



New for 2022

For a detailed list of what's new, including a summary of tax law changes, visit our website at www.tax.ny.gov (search: 2022).

Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

- Business information (how to enter and update)
- Entry formats
 - Dates
 - Negative amounts
 - Percentages
 - Whole dollar amounts
- Are you claiming an overpayment?
- NAICS business code number and NYS principal business activity
- Limitation on tax credit eligibility
- Third-party designee
- Paid preparer identification numbers
- Is your return in processible form?
- Use of reproduced and computerized forms
- Online services
- Electronic filing and electronic payment mandate
- Web File
- Form CT-200-V
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Reporting requirements for tax shelters
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

Who must file Form CT-33

- Domestic life insurance corporations for the privilege of exercising a corporate franchise.
- Foreign and alien life insurance corporations doing business, employing capital, owning or leasing property, or maintaining an office in this state.
- Any life insurance company whose *Certificate of Authority* from the Superintendent of Financial Services has expired, or that ceases to transact new business in this state, but has business remaining in force in this state.
- Life insurance corporations exempt from federal income tax but that conduct business in New York State.
- An unauthorized life insurance corporation that is affiliated with an insurer licensed in New York State and is operating from an office within the state pursuant to New York State Insurance Law sections 1101(b)(5) and 2117(i). See TSB-M-00(1)C, *Amended Definition of Insurance Corporation*, for additional information.

An **unauthorized** non-life insurance corporation, as well as an unauthorized life insurance corporation, doing business, employing capital, owning or leasing property in New York State in a corporate or organized capacity, or maintaining an office in New York State is subject to a franchise tax under Tax Law, Article 33, section 1501(a). The tax is then computed under Article 33 section 1502, which provides that such tax shall be the greatest amount of tax computed on four basis: (1) a tax on allocated entire net income (ENI); (2) a tax on allocated business and investment capital; (3) a tax on a prescribed portion of ENI, plus salaries and other compensation of elected or appointed officers and certain stockholders; or (4) a fixed dollar minimum tax of \$250, plus a tax on allocated subsidiary capital.

An **unauthorized** insurance corporation is not subject to the premiums tax under Tax Law, Article 33, section 1502-a and must file Form CT-33. Additionally, when filing Form CT-33 the unauthorized insurance corporation is not subject to the additional premiums tax under Article 33 section 1510

or the limitations on tax under Article 33 section 1505. For more information, see TSB-A-09(2)C, *Service Lloyds Insurance Company*, and TSB-M-12(4)C, *Filing Requirements and the Calculation of Tax for Unauthorized Insurance Corporations*.

Exceptions: Life insurance corporations specifically exempted by Tax Law, Article 33, section 1512 do not have to file Form CT-33. Captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70 must file Form CT-33-C, *Captive Insurance Company Franchise Tax Return*. Combinable captive insurance companies must file on a combined return under Article 9-A with their closest controlling stockholder, as applicable. For-profit health maintenance organizations (HMOs) are required to file Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return*.

Definition of insurance corporation – An *insurance corporation* (as defined in Tax Law, Article 33, section 1500) is any corporation, association, joint stock company or association, person, society, aggregation, or partnership, doing an insurance business. The term insurance corporation also includes an HMO required to obtain a certificate under Article 44 of the Public Health Law. It does not include any combinable captive insurance company.

Combined filing rules – A taxpayer must file a combined return with any related corporations if there are substantial intercorporate transactions among the related corporations, regardless of the transfer price for such intercorporate transactions.

To determine if there are substantial intercorporate transactions, the Commissioner of Taxation and Finance considers and evaluates all activities and transactions of the taxpayer and its related corporations. For examples of related corporations and a list of activities and transactions considered to determine if there are substantial intercorporate transactions, see *Who must file a combined return* on Form CT-33-A-I, *Instructions for Forms CT-33-A, CT-33-A/ATT, and CT-33-A/B*.

A captive real estate investment trust (REIT) (as defined in Tax Law, Article 1, section 2.9) or a captive regulated investment company (RIC) (as defined in Tax Law, Article 1, section 2.10) must file a combined return with the closest corporation that directly or indirectly owns or controls over 50% of the voting stock of the captive REIT or the captive RIC if that corporation is a life insurance company. In addition, a qualified REIT subsidiary must be included in the combined return of its captive REIT parent if the captive REIT is required to be included in a combined return.

ENI for a captive REIT and *ENI for a captive RIC* generally have the same meaning as the terms *REIT taxable income* and *investment company taxable income* as such terms are defined under the Internal Revenue Code (IRC) (Tax Law, Article 33, section 1515(f)(5)(ii)). However, the deduction allowed by the IRC for dividends paid by the captive REIT or captive RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns or controls over 50% of the voting stock of the captive REIT or captive RIC will not be allowed.

