies - Other Premiums	85	95	NA
Tax on Life Insurance Companies Premiums	6	7	NA
Tax Before Limitation	7	8	NA
Limitation on Tax - Floor	8	9	NA
Limitation on Tax - Cap	10	14	NA
Nonlife Insurance Companies - Accident and Health Company Premiums	NA	NA	1
Nonlife Insurance Companies - Tax on Accident and Health Company Premiums	NA	NA	1
Nonlife Insurance Companies - Other Nonlife Insurance Premiums	NA	NA	2
Nonlife Insurance Companies - Tax on Other Nonlife Premiums	NA	NA	2
Tax Before Credits	11	15	5
Tax Credits	12	16	6
Tax Due	13	17	7

NA: Not Applicable

For more information concerning the data provided in this publication, please contact:

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