

Instructions for Form CT-4

Corporation Franchise Tax Report

1985

Federal and State Privacy Notification

The authority to request this personal information, including identifying numbers (social security numbers, etc.), is found in Sections 211, 213-a and 1096, Article 9-A in general of the Tax Law and Parts 6 and 7 of the Business Corporation Franchise Tax Regulations. The principal purpose for which the information is collected is to assist the Department of Taxation and Finance in determining New York State corporation tax liabilities under Article 9-A of the Tax Law.

The information will be used for tax administration purposes and as necessary under Tax Law Section 211 and for any other purpose authorized by law, and when the taxpayer gives written authorization to this department for another department, person, agency or entity to have access, limited or otherwise, to information contained in his return.

Failure to provide the requested information may result in civil penalties under Sections 217 and 1085 of the Tax Law and Part 9 of the Business Corporation Franchise Tax Regulations and/or criminal penalties under Article 37 of the Tax Law.

The authority to maintain this information is found in Section 211(7) of the Tax Law. This information will be maintained by the Director, Accounting and Records Management Bureau, Processing Division, Department of Taxation and Finance, W A. Harriman Campus, Building 8, Room 905, Albany, New York 12227, (518) 438-8581.

General Information

New Legislation

The Omnibus Tax Equity and Enforcement Act, Chapter 65, Laws of 1985, has imposed strong civil and criminal penalties for negligence or fraud. More information about this act may be obtained from the Taxpayer Assistance Bureau (address on page 2).

Who Must File

The following general business corporations must file franchise tax reports:

- All corporations organized under the laws of New York State.
- Corporations organized under the laws of any other state or country that do business, employ capital, own or lease property or maintain an office in New York State.

A general business corporation that has elected (on Form CT-6) to be treated as an "S Corporation" for New York State personal income tax and corporation franchise tax purposes must file an information report (Form CT-3S).

A general business corporation includes all corporations except:

- | | |
|------------------------|-----------|
| Banking Corporations | (Art. 32) |
| Insurance Corporations | (Art. 33) |

- | | |
|--|------------------------|
| Transportation and Transmission Corporations | (Art. 9, Sec. 183/184) |
| Utility Companies | (Art. 9, Sec. 186) |
| Farmers and Agricultural Cooperatives | (Art. 9, Sec. 185) |
| Nonstock, not for profit corporations (these may be subject to an unrelated business income tax) | (Art. 13) |

When and Where to File

The due date for filing is 2½ months after the close of the reporting period. Corporations reporting for the 1985 calendar year must file a report on or before March 15, 1986.

Mail reports to:

Processing Unit
P.O. Box 1909
Albany, NY 12201

If you cannot meet the filing deadline, ask for a six-month extension of time by filing Form CT-5.

Payment of Tax

You must pay the entire tax due on or before the original due date of the report to avoid a late-payment charge. An extension of time for filing the tax report does not extend the date for payment of tax.

Late Filing — Interest

If the tax due is not paid on or before the due date (determined without regard to any extension of time), interest must be paid on the amount of the underpayment from due date to the date paid. The interest rate should be determined in accordance with Part 603 of the Tax Regulations. Interest will be compounded daily.

Late Filing — Additional Charges

Additional charges for late filing are computed on the amount of tax less any payment made on or before the prescribed due date.

- If a report is not filed when due or if the application for extension is invalid, add to the tax 5% per month up to 25% (Section 1085(a)(1)(A)).
- If a report is not filed within 60 days of the prescribed due date, the addition to tax cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (Section 1085(a)(1)(B)).
- For failure to pay the tax shown on a report, add to the tax ½% per month up to 25% (Section 1085(a)(2)).

- The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b (Section 1085(a)).

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

Penalty for Understating Tax

If the tax you report is understated by 10% or \$5,000, whichever is greater, you will have to pay a penalty of 10% of the amount of understated tax. You can reduce the amount on which you pay a penalty by subtracting any part for which (1) there is or was substantial authority for the way you treated it, or (2) there is adequate disclosure on the report or in an attached statement (see Article 27, Section 1085(k)).

Penalty for Underpaying Estimated Tax

Every corporation whose New York State franchise tax liability can reasonably be expected to exceed \$1,000 must file a declaration of estimated tax, Form CT-400. A penalty will be imposed if a taxpayer fails to file a declaration of estimated tax or fails to pay all or any part of an installment payment of estimated tax. For complete details see Form CT-222, *Underpayment of Estimated Tax by Corporations*.

