CT-3-I
(10/86)

New York State Department of Taxation and Finance

Instructions for Form CT-3

Corporation Franchise Tax Report

1986

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 its 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 12227-0125, telephone 1-800-342-3536; outside New York State (518) 438-8581.

General Information

Omnibus Tax Equity and Enforcement Act

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 1986 calendar year must file a report on or before March 16, 1987.

Mail reports to:
Processing Unit
P.O. Box 1909
Albany, NY 12201-1909

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

Change of Business Information

If there have been any changes in your business' name, ID number, mailing address, business address, telephone number or owner/officer information, complete Form DTF-95, *Change of Business Information*. If no form is enclosed, call **1-800-462-8100** (from out of state (518) 438-1073) to request one.

If there are no changes to your business' information, keep this Form DTF-95 in your files. In the event a change occurs, complete the form and send it to the Tax Department as soon as possible.

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.

a. 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)).

b. 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)).

c. For failure to pay the tax shown on a report, add to the tax ½% per month up to 25% (Section 1085(a)(2)).

d. 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 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 "Estimated Tax" on page 3 of these instructions and 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 on page 1 of your report.

Cessation Report

Do not mark a franchise tax report "Final" unless it is a cessation report and a legal dissolution or surrender of authority is in progress. Detailed information concerning the legal dissolution and surrender of authority is contained in our Publication 110. *Termination of Business Corporations.*

Round to Whole Dollar

Amounts may be shown in whole dollars rather than dollars and cents. Round any amount from 50 cents through 99 cents to the next higher dollar, and round any amount less than 50 cents to the next dollar. Use zeros where they apply.

Principal Business Activity

In reporting the "principal business activity," give the one activity that accounts for the largest percentage of total receipts. "Total receipts" means gross receipts plus all other income. State the broad field of business activity as well as the specific product or service (e.g., mining copper, wholesale meat, retail men's apparel, real estate rental). Be sure to enter your business group code number.

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 12205-0125

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

Metropolitan Transportation Business 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. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Tax surcharge rate:

- 17% for calendar year 1986 or fiscal years ending in 1987

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.*

What Forms to File

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).

Form CT-3M/4M, *Metropolitan Transportation Business Tax Surcharge Report,* must be filed by **all** corporations filing Form CT-3, CT-3A, or CT-4. However, only those corporations doing business in the Metropolitan Commuter Transportation District are required to pay the tax surcharge.

Form CT-5, *Extension for Filing Tax Reports,* is an application for a six month extension of time to file a tax report. It must be filed on or before the due date of the report.

Form CT-5.1, *Application for Additional Extension,* is a request for additional time to file a tax report. It must be filed on or before the expiration date of the original extension.

Form CT-399, *Schedule for New York State Depreciation Adjustments,* must be used to compute the allowable New York State depreciation deduction of a corporation that claims a federal ACRS deduction for certain property placed in service after December 31, 1980.

This form also contains schedules for determining a New York gain or loss on the disposition of ACRS property.

Form CT-222, *Underpayment of Estimated Tax by Corporations,* is a new form that will help you to determine if you have underpaid an estimated tax installment and, if so, to compute the penalty due.

Form CT-240, *Report of License Fee,* must be filed by all corporations organized under the laws of any other state or country. This report must be filed when you file your first franchise tax report, or if the capital stock employed in New York State has changed since the last license fee report was filed.

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.

This declaration must be filed on or before the 15th day of the 6th month of the fiscal or calendar year, along with a payment of 1/3 of the estimated tax liability. If you made an initial payment with the preceding year's tax report or applied an overpayment of tax from that report, deduct this amount from the estimated tax before computing the 1/3 payment. Succeeding 1/3 payments must be made on the 15th day of the 9th and 12th months. Corporations reporting for the calendar year must file a declaration of estimated tax on June 15, September 15, and December 15.

A declaration of estimated tax may be amended.

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.

To avoid a penalty for an underpayment, estimated tax must be determined by one of the following methods:

1. 100% of the preceding year's tax if the preceding year consists of 12 consecutive months.*
2. An amount equal to the tax computed at the current year's rate, but otherwise on the basis of the report for the preceding year.*
3. 90% of the current year's tax figured by annualizing taxable income for the months preceding an installment date.
4. 90% of the tax for the year figured under the seasonal method for corporations with recurring seasonal income.