For the most recent information on combined filing requirements, visit our website.

When and where to file

File your return within 3½ months after the end of your reporting period. If you are reporting for the calendar year, file your return on or before April 15. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

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

Mail returns to: **NYS CORPORATION TAX
PO BOX 15181
ALBANY NY 12212-5181**

Private delivery services – See Publication 55, *Designated Private Delivery Services*.

Also mail a copy to: **NYS DEPARTMENT OF FINANCIAL SERVICES
OFFICE OF FINANCIAL MANAGEMENT
ONE COMMERCE PLAZA
ALBANY NY 12257**

Specific instructions

Metropolitan transportation business tax (MTA surcharge) Article 33 section 1505-a

Any insurance corporation taxable under Article 33 that does business, employs capital, owns or leases property, or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-33-M, *Insurance Corporation MTA Surcharge Return*, and pay the MTA surcharge imposed by section 1505-a. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Corporations not doing business in the MCTD must disclaim liability for the tax surcharge by marking an **X** in the *No* box on page 1 of Form CT-33. They are not required to file Form CT-33-M.

Amended return

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

If you file an amended federal return, you must file an amended New York State return within 90 days (120 days if filing an amended combined return) thereafter.

For amended returns based on changes by the Internal Revenue Service (IRS) – If any of the taxable income amounts listed here have been changed or corrected by a final determination of the Commissioner of Internal Revenue, you must file an amended return reflecting the federal changes within 90 days (120 days if filing an amended combined return) of the final federal determination. For a definition of final determination, see New York Codes, Rules, and Regulations (NYCRR), Title 20, section 6-1.3(b).

- Life insurance company taxable income.
- Taxable income of a partnership.
- Taxable income or alternative minimum taxable income of any taxpayer.

You must attach a copy of federal Form 4549, *Income Tax Examination Changes*, to your amended return.

For credits or refunds based upon carryback of a net operating loss (NOL) – To claim a credit or refund resulting from the carryback of an NOL to a prior year, file an amended return within 90 days (120 days if filing an amended combined return) from the date of the document indicating approval of the federal refund or credit.

You must attach the following to your amended return:

- federal claim Form 1139, *Corporation Application for Tentative Refund*, amended Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, or amended Form 1120-PC, *U.S. Property and Casualty Insurance Company Return*;
- a copy of the New York State return for the loss year; and
- proof of federal refund approval, *Statement of Adjustment to Your Account*.

For credits or refunds of corporation tax paid – To claim any refund type that requires an amended return, other than an NOL carryback (see *For credits or refunds based upon carryback of a net operating loss (NOL)*), file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS and proof of federal refund approval, *Statement of Adjustment to Your Account*.

The amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. However, a claim for credit or refund based on a federal change must be filed within two years from the time the amended return reporting the change or correction was required to be filed (see *For amended returns based on changes by the Internal Revenue Service (IRS)*). For additional limitations on credits or refunds, see Tax Law, Article 27, section 1087.

Erroneously paid or illegally or unconstitutionally imposed retaliatory taxes or other charges – Tax Law, Article 33, section 1511(c) requires a taxpayer to recompute its retaliatory tax credit and recalculate its insurance franchise tax and metropolitan transportation business tax (MTA surcharge) in instances where another state reduces the amount of retaliatory tax due. The credit recomputation must be based on the tax year for which the retaliatory tax was reduced and applied against the corresponding tax year liability. Adjustments to the amount of credit and retaliatory tax may **not** be offset by credit earned in a different tax period.

The taxpayer may report the refund or credit of, or reduction in, retaliatory taxes paid to another state, and the recalculation of the Article 33 tax and the MTA surcharge, by either amending its return for the year in which the retaliatory taxes were claimed as a credit or providing a schedule of the recalculation of the credit, tax, and MTA surcharge liability to the Audit Division, to be mailed to the address under *Retaliatory tax credits*.

The schedule, or amended return, is due within 90 days of the issuance of a final determination by competent authority that a refund or credit is due for retaliatory taxes or other charges imposed or assessed by another state. In all instances, the amended return or schedule must be accompanied by the payment of the additional tax and surcharge owed (Tax Law, Article 27, section 1081(i) and Article 33, section 1515(e)(2)).

Final return

If you no longer meet any of the filing requirements under *Who must file Form CT-33*, mark an **X** in the *Final return* box on the top of Form CT-33. However, do not mark an **X** in the box if you are only changing the New York State franchise tax return you will be filing for your next tax period (for example, from Form CT-33 to Form CT-33-A, or to Form CT-33-NL). In the case of a merger or consolidation, only the nonsurviving corporation would mark an **X** in the box.

Reporting period

Use this tax return for calendar year 2022 and fiscal years that begin in 2022 and end in 2023.