Reporting Period

Your taxable year for New York State shall be the same as for federal income tax. Be sure to enter the correct reporting period as necessary on page 1 of your report.

Signature

The report must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer or other officer authorized by the taxpayer.

If an outside individual or firm prepared the report, the signature of the person or the name of the firm must be included.

Use of Reproduced Forms

Photocopies of reports are acceptable if they are of good quality and are signed in the proper place.

Processible Forms

Reports must be prepared in a manner that will permit their routine handling and processing. Interest will not be paid on an overpayment of taxes until the report is in a processible form.

Computerized Reports

Computer-produced corporation tax reports will be accepted if you have received permission to file them and if they meet our specifications. For information, write to:

Taxpayer Assistance Bureau
NYS Tax Department
W.A. Harriman Campus
Albany, NY 12227

Tax Rates

The tax rates in effect are:

Net income	.10
Business and investment capital	.00178
Alternative base	.10
Minimum*	\$250.00
Subsidiary capital	.0009
Qualified cooperative housing	.0004

*Reduction of minimum franchise tax and maintenance fee for short periods:

- A period of not more than 6 months 50% reduction
- A period of more than 6 months but not more than 9 months 25% reduction
- A period of more than 9 months no reduction

MCTD Tax Surcharge

Every corporation taxable under Article 9-A that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District must pay a tax surcharge for taxable periods beginning on or after January 1, 1982 but ending before December 31, 1986. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Tax surcharge rates:

- 18% for calendar year 1982 or fiscal years ending in 1983
- 17% for calendar years 1983, 1984 and 1985, or fiscal years ending in 1984, 1985 and 1986

Foreign Corporation Maintenance Fee

Every foreign corporation authorized to do business in New York must pay an annual maintenance fee of \$200. This fee may be claimed as a credit against the tax due under Article 9-A. Full payment of the

franchise tax due will satisfy the maintenance fee requirement. It is not necessary to file a separate return. If the corporation claims nontaxability in New York because it did not employ capital, maintain an office or otherwise do business in New York, it must file Form CT-245 and pay the \$200 maintenance fee.

Foreign Corporation License Fee

Chapter 540, Laws of 1985, amended Article 9, Section 181.1, which requires a corporation organized under the laws of another state or country to pay a license fee based on the corporation's issued capital stock. The amendments reduced the rate of the fee as of January 1, 1985. For details, see Form CT-240, *Report of License Fee*.

Report Forms

Form CT-4, Corporation Franchise Tax Report (short form), is a simplified franchise tax report that may be used by corporations **not required** to file Form CT-3. If any of the conditions listed below exist, Form CT-4 cannot be used.

Form CT-3, Corporation Franchise Tax Report, must be filed when **any** of the following conditions exist:

1. Tax is over \$1,000.
2. A deduction is claimed for a net operating loss, capital loss, optional depreciation, or air or water pollution control facility.
3. A claim is made for an eligible business facility tax credit, investment tax credit, additional mortgage recording tax credit or research and development tax credit.
4. The corporation is a real estate investment trust, a taxable domestic international sales corporation (DISC) or a stockholder in a DISC.
5. An allocation of business or investment income or capital is claimed. A corporation that does not elect to allocate investment income or investment capital may use Form CT-4.
6. The corporation invests in nonsubsidiary securities, including securities issued by governmental agencies, both domestic and foreign.
7. The corporation owns subsidiary capital.
8. A claim is made for exemption from the franchise tax based on business and investment capital of a new small business corporation (Section 210.1-c)
9. If you have filed an application for extension (Form CT-5) and an amount was entered on line 3 (mandatory 25% installment).

Instructions for Form CT-4

Form CT-4 is a simplified franchise tax report. You must file Form CT-3 if you claim tax credits, if your tax exceeds \$1,000 or if you meet any of the other conditions listed under CT-3 on page 2, "Report Forms." You must complete every line marked with a bullet (•). Otherwise, your return may be rejected.

Schedule A

Line 1. Enter federal taxable income before net operating loss and special deductions, as required to be reported to the U.S. Treasury Department.

