

Instructions for Form CT-185

Report of Franchise Tax on Capital Stock of Cooperative Agricultural Corporations Formed by Farmers, Fruit Growers and Others

Article 9, Section 185, Tax Law

General Information

Who Must File Form CT-185

Form CT-185 must be filed by farmers, fruit growers and other like agricultural corporations organized and operated on a cooperative basis for the purposes described in Article 6 of the Cooperative Corporation Law of the State of New York. The form must also be filed by receivers, liquidators, referees, trustees, assignees, or other fiduciaries, appointed by any court, who conduct the business of such a corporation.

Section 185 provides for a franchise tax based on the net value of issued capital stock employed in New York State.

The net value of issued capital stock may be allocated in and out of New York. The allocation is based on the gross assets employed in New York (see Schedule F).

Tax Rate

The franchise tax required to be paid is the highest tax computed by one of three methods. A combination of tax on capital stock using the tax rate of 1 mill and the dividend rate as computed in Schedule E is possible if a corporation has more than one kind of stock.

The three methods are:

- Allocated value of issued capital stock multiplied by tax rate of .001.
- Allocated value of issued capital stock multiplied by a rate based on dividends in excess of 6%.
- Minimum tax of \$10.

Article 31-B, Section 1449-a (Tax on Gains Derived from Certain Real Property Transfers)

This article requires every corporation with an interest in real property to keep a record of the transfer of its stock, to report annually every transfer of a "controlling" interest in its stock, and to provide 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 on page 1 of Form CT-185. If the answer to both questions is yes, attach the following information:

- Name, address and identification number of the new controlling stockholder. (Use the social security number of an individual or the federal employer identification number of a corporation.)
- Date transfer was made.
- Location of real property.

Foreign Corporations - Maintenance Fee and License Fee

Foreign corporations authorized to do business in New York must pay an annual maintenance fee of \$200. This fee may be applied against the taxes due under Article 9. If the total tax payable with your return for December 31, 1987 equals or exceeds \$200, you have satisfied the requirement to pay a maintenance fee. If the total tax payable is less than \$200, add the difference to produce a total tax and fee of \$200.

Foreign corporations must also file a report of license fee. See Form CT-240, *Report of License Fee*.

When and Where to File

File your 1987 report on or before March 15, 1988.

Mail to:

**New York State Tax Department
Processing Unit
P.O. Box 1909
Albany, NY 12201-1909**

Extension of Time for Filing Tax Report

A request for an extension of time to file a tax report must be filed on Form CT-5.9 on or before March 15, 1988. An extension of time granted by the IRS to file a federal return does not extend the due date for filing Form CT-185.

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 the enclosed 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.

Mail your completed Form DTF-95 to:

**New York State Tax Department
Registration Section
Building 8, Room 409
W.A. Harriman Campus
Albany, NY 12227**

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.

Specific Instructions

Schedule A

Line 1 - Enter the highest value of capital as determined by subtracting total liabilities from total assets at year's end (Schedule B, line 16, column (b) from line 15, column (b)) or by computing the average in Schedule D. The amount cannot be less than \$5.00 per share of issued capital stock.

Line 2 - Allocation computation - multiply the amount on line 1 by the allocation percentage computed in Schedule F.

Line 3 - Multiply line 2 by tax rate (.001).

Line 4 - Enter the tax computed by dividend rate from Schedule G, line 53.

Line 6 - Enter the amount from line 3, 4 or 5, whichever is largest. If you are a foreign authorized corporation, line 6 cannot be less than \$200 (see Maintenance Fee).

Example:

Form CT-185 tax for 12/31/87	\$10.00
Maintenance fee for 1987	200.00
Balance of maintenance fee due	\$190.00
Tax due on Form CT-185	10.00
Enter at line 6	\$200.00

Line 7 - You may take credit against your franchise tax for certain "special additional mortgage recording tax" you paid. This credit may not reduce your tax below the minimum tax, or, if you are an authorized foreign corporation, it may not reduce the tax below the \$200 maintenance fee. Any unused credit may be carried forward. Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

Line 9 - If the tax 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 the due date to the date paid. The interest rate should be determined in accordance with part 603 of the Tax Regulations.

Line 10 - Additional charges for late filing are computed on the amount of tax less any payment made on or before the due date.

- a. If a return 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 return is not filed within 60 days of the 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. In case of failure to pay the tax shown on a return, 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** above (Section 1085(a)).

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

Line 12 - Enter total of all payments including any overpayment carried over from a preceding period.

Schedules B and C

Information required in these two schedules must be the same information that appears on the balance sheet of your federal return. Please attach a copy of your federal return.

Schedule E

The dividend rate on par value capital stock is computed by using the par value and should not include any "paid in capital."

The dividend rate on stock without nominal or par value is computed by dividing the dividend paid by the amount paid for such stock (stated value of no par stock) and paid-in capital on such stock. It does not include capital arising from appreciation of assets, amounts not contributed by the stockholder or retained earnings.

Schedule F

The amounts shown on this schedule should agree with the amounts shown on the balance sheet of your federal return.

Line 32 - If the assets of any company whose stock is owned by this corporation are employed both in and outside New York, an apportionment of your holding may be made on the basis of the percentage of employment by the issuer of the stock.

Line 33 - Bonds, loans and other securities are considered located where held.

Schedule G

If 6% (or more) dividends are paid on **all** classes of issued capital stock, do not complete lines 48 through 52.

If a 6% dividend is **not** paid on all classes of stock, a tax is computed on the dividends based on the value of the stock on which the dividends of 6% or more were paid **plus** a tax at the "Capital Stock" rate, on the remaining value of all capital stock. The remaining value of all capital stock depends on which class of capital stock the dividend was paid on. If the dividend was paid on preferred stock, the remaining value of all capital stock is retained earnings plus common stock. If the dividend was paid on common stock, the remaining value of capital stock is preferred stock. Retained earnings are normally associated with common stock. The following examples show how the dividend rates and remaining value of capital stock are computed.

Example 1 — Dividend paid on preferred stock

Par value — common stock	\$10,000
Par value — preferred stock	50,000
Retained earnings	80,000
Dividends paid on preferred stock	3,000
Dividends rate (\$3,000 ÷ \$50,000)	6%
6 × .00025 (Tax Rate)	.0015
Tax (\$50,000 × .0015)	75
Remaining value of issued capital stock (common stock plus retained earnings) (\$90,000 × .001)	90
Total tax	\$ 165

Example 2 — Dividend paid on common stock

Par value, common stock	\$10,000
Par value, preferred stock	50,000
Retained earnings	80,000
Dividends paid on common stock	3,000
Dividends rate (\$3,000 ÷ \$10,000)	30%
30 × .00025 (Tax Rate)	.0075
Tax (\$10,000 × .0075)	75
Remaining value of issued capital stock (preferred stock only, \$50,000 × .001)	50
Total tax	\$ 125