You can also use the 2022 return if:

- you have a tax year of less than 12 months that begins and ends in 2023, **and**
- the 2023 return is not yet available at the time you are required to file the return.

In this case you must show your 2023 tax year on the 2022 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2022.

All filers must complete the beginning and ending tax year boxes in the upper right corner on page 1 of the form.

Important identifying information

When preparing your corporation tax return, be sure to accurately complete the corporation's identifying information (employer identification number (EIN) and file number) including your current address. Keep a record of your identifying information for future use. If you use a paid preparer or accounting firm, make sure they use your complete and accurate information when completing all your 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 (see *Paid preparer identification numbers* in Form CT-1). Failure to sign the return will delay the processing of any refunds and may result in penalties.

Line instructions

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

Computation of tax

Line 3 – To compute the alternative tax measured by ENI plus compensation:

- Add the unallocated ENI from line 81 and the total salaries and compensation paid to the officers and stockholders from line 61. If line 81 is a loss, subtract it from line 61.
- Deduct \$15,000 (or a proportionate part if the return is for a period of less than one year) from the amount computed in item A above.
- Multiply the result of item B above by 30% (.3).
- Multiply the amount computed in item C above by the allocation percentage from line 45.

E. Enter the result of item D above in the first box on line 3, and multiply the result by 9% (.09) to compute the tax.

Line 6 – Enter amount from line 86, column A. **Unauthorized insurance corporations:** Enter 0.

Line 8 – Enter amount from line 86, column B. **Unauthorized insurance corporations:** Enter 0.

Line 9a – Enter amount from line 7 or 8, whichever is greater.
Unauthorized insurance corporations: Enter amount from line 7.

Line 9b – Enter the amount of empire zone (EZ) and zone equivalent area (ZEA) tax credits being claimed on line 100. These credits **must** be subtracted from the tax on line 9a and **not** from the tax on line 11.

Line 9c – Subtract line 9b from line 9a and enter the result on this line. The amount after EZ and ZEA tax credits claimed may not be less than the minimum tax of \$250.

Line 10 – Enter amount from line 88. **Unauthorized insurance corporations:** Enter 0.

Line 11 – Enter the tax determined under section 1505(a)(2) (line 10), or the tax determined under sections 1501 and 1510 (line 9c), whichever is less.
Unauthorized insurance corporations: Enter the amount from line 9c.

Line 12 – Enter the total amount of tax credits claimed from line 101. A special rule applies to taxpayers claiming EZ and ZEA tax credits which may **not** be subtracted from the tax calculated under section 1505(a)(2).

Line 17a – If line 13 is **less than** line 16, skip lines 17a through 17c.

If line 13 is **greater than** or **equal to** line 16, subtract line 16 from line 13, and enter the result.

Line 17b – If on line 5, column A of the Form CT-300 used to report the MFI for the tax period immediately **following** the tax period for which this return is being filed (the **next** franchise tax period) you **did not** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter 0 and proceed to line 17c. **Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, **2023**.

If on line 5, column A of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter the amount from line 5, column A of that Form CT-300 that you **actually** applied toward satisfying the amount on line 2, column A of that Form CT-300: generally, the lesser of the amount on line 5, column A or the amount on line 2, column A.

Line 17c – Add lines 17a and 17b, enter the result, and complete lines 18 through 21. Skip lines 22a through 22c.

Line 18 – 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 penalty pursuant to Tax Law, Article 27, section 1085(d).

Line 19 – If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment from the original due date to the date paid.

Line 20 – Compute additional charges for late filing and late payments on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing).

- If you do not file a return when due or if the request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- 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)).
- If you do not pay the tax shown on a return, add to the tax ½% per month up to 25% (section 1085(a)(2)).
- The total of the additional charges in items A and C above may not exceed 5% for any one month except as provided for in item B above (section 1085(a)).

If you think you are not liable for these additional charges, attach a statement to your return explaining reasonable cause for the delay in filing, payment, or both (section 1085).

Note: You may compute your penalty and interest by accessing our website, or you may call and we will compute the penalty and interest for you (see *Need help?* in Form CT-1).

Line 22b – If on line 5, column A of the Form CT-300 used to report the MFI for the tax period immediately **following** the tax period for which this return is being filed (the **next** franchise tax period) you **did not** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter 0 and proceed to line 22c. **Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, **2023**.

If on line 5, column A of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter the amount from line 5, column A of that Form CT-300 that you **actually** applied toward satisfying the amount on line 2, column A of that Form CT-300: generally, the lesser of the amount on line 5, column A, or the amount on line 2, column A. If line 22b is **less than** or **equal to** line 22a, proceed to line 22c. If line 22b is **greater than** line 22a, subtract line 22a from line 22b, enter the result on line **17c**, and complete lines 18 through 21. Skip line 22c.