- If you file federal Form 1120 use amount from line 28.
- If you file federal Form 1120-A use amount from line 24.
- An S corporation filing federal Form 1120S that has **not** made an election to be treated as an S corporation for New York State purposes must enter income in an amount which the corporation would have been required to report if it had not made the election available under subchapter S of Chapter 1 of the IRC. Attach a rider showing how this amount is determined. In general, the items affected are:
Dividends — Form 1120, line 4
Interest — Form 1120, line 5
Capital gain net income — Form 1120, line 8
Contributions — Form 1120, line 19

Line 2. Enter all interest received or accrued from federal, state, municipal and other obligations that was exempt from taxation on your federal income tax return and, therefore, is not included in federal taxable income.

Line 3. Enter amount deducted on your federal return for New York State franchise tax.

Line 4. Enter the amount deducted in computing federal taxable income for interest on indebtedness directly or indirectly owed to:

- a. Each individual stockholder or members of his immediate family who together own more than 5% of the issued capital stock. ("Immediate family" means brothers and sisters of whole or half blood, spouse, ancestors and descendants.)
- b. Each corporate stockholder or subsidiaries of a corporate stockholder that together own more than 5% of the issued capital stock.

A statutory exemption of \$1,000 or 10% of the interest, whichever is larger, can be deducted from the interest.

EXAMPLES:

	Corp. A	Corp. B	Corp. C
Interest paid to stockholders	\$ 800	\$1,700	\$15,000
Statutory exemption	\$1,000	\$1,000	\$ 1,500
Enter at line 4	0	\$ 700	\$13,500

ACRS and NYS Depreciation Adjustments

Before making entries on line 5 or line 7, read the following material concerning recent amendments to Article 9-A, Section 208, of the Tax Law, and complete Form CT-399 (8/85).

NYS Modifications to ACRS Deductions

For taxable years beginning after December 31, 1981, all accelerated cost recovery system deductions used to determine federal taxable income must be eliminated from New York State taxable income. In place of the disallowed ACRS deduction, a depreciation deduction computed by any method permitted under IRC Section 167 will be allowed.

In 1983, the law was amended to require adjustments upon the disposition of recovery property. The net effect is to equalize the depreciation deduction allowed for New York State tax purposes with the ACRS deduction allowed for federal tax purposes.

In 1985 the law has been further amended as follows:

- No modifications are required for recovery property placed in service in New York State in taxable years beginning after December 31, 1984.
- No modifications are required for property acquired after June 18, 1984 that is subject to the provisions of IRC Section 280 F (such as luxury cars).
- Depreciation may continue to be claimed under IRC Section 167 for New York State purposes on property that has been fully depreciated under IRC Section 168 (ACRS) for federal purposes and not fully depreciated for New York (effective for taxable years beginning on or after January 1, 1984).
- The provisions requiring the depreciation modifications have been extended indefinitely.

Use Form CT-399 (8/85), *Schedule for Depreciation Adjustments*, which has been expanded to provide for these changes.

Line 5. Enter from Form CT-399 (8/85) the amount of your federal ACRS deduction that must be added back to federal taxable income.

Line 7. Enter from Form CT-399 (8/85) the amount of allowable New York State depreciation deduction. Form CT-399, *Schedule for Depreciation Adjustments*, and federal Form 4562, *Depreciation and Amortization Schedule*, must be attached to Form CT-4.

Line 9. Multiply taxable income, line 8, by the tax rate.

Line 10. Enter total capital from Schedule C, line 32, and multiply by tax rate.

Line 11. Enter officers' compensation from Schedule D, line 37. Commissions paid to elected or appointed officers who receive ONLY commissions from the corporation may be deducted from total officers' salaries (Schedule D, line 37). A rider must be attached providing names, titles and amounts of qualified commissions.

Line 12. Enter entire net income or loss as shown at Schedule A, line 8. New York State professional service corporations formed on or after May 19, 1970 under Article 15 of the New York State Business Corporation Law and foreign professional corporations **authorized to do business in New York State** after October 17, 1983 are not subject to this alternative tax. Such corporations should enter the initials "PC" on this line and should not complete lines 11 through 17.

Unauthorized foreign professional corporations that are doing business in New York State are not exempt from the alternative tax.

Line 14. Enter statutory exemption. A statutory exemption of \$30,000 is allowed. The statutory exemption for a period of less than 12 months must be prorated. For each month or major portion of a month included in a short period, a deduction of \$2,500 will be allowed.

