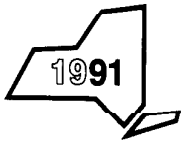
New York State Department of Taxation and Finance

CT-186-A-I



Instructions for Form CT-186-A

Tax Return for Gross Operating Income

Tax Law — Article 9, Section 186-a

1991 Tax Law Change

Chapter 410 of the Laws of 1991 increased the tax rate for utilities taxed under Article 9, section 186-a. Effective for periods beginning on or after January 1, 1991, the tax rate will be 3.5%.

Chapter 166 of the Laws of 1991 added section 189 to Article 9 which imposes a tax upon gas importers who import or cause to be imported, gas services into New York State for their own use. For additional information see TSB-M-91(5)C.

General Information

You must report gross operating income for the 1991 calendar year even if you maintain your records and report to the IRS using a fiscal accounting period.

Who Must File Form CT-186-A

A utility, person, corporation, company, association or joint-stock association **not** subject to the supervision of the New York State Department of Public Service who engages in the sale or furnishing of gas, electricity, steam, water or refrigeration service through the use of mains, pipes or wires for ultimate consumption or use by the purchaser in New York State must file this return whether or not a tax is due.

A utility, person, corporation, company, association or joint-stock association **not** subject to the supervision of the New York State Department of Public Service who engages in the sale or furnishing of telephone or telegraph service through the use of mains, pipes or wires within New York State, whether or not such telephone or telegraph sales or services are for ultimate consumption or use by the purchaser, must file this return whether or not a tax is due.

Examples of taxpayers required to file Form CT-186-A include:

— Owners of apartment buildings, office buildings, hotels, etc. within New York State who purchase gas, electricity, steam, water or refrigeration and resell or furnish any part or all of the commodity to a guest or tenant at identifiable, flat or metered rates must complete Schedule A.

— Owners of apartment buildings, office buildings, hotels, hospitals, etc., within New York State who purchase telephone facilities and services from a telephone company and resell or furnish the telephone facilities and services to a guest or tenant at identifiable, flat or metered rates must complete Schedule B.

— Providers of customer owned currency operated telephones (COCOTS) within New York State who purchase telephone facilities and services from a telephone company, and resell or furnish the telephone facilities and services must complete Schedule B.

— Providers of one-way paging services in New York State where the subscriber has a receiver which is activated by a radio wave and which emits a beep, tone or other signal are engaged in the sale of telephone service and must complete Schedule C.

— Providers of two-way mobile radio services in New York State which permit communication between a mobile subscriber and a party using a telephone or mobile radio are engaged in the sale of telephone service and must complete Schedule C.

— Resellers of telephone services (other than hotels, motels, hospitals, COCOTS and other supplementary telephone service providers, included in Schedule B) which purchase telephone facilities and services from a telephone company and resell or furnish the telephone facilities and services in New York State must complete Schedule C.

— Telephone companies, telegraph companies and transmission companies which sell or furnish telephone or telegraph services in New York State must complete Schedule C.

If gross operating income does not exceed $500 for the year, you are exempt from the payment of tax. However, you must file this annual return.

When and Where to File

The annual return is due on March 15 following the close of each calendar year. If March 15 falls on a Saturday, Sunday or legal holiday in any year, the return is due on the next business day. Mail your return to: NYS Corporation Tax, Processing Unit, P.O. Box 1909, Albany, New York, 12201-1909.

Extension of Time for Filing Tax Return

A request for an extension of time to file a tax return must be filed on Form CT-5.9 on or before March 16, 1992. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186-A.

Metropolitan Transportation Business Tax Surcharge

All corporations that file Form CT-186-A must answer this question. Any business taxable under Article 9, section 186-a of the Tax Law that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-A/M and pay a MTB tax surcharge. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. If you are not doing business in the MCTD you must disclaim liability for the MTB tax surcharge by answering *No* and are not required to file Form CT-186-A/M.