Line 22c – Subtract line 22b from line 22a. This is your overpayment amount. Proceed to line 23.

Lines 27a and 27b – If you request a refund of unused tax credits, enter the total amount on line 27a. If you request tax credits to be credited as an overpayment to next year's tax return, enter the total on line 27b. Attach the appropriate tax credit forms.

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

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

Column C – Enter the percentage each ceding corporation's New York premiums bear to its total premiums for the preceding tax year (reinsurance allocation percentage). You may obtain this percentage from tax service publications or by calling the Corporation Tax Information Center (see *Need help?* in Form CT-1). If the ceding corporation did not do business in New York State during the preceding year and therefore did not file a New York State tax return, the percentage is zero.

Schedule B – Computation of allocation percentage

A taxpayer doing business both inside and outside New York State may allocate its business and investment capital, ENI, and ENI plus compensation.

Compute the income allocation percentage by adding the percentages of the taxpayer's premiums allocated to New York State (multiplied by nine) and payroll allocated to New York State, and dividing the total by ten. For both the numerator and denominator of the premium allocation percentage, the term *premium* includes all amounts received as consideration for insurance, reinsurance and annuity contracts, including premium deposits, assessments, policy fees, membership fees, and all other compensation for such contracts.

Line 31 – Authorized life insurance corporations: Enter the total New York taxable premiums received from life insurance from line 86, column A, plus any additional premiums on these types of policies that were written, procured, or received in New York on business that cannot be specifically assigned as located or resident in any other state or states that were not included on line 86 (attach schedules for such additional premiums). Do not include in this amount any separate costs assessed by the insurance corporation upon its policyholders. See Tax Law, Article 33, section 1504(b)(2)(A). Include any New York premiums for long-term care insurance policies under United States Code, Title 5, Chapter 90, and any New York premiums for federal group life insurance policies under United States Code, Title 5, Chapter 87, when computing the premium percentage.
Unauthorized insurance corporations: Follow **all** of these same line instructions as if you were required to complete line 86.

Line 32 – Enter the total ocean marine premiums written, procured, or received on property or risks located or resident in New York State, plus ocean marine premiums written within New York State on property or risks that cannot be specifically assigned as located or resident in any other state or country. See Tax Law section 1504(b)(2)(C).

Line 33 – Enter the total of premiums for annuity contracts and insurance for the elderly that are written, procured, or received on risks located or resident in New York State, and those premiums for annuity contracts and insurance for the elderly written, procured, or received in New York State on

business that cannot be specifically assigned as located or resident in any other state or states.

Line 34 – Enter the total New York premiums on reinsurance assumed from authorized companies. Include premiums allocated to New York State where the location of the risk cannot be determined (line 30) and premiums from risks located in New York State. Also include reinsurance premiums assumed from unauthorized companies that relate to transactions authorized under Insurance Law section 2105 and that are subject to the premiums tax on excess-lines brokers under Insurance Law section 2118.

Line 36 – Enter the total amount of New York premiums included on line 35 that were ceded to other insurance companies.

Attach a separate schedule showing the computation of New York premiums included on lines 31 through 36.

Line 38 – You must report total premiums on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Financial Services.

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

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

Attach a separate schedule showing the computation of total premiums included on line 38.

Lines 41 and 42 – Enter total wages, salaries, personal service compensation, and commissions for the tax year of employees, agents, and representatives regularly connected with or working out of an office or place of business maintained within New York State on line 41. It does not matter where the services were performed.

Enter total wages, salaries, personal service compensation, and commissions for the tax year of all employees, agents, and representatives on line 42.

Include on both lines any commissions or personal service compensation derived from policies for a long-term care insurance policy under United States Code, Title 5, Chapter 90, and from policies for federal group life insurance under United States Code, Title 5, Chapter 87, when computing the payroll percentage.

Attach a separate schedule indicating how you computed the amounts shown on lines 41 and 42 and where these amounts are shown on the federal return.

Line 45 – If the premiums factor is missing from line 39, the income allocation percentage is the payroll factor percentage on line 43. If the payroll factor is missing from line 43, the income allocation percentage is the premium factor percentage on line 39. A factor is missing if both its numerator and denominator are zero. If the numerator is zero and the denominator has a positive figure, the factor has an allocation value of 0% and is included in the computation of the allocation percentage.

