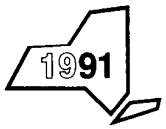

Instructions for Form CT-4-S New York S Corporation Franchise Tax Return Short Form for Small Businesses

Who Must File

All federal S corporations whose shareholders have filed Form CT-6 and received approval to be treated as a New York S corporation must file Form CT-3-S or Form CT-4-S.

A federal S corporation that may qualify for New York S status includes all corporations except:

— Banking corporations (Article 32)
— Insurance corporations (Article 33)
— Transportation and transmission corporations (Article 9)
— Utility companies (Article 9)
— Farmers and agricultural cooperatives (Article 9)
— Nonstock, not-for-profit corporations (however these may be subject to an unrelated business income tax under Article 13)

Who May Use the Short Form

Form CT-4-S is a simplified New York S corporation franchise tax return that will meet the filing needs of most small businesses who have been approved to file as a subchapter S corporation in New York State.

You may use this form if the corporation meets **all** of the following conditions:

— your entire net income is $200,000 or less,
— your gross payroll is $1,000,000 or less,
— you are not terminating its election to be a New York S corporation,
— you have no investment income,
— you do not allocate income within and outside of New York State,
— you do not claim any tax credits or tax credit recaptures,
— you do not claim a net operating loss,
— you do not have a subsidiary, and
— you qualify as a small business taxpayer.

A corporation qualifies as a small business taxpayer if:

— its entire net income is not more than $290,000,
— the total amount of money and other property it received for stock, as a contribution to capital and as paid-in surplus is not more than $1 million on the last day of its tax year, and
— it is not part of an affiliated group, as defined in IRC section 1504, unless the group itself would have met the above criteria if it had filed a combined return.

You **must** file Form CT-3-S if you do not meet all the criteria in this section (including qualified small business taxpayers with entire net income (ENI) between $200,000 and $290,000).

When and Where to File

File your return within 2½ months after the end of your reporting period. If you are reporting for the 1991 calendar year, file your return on or before March 16, 1992.

Mail returns to:

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

If you cannot meet the filing deadline, you may request a six-month extension of time by filing Form CT-5.4. No additional extension to file Form CT-4-S will be granted beyond the original extension.

You may be subject to other business taxes such as:

— Sales and use tax
— Employer's withholding tax
— Motor fuel taxes
— Highway use taxes
— Tax on sales or use of petroleum
— Independently procured insurance tax.

For more information contact the Taxpayer Assistance Bureau. For forms and publications, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073. For information, 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. Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday. If you need to write, please address your letter to:

NYS Tax Department
Taxpayer Assistance Bureau
W. A. Harriman Campus
Albany, NY 12227

Interest and Penalties

Failure to Provide Shareholder Information on Time

If you don't provide shareholder information (e.g., all items of income, loss, deduction and other pertinent information) on time, you will have to pay a penalty (section 685(h)(2)). The penalty is $50 per shareholder per month or fraction of a month up to a total of $250 per shareholder. You will also have to pay a penalty of $50 for each shareholder whose social security number you do not show (section 685(k)). All shareholders of the S corporation during any part of the tax year must be counted. The penalty may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect. The maximum penalty in any calendar year is $10,000.

Late Payment - Interest

You must pay the entire tax due on or before the original due date of the return to avoid a late payment charge. An extension of time for filing the tax return does not extend the due date for payment of tax.

If you do not pay the tax due on or before the original due date you must pay interest on the amount of the underpayment from the due date to the date paid. Interest is **always due**, without any exceptions, on any underpayment of tax.

Interest is compounded daily. 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, call (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 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 due date, the addition to tax under *a* 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 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* (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).

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 item 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)).

Privacy Notification

Our authority to require and maintain 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.

We will use this information primarily to determine New York State corporation tax liabilities under Article 9-A of the Tax Law. We will also use it for tax administration 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 the return.

Your failure to provide the required 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 or criminal penalties under Article 37 of the Tax Law, or both.

This information will be maintained by the Director, Data Management Services Bureau, NYS Tax Department, Building 8, Room 905, W. A. Harriman Campus, Albany, NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from outside New York State, call (518) 438-8581.

Mailing Label

Use the mailing label provided by the Tax Department.

If you are not using the label, please include your employer identification number and file number on each form filed. These numbers may be copied directly from the label.

Line Instructions for Form CT-4-S

Reporting Period

Your tax year for New York State must be the same as your federal tax year. If it is not a calendar year, be sure to enter the correct reporting period at the top of the front page of your return.

Principal Business Activity

Enter the one activity that accounts for the largest percentage of your total 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 the business activity code number from your federal return.