***Special instructions for large corporations:** Methods 1 and 2 **do not** apply to large corporations for tax years beginning after 1983. A large corporation is any corporation with allocated entire net income of $1,000,000 or more in any of the three years immediately preceding the current tax year.

Use Form CT-222, *Underpayment of Estimated Tax by Corporations*, to determine if an installment has been underpaid and to compute any penalty due.

Net Operating Losses

New York State allows business corporations to deduct net operating losses in the same way as in Section 172 of the Internal Revenue Code, but such net operating losses must be adjusted in accordance with Article 9-A, Section 208.9(a) and (b). These rules apply:

- Net operating losses may be carried back 3 years and forward 15 years.
- Net operating losses **must** be carried to the same year as for federal tax purposes and to no other year.
- Corporations that have elected for federal purposes to relinquish the three-year carryback of a net operating loss must submit a copy of their federal election.
- The net operating loss deduction may not exceed the deduction allowable for federal purposes.
- A net operating loss carryforward must be made on Form CT-3, line 28.
- Attach a rider to the franchise tax report, CT-3, providing details of both the federal and New York State net operating losses claimed.
- Real estate investment trusts will be allowed a deduction for net operating losses incurred in taxable years ending on or after December 31, 1980.

These rules also apply to (1) any corporation that made an election under subchapter S of Chapter 1 of the IRC or (2) any corporation included in group reporting on a consolidated basis for federal tax purposes. Such corporations must carry losses to the same year and in the same manner as provided in these instructions with the following exceptions:

- Instead of a copy of the federal election to relinquish the three-year carryback of a net operating loss, a request in writing to relinquish the carryback must be filed on or before the due date (or extended due date) of the report for the loss year. Any corporation that does not make a timely election with the Tax Department **must** carry the net operating loss back before the loss can be carried forward.
- A net operating loss deduction may not exceed the amount that would have been allowed for federal purposes if the corporation had not made the election under subchapter S or had not elected to be a member of a federal consolidated group.

To Apply for Refunds Based on Net Operating Loss Carryback

- Use Form CT-8 or CT-9 to apply for a net operating loss carryback. Do **not** mail the CT-8 or CT-9 with Form CT-3 or CT-4.
- Attach a rider to the claim for refund providing details of both the federal and New York State net operating losses claimed.
- If the corporation received a refund from the Internal Revenue Service based on a net operating loss, submit copies of federal Forms 1139 and 4188/4428B.

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, *Schedule For Depreciation Adjustments*, which has been expanded to provide for these changes.

Instructions for Form CT-3

You must file Form CT-3 if any of the conditions listed in "What Forms to File," page 2, exist.

Be sure to complete every line marked with a bullet (•). Otherwise, your return may be rejected.

Schedule A

Line 1. Enter allocated net income from Schedule B, line 39, and multiply by tax rate.

Line 2. Enter allocated capital from Schedule E, line 55, and multiply by tax rate.

Line 2a. A new small business corporation may claim an exemption from the tax based on capital for the first two taxable years of the corporation. A corporation claiming this exemption should enter zero at line 2 and check the box indicating which year the exemption is for. The corporation will continue to be liable for the largest tax computed at lines 1, 3 or 4. A rider substantiating the claim for exemption r

accompany the report. The rider must cover all points listed below. Failure to supply the information will result in disallowance of the exemption.

Requirements — small business corporation exemption (Section 210.1-c):

- The taxpayer must be a small business corporation as defined by Section 1244(c) of the Internal Revenue Code. The total amount of money and other property received by the corporation for its stock, as a contribution to capital or as paid-in surplus, cannot exceed $1,000,000.
- It cannot be similar in ownership and operations to a business entity taxable or previously taxable by New York State Tax Law.
- It cannot be a subsidiary as defined by Article 9-A, Section 208.3, of the Tax Law.
- 90% of the corporation's assets and 80% of its employees must be located in New York State.
- It cannot have as a shareholder a corporation that (1) owns over 50% of its voting stock, and (2) is taxable under Article 9-A, Article 9 (Sections 183, 184, 185 or 186), Article 32 or Article 33.

Line 3. Formula to compute the alternative base:

a. SUBTRACT from officers' and stockholders' compensation (Schedule F, line 57) the statutory exemption of $30,000.

b. ADD entire net income or loss (Schedule B, line 31 or 32).

c. MULTIPLY the sum of **a** plus **b** by 30% to obtain the alternative base.