Schedule C – Computation and allocation of subsidiary capital

Subsidiary capital – A *subsidiary* is a corporation of which over 50% of the voting stock is owned by the taxpayer. The term *subsidiary capital* means all investments in the capital stock of subsidiary corporations, plus all indebtedness from subsidiary corporations (other than accounts receivable acquired in the ordinary course of trade or business for services rendered, or for sales of property held primarily for sale to customers). When computing the amount of indebtedness owed to the taxpayer by its subsidiaries, consider each subsidiary separately. Loans and advances from the parent to the subsidiary may be offset by loans and advances from the same subsidiary to the parent, but may not be reduced to less than zero. Loans and advances from a subsidiary to the parent may not offset the parent's investment in the stock of the subsidiary, or offset loans and advances from the parent to any other subsidiary.

This indebtedness, whether or not evidenced by bonds or other written instruments, qualifies as subsidiary capital as long as the subsidiary does not claim and deduct the interest for the purpose of taxation under any Tax Law article.

Column C – Average fair market value – Enter the average fair market value of each item of subsidiary capital listed in column A. The *fair market value* of an asset is the price (without deduction of any encumbrance) at which a willing seller will sell and a willing buyer will buy. The fair market value, on any date, of stocks, bonds, and other securities regularly traded on an exchange or in the over-the-counter market is the mean between the highest and lowest selling prices on that date. Average value is generally computed quarterly if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly, or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average fair market value results.

Column D – Average value of current liabilities attributable to subsidiary capital – Each item of subsidiary capital must be reduced by any liabilities of the taxpayer (parent) payable by their terms on demand or not more than one year from the date incurred. These liabilities do not include loans or advances outstanding for more than a year, as of any date during the year covered by the return.

Column F – Allocation percentage – Enter the percentage of the entire capital or the issued capital stock or the gross direct premiums or net income of each issuing corporation allocable to New York State as determined on the corporation's New York State tax return for the preceding tax year. If the issuing corporation did not do business in New York State during the preceding year and therefore did not file a New York State tax return, the percentage is zero. If the subsidiary is an Article 9-A filer, use the preceding tax year's business apportionment factor; if the subsidiary is an Article 33 filer of Form CT-33 or CT-33-A, use the preceding tax year's allocation percentage; if the subsidiary is an Article 33 filer of Form CT-33-NL, use the preceding tax year's issuer's allocation percentage.

Schedule D – Computation and allocation of business and investment capital

Definition of capital – *Total capital* is the average fair market value of all the corporation's assets minus its average current liabilities.

Valuation of capital – *Business and investment capital* is total capital minus subsidiary capital. It does not include assets that are held to maintain reserves of an insurance corporation as required under New York State Insurance Law sections 1303, 1304, and 1305. In computing business and investment capital, you are normally required to value assets at fair market value. But in valuing real and tangible personal property, you may elect to substitute book values for these assets; that is, the value established and regularly kept on the books of the company. If you make this election you must so indicate on each return. Once you have made the election, it is binding for all subsequent tax years and cannot be changed without prior permission. You must value stocks, bonds, and other securities at fair market value.

Average fair market value – The *fair market value* of an asset is the price (without deduction of any encumbrance) at which a willing seller will sell and a willing buyer will buy. The fair market value, on any date, of stocks, bonds, and other securities regularly traded on an exchange or in the over-the-counter market is the mean between the highest and lowest selling prices on that date. Average value is generally computed quarterly if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly, or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average fair market value results.

Line 50 – Attach copies of your *Assets Schedule* of the *Annual Statement* reflecting admitted and nonadmitted assets for both the previous tax year and the current tax year.

Line 52 – Current liabilities – Include **only** liabilities maturing in one year or less from the date originally incurred. Do not include loans or advances outstanding for more than a year as of any date during the year covered by this return, notes payable that are renewed from year to year, or the current portion of a long-term liability. Do not include reserves required under New York State Insurance Law sections 1303, 1304, and 1305. Use the same method of averaging used to determine average fair market value of assets.

Lines 52 and 56 – Attach copies of your *Liabilities, Surplus and Other Funds Schedule* of the *Annual Statement*.

Schedule E – Computation of adjustment for gains or losses on disposition of property acquired before January 1, 1974

Tax Law, Article 33, section 1503(b)(5) details the adjustments you must make when reporting the gain or loss from sale or exchange of property acquired before January 1, 1974.

Columns B, D, and F – Enter the amounts used in computing federal taxable income (FTI).

Column C – The *fair market price or value* is the price at which a willing seller will sell and a willing buyer will buy.

Column E

- If **both** the amounts entered in columns B **and** C are less than the amount entered in column D, a New York gain is realized. Enter in column E the difference between column D and the higher of column B or C.
- If **both** the amounts entered in columns B **and** C are more than the amount entered in column D, a New York loss is sustained. Enter in column E (use a minus (-) sign) the difference between column D and the lower of column B or C.
- If only one of the amounts entered in column B **or** C is more than the amount entered in column D, no New York gain is realized. Enter **0** in column E.
- If only one of the amounts entered in column B **or** C is less than the amount entered in column D, no New York loss is sustained. Enter **0** in column E.