Line A - Payment

After completing your return enter the amount of your payment enclosed. This must be the full amount shown on line 13.

Computation of Entire Net Income Base

Line 1 - Enter the amount of federal taxable income that you would have reported on federal Form 1120, line 28, had the New York S corporation not made the election under Subchapter S of Chapter one of the IRC and filed federal Form 1120 instead of federal Form 1120S. Attach a statement (or a pro forma federal Form 1120) showing the computation of federal taxable income required to be shown on federal Form 1120, line 28. The statement or pro forma federal Form 1120 must include the following items not reported on federal Form 1120S:

— dividend income from federal Form 1120, line 4
— interest income from federal Form 1120, line 5
— gross rental income from federal Form 1120, line 6
— gross royalty income from federal Form 1120, line 7
— capital gain net income from federal Form 1120, line 8
— net gain or (loss) from federal Form 1120, line 9
— contribution deductions from federal Form 1120, line 19

Line 2 - Enter all interest received or accrued from federal, state, municipal and other obligations that was exempt from taxation on your federal income tax return and is, therefore, not included on line 1. You may deduct from this amount any expenses attributable to that interest but denied deductibility under IRC section 265. Attach a list of items included on this line.

Line 3 - Enter the amount deducted on your federal return for New York taxes imposed under Article 9-A, Article 32 or sections 183, 183-a, 184 and 184-a of Article 9. Include the amount deducted for taxes paid or accrued to other U.S. states, their political subdivisions and the District of Columbia, if they are on or are measured by profits or income, or include profits or income as a measure of tax, including taxes expressly in lieu of the foregoing. However, do not include New York City taxes.

Line 4 - Before making an entry on line 4, complete Form CT-399. Enter the amount of your federal Accelerated Cost Recovery System (ACRS) or Modified Accelerated Cost Recovery System (MACRS) deduction that must be added back to federal taxable income from Form CT-399, line 4, or if you disposed of property this year, use the amount from line 12, column A of Form CT-399.

Line 6 - In place of the disallowed ACRS or MACRS deduction entered on line 4, enter the amount from Form CT-399, line 5, column I, or if you disposed of property this year, enter the amount from line 12, column B. Attach Form CT-399.

Line 7 - Subtract line 6 from line 5. This is your entire net income. If this line is **over** $200,000, do not continue; you must use Form CT-3-S. If the tax period is less than 12 months, the entire net income on this line must be annualized to determine filing status. Multiply entire net income on this line by 12 and divide by the number of months in the short period. If your annualized entire net income is over $200,000, you must file Form CT-3-S.

Computation of Tax

Line 8 - An S corporation that qualifies as a small business corporation and does not allocate, has $200,000 or less of entire net income and has a gross payroll of less than $1,000,000 will always owe the fixed dollar minimum tax of $325, which may be prorated for short periods. The proration is as follows: 6 months or less - $162.50, more than 6 months but not more than 9 months - $243.75, more than 9 months - $325.00.

Lines 11 and 12 - If you are not filing this return on time you must pay interest and additional charges. See *Interest and Penalties* on page 1.

Lines 17 and 18 - Every corporation with an interest in real property located in New York State must 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 for the enforcement of this tax (Article 31-B, section 1449-a, Tax on Gains Derived from Certain Real Property Transfers).

Controlling interest is either 50% or more of the total combined voting power of all classes of stock or 50% or more of the capital, profits or beneficial interest in voting stock.

Answer both questions. If you answer *Yes* to both questions, attach a separate sheet 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.

Line 19 - Use the worksheet below to determine the amount to be entered on line 19. Use your balance sheet amounts for stock and other paid-in capital.

	No. of shares	Amount
Par value stock		
No par stock		
Contribution to capital & paid in surplus		
Total capital contribution - enter on line 19		

Shareholder Information, Part I

Enter complete information for all individuals, estates and trusts who were shareholders of the corporation during any part of the tax year. Attach a separate sheet if necessary. Check box on return if separate sheet is attached. The total number of shareholders listed must agree with the number entered in the box on the front of the return.

Shareholder Information, Part II

Lines 20 through 38 — Complete lines 20 through 38 for each shareholder of the electing New York S corporation showing the pro rata share of the S corporation's items of income, loss and deduction to the extent included in federal adjusted gross income as shown on Schedule K-1 filed with federal Form 1120S.

For lines 22 and 30, attach a separate schedule showing the nature and amount of each item for each shareholder.

Line 32 — A shareholder with tax preference items may be required to file Form IT-220, *Minimum Income Tax*. See Form IT-220 and the instructions for Form IT-220 for definitions of tax preference items, filing requirements and tax computation.