Additional information:

- **Commissions paid to elected or appointed officers** who receive ONLY commissions from the corporation may be deducted from total officers' salaries (Schedule F, line 57). This does not include override commissions. A rider must be attached providing names, titles and the amounts of qualified commissions.
- **The statutory exemption** for periods of less than 12 months must be prorated. For each month included in a short period report, a deduction of $2,500 will be allowed.
- **Net operating losses carried forward** cannot reduce federal taxable income to less than zero.
- **New York professional service corporations** formed on or after May 19, 1970 under Article 15 of the Business Corporation Law and foreign professional service corporations authorized to do business in New York State after October 17, 1983 are not subject to this alternative tax. Such corporations should enter "PC" on this line.
- **The alternative base** must be adjusted to reflect investment income, investment and business allocation percentage and optional depreciation where applicable. A simple method to use when adjustments are required is to substitute the alternative base for entire net income at line 31, Schedule B, and follow the instructions for lines 33 through 39.

Example:

In the following example the facts are:

Schedule B, line 31, Entire net income	$100,000
line 33j, Investment income	$70,000
Schedule D, line 42, Investment allocation percentage	15%
Schedule F, line 57, Total officers' salaries	$530,000
Schedule G, line 63, Business allocation percentage	35%

Computation of alternative base

Officers' salaries (Schedule F, line 57)	$530,000
Less statutory deduction	-30,000
	$500,000
Entire net income (Schedule B, line 31 or 32)	+100,000
	000,000
Multiply by 30%	x .30
Alternative base/entire net income	$180,000

Computation of allocated alternative base/allocated taxable income — Schedule B

Line 31	Alternative base/entire net income	$180,000
Line 33j	Investment income for allocation	-70,000
Line 34	Business income for allocation, line 31 minus line 33j	110,000
Line 35	Allocated investment income: Investment income, line 33j, times investment allocation percentage. Schedule D, line 42 (70,000 x 15%)	$ 10,500
Line 36	Allocated business income: Business income, line 34, times business allocation percentage. Schedule G, line 63 (110,000 x 35%)	$ 38,500
Line 39	Allocated taxable net income, line 35 plus line 36	$ 49,000

Additional information concerning the computation of tax measured by entire net income plus compensation can be found in Article 9-A Regulations, Part 3.

Line 4. The tax computed on this form cannot be less than the minimum tax of $250 except for a short period of nine months or less. See "Tax Rates," page 2, for details.

Line 5. Enter allocated subsidiary capital from Schedule C, line 40, Column g, and multiply by tax rate.

Line 6a. Enter largest tax computed at line 1, 2, 3 or 4 plus line 5. Taxable DISCs enter the larger of lines 2 or 4 plus 5. Real estate investment trusts enter larger of lines 1 or 4. Regulated investment companies enter larger of line 1 or line 4. An S corporation that has filed a valid election, Form CT-6, is required to file an information report, Form CT-3S.

Line 6b. The following tax credits may be claimed on this line:

Eligible Business Facility Tax Credit ..... See Form CT-45

DISC Export Credit..... See Form CT-3C

Investment Tax Credit ..... See Form CT-46

Research and Development Tax Credit ..... See Form CT-42

Additional Mortgage Recording Tax Credit ... See Form CT-43

If 2 or more tax credits are claimed or if the amount of tax credit exceeds the tax at line 6a, attach a rider. When 2 or more tax credits are claimed the credit must be applied against the tax in the same order as shown above.

Tax credits cannot reduce the franchise tax to less than the minimum. If the total available tax credits exceed the tax shown at line 6a, enter only that portion of the available tax credits that reduces the tax to the minimum amount.

Line 6c. Subtract line 6b from 6a,, but do not reduce tax below the minimum tax.

Line 7a. Use this line if you have filed an application for extension (CT-5). Enter amount shown at line 3 of Form CT-5.

Line 7b. If the tax at line 6c exceeds $1,000 and Form CT-5 was not filed, a mandatory first installment is required for the period following that covered by this report. Enter 25% of tax shown at line 6c.

Line 9. The amount entered at this line should be the total of all prepayments of estimated tax including overpayment carryover from the preceding period and payment made with Form CT-5, *Application for Extension,* if this form is filed. To insure that you have received proper credit for payments, please complete the payment reconciliation on page 4 of the form.