EXAMPLES:

Period	Number of Months	Exemption
Jan. 1 to June 30	6	\$15,000
August 1 to Oct. 31	3	\$ 7,500

Line 16. Multiply the amount shown at line 15 by 30% to obtain the alternative base.

Line 17. Multiply the alternative base, line 16, by the tax rate.

Line 18. In general the tax computed on this form cannot be less than the minimum tax of \$250. The one exception is a short period of nine months or less. (see "Tax Rates" on page 2).

Line 19. The franchise tax due is the largest tax computed at lines 9, 10 and 17 but cannot be less than the minimum tax shown at line 18. Tax credits (investment tax credits, etc.) cannot be claimed on this form. You must use Form CT-3. An S corporation that has filed a valid election on Form CT-6 is required to file Form CT-3S. Qualified professional service corporations enter the largest tax computed at lines 9, 10 or 18. See line 12 instructions.

Line 20. Enter total of all payments made for the period covered by this report. If you have filed an application for extension (Form CT-5) and an amount was entered on line 3 (mandatory 25% installment), **do not** use this form; use Form CT-3.

Lines 22 and 23. See page 1 for interest and additional charges for late filing.

Line 25. An overpayment or portion of an overpayment of tax may be applied as a credit to your metropolitan transportation business tax surcharge or to your next taxable period, or may be refunded. Indicate on lines 25a through 25c the amounts you wish transferred as credits or refunded.

Schedule B

Line 26, 27 and 29. Enter the amounts from federal Form 1120, 1120A or 1120S for these three lines.

Line 28. Enter the average fair market value of the corporation's depreciable assets and land.

Schedule C

Line 30, Column c. Enter the average fair market value of assets. The fair market value of any asset is the price (without deduction of any encumbrance, whether or not the taxpayer is personally liable) at which a willing seller not compelled to sell will sell and a willing purchaser not compelled to buy will buy. Average fair market value generally is computed quarterly if the taxpayer's usual accounting practice permits such computation. However, at the option of the taxpayer, a more frequent basis (such as monthly, weekly or daily average) may be used. If the taxpayer's usual accounting practice does not permit a quarterly or more frequent computation of average fair market value, a semiannual or annual computation may be used where no distortion of average fair market value results.

Line 31. Current liabilities are any liabilities maturing in one year or less from the date originally incurred. They include accounts payable, wages payable, accrued taxes, accrued expenses, accrued interest, notes and other obligations if they are payable by their terms on demand or within one year from date incurred.

The following liabilities are **not** deductible in computing business capital:

1. Notes and other written obligations payable by their terms on demand or not more than one year from the date incurred that are renewed so as to be outstanding for more than one year as of any date during the year covered by the report;
2. Loans or advances outstanding for more than one year as of any date during the year covered by the report;
3. The current portions of long term obligations, such as mortgages, or loans having terms of more than one year.

Use the same method of averaging as is used in determining average fair market value of assets.

Lines 33 and 34. Enter amounts from federal Form 1120, 1120S, or 1120A.

Line 36. Article 31-B, Section 1449-a (Tax on Gains, Derived from Certain Real Property

Transfers), requires every corporation with an interest in real property to keep a record of the transfer of its stock and report annually every transfer of a controlling interest in its stock and any other information that may be required to enforce this article.

Controlling interest of a corporation means either 50 percent or more of the total combined voting power of all classes of stock or 50 percent or more of the capital, profits or beneficial interest in such voting stock.

All corporations must answer both questions (36a and b). If the answer to both questions is yes, you must attach a rider providing the following information:

- Name, address and identification number of the new controlling stockholder (use social security number for individuals and federal employer identification number for corporations).
- Date transfer was made.

- Location of real property.
- Whether the corporation is a cooperative housing corporation.

Schedule D

Include all compensation received from the corporation for acting in any capacity, including commissions received, bonuses, etc.

Include travel allowance unless proof of expenditure is required by the corporation. The disclosure of social security numbers is mandatory.

Mail your report to:

**Processing Unit
P.O. Box 1909
Albany, NY 12201**

For information:

From New York State, call toll-free 1 + 800 + 342-3536
From outside New York State, call (518) 438-8581

For forms or publications:

From New York State, call toll-free 1 + 800 + 462-8100.
From outside New York State, call (518) 438-1073.

Taxpayer assistance is available Monday through Friday from 8:00 a.m. to 5:00 p.m.