Exemption from Tax

The following are exempt from taxation under section 186-a:

The state of New York, including its political and civil subdivisions; municipalities of the state of New York; public districts, not-for-profit corporations and associations organized and operated exclusively for religious, charitable or educational purposes; a corporation leasing from a city in New York State a water works system to supply water at cost to relieve water pollution in a river within that city; and limited dividend housing corporations organized under the Private Housing Finance Law.

Foreign Corporations — Maintenance Fee and License Fee

A corporation organized outside New York State that is authorized to do business in New York must pay an annual maintenance fee of $300. This fee may be claimed as a credit against the taxes due under Article 9, except the license fee imposed by section 181. If the total taxes on Forms CT-186, CT-186-A or CT-186-P for December 31, 1991, are more than $300, you have satisfied the requirement to pay the maintenance fee. If the total taxes payable are less than $300, add the difference to line 9 of Form CT-186-A to produce a total tax of $300 plus the first installment for 1992.

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

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 you don't have a form, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073. If your address has changed, check the box to the right of the name and address section of your return.

Specific Instructions

Computation of Tax

Line 6 - Chapter 190 of the Laws of 1990 amended Article 9 of the Tax Law to add section 188, which provides for a 15% and 10% tax surcharge on tax imposed under section 186-a of the Tax Law.

The 15% tax surcharge applies to tax years ending on December 31, 1990, and December 31, 1991. The 10% tax surcharge applies to the tax year ending on December 31, 1992. The tax surcharge cannot be imposed on any taxpayer for more than 36 months.

The tax surcharge does not apply to the metropolitan transportation business tax surcharge.

Line 8b First installment for 1992 — If you did not file Form CT-5.9 and the amount on line 7 (franchise tax plus tax surcharge) is more than $1,000, you must pay a mandatory 25% first installment of estimated tax for 1992.

Additional installments for 1992, Form CT-400 — If you expect your franchise tax plus tax surcharge for 1992 to exceed $1,000, you must file Form CT-400 and pay additional installments of estimated tax on June 15, September 15, or December 15.

Line 10 - Enter the total of all payments of estimated tax including overpayment carryover from preceding year.

Line 12 Interest on late payments — If the tax is not paid on or before the due date (without regard to an extension of time) you must pay interest on the amount of the underpayment from the due date to the date paid. You may call the Taxpayer Assistance Bureau for the current interest rate or to have the interest computed for you. Call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State call (518) 438-8581.

Line 13 Late filing and late payment penalties — Additional charges for late filing are computed on the amount of tax less any payment made on or before the 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 25% (section 1085(a) (1) (A)).

b. If you do not file a return 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. If you do not 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 14 Penalties — If you can reasonably expect your New York State tax liability on Form CT-186-A to exceed $1,000, you must file a declaration of estimated tax, Form CT-400. A penalty will be imposed if you fail to file a declaration of estimated tax or fail to pay the entire installment payment of estimated tax due. For more information see Form CT-222, *Underpayment of Estimated Tax by Corporations*.

Schedule A - Computation of Gross Operating Income (Other than Telephone and Telegraph)

A taxpayer required to complete Schedule A must report all purchases of gas, electricity, steam, water or refrigeration which form the basis for the tax. The taxpayer must show the quantity sold, selling price of the commodity sold and the quantity of the commodity consumed by the taxpayer which was not sold. In determining gross operating income, receipts include cash, credits and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services or other costs, interest or discount paid, or any other expense, except as stated in the instructions for line 24.

Line 21 - Enter the total receipts from the sale or furnishing of each commodity made for ultimate consumption or use within New York State.

Line 22 - Enter all receipts from services rendered for ultimate consumption or use within New York State which are directly connected with the sale or furnishing of each commodity.

Line 24 - Deductions allowed from gross operating income are the following:

— the taxpayer's cost of utilities resold on which the tax under Section 186-a was paid by the utility which sold the commodity to the taxpayer,

— uncollectible accounts, and

— taxes imposed by New York State or its municipalities or the federal government where the taxpayer is merely a collecting agency for the taxing authority (e.g., state and local sales tax, federal excise taxes).