Lines 11 and 12. See general instructions for interest and additional charges computations. Use Form CT-222, *Underpayment of Estimated Tax by Corporations,* to compute penalty for underpayment of estimated tax.

Lines 14a through 14f. 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 at lines 14b, 14d, 14e and 14f the amounts you wish transferred as credits or refunded.

Line 14f. If a refund based on an Investment Tax Credit or a Special Additional Mortgage Recording Tax Credit is claimed here, claim Forms CT-46.1 or CT-43.1 must be attached.

Schedule B

Line 16. Enter total amount of interest deducted on your federal return that you used to determine federal taxable income on line 17.

Line 17. 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

Additions

Line 18. Include 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. Any expenses directly attributable to such interest may be deducted.

A rider must be attached.

Line 19. 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 deduction of $1,000 or 10% of interest, whichever is larger, is allowed. This deduction does not apply where the interest is deducted by the parent corporation as income from subsidiary capital.

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 19	$ 0	$ 700	$ 13,500

Line 20. Enter all expenses, including interest expense, deducted in computing federal taxable income that are directly attributable to subsidiary capital and income. Include capital losses from sales or exchanges of subsidiary capital, all other losses, bad debts and any carrying charges attributable to subsidiary capital.

Subsidiary here means a corporation (except a DISC) that is controlled by the taxpayer because the taxpayer owns more than 50% of the total number of shares of voting stock, issued and outstanding.

The term "subsidiary capital" means all investments in the stock of subsidiary corporations plus all indebtedness from subsidiary corporations (other than accounts receivable acquired for services rendered or property sold to customers in the ordinary course of business) whether or not evidenced by bonds or other written instruments, on which interest is not claimed and deducted by the subsidiary for purposes of taxation under Articles 9-A, 32 and 33 of the New York State Tax Law.

Line 21. Enter all interest deducted in computing federal taxable income indirectly attributable to subsidiary capital or income.

The formula used to determine interest expense indirectly attributable to subsidiary assets is:

$$\text{Gross Interest Expense} \times \frac{\text{Subsidiary Capital}}{\text{Total Assets}}$$

Line 22. Enter amount deducted on your federal return for New York State franchise tax. This includes any amount deducted for the additional franchise tax paid by petroleum businesses under Article 13-A or Metropolitan Transportation Business Tax Surcharge.

Line 23. Before making any entry on this line see page 3 of these instructions for information on the recent amendments to Article 9-A, Section 208, of the Tax Law, **and** complete Form CT-399. Enter from Form CT-399 the amount of your federal ACRS deduction that must be added back to federal taxable income.

Subtractions

Line 25. Enter all interest, dividends and capital gains from subsidiary capital that were included as part of federal taxable income.

Details of this deduction must be itemized on a rider.

Line 26. Enter 50% of dividends received from nonsubsidiary corporations. Regulated investment companies do not qualify for this deduction.

Line 27. Enter foreign dividends gross up pursuant to Section 78 of IRC (see federal Form 1120, Schedule C, line 7) that were not deducted at lines 25 and 26. Entire net income **shall not include** any amount treated as dividends pursuant to Section 78 of the IRC (Sec. 208.9(a)(6)).

Line 28. Enter any New York State net operating loss carried forward from prior years. Attach a rider providing details of both federal and New York State net operating losses claimed. For detailed information on net operating losses, see page 3 of these instructions.

Line 29. In place of the disallowed ACRS deduction (line 23), a depreciation deduction computed by any method permitted under IRC Section 167 will be allowed. Form CT-399, *Schedule of New York Depreciation Adjustments*, contains more information about this allowable deduction and must be attached to Form CT-3.

Line 32. Special adjustments to entire net income include the following:

- Optional depreciation: Attach completed Form CT-324. Taxpayers who have claimed optional depreciation in prior years on certain property acquired from January 1, 1964, through December 31, 1968, must ADD to entire net income any depreciation on such property and any federal losses on the disposition of such property that were deducted from gross income to determine federal taxable income. Any federal gain on the disposition of qualified property should be DEDUCTED from entire net income. The adjustment for New York gain or loss on qualified New York property is made at line 38 after computation of allocated income.

  Adjustments for optional depreciation on qualified New York property are made at line 38.