Schedule G – Computation and allocation of ENI

Line 62 – Enter the amount of life insurance company taxable income (LICTI) (including, in the case of a stock life insurance company, the phased inclusion [one-eighth] of the balance in existing policyholders surplus accounts that was required to be included in FTI), plus the NOL deduction included in LICTI as reported to the U.S. Treasury Department for the tax year. Corporations filing federal Form 1120-PC must enter the total of taxable income per Schedule A, plus any NOL deduction included in taxable income as reported to the U.S. Treasury Department for the tax year. Companies having an amount of excess inclusion as a result of having a residual interest in a real estate mortgage investment conduit (REMIC), must properly reflect this income in FTI. Corporations exempt from federal income tax but subject to tax under Article 33 must enter the taxable income which would have been required to be reported to the U.S. Treasury Department.

If you are a partner in a partnership(s), and the ordinary business income (loss) amount reported to you on federal Schedule K-1 received from such partnership(s) reflects any income or deduction items of the partnership that New York State decoupled from under New York State Tax Law Article 22, § 607(a), you **must** adjust your LICTI to reflect such decoupling. The Article 22 decoupling is for any amendments made to the IRC of 1986 after March 1, 2020, and impacts partnership tax years beginning before January 1, 2022.

Your partnership(s) is required to provide you the amounts needed for you to properly adjust your LICTI. If your partnership(s) does not provide you with the necessary information to make the adjustment, you are responsible for obtaining the information from the partnership. Report the **adjusted** LICTI on line 62.

Additions

Line 64 – Enter all interest and dividend income, received or accrued, that was exempt from federal income tax and not included in line 62, minus interest expense, bond premium amortization, and other ordinary and necessary expenses, paid or incurred, attributable to this income.

Line 65 – Enter interest paid or accrued on indebtedness directly or indirectly owed to any stockholder (including subsidiaries of a corporate stockholder) or members of their immediate family that own more than 5% of the issued capital stock of the taxpayer. *Immediate family* includes siblings of whole or half blood, a spouse, ancestors, and descendants. If no such interest was paid or accrued, enter **0**.

Line 67 – Enter capital losses from sales and exchanges of subsidiary capital, other losses and bad debts, interest expense (direct or indirect), foreign taxes, and any carrying charge directly attributable to subsidiary capital deducted in computing FTI.

Note: Do **not** include any IRC section 250(a)(1)(B) deduction amounts on this line.

Line 68 – Enter the amount of New York State franchise taxes, including the MTA surcharge, imposed by Article 33 and deducted on your federal return.

Line 69a – Enter any amount claimed as a deduction in computing FTI solely as a result of an election made under the provision of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 69b – Enter any amount you would have been required to include in the computation of FTI had you not made the election permitted by the provisions of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 70 – Use this line if:

- the corporation claims the federal accelerated cost recovery system/modified accelerated cost recovery system (ACRS/MACRS) deduction for property placed in service either **in or outside** New York State after 1980, in tax periods beginning before 1985; or
- the corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984, and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation modification for the property (see TSB-M-99(1)(C), *New York Depreciation Deduction for Property Placed in Service Outside New York State in Tax Years 1985-1993*); or
- the corporation claims a federal special depreciation deduction under IRC section 168(k) for qualified property (excluding qualified resurgence zone property described in Tax Law, Article 9-A, section 208.9(q) or qualified New York liberty zone property described in IRC section 1400L(b)(2)) placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002; or
- the corporation disposes this year of either ACRS/MACRS property, or property for which you claimed a federal special depreciation deduction, and the New York depreciation modifications applied to the property in any prior years.

If this line applies, complete Form CT-399, *Depreciation Adjustment Schedule*. Include from Form CT-399, line 3, column E, the amount of your federal deduction that must be added back to FTI, or, if you disposed of property this year, use the amount from Form CT-399, line 10, column A.

Line 71 – Other additions – If you have other additions to FTI, you must complete Form CT-225, *New York State Modifications*. Enter the amount from Form CT-225, line 5, and submit Form CT-225 with your Form CT-33.

Subtractions

Line 73 – Enter interest and dividend income from subsidiary capital and capital gains from sales and exchanges of subsidiary capital. The interest, dividends, and capital gains amount used to calculate the deduction **cannot** exceed the amount used to compute FTI. Also include global intangible low-taxed income (GILTI) amounts (and include IRC section 78 dividends attributable to such GILTI amounts, if any) from subsidiary capital.

Line 74 – A life insurance company may enter only 50% of the company's share (IRC section 812(a)) of **all** such dividend income from nonsubsidiary corporations.

Note: Do **not** include any GILTI amounts including IRC section 78 dividends related to GILTI.

