

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-M-90 (5) C  
Corporation Tax  
July 17, 1990

1990 LEGISLATION  
TAX SURCHARGE ON ARTICLE 9A AND 13 CORPORATIONS

Chapter 190 of the Laws of 1990 provides for a tax surcharge on taxes imposed under Article 9-A for general business corporations and taxes imposed under Article 13 on unrelated business income.

A 15% tax surcharge applies to taxable years ending after June 30, 1990, but before July 1, 1998. A 10% tax surcharge applies to taxable years ending after June 30, 1992, but before July 1, 1993. The 15% tax surcharge will not be imposed on any taxpayer for more than 24 months and the 10% tax surcharge will not be imposed on any taxpayer for more than 18 months.

The surcharge is computed on the tax after deduction of any tax credits. Once computed, the tax surcharge cannot be further reduced by available tax credits.

The Metropolitan Transportation Business Tax Surcharge imposed by Section 209B of Article 9-A is not included in the computation of the tax surcharge.

In the case of an New York S corporation subject to tax under Article 9-A the surcharge is imposed not on its final Article 9-A liability, but on the amount computed under section 210.1(g)(1)(i) which is its Article 9-A liability computed without regard to the reduction of the Article 82 tax equivalent as provided for in section 210.1(g)(1)(ii).

Any New York S corporation which is also a small business taxpayer with entire net income of \$200,000 or less is not subject to the tax surcharge. For New York S corporations that are small business taxpayers, as defined in section 210(1)(f) with entire net income of more than \$200,000 the tax surcharge will be an amount equal to the tax surcharge computed on the entire net income base multiplied by a fraction, the numerator of which is the difference between the corporation's entire net income and \$200,000 and the denominator of which is \$90,000.

Example: A small business New York S corporation has entire net income of \$280,000. The taxpayer would compute the tax and surcharge for calendar year 1990 as follows:

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ENI Base at Article 9A Tax Rate	\$ 24,700*	
ENI Base at Article 22 Tax Rate	<u>\$ 22,050</u>	
Tax Due		\$ 2,650
Base for regular surcharge	\$ 24,700	
\$24,700 x 15% =	\$ 3,705	
<u>Excess of ENI over 200,000</u> 90,000	88.89%	
Tax Surcharge \$3,705 x 88.89% =		<u>\$ 3,293</u>
Total Tax and Surcharge Due		\$ 5,943

\*Tax is 16,000 plus 9% of the amount over 200,000 plus 5% of the amount over \$250,000.

The tax surcharge will be required on Form CT-3, CT-3A, CT-3-S, CT-4, or CT-13 at the time the report is due. An extension of time to file may be requested by filing the appropriate extension form on or before the due date. In order for the extension to be valid, for taxable years for which the tax surcharge applies, the total tax payment on the extension form must:

- (1) equal or exceed the amount of the franchise tax for the preceding taxable period (if it was a period of 12 months) plus an amount equal to 15% or 10% (after deduction of credits against tax), whichever rate is applicable to the taxable year, of the preceding year's tax or
- (2) equal or exceed 90% of the franchise tax as finally determined plus 15% or 10%, whichever rate is applicable to the taxable year of 90% of such franchise tax.

A declaration and payment of estimated tax under Article 9-A must be filed by a corporation if its tax liability including the surcharge can reasonably be expected to exceed \$1,000. Estimated tax payments are required if a corporation's preceding year tax liability plus 15% or 10% for the surcharge exceeds \$1,000. The penalty for underpayment of estimated tax with respect to the surcharge will not be imposed with respect to any installment due before September 15, 1990 in the case of a C corporation or before September 22, 1990 in the case of an New York S corporation.

The surcharge is added back to entire net income the same as any tax imposed under Article 9A or 13.