- "Pollution control" adjustments: The taxpayer may elect to deduct expenses paid or incurred during the taxable year for construction, reconstruction, erection or improvement of industrial waste treatment facilities, air pollution control facilities and other facilities that conform with the provisions of the New York State Acid Disposition Control Act (Title 9, Article 19, Environmental Conservation Law).

  However, entire net income for the taxable year and ALL succeeding taxable years must be computed without any deductions for such expenditures, depreciation or amortization on the same property. A copy of the Certificate of Compliance issued pursuant to Section 17-0707 or Section 19-0309 of the Environmental Conservation Law must be submitted along with a rider showing the complete computations.

- Worldwide net income and losses: A corporation organized outside the United States must adjust federal taxable income to include all income from sources outside the United States less all allowable deductions attributable to it that were not taken into account in computing federal income.
- Taxes paid to a foreign country are not deductible regardless of whether they were claimed as a deduction or credit for federal tax purposes.
- A deduction may be made for the amount of wages that were disallowed in the computation of your federal taxable income for the purposes of the jobs credit. Attach a copy of federal Form 5884.
- If a credit for franchise tax under Section 210.17 is being claimed, entire net income must be adjusted by adding back the additional mortgage recording tax claimed as a credit and used as a deduction in the computation of federal taxable income.

  The gain on the sale of real property on which the additional mortgage recording tax credit was claimed must be increased when all or any portion of the credit was also used in the basis for computing the federal gain.
- A corporation participating in business on the New York Insurance Exchange must adjust entire net income by excluding any item of income, gain, loss or deduction from such business that was included in federal taxable income and add back its proportionate share of the allocated entire net income from its membership on the Exchange. A loss may not be subtracted.
- Regulated investment companies: Deduct dividends paid to stockholders on this line.
- Safe harbor leases (IRC 168(f)(8)):

  Effective for taxable years beginning after December 31, 1981 the New York State Tax Law was amended to nullify the effects of federal "safe harbor" leases upon New York State taxable income. This applies to agreements entered into prior to January 1, 1984.

  Any amounts **included** in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be removed when computing New York State taxable income.

  Any amount **excluded** in the computation of federal taxable income solely as a result of an election made under IRC Section 168(f)(8) must be included when computing New York State taxable income.

  Exempt from these adjustments are leases for qualified mass-commuting vehicles as defined in IRC Section)(9).

  Attach a rider to show the safe harbor adjustments to New York State taxable income.
- Any "windfall profit tax" (imposed by IRC Section 4986(a)) deducted in the computation of federal taxable income must be added back when computing New York State taxable income.

Line 33. The term investment income means income from investment capital to the extent included in computing entire net income, less any deductions allowable in computing entire net income that are attributable to investment capital or investment income, and less a portion of any net operating loss deductions allowable in computing entire net income.

Income from investment capital includes 50% of dividends (except those of a DISC), interest, and capital gains and losses from sales or exchange of investment capital that are included in the computation of entire net income. Professional service corporations (Article 15 or 15-A, BCL) must use an investment allocation percentage of 100% (Section 210.3(b)(3)).

33a. Enter 50% of dividends received from nonsubsidiary stock. **Do not** include any "grossed-up" dividends pursuant to Section 78 of the IRC that have been deducted at lines 27 and 28 of Schedule B.

33b. Enter interest income from corporate and government bonds, corporate debentures, notes and certificates of indebtedness that have many of the essential characteristics of bonds. If the investment allocation percentage is zero, interest from bank accounts (cash) and obligations of New York State, its political subdivisions and its instrumentalities must be allocated by the business allocation percentage, except where the taxpayer has the right to and does elect to allocate its entire net income by its investment allocation percentage (see Article 9-A Regulations Section 4-7.1).

33c. Enter interest received upon a loan to a subsidiary if the subsidiary claims such interest as a New York franchise tax deduction on any report under Articles 9-A, 32 or 33 for any period ending within the taxable year of the parent, and if such loan is evidenced by a bond or other corporate security.

33d. The taxpayer may elect to treat cash on hand or deposit as either business or investment capital. Election may **not** be made to treat part of such cash as business capital and part as investment capital. Enter interest on bank accounts only if you have elected to treat cash as investment capital and have entered the amount in Schedule D at line 44.

No election to treat cash as investment capital may be made where the taxpayer has no other investment capital.