Line 37 — Attach a separate schedule showing the nature and amount of each item for each shareholder.

Shareholder Information, Part III

The following adjustments must be added to or subtracted from each shareholder's federal adjusted gross income or federal itemized deductions on their individual New York State income tax return in arriving at total New York income and New York itemized deductions, respectively.

If a New York S corporation is on a fiscal year basis, the amount of any listed adjustment for the shareholders will be their pro rata share determined as of the end of the S corporation year ending within the shareholder's tax year.

Use lines 39 through 43 to list only those changes that apply to federal adjusted gross income on the individual returns of shareholders. Use lines 44 and 45 to list those changes that apply to federal itemized deductions.

Additions

Line 39 New York State franchise tax — Enter the franchise tax imposed under Article 9-A that was deducted in computing each shareholder's pro rata share of S corporation income (section 612(b)(3)).

Line 40 Accelerated cost recovery system (ACRS) and modified accelerated cost recovery system (MACRS) deductions — Enter the ACRS and MACRS deductions from Form CT-399, line 12, column A (section 612(b)(25). Attach a copy of Form CT-399 to your CT-4-S return.

Line 41 Other additions — Identify by item number on a separate schedule any of the following additions that apply to each shareholder's pro rata share of the New York S corporation income, loss and deduction and enter the total of these additions that apply to each shareholder in the proper column on line 41.

A-1 Interest income on state and local bonds (except those of New York State and its political subdivisions) to the extent not included in federal adjusted gross income (section 612(b)(1)).

A-2 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality that federal laws exempt from federal income tax but not from state income taxes (section 612(b)(2)).

A-3 Amounts deducted for interest on loans used to buy bonds and securities whose interest is exempt from New York State tax, expenses relating to income exempt from New York State tax and amortization of bond premium whose bond interest is exempt from New York State tax (section 612(b)(4) and (5)).

A-4 Any amount that has to be added to your federal adjusted gross income if you made an election under the Tax Law for tax years beginning before 1987 for additional depreciation or research and development expenditures, waste treatment facility expenditures, air pollution control equipment expenditures or acid deposition control equipment (section 612(b)(6)). See subtraction S-9.

A-5 Any amount deducted for percentage depletion on mines, oil and gas wells and other natural deposits (section 612(b)(10)).

A-6 Amounts required under the Tax Law relating to the distributive or pro rata share of allocated entire net income, or the distributive or pro rata share of loss included on Form CT-4-S, from an insurance business operating as a member of the New York Insurance Exchange (section 617-a).

A-7 Safe Harbor Leases — Any amount that was deducted in figuring your federal adjusted gross income (except for mass transit vehicles) solely because of an election made under section 168(f)(8) of the Internal Revenue Code, as it was in effect for agreements entered into prior to January 1, 1984 (section 612(b)(23)).

A-8 Safe Harbor Leases — Any amount that would have been included in federal adjusted gross income (except for mass transit vehicles) had the election under section 168(f)(8) of the Internal Revenue Code, as it was in effect for agreements entered into prior to January 1, 1984, not been made (section 612(b)(24)).

A-9 Tax on Petroleum Business — The amount of gross receipts tax imposed before June 1, 1990 on petroleum businesses under Article 13-A that was deducted in figuring each shareholder's pro rata share of S corporation income (section 612(b)(28)).

A-10 Reduction for Taxes — An amount equal to each shareholder's pro rata share of the S corporation's reductions for the federal tax on certain built-in gains and tax on certain passive investment income (section 612(b)(18)).

A-11 The amount of special additional mortgage recording tax that was excluded or deducted in figuring your federal adjusted gross income to the extent the credit was taken (section 612(b)(15)). For information about the special additional mortgage recording tax credit, see Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

A-12 The amount of special mortgage recording tax paid when the property for which the tax was paid is sold or disposed of at a gain or loss and the basis of such property was not adjusted by the special additional mortgage recording tax credit (section 612(b)(16) of the Tax Law).

A-13 New business investment - deferral recognition — The amount of capital gain deferred on the sale of a capital asset if the new business investment property is sold (section 612(b)(22).

A-14 Five percent of the deduction for interest related to corporate acquisitions (section 612(b)(30). If this addition applies, complete Form IT-244, *Acquisition Information Report*.

Subtractions

Line 42 New York depreciation — Enter the total New York depreciation from Form CT-399, line 12, column B (section 612(c)(26)).

Line 43 Other subtractions — Identify by item number on a separate schedule any of the following subtractions that apply to each shareholder's pro rata share of the New York S corporation income and enter the total of these subtractions that apply to each shareholder in the proper column on line 43.