Enter all deductions listed above which are included as receipts on lines 21 and 22.

Schedule B - Computation of Gross Operating Income from Supplemental Telephone Services

Taxpayers such as hotels, motels, hospitals or apartment houses within New York State, which supplement for their guests or tenants, telephone facilities and services supplied by a telephone company, are engaged in the sale of telephone service and are required to complete Schedule B and compute gross operating income. Also, taxpayers within New York State which sell or furnish telephone facilities and services supplied by a telephone company, through the use of customer owned currency operated telephones COCOTS (e.g., coin-operated telephones), are engaged in the sale of telephone service and are required to complete Schedule B and compute gross operating income.

Gross operating income includes:

— receipts from the sale or furnishing of telephone facilities and services which are identifiable, such as in bills rendered or in lease agreements, whether at flat or specified rates and

— receipts from the sale or furnishing of telephone facilities and services through the use of coin-operated telephones.

In determining gross operating income, receipts include cash, credits, and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services or other costs, interest or discount paid, or any other expense (except as stated below at line 29).

Line 26 - Enter all receipts from the sale or furnishing of telephone facilities and services to guests or tenants. Enter all receipts from the sale or furnishing of telephone facilities and services through the use of coin-operated telephones. Include all receipts from intrastate, interstate and foreign telephone calls.

Line 27 - Enter all receipts from services rendered to guests or tenants which are directly connected with the sale or furnishing of telephone facilities and services. Enter all receipts from services rendered which are directly connected with the sale or furnishing of telephone facilities and services through the use of coin-operated telephones.

Line 29 - Deductions allowed from gross operating income are the following:

— charges paid by the taxpayer to a telephone company for telephone facilities and services supplied by the taxpayer to tenants or guests on which the tax under section 186-a was paid by such telephone company,

— uncollectible accounts, and

— taxes imposed by New York State or its municipalities or the federal government where the taxpayer is merely a collecting agency for the taxing authority (e.g., state and local sales tax, federal excise taxes).

Enter all deductions listed above, which are included as receipts at lines 26 and 27.

Schedule C - Computation and Allocation of Gross Operating Income from Telephone and Telegraph Companies and Transmission Companies

General Information

Taxpayers such as telephone companies, telegraph companies, transmission companies, resellers of telephone services (other than hotels, motels, hospitals, COCOTS and other supplementary telephone service providers included in Schedule B), providers of one-way paging services and providers of two-way mobile radio services which sell or furnish telephone or telegraph transmission services in New York State are required to complete Schedule C and compute gross operating income.

Gross operating income includes the following:

— intrastate gross operating income,

— interstate gross operating income allocated to New York State, and

— foreign gross operating income allocated to New York State.

Interstate and foreign gross operating income allocated to New York State is computed by using either the formula rule allocation method or accounting rule allocation method.

Allocation — Formula Rule Allocation Method

Use this method to allocate interstate and foreign gross operating income if you do **not** employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes or if the accounting rule method does not properly reflect the amount of gross operating income from interstate and foreign transmission services attributable to New York State.

Taxpayers using the formula rule allocation method must complete Schedule C, Part IV, and compute a property factor percentage which is used to determine the amount of gross operating income from interstate and foreign transmission services attributable to New York State.

Allocation — Accounting Rule Allocation Method

Use this method to allocate interstate and foreign gross operating income if you employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes and these accounts reflect the amount of gross operating income from interstate and foreign transmission services attributable to New York State.

Note: A taxpayer using the accounting rule allocation method should write to the Tax Department before completing Form CT-186-A.

Effective on July 1, 1989, and thereafter, intrastate gross operating income includes receipts from the sale or furnishing of intrastate telephone or telegraph transmission services within New York State whether or not for ultimate consumption or use by the purchaser.

