New York State Department of Taxation and Finance

CT-245-I

Instructions for Form CT-245

Maintenance Fee and Activities Report of Foreign Corporations Disclaiming Tax Liability

Tax Law - Article 9, Section 181.2

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, except those foreign corporations listed in the last paragraph of the above section, who are authorized to do business in New York State must pay an annual maintenance fee of $300 when disclaiming tax liability.

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).

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

Short Periods - Maintenance Fee

The Tax Law allows a reduction of the maintenance fee for periods of 9 months or less:

Period	Maintenance Fee Due
6 months or less	$150
More than 6 months but not more than 9 months	$225
The full amount of the maintenance fee is due for periods of more than 9 months	$300

When to File

File this return within two and one-half months after the end of your annual reporting period. New York State Tax Law does not provide for an extension of time to file Form CT-245.

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. You may call the Taxpayer Assistance Bureau for the current rate or to have the interest computed for you. From within New York State call 1 800 CALL TAX (1 800 225-5829); from outside New York State call (518) 438-8581.

Late Filing - Additional Charges

Corporations which pay the maintenance fee will be subject to the penalties imposed under Section 1085 of Article 27 as if they were taxpayers under Article 9 or Article 9A.

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, 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 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 people for profit. Regardless of the nature of its activities, a corporation organized for profit and carrying out any activities for that purpose is deemed to be *doing business* and subject to the tax. It is immaterial whether its activities result in a profit or loss.

The term *employing capital* includes any use of assets in maintaining or aiding the corporate enterprise or activity in New York State.

Foreign Banking Corporations Subject To Tax Under Article 32

A foreign banking corporation or association described in sections 1452(a)(1) - (8) of Article 32 that is 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 but not the maintenance fee under section 181.

Only foreign banking corporations described in section 1452(a)(9) of Article 32 are subject to the maintenance fee and activities report (Form 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, or vault, if pledged as collateral security, or deposited in safekeeping or custody accounts with 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.

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).