S-1 Interest income on bonds or other obligations of the United States government included as income on Form CT-4-S. Include qualified dividends from regulated investment companies (mutual funds) that invest in obligations of the United States government and meet the 50% asset requirement (section 612(c)(1)).

S-2 Interest or dividend income on bonds or securities of any United States authority, commission or instrumentality included as income on Form CT-4-S, but exempt from state income taxes under federal laws (section 612(c)(2)).

S-3 Interest or dividend income included on Form CT-4-S on bonds or securities to the extent exempt from New York State income taxes (section 612(c)(6)).

S-4 Interest expense on money borrowed to buy or carry bonds or securities the income from which is subject to New York State income tax but exempt from federal income tax, provided this interest was a business expense for the tax year and was not deducted in figuring S corporation income (section 612(c)(9)).

S-5 Ordinary and necessary business expenses paid or incurred during the tax year in connection with income, or property held to produce income, that is subject to New York State income tax but exempt from federal income tax, provided these expenses were not deducted in figuring S corporation income (section 612(c)(10))

S-6 Amortization of bond premium attributable to the tax year on any bond whose interest income is subject to New York State income tax but exempt from federal income tax, provided this amortization was a business expense for the tax year and was not deducted in figuring S corporation income (section 612(c)(10)).

S-7 The amount of wages and salaries paid or incurred during the tax year for which a salaries deduction is not allowed with regard to claiming the federal targeted jobs credit (section 612(c)(15)).

S-8 Cost depletion figured according to federal tax law on property where percentage depletion (addition A-5) was added on line 41 (section 612(c)(13)). Further, in the case of sale or exchange of such property, the excess of the New York basis over the federal basis.

S-9 Special depreciation expenditures or carryover of research and development expenditures incurred in tax years beginning before 1987 in connection with depreciable tangible business property located in New York State (section 612(c)(11)). For more information see Form IT-212, *Special Depreciation Schedules and Instructions*. Also see addition A-4.

S-10 Any amount included on Form CT-4-S that is the distributive or pro rata share of income or gain from an insurance business operating as a member of the New York Insurance Exchange (section 617-a).

S-11 Safe Harbor Leases — Any amount that was included in federal adjusted gross income (except for mass transit vehicles) solely because of an election made under section 168(f)(8) of the Internal Revenue Code, as it was in effect for agreements entered into prior to January 1, 1984 (section 612(c)(24)).

S-12 Safe Harbor Leases — Any amount that could have been excluded from federal adjusted gross income (except for mass transit vehicles) had the election under section 168(f)(8) of the Internal Revenue Code, as it was in effect for agreements entered into prior to January 1, 1984, not been made (section 612(c)(25)).

S-13 The part of any gain included in federal adjusted gross income from the sale or other disposition of (1) property which had a higher basis for New York income tax than for federal income tax on December 31, 1959 (or on the last day of a fiscal year ending during 1960) and (2) property held in connection with mines, oil or gas wells, and other natural deposits which have a higher adjusted basis for New York State income tax, which does not exceed this difference in basis (sections 612(c)(4) and 612(c)(13).

S-14 New business investment exclusion - The amount of gain to be subtracted from the sale of a New York new business investment that was included in federal adjusted gross income (section 612(c)(20).

Lines 44 and 45 should be used only for changes that apply to federal itemized deductions on the individual returns of shareholders and should exclude any amounts properly reportable on lines 39 through 43. Attach a statement identifying by item number any of the following changes that relate to New York S corporation items of the shareholders' federal itemized deductions.

Line 44 Additions to federal itemized deductions

A Interest expense on money borrowed to buy or carry bonds or securities subject to New York State income tax, but exempt from federal income tax if this interest was not deducted on the federal return or subtracted on line 43.

B Ordinary and necessary expenses paid or incurred during the tax year in connection with income, or property held to produce income, that is subject to New York State income tax but exempt from federal income tax if these expenses were not deducted on the federal return or subtracted on line 43.

C Amortization of bond premium attributable to the tax year on any bond whose interest is subject to New York State income tax but exempt from federal income tax if this amortization was not deducted on the federal return or subtracted on line 43.

Line 45 Subtractions from federal itemized deductions

A State, local and foreign income taxes.

B Interest expense on money borrowed to buy or carry bonds or securities whose income is exempt from New York State income tax.

C Ordinary and necessary expenses paid or incurred in connection with income or property held to produce income that is exempt from New York State income tax.

D Amortization of bond premium attributable to the tax year on any bond whose interest is exempt from New York State income tax.

Line 46 New York adjustments to federal tax preference items — See the instructions for Form IT-220 for an explanation of the required adjustments. On an attached schedule give details of the adjustments to the federal tax preference items for each shareholder.