Effective on July 1, 1989, and thereafter, interstate and foreign gross operating income includes revenues (i.e., receipts) allocated to New York State from the sale or furnishing of interstate and foreign telephone or telegraph transmission services whether or not for ultimate consumption or use by the purchaser.

In determining gross operating income, receipts include cash, credits and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services or other costs, interest or discount paid, or any other expense, except for the deductions listed below.

Gross operating income from telephone and telegraph transmission services includes receipts such as the following:

— local service receipts from subscriber's stations, public telephones, service stations, local private lines and other local service receipts,

— toll service receipts from message calls, wide area toll services, toll private line services and other toll service receipts,

— miscellaneous receipts from commissions, directory advertising and sales, rent receipts, general service receipts, license receipts and other miscellaneous receipts, and

— any other transmission receipts.

Deductions allowed from receipts comprising gross operating income are:

— The cost of resold carrier access services **purchased within New York State** by an interexchange telephone company from an exchange telephone company. Interexchange telephone companies which claim this deduction must complete Schedule C, Part II.

— To eliminate double taxation of receipts under section 186-a, the cost of telephone or telegraph transmission services resold in New York State on which the tax under section 186-a was previously paid. Do not include any carrier access services previously deducted in Schedule C, Part II. To claim this deduction, complete Schedule C, Part III.

— Cash discounts (including EDZ 3% rate reduction) taken by customers on transmission services. To claim this deduction, complete Schedule C, Part III.

— Uncollectible accounts from the sale of transmission services. To claim this deduction, complete Schedule C, Part III.

— Taxes imposed by New York State or its municipalities or the federal government for which they are merely a collecting agency for the taxing authority (e.g., state and local sales tax, federal excise tax). To claim this deduction, complete Schedule C, Part III.

Enter all deductions listed above which are included as receipts on line 31, 32 or 33. All these deductions, with respect to interstate and foreign transmission service are taken prior to allocation to New York State and no deduction is allowable unless the deduction is initially included as a part of receipts, except a deduction for bad debts may relate to receipts included as taxable on a prior return.

Line-by-Line Instructions for Schedule C

Part I - Computation and Allocation of Gross Operating Income

Line 31

Column A — Enter all receipts which constitute gross operating income from intrastate telephone and telegraph transmission services within New York State. If you employ a Uniform System of Accounts as prescribed for federal or state regulatory purposes, enter the amount of receipts which constitute gross operating income from New York intrastate transmission services reflected in these accounts.

Column B — Enter deductions from Part II, line 35, or Part III, line 38.

Line 32

Column A — If you use the formula rule allocation method, enter all receipts from all interstate telephone and telegraph transmission services. A taxpayer using the accounting rule allocation method should contact the Tax Department for instructions before completing line 32.

Column B — Enter deductions from Part II, line 36, or Part III, line 39.

Column D — Enter the formula rule allocation percentage from Part IV, line 48.

Line 33

Column A - If you use the formula rule allocation method, enter all world-wide receipts from international and foreign telephone and telegraph transmission services. A taxpayer using the accounting rule allocation method should contact the Tax Department for instructions before completing line 33.

Column B — Enter deductions from Part II, line 37, or Part III, line 40.

Column D — Enter the formula rule allocation percentage from Part IV, line 48.

Part II - Interexchange Telephone Company Deduction for Carrier Access Service from January 1, 1991, to December 31, 1991

This part is to be completed by an interexchange telephone company that purchases carrier access service within New York State from an exchange telephone company and the interexchange telephone company resells the carrier access service to the consumer. This deduction is **not** available for carrier access services that are **not** resold to customers.

The interexchange telephone company is one who sells interexchange telephone service (whether intrastate, interstate or foreign) to the public as a common carrier and has obtained a certificate of convenience and necessity issued by the Federal Communication Commission or the New York Public Service Commission.

Column A — List the name of each exchange telephone company from whom you purchased carrier access service within New York State. The 41 exchange telephone companies within New York State are listed on TSB-M-89(9)C.