33e. Do not include any capital loss that was not used in computing federal taxable income.

33g. Enter any deductions used in computing entire net income that are attributable to investment capital or investment income.

Some of the deductions attributable to investment income are interest, legal expense, investment counsel fees and salaries of officers and employees engaged in management of investments.

33i. Any net operating loss claimed at line 28 must be apportioned between business income and investment income. This is computed by multiplying the net operating loss deduction by a ratio. The ratio is a fraction whose numerator consists of investment income before deducting any net operating loss, and whose denominator is entire net income before deducting any net operating loss. The ratio may be expressed by a percentage.

Line 38. A deduction for optional depreciation may be claimed at this line. Any gain or loss on the disposition of property on which optional depreciation was claimed should be reported at this line. Form CT-324 must be submitted to substantiate your claim.

Definitions of Terms Used in Schedules C, D and E

Subsidiary means a corporation which is controlled by the taxpayer, by reason of the taxpayer's ownership of more than 50% of the total number of the shares of capital stock of such corporation issued and outstanding, which entitles the holder of the shares to vote at election of its directors or trustees.

Subsidiary capital means the total of the investment of the taxpayer in shares of capital stock of its subsidiaries, and the amount of indebtedness owed to the taxpayer by its subsidiaries, whether or not evidenced by written instruments on which interest is not claimed and deducted by the subsidiary, for purposes of any tax imposed by Articles 9-A, 32 or 33 of the Tax Law, less current liabilities attributable to subsidiary capital.

Subsidiary capital does not include accounts receivable acquired in the ordinary course of trade or business either for services rendered or for sale of property primarily held for sales to customers. 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, other than loans or advances outstanding for more than a year, as of any date during the year covered by the report, which are attributable to that item of subsidiary capital.

Fair market value of an asset is the price (without any encumbrance whether or not the taxpayer is personally liable) at which a willing seller not compelled to sell will sell and a willing buyer not compelled to buy will buy.

Fair market value on any date of stocks, bonds and other securities, regularly traded on an exchange or in an over-the-counter market, is the mean between the highest and lowest selling prices on that date.

Average fair market value generally is computed quarterly if the taxpayer's usual accounting practice permits it. But the taxpayer may use a monthly, weekly or daily average. 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 if no distortion of average fair market value results.

Current liabilities are any liabilities maturing in one year or less from the date originally incurred.

Current liabilities 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 the date incurred. **Do not** include loans or advances outstanding for more than a year as of any date during the year covered by the report or the current portion of mortgages, loans or advances having terms of payment of more than one year. Use the same method of averaging as is used in determining average fair market value of assets.

Issuer's allocation percentage represents the amount of capital employed within New York State as compared to total capital employed everywhere. Every taxpayer using Form CT-3 should compute its issuer's allocation percentage.

The percentage is determined by adding together allocated New York business, investment and subsidiary capital and dividing the answer by total capital.

Combined filers must compute a combined issuer's allocation percentage by using amounts from Form CT-3A. The combined issuer's allocation percentage should be entered on line 15, Schedule A, of Form CT-3A.

EXAMPLE:

	Allocated New York Capital	Capital Everywhere
Business Capital	$750,000	$1,000,000
Investment Capital	5,000	50,000
Subsidiary Capital	100,000	100,000
TOTAL	$855,000	$1,150,000

Issuer's Allocation Percentage = 74%

($855,000 : 1,150,000)

The issuer's allocation percentage used to compute subsidiary capital allocated to New York and investment capital allocated to New York is the percentage determined on the New York State tax return filed by the issuing corporation for the preceding year. You may obtain some of these percentages from Tax Service Publications.

Issuers' allocation percentages will be supplied by this department upon written request (in duplicate) to:

Taxpayer Assistance Bureau
NYS Tax Department
W. A. Harriman Campus
Albany, NY 12227-0125
Telephone (518) 457-7034

Investment capital is the average fair market value of the taxpayer's investments in stocks, bonds and other securities, less current liabilities attributable to investment capital.

