



# Instructions for Form CT-189-WR

# CT-189-WR-I

(2/93)

## Claim for Refund of Section 189 Tax and Tax Surcharges

Tax Law - Article 9, Section 189

### General Information

Form CT-189-WR may be used to claim a refund of tax paid under section 189 of the Tax Law. Form CT-189-WR may be used by either (a) a gas importer whose section 189 tax paid to a regulated public utility at the average annual gas price is in excess of the amount of tax that would have been paid if the tax was computed on actual consideration, (b) a gas importer who imports gas from a wholly owned out-of-state gas well, (c) a purchaser of nonimported gas who was charged section 189 tax and tax surcharge by a regulated public utility, (d) a co-generator who does not have a Form AU-260, *Direct Pay Permit*, or (e) any other gas importer who believes they are entitled to a refund of section 189 tax or tax surcharges. If the claim for refund is based upon (a) above, use Schedule A. If the claim is based upon (b) or (c), use Schedule B. If the claim is based upon (d), use Schedule C, and if it is based upon (e), use Schedule D.

Both a gas importer who imports from a wholly owned gas well and a nonimporter of gas who were charged section 189 tax and tax surcharge by a regulated public utility are entitled to a full refund of section 189 tax and tax surcharge in Schedule B.

Co-generators who did not obtain Form AU-260, *Direct Pay Permit*, and who import gas using a regulated public utility may claim a refund in Schedule C based upon overpayment to the utility and/or the exemption for co-generation facilities.

### Attachments

This claim for refund will not be processed without the proper attachments. Please attach copies of your public utility transportation bills for the months for which the refund is requested and copies of the purchase invoices showing the actual consideration paid or contracted to be paid for gas services.

A nonimporter of gas must include substantiation of the transactions showing that the gas was purchased outside the state. If natural gas is imported from other than a wholly owned gas well, such as a well owned in partnership form, it is presumed that the imported gas was purchased from the entity owning the out-of-state well. However, you may apply for a refund by attaching an explanation and substantiation of the transactions to show that the gas was not purchased by the importer but was owned directly by the importer.

### Schedule A — Refund of Tax Based on Price Differential

#### Part I - Refund of Tax and Tax Surcharge Collected by a Regulated Public Utility (Sections 189 and 189-b)

**Line A** - Enter the number of Mcf's (one thousand cubic feet of gas) of gas service imported by and delivered to you in New York State during the period covered by this report.

**Line 1** - Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**Line 2** - The actual consideration is the price of gas services, not including any reasonable transportation charges, that are separately stated. The information must be substantiated by including copies of the purchase invoices showing the actual consideration paid or contracted to be paid for gas services.

**Line 3** - Section 189 imposes tax at the rate of 4¼%.

**Line 5** - Section 189-b imposes a tax surcharge at the rate of 15% or 10% (depending on the period) upon tax computed under section 189. If you are not sure of the applicable surcharge rate, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-6581.

**Line 7** - Subtract the amount of tax liability computed on line 6 from the amount of tax paid to the regulated public utility on line 1 to determine the refund of tax and tax surcharge (sections 189 and 189-b).

#### Part II - Refund of Metropolitan Transportation Tax (MTA Surcharge) Collected by a Regulated Public Utility (section 189-a) (complete only if gas service is imported for use in the Metropolitan Commuter Transportation District)

The MTA surcharge is imposed on gas service imported by and delivered to a gas importer for use in the metropolitan commuter transportation district (MCTD). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

**Line B** - Enter the number of Mcf's of gas service imported by and delivered to you in the MCTD during the period covered by this report.

**Line 8** - Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**Line 9** - The actual consideration is the price of gas services, not including any reasonable transportation charges that are separately stated. The information must be substantiated by including copies of the purchase invoices showing the actual consideration paid or contracted to be paid for gas services.

**Line 10** - The surcharge rate of .7225% represents the section 189 tax rate of 4.25% multiplied by the MTA surcharge rate of 17%.

**Line 12** - Subtract the amount of MTA surcharge liability computed on line 11 from the amount of MTA surcharge paid to the regulated public utility on line 8 to determine the refund of MTA surcharge (section 189-a).

#### Part III - Total Refund of Section 189, 189-a and 189-b Tax and Tax Surcharges

**Line 13** - Add lines 7 and 12 to arrive at the total refund of sections 189, 189-a and 189-b taxes.

### Schedule B — Refund of the Full Amount of Sections 189, 189-a and 189-b Tax and Tax Surcharges Collected by a Regulated Public Utility

**Line 14** - Enter the total number of Mcf's (one thousand cubic feet of gas) of gas service upon which tax was collected during the period covered by the refund claim.

**Line 15** - Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**CT-189-WR-I (2/93) (back)**

**Line 16** - Enter the total number of Mcf's of gas service upon which the metropolitan transportation tax (MTA surcharge) was collected during the period covered by this refund claim.

