



Instructions for Form CT-186

Utility Corporation Franchise Tax Return

Tax Law — Article 9, Section 186

Who Must File

Anyone who is taxable under Article 9, section 186 must file Form CT-186. This includes corporations, joint-stock companies, associations taxable as corporations or publicly traded partnerships taxable as corporations formed for or principally engaged in the business of supplying electricity, water, steam, or gas when delivered through mains or pipes. The tax is computed on gross earnings received from the employment of capital plus a tax on dividends paid for the tax year January 1 to December 31, 1993. You must report income for the calendar year even if you maintain your records and report to the IRS using a fiscal accounting period.

If you import (or cause to be imported) natural gas to be used or consumed in New York State, you may also have to file Form CT-189. For more information refer to the instructions for Form CT-189 or call the Business Tax Information Center toll free (from the continental U.S. only) 1 800 972-1233. You can also call toll free (from New York State only) at 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

When and Where to File

Mail completed returns to: **NYS Corporation Tax, Processing Unit, P O Box 1909, Albany NY 12201-1909** on or before March 15, 1994.

If you cannot meet the filing deadline, ask for a three-month extension of time by filing Form CT-5.9 and paying any tax and state tax surcharge due on or before March 15, 1994. 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.

Change of Business Information

If there have been any changes in your business name, identification 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, also check the box next to the name and address on Form CT-186.

Real Property Gains Tax (Article 31-B, section 1449-a)

A corporation with an interest in real property located in New York 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 necessary for the enforcement of Article 31-B.

Controlling interest of a corporation 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 that voting stock.

If you answered *Yes* to both questions on page one, attach a separate sheet with 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; and
- location of real property.

Independently Procured Insurance Tax — Article 33-A

If you purchase or renew a taxable insurance contract from an insurer not authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Insurance, you will be liable for a tax of 3.6% of the premium (see Form CT-33-D or TSB-M-90(9)C for more information).

Foreign Corporations — Maintenance Fee and License Fee

A corporation organized outside New York State (foreign corporation) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay an annual maintenance fee of \$300 or its equivalent in New York State franchise taxes will result in annulment of the authorization. Payments of the franchise tax, state tax surcharge and MTA surcharge on New York State franchise tax returns (except the report of license fee on Form CT-240) are counted as payments towards the \$300 annual maintenance fee. If the total franchise tax, state tax surcharge and MTA surcharge paid on New York State franchise tax returns for 1993 is \$300 or more, you have satisfied the requirement to pay the \$300 annual maintenance fee. If the total franchise tax, state tax surcharge and MTA surcharge paid on New York State franchise tax returns for 1993 is less than \$300, enter on Form CT-186, line 9 the additional amount needed to satisfy the requirement to pay the \$300 annual maintenance fee.

Example:

Form CT-186 - total tax and state tax surcharge	\$143.75
Form CT-186-P - total tax and state tax surcharge	<u>51.50</u>
Total 1993 tax and state tax surcharge	\$195.25
Maintenance fee	<u>300.00</u>
Balance of maintenance fee due	\$104.75
Tax due on Form CT-186	<u>143.75</u>
Enter on line 9	\$248.50

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

Metropolitan Transportation Business Tax (MTA Surcharge)

Any corporation taxable under Article 9, section 186, that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-M and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Corporate Partners

Under Article 9, section 186, receipts of a partnership *pass through* to its corporate partners.

If a partnership is principally engaged in an Article 9, section 186, activity within New York State, each corporate general partner is engaged in the activity of the partnership and is deemed to be doing business in New York State. If the corporate general partner receives more than 50% of its gross earnings from section 186 activities or derives more than 50% of

its gross earnings from the partnership, it is subject to tax under Article 9, section 186. To make this determination the corporate general partner must take into account all of its receipts including its proportionate share of the receipts from the partnership.

If a foreign corporation is a limited partner in a partnership engaged in an Article 9, section 186, activity within New York State and is subject to New York State tax jurisdiction pursuant to Article 9-A regulation (section 1-3.2), the limited foreign corporate partner is subject to section 186 taxation if more than 50% of its gross earnings (including its proportionate share of the gross earnings of the partnership) are derived from section 186 activity or if more than 50% of its gross earnings are derived from the partnership.

Line A - After completing your return, enter the amount of your payment. Your payment should be the full amount shown on line 17.

Line 6 - You may take a credit against your franchise tax for any 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 \$300 maintenance fee. You may carry any unused credit forward. Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

Line 8 - 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% state tax surcharge.

A 15% tax surcharge applies to tax years ending on December 31, 1990, 1991, 1992 and 1993. A 10% tax surcharge applies to the tax year ending on December 31, 1994.

The tax surcharge is computed on the tax **before** the deduction of gross earnings received from a financial resource asset.

The tax surcharge is computed on the tax **after** the deduction of any tax credits.

Once computed, the surcharge cannot be reduced by the special additional mortgage recording tax credit.

The state tax surcharge does not apply to the MTA surcharge.

Line 10b - If you did not file Form CT-5.9 and the amount on line 9 (franchise tax plus state tax surcharge) is more than \$1,000, you must pay a mandatory 25% first installment of estimated tax for 1994.

Additional installments for 1994, Form CT-400 - If the franchise tax plus tax surcharge for 1994 is expected to exceed \$1,000, additional installments of estimated tax must be filed on June 15, September 15 and December 15. Use Form CT-400 to file and pay the additional installments of estimated tax for 1994.

Line 14 - If you do not pay the tax and state tax surcharge on or before the due date (without regard to any extension of time), you must pay interest on the amount of the underpayment from the due date to the date paid. Exclude from the interest computation any amount shown on line 10. You may call the Taxpayer Assistance Bureau for the current rate or to have the interest computed for you. Refer to *Who Must File* on the front page for telephone numbers.

Line 15 - Additional charges for late filing and late payments are computed on the amount of tax and state tax surcharge less any

payment made on or before the due date. Exclude from the penalty computation any amount shown on line 10.

- 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 16 - If you can reasonably expect your New York State tax liability on Form CT-186 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 a Corporation*.

Schedule A - Computation of Gross Earnings Tax and Allocation Percentage/Issuer's Allocation Percentage

On lines 23 through 26, enter gross earnings attributable to New York State in column A and total gross earnings everywhere in column B.

Gross earnings are all receipts from the employment of capital without any deductions.

Do not take a deduction relating to a financial resource asset unless you attach to Form CT-186 a Certificate issued by the New York State Department of Public Service, verifying this deduction.

Your **issuer's allocation percentage** is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of New York State gross earnings compared to gross earnings from everywhere.

Recent amendments to the Tax Law require most corporations doing business in New York State to provide the information needed to compute their issuer's allocation percentage. A **penalty of \$500** will be imposed for failure to provide this information.

A taxpayer paying the minimum tax must also complete this schedule and compute their issuer's allocation percentage.

Schedule B - Computation of Allocated Dividend Tax

Line 32 - The actual amount of paid-in capital is that part of the equity that was invested in the business enterprise by shareholders.

Line 33 - If dividends are paid once a year, include the value of the paid-in capital on the declaration date. If dividends are declared and paid more than once a year, the value of paid-in capital on which these dividends were paid must be averaged by computing the value of paid-in capital on each declaration date, and dividing by the number of dividend dates.

See TSB-M-82(8)C for additional information on the computation of the tax on dividends.

Line 38 - Multiply line 37 by .045. Also enter this amount on line 2.