Line 75 – Enter any income or gain from installment sales of real or personal property made before January 1, 1974, that was used to compute FTI.

Line 76 – Enter the New York State NOL deduction. Attach a separate schedule showing the details of the application of the federal and New York State losses.

In determining the NOL of any given year, the following rules apply:

- Federal NOLs (IRC section 172) must be adjusted in accordance with Article 33 section 1503(b).
- For NOLs incurred, refer to IRC section 172 for carryback and carryforward periods.
- If you have elected for federal purposes to relinquish the carry back of an NOL, you may not carry back an NOL for state purposes, and you must submit a copy of your federal election.
- The New York State NOL deduction for any particular year is limited to the federal NOL deduction (IRC section 172) for that year.
- No deduction is allowed for an NOL sustained during any year in which the corporation was not subject to tax under Article 33.

Note: Generally, Tax Law, Article 33 conforms, with some modifications, to the federal IRC provisions for NOL deductions, and to the applicable federal carryback and carryforward provisions (see Tax Law section 1503(b)(4)). The federal *Tax Cuts and Jobs Act* (Public Law 115-97) and *Coronavirus Aid, Relief, and Economic Security Act* (Public Law 116-136) made substantial changes to these IRC provisions. For additional information, including loss years impacted, see Public Laws 115-97 and 116-136.

Line 77a – Enter any amount included in federal income solely as a result of an election made under the provisions of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 77b – Enter any amount that you could have deducted from FTI had you not made an election under IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984). For additional information on safe harbor leases, see TSB-M-82(15)C, *1982 Legislation - Safe Harbor Leases*.

Line 78 – In place of the disallowed deduction entered on line 70, a New York State depreciation deduction is allowed under Article 33 sections 1503(b)(10), 1503(b)(14), 1503(b)(15), and 1503(b)(16). For additional information, see Form CT-399-I, *Instructions for Form CT-399*.

Use this line if:

- the corporation claims the federal ACRS/MACRS deduction for property placed in service either **in or outside** New York State after 1980, in tax periods beginning before 1985; or
- the corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984, and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation modification for the property (see TSB-M-99(1)(C)); or
- the corporation claims a federal special depreciation deduction under IRC section 168(k) for qualified property (excluding qualified resurgence zone property described in Tax Law, Article 9-A, section 208.9(q) or qualified New York liberty zone property described in IRC section 1400L(b)(2)) placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002; or
- the corporation disposes this year of either ACRS/MACRS property, or property for which you claimed a federal special depreciation deduction and the New York depreciation modifications applied to the property in any prior years.

If this line applies, complete Form CT-399. Include the amount from Form CT-399, line 3, column I, or, if you disposed of property this year, use the amount from Form CT-399, line 10, column B.

Line 79 – Other subtractions – If you have other subtractions from FTI, you must complete Form CT-225, *New York State Modifications*. Enter the amount from Form CT-225, line 10, and submit Form CT-225 with your Form CT-33.

Schedule H – Computation of premiums

An unauthorized insurance corporation is not subject to the additional premiums tax under section 1510 or the limitations under section 1505, and does not complete Schedule H.

An authorized life insurance corporation subject to Tax Law Article 33 is subject to the additional premiums tax under section 1510, the limitation on tax under section 1505(a)(2) and the floor limitation on tax under section 1505(b). For more information on the floor limitation on tax, see TSB-M-03(9)C, *Summary of Insurance Corporation Tax Legislative Changes Enacted in 2003*.

Use Schedule H to compute premiums due under sections 1510, 1505(a)(2), and 1505(b) and transfer them to the appropriate boxes on lines 6, 8, and 10. Report direct premiums on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Financial Services. For purposes of computing Schedule H, the term *premium* includes all amounts received as consideration for insurance or reinsurance contracts, or contracts with HMOs for health services (except annuity contracts), including premium deposits, assessments, policy fees, membership fees, any separate costs by carriers assessed upon their policyholders, and all other consideration for such contracts.

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

Gross direct premiums – Include total gross premiums, deposit premiums and assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in

New York State, and premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums or which have not been used as a measure of a tax on business of any other state or states. Also include special risk premiums written, procured, or received in New York State on risks located or resident in New York State. When computing taxable premiums in column A, do not include premiums on annuity contracts, ocean marine insurance, and policies issued under Insurance Law section 4236. Also exempt from the tax on premiums are premiums on risks located outside the United States which were written, procured, or received in New York State, **except** for insurance written by foreign and alien title insurance corporations and accident and health insurance.

Note: Gross direct premiums do not include any premiums that New York State cannot tax according to federal law (including premiums received for a long-term care insurance policy under United States Code, Title 5, Chapter 90, and any premiums for federal group life insurance under United States Code, Title 5, Chapter 87).