The stocks, bonds and other securities must be issued by a corporation (other than the taxpayer, a subsidiary or a DISC) or by the United States; any state, territory or possession of the United States; the District of Columbia; or any foreign country or governmental instrumentality of any of the foregoing. Investment capital includes investments in regulated investment corporations (money market funds and mutual funds). It also includes any loan to a subsidiary, the interest on which is claimed by the subsidiary as a deduction for the purpose of any tax imposed by Articles 9-A, 32 or 33 of the Tax Law, provided such loan is evidenced by a bond or other securities. At the election of the taxpayer, cash on hand and cash on deposit may be included in investment capital. Cash on deposit includes certificates of deposits and money market funds with a bank. The election may not be made to treat a portion of cash as investment and the balance as business capital.

Deduct from each item of investment capital any current liabilities that are attributable to that item of investment capital.

Investment capital **does not** include stocks, bonds and other securities held by the taxpayer for sale to customers in the regular course of its business. It does not include investments in securities of an individual, partnership, trust or other nongovernmental entity that is not a corporation.

Business capital is the average fair market value of the taxpayer's assets (whether or not shown on its balance sheet) exclusive of stock issued by the taxpayer (treasury stock), minus current liabilites and minus subsidiary capital and investment capital if applicable.

NOTE: Average fair market value of total assets (Schedule E, line 46) must reflect the amounts used in determining the average fair market value of subsidiary and investment capital (Schedules C and D).

Article 31-B, Section 1449-a (Tax on Gains Derived from Certain Real Property Transfers) requires every corporation with an interest in real property located within New York State 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 at the bottom of page 3. If the answer to both questions is yes, a rider must be attached 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 F

Include all compensation received from the corporation for acting in any capacity, including commissions and bonuses received, etc. Include travel allowances unless proof of expenditure is required by the corporation.

The disclosure of social security numbers is mandatory.

Schedule G

The business allocation percentage must be computed by adding the percentages allocated to New York State of the taxpayer's real and tangible personal property factor, business receipts factor, payroll factor and an additional factor equal to the business receipts factor and dividing the total percentage by the number of percentages. The value used for real and tangible personal property must be the same as used in Schedule E.

If your investment income and capital ratios (Schedule D) are more than 85% you may leave Schedule G blank and allocate business and investment income and capital by the investment allocation percentage.

If you are allocating property and wages outside New York State attach a rider listing:

- Number, location and duties of your own employees located outside New York State.
- Location of real and/or tangible personal property and a description of how su property is used

Line 58a. Real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction should be excluded from the numerator and denominator of the property factor. Property or equipment under construction that is partially used by the taxpayer in the regular course of business should be included in the property factor to the extent used.

Line 58b. The value of real property rented to the taxpayer generally is eight times the gross rent payable during the year covered by the report. Gross rent includes any amount payable as rent or in lieu of rent, such as taxes, repairs, etc., and amortization of leasehold improvements that revert to the lessor at the termination of the lease.

Line 58d. The term "tangible personal property" means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise. **Do not include** cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of debt.

Line 59a and b. Sales of tangible personal property are allocated on a destination basis.

Line 59c. Services are allocated where performed. Corporations engaged in the publication of newspapers and periodicals shall allocate to New York State receipts from the sale of advertising to the extent that such newspapers and periodicals are delivered to the ultimate purchasers or subscribers in New York State.

Line 59d. Rental income is allocated where property is located.

Line 59e. Receipts from royalties are allocated where earned.

Line 59f. Other business receipts are allocated where earned.

Line 60. An additional receipts factor is required to be included in the computation of the business allocation percentage. Enter at this line the same percentage computed in line 59h (Sec. 210.3(a)(4)).

Line 61. Employees within New York include all employees regularly connected with or working out of an office or place of business maintained by the taxpayer within New York, irrespective of where the services of such employees were performed. General executive officers are excluded from the payroll factor.

General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either inside or outside New York State is not a general executive officer.

Line 62. Add percentages at lines 58f, 59h, 60 and 61a.

Line 63. Divide line 62 by the number of percentages used.

EXAMPLES:

	Corp. A	Corp. B	Corp. C
Property factor	80%	60%	60%
Receipts factor	20%	30%	30%
Additional receipts factor	20%	30%	30%
Payroll factor	60%	0%	None*
TOTAL	180%	120%	120%
Computation	(180 ÷ 4)	(120 ÷ 4)	(120 ÷ 3)
Business Allocation Percentage	45%	30%	40%

*Corporation C has no employees inside or outside New York. Corporation B's zero percent payroll factor is not missing a percentage unless the numerator and denominator of the factor are missing.

Mail your report to:

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

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.