**Line 17** - Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**Schedule C - Refund of Tax and Tax Surcharges to a Co-Generation Facility That Does Not Have a Section 189 Direct Pay Permit**

**Part I - Refund of Tax and Tax Surcharge Collected by a Regulated Public Utility Based on Price Differential (Sections 189 and 189-b)**

**Line A** - Enter the number of Mcf's of gas service imported by and delivered to you in New York State during the period covered by this refund claim.

**Line 19** - Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**Line 20** - The actual consideration is the price of gas services not including any reasonable transportation charges that are separately stated. The information must be substantiated by including copies of the purchase invoices showing the actual consideration paid or contracted to be paid for gas services.

**Line 21** - Section 189 imposes tax at the rate of 4 1/4%.

**Line 23** - Section 189-b imposes a tax surcharge at the rate of 15% or 10% (depending on the period) upon tax computed under section 189. If you are not sure of the applicable surcharge rate, 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.

**Part II - Refund of MTA Surcharge Based on Price Differential Collected by a Regulated Public Utility (Section 189-a) (Complete only if gas service is imported for use in the Metropolitan Commuter Transportation District.)**

The MTA surcharge is imposed on gas service imported by and delivered to a gas importer for use in the Metropolitan Commuter Transportation District (MCTD).

**Line B** - Enter the number of Mcf's of gas service imported by and delivered to you in the MCTD during the period covered by this refund claim.

**Line 26** - Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. This information must be substantiated by including copies of your public utility transportation bills and cancelled checks for the months for which the refund is requested.

**Line 27** - The actual consideration is the price of gas services not including any reasonable transportation charges which are separately stated. The information must be substantiated by including copies of the purchase invoices showing the actual consideration paid or contracted to be paid for gas services.

**Line 28** - The adjusted surcharge rate of .7225% represents the section 189 tax rate of 4.25% multiplied by the MTA surcharge rate of 17%.

**Part III - Refund for Co-Generation Facilities Exemption (Sections 189 and 189-b)**

A co-generation facility defined in section 2.2-a of the Public Service Law, or a qualifying facility that is a co-generation facility as defined by section 201 of the Public Utility Regulatory

Policies Act of 1978 (Public Law 95-617) and that has not been issued a direct payment permit, may compute this refund.

A refund will be allowed when gas service imported by a qualifying co-generation facility is used to generate electricity or steam that is supplied and used by a thermal energy host located at or near the project site.

To determine this refund, the total consideration for natural gas used by the facility during the period is multiplied by the ratio of the BTU value of steam and electricity supplied to and used by the host to the total BTU value of all useful steam and electricity produced by the facility during the same period.

$$\frac{\text{BTUs of steam and electricity supplied to thermal host}}{\text{Total useful BTUs produced}} = \text{Exemption percentage}$$

BTU equivalent values of steam and electricity are those used by the New York State Energy Office, e.g.:

- 1 kilowatt hour = 3,412 BTUs
- 1 pound of low pressure steam = 1,000 BTUs

**Note:** For additional steam BTU value equivalents, use ASME or NBS/NRC steam tables.

Total useful steam and electricity produced by a facility includes that produced for the host, an electric utility and any other useful purpose.

**Line 34** - Enter the section 189 tax and section 189-b tax surcharge paid to the regulated public utility for the refund period, less any refund claimed on line 25. This information must be substantiated by including copies of your public utility bills and copies of cancelled checks for the months for which a refund is requested.

**Line 35** - Multiply the tax and tax surcharge on line 34 by the exemption percentage computed on line 33 to arrive at the refund of tax and tax surcharge for the co-generation exemption.

**Part IV - Refund for Co-Generation Facilities Exemption (MCTD) (Section 189-a).**

Only a co-generation facility that qualified for the refund in Part III may qualify for this refund in Part IV. The same formula applies as described in Part III, except BTUs of steam and electricity supplied to the thermal host and total useful BTUs are limited to the MCTD. The resulting exemption percentage will be applied only against the computation of the MTA surcharge since the statewide exemption computed in Part III has already been applied against the computation of the tax and 15% tax surcharge.

**Line 39** - Enter the section 189-a MTA surcharge paid to the regulated public utility for the refund period, less any refund claimed on line 30. This information must be substantiated by including copies of your public utility bills and copies of cancelled checks for the months for which a refund is requested.

**Line 40** - Multiply the MTA surcharge on line 39 by the exemption percentage computed on line 38 to arrive at the refund of MTA surcharge for the co-generation exemption.

**Part V - Total refund of Section 189, 189-a and 189-b Tax and Tax Surcharges to Co-Generators**

**Line 41** - Add any refunds computed in Schedule B on lines 25, 30, 35 and 40.

**Privacy Notification**

Our authority to require and maintain personal information, including identifying numbers (social security numbers, etc.), is found in sections 189 and 1096 of the Tax Law.

We will use this information primarily to administer the tax on importation of gas services under Article 9 of the Tax Law and for any other purpose authorized by law.

Your failure to provide the required information may result in denial of a refund or in civil or criminal penalties, or both, under Articles 9, 27, 28 and 37 of the Tax Law.

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.