Column B — Enter the cost of carrier access services purchased within New York State from each exchange telephone company listed in column A, on which the exchange telephone company has paid the 186-a tax on such carrier access services. The cost of carrier access services purchased on which the 186-a tax has been paid by the exchange telephone company should be identifiable as a separate item on the bill rendered by the exchange telephone company.

Column C — Enter for each carrier access service listed in column B, the cost of the carrier access service which is attributable to intrastate, interstate or foreign transmission services.

Part III - Other Deductions from Gross Operating Income from January 1, 1991, to December 31, 1991

Column A — List in this column a description of each deduction that is being claimed (i.e., cash discount, uncollectible accounts, state or local sales taxes, federal excise tax, double taxation of receipts, etc.) - see Schedule C, *General Information*.

Column B — Enter for each deduction listed in column A the amount of the deduction which is being claimed.

Column C — Enter for each deduction listed in column B, the amount of the deduction that is attributable to intrastate, interstate or foreign transmission services.

Part IV - Computation of property factor

Line 41 - Enter the average value of real property owned within New York State and everywhere which is used in connection with interstate and/or foreign transmission services. Average value means the cost of real property without allowance for depreciation or amortization. Average value is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly or daily. The same method of valuation must be used with respect to real property within New York State and everywhere. Real property shall be determined to be located within New York State if it is physically situated or located in New York State.

Line 42 - Enter the average value of real property rented to the taxpayer within New York State and everywhere which is used in connection with interstate and/or foreign transmission services. The average value of real property rented to the taxpayer is determined by multiplying gross rents payable during the period covered by this return by eight. Gross rents include any amount payable as rent or in lieu of rent, such as interest, insurance, taxes, repairs, etc., and amortization of leasehold improvements that revert to the lessor at the termination of the lease. Real property rented shall be determined to be located within New York State if it is physically situated or located in New York State.

Line 43 - Enter the average value of tangible personal property owned within New York State and everywhere which is used in connection with interstate and/or foreign transmission services. Tangible personal property means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise. It does not mean money, deposits in banks, shares of stock, bonds, notes, credits or evidences of an interest in property or debt, or intangible assets. Average value means the cost of tangible personal property without allowance for depreciation or amortization. Average value is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly or daily. The same method of valuation must be used with respect to tangible personal property within New York State and everywhere. Tangible personal property shall be determined to be within New York State if it is physically situated or located in New York State.

Line 44 - Enter the average value of tangible personal property rented to the taxpayer within New York State and everywhere which is used in connection with interstate and/or foreign transmission services. The average value of tangible personal property rented to the taxpayer is determined by multiplying gross rents payable during the period covered by this return by eight. See line 42 instructions for definition of gross rents. Tangible personal property rented shall be determined to be within New York State if it is physically situated or located in New York State.

Line 45 - Enter the average value of intangible assets owned within New York State and everywhere which are used in connection with interstate and/or foreign transmission services. Intangible assets include but are not limited to such items as patents, franchises and copyrights. Average value means the cost of intangible assets without allowance for depreciation or amortization. Average value is generally computed on a quarterly basis, but you may use a more frequent basis such as monthly, weekly or daily. However, you must use the same method of valuation with respect to intangible assets within New York State and everywhere. Intangible assets are determined to be within or without New York State by allocating them to the commercial domicile of the taxpayer.

Line 46 - Enter the average value of extraterrestrial property within New York State and everywhere which is used in connection with interstate and/or foreign transmission services. Extraterrestrial property refers to property such as communication satellites whether owned, rented or leased. Average value means cost without allowance for depreciation or amortization or if rented, the gross rental times eight. To determine the average value of extraterrestrial property within New York State multiply the average value of extraterrestrial property everywhere by a percentage determined as follows:

Average value of satellite repeater facilities, earth stations, or other satellite communication facilities within New York State used in connection with interstate and/or foreign transmission services

divided by

Average value of satellite repeater facilities, earth stations, or other satellite communication facilities everywhere used in connection with interstate and/or foreign transmission services.