



# CT-245-I

## Instructions for Form CT-245

### Maintenance Fee and Activities Report of Foreign Corporations Disclaiming Tax Liability

Article 9, Section 181.2, Tax Law

#### Who Must File

- Any business incorporated outside of New York State that is authorized to do business in New York State and wishes to disclaim tax liability;
- Any business incorporated outside of New York State having an employee (including any officer) in this state and disclaiming tax liability. Employees are considered to be working in this state if they come into New York State on corporate business.
- Banking corporations described in section 1452(a)(9) of Article 32.

Foreign banking corporations described in sections 1452(a)(1) through 1452(a)(8) of Article 32 and insurance corporations that are authorized to do business in New York State **are not required to file Form CT-245.**

#### Annual Maintenance Fee

Foreign corporations, with certain exceptions, who are authorized to do business in New York State must pay an annual maintenance fee of \$200.

A corporation that files a New York State franchise tax return under Article 9, 9-A or 32 and pays the franchise tax is considered to have met the maintenance fee requirements and should not file a CT-245 report.

Failure to pay the annual maintenance fee may result in the annulment of the corporation's authority to do business in New York State (Article 9, section 203-b).

#### Short Periods - Maintenance Fee

The Tax Law allows a reduction of the maintenance fee for short periods (less than a full year) beginning on or after January 1, 1979:

Period	Maintenance Fee Due
Up to 6 months	\$100
More than 6 months but not more than 9 months	\$150
The full amount of the maintenance fee is due for periods of more than 9 months	\$200

#### When to File

File this return within two and one-half months after the end of your annual reporting period.

#### Interest

If you do not pay the maintenance fee on or before the original due date of the return, you must pay interest on the amount of the underpayment from the original due date to the date paid. An extension of time to file does not extend the date for payment of the maintenance fee. Determine the interest rate in accordance with Part 603 of the Tax Regulations.

If you need help, call 1 800 CALL TAX (1 800 225-5829). From outside New York State call 1 518 438-8581.

#### 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 you do not file a return when due or if the application for extension is invalid, add to the tax 5% per month, up to a total of 25% (section 1085(a)(1)(A)).
- (b) If you do not file a return 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) If you fail to pay the tax shown on a return, add to the tax ½% per month, up to a total of 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, payment, or both (section 1085).

#### Foreign Corporations Subject to Tax Under Articles 9 or 9-A

A business incorporated outside New York State is subject to franchise tax if it:

- does business in New York State,
- employs capital in New York State,
- owns or leases property in New York State, or
- maintains an office in New York State.

The term “doing business” includes all activities which occupy the time or labor of men for profit. Regardless of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization is deemed to be “doing business” for the purpose of the tax. In determining whether a corporation is doing business it is immaterial whether its activities result in a profit or loss.

The term “employing capital” includes any of a large variety of uses, which may overlap other activities and may give rise to taxable status. In general, the use of assets in maintaining or aiding the corporate enterprise or activity in New York State will make the corporation subject to tax.

#### **Foreign Banking Corporations Subject To Tax Under Article 32**

A banking corporation or association doing business in New York State in a corporate or organized capacity that is organized under the laws of the United States or the laws of any other state or country is subject to a franchise tax under Article 32. Activities that constitute doing business in New York State include, but are not limited to, the following: operating a branch, loan production office, representative office or a bona fide office.

Only foreign banking corporations described in section 1452(a)(9) of Article 32 are subject to the maintenance fee and activities report (CT-245).

#### **Activities Deemed Insufficient to Subject a Foreign Corporation to Tax Under Articles 9, 9-A or 32**

A corporation is not considered to be doing business, employing capital, owning or leasing property, or maintaining an office in New York State because of one or more of the following activities:

- the maintenance of cash balances with banks or trust companies in New York State
- the ownership of shares of stock or securities kept in New York State in a rented safe deposit box, safe, vault or other receptacle, or if pledged as collateral security, or deposited in safekeeping or custody accounts with one or more banks, trust companies or brokers who are members of a recognized security exchange
- any action by a bank, trust company or broker, which is incidental to the rendering of safekeeping or custodian service to the corporation
- the maintenance of an office in this state by one or more officers or directors of the corporation who are not corporation employees
- the keeping of a corporation’s books or records in New York State by someone other than an employee of the corporation.