New York State Department of Taxation and Finance

CT-245-I

Instructions for Form CT-245

Maintenance Fee and Activities Return For a Foreign Corporation 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).

Form CT-245 should not be filed by a foreign corporation that files a New York State franchise tax return under Article 9, 9-A or 32. The maintenance fee is allowed as a credit against the tax due on the franchise tax return.

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 and Late Payment - Additional Charges

Corporations required to pay the maintenance fee will be subject to the penalties for late filing and late payment imposed under Section 1085 of Article 27.

Additional charges for late filing and late payment are computed on the amount of the maintenance fee less any payment made on or before the due date.

(a) If you do not file a return when due, add 5% per month to the maintenance fee, 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 the maintenance fee cannot be less than the smaller of $100 or 100% of the amount required to be shown as the maintenance fee (section 1085(a)(1)(B)).

(c) If you fail to pay the maintenance fee shown on a return, add ½% per month to the maintenance fee, 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 Article 9 or 9-A and Not Required To File the Maintenance Fee Return

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 and Not Required To File the Maintenance Fee Return (Except 1452(a)(9) Corporations)

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 and 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 return (Form CT-245).

Activities Deemed Insufficient to Subject a Foreign Corporation to Tax Under Article 9, 9-A or 32 or to the Maintenance Fee Under Section 181.2

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, identification number, mailing address, business address, telephone number or owner/officer information and you have not previously notified us, 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 to request one.

Need Help?

For forms or 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 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) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8561.

Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday.

Persons with Disabilities - In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information and assistance numbers listed above.

Hotline for the Hearing and Speech Impaired - If you have a hearing or speech impairment and have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling our toll-free hotline 1 800 634-2110 (within New York State). Hours of operation are from 9:00 a.m. to 4:15 p.m., Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.