Line 87 – Life insurance corporations that received more than 95% of their premiums from annuity contracts, ocean marine insurance, and policies issued under Insurance Law section 4236, enter **only** the New York portion of the amount of such premiums that **exceeds 95%** of all premiums received, if applicable. Life insurance corporations receiving 95% or less of their premiums from annuity contracts, ocean marine insurance, and policies issued under Insurance Law section 4236, enter **0** on line 87.

Deductions from gross direct premiums

- **Reinsurance premiums** – When computing gross direct premiums, you may deduct (1) reinsurance premiums, minus return premiums, that have been received by way of reinsurance from corporations or other insurers authorized to transact business in this state, and (2) reinsurance premiums assumed from unauthorized companies that relate to transactions authorized under Insurance Law section 2105 and that are subject to the premiums tax on excess-lines brokers under Insurance Law section 2118.
- **Dividends paid or credited** – You may deduct dividends on direct premiums and unused or unabsorbed portions of premium deposits paid or credited to policyholders. This deduction does not include deferred dividends paid in cash to policyholders on maturing policies or cash surrender values.

Schedule J – 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 16.

Line 92 – Determine the amount to enter by completing the *Worksheet for Schedule J, line 92* below.

Worksheet for Schedule J, line 92

From the Form CT-300 used to report the MFI for the tax period for which **this** return is being filed (**Note:** For calendar-year 2022 filers, that Form CT-300 was due March 15, **2022**):

1. Enter the portion of line A (*Payment enclosed*) that represents **New York State** MFI paid: generally, the amount on line 6, column A of that Form CT-300 1. _____
2. Enter the portion of line 5, column A **actually** applied toward satisfying the amount on line 2, column A: generally, the lesser of the amount on line 5, column A or the amount on line 2, column A of that Form CT-300. This is your *2021 anticipated overpayment applied* 2. _____
3. **Add the amounts on lines 1 and 2, and enter the total here and on Form CT-33, Schedule J, line 92** 3. _____

Line 97 – Enter the sum of the amounts reported on lines 23 and 27b of the Form CT-33 that you filed for the tax period **immediately prior** to the tax period for which this return is being filed.

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

See instructions for lines 9b and 12.

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

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

Line 100 – Enter the total EZ capital tax credit and EZ and ZEA wage tax credits claimed that were used to reduce the tax due. The amount of these credits may not reduce the tax to less than the minimum tax of \$250. Enter in the appropriate boxes the total amount of the EZ and ZEA tax credits claimed. If you are required to recapture the EZ capital tax credit that was allowed in a previous reporting period, and the result is a negative credit amount on your credit claim form, enter this negative amount with a minus (-) sign in the applicable box.

Line 101 – Enter the total tax credits claimed, **excluding** the EZ and ZEA tax credits claimed on line 100, that were used to reduce the tax due. Generally, these credits may not reduce the tax below the \$250 minimum tax. However, the retaliatory tax credits and the fire insurance premiums tax credit may further reduce the tax due to zero. Enter in the appropriate boxes the total amount of each tax credit claimed. If you are required to recapture a tax credit that was allowed in a previous reporting period, and the result is a negative credit amount on your credit form, enter this negative amount with a minus (-) sign in the applicable box.

Fire insurance premiums tax credit – Credit for taxes on premiums for any insurance on loss or damage by fire under Insurance Law sections 9104 and 9105 or under the charters of the cities of Buffalo or New York. These taxes must have been paid or accrued during the tax year covered by this return. The fire insurance premiums tax credit is limited to the amount reported on line 11 less the EZ capital tax credit, EZ or ZEA wage tax credits, and any non carryover credits that are not refundable that are being claimed before this credit. The credit cannot be carried over to any other year. Attach the *Report of Premiums*, including *Supplementary Schedules I and II*, when claiming this credit.

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

Do not send the documentation for the retaliatory tax credit (retaliatory prints) with your return. Send the documentation to:

**NYS TAX DEPARTMENT
TDAB - CT DESK AUDIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-5299**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Other credits – Enter in the *Other credits* box any credits being claimed on line 12 that are not specifically listed on Form CT-33 above line 101 and attach the appropriate form(s).

Line 102 – Enter the total amount of refund-eligible tax credits claimed on line 101. The retaliatory tax credits, QEZE credit for real property taxes, excelsior jobs program tax credit, the brownfield redevelopment tax credit, the remediated brownfield credit for real property taxes, the environmental remediation insurance credit, the security officer training tax credit, the economic transformation and facility redevelopment program tax credit, the rehabilitation of historic properties credit, the Empire State jobs retention program credit, the recovery tax credit, and the New York State employer-provided childcare credit are the refund-eligible credits.