



Instructions for Form CT-186-A

Utility Services Tax Return - Gross Operating Income

Tax Law — Article 9, Section 186-a

CT-186-A-I

Attention: If you are a telephone or telegraph company or other provider of telecommunication services, even if it is not your primary business, do not file this form; file Form CT-186-E.

1995 Legislation

Effective for tax years beginning on or after January 1, 1995, section 186-a of the Tax Law, *Tax on the Furnishing of Utility Services*, has been amended to remove the provisions subjecting telephony and telegraphy and telephone and telegraph service receipts of whatever nature to tax under that section. The charges represented by these receipts previously taxed under section 186-a are now taxed under newly enacted section 186-e, *Excise Tax on Telecommunication Services*.

Telecommunication services means telephony or telegraphy or telephone or telegraph service of any nature, including, but not limited to, any transmission of the following: voice, image, data, information and paging, through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar media or any combination thereof. *Telecommunication services* also includes services that are not telecommunication services as such, but are: (1) ancillary to the provision of telephone service (e.g., directory information, call forwarding, caller-identification, call-waiting and supplementary services) and (2) services (of whatever nature) which are incidental to the provision of telecommunication services. The charges from equipment provided in connection with the provision of any telecommunication service (e.g., beepers, telephones, fax machines, modems, etc.) are also subject to tax under section 186-e. The term telecommunication services does not apply to separately stated charges for a service that alters the substantive (information) content of the message sent.

Telecommunication services excludes television or radio programming transmitted to subscribers by cable television service.

Section 186-e imposes a 3.5% excise tax on the charges from: (1) any intrastate telecommunication services; (2) any interstate or international telecommunication services that originate or terminate in New York State and are charged to a service address in New York State (regardless of where the amounts charged are actually billed or ultimately paid); and (3) private telecommunication services attributable to New York State.

However, any person, corporation, or other entity (including a provider of telecommunication services), whether or not supervised by the Department of Public Service, who furnishes other utility services (such as gas, electricity, steam, water or refrigeration service) will continue to be subject to the tax under section 186-a on the receipts from such other services.

To facilitate the filing requirements for providers of telecommunication services subject to section 186-e, who also may have receipts subject to tax under section 186-a, a new form has been designed. If you have any receipts from telecommunication services, even if it is not your primary business, you must file Form CT-186-E to report the taxes imposed by sections 186-e and 186-a. In addition, Form CT-186-E is used to report the MTA counterpart of the section 186-e excise tax and the MTA surcharge imposed on section 186-a tax.

Note: If you have no receipts from telecommunication services, but have other receipts from the furnishing of utility services (water, gas, electricity, steam or refrigeration), then you will continue to use Form CT-186-A to report your taxes under section 186-a. In addition you will continue to use Form CT-186-A/M to report your MTA surcharge.

General Information

You must report gross operating income on a calendar year basis even if you maintain your records and report to the IRS using a fiscal accounting period.

Tax Rate

Chapter 410 of the Laws of 1991 increased the tax rate for utilities taxed under Article 9, section 186-a. Effective for periods beginning on or after January 1, 1991, the tax rate is 3.5%.

Chapter 166 of the Laws of 1991 added section 189 to Article 9 which imposes a tax upon gas importers who import, or cause to be imported, gas services into New York State for their own use. For additional information see TSB-M-91(5)C.

Who Must File Form CT-186-A

A utility, person, corporation, company, association or joint-stock association not subject to the supervision of the New York State Department of Public Service that engages in the sale or furnishing of gas, electricity, steam, water or refrigeration service through the use of mains, pipes or wires for ultimate consumption or use by the purchaser in New

York State must file this return whether or not a tax is due.

Examples of taxpayers required to file Form CT-186-A include:

- Owners of apartment buildings, office buildings, hotels, etc. within New York State who purchase gas, electricity, steam, water or refrigeration and resell or furnish any part or all of the commodity to a guest or tenant at identifiable, flat or metered rates must complete Schedule A.
- All persons including cogeneration facilities or manufacturing plants which sell gas, electricity, steam, water or refrigeration to a purchaser through the use of mains, pipes or wires must complete Schedule A.

If gross operating income does not exceed \$500 for the year, you are exempt from the payment of tax. However, you must still file this annual return.

When and Where to File

The annual return is due on March 15 following the close of each calendar year. If March 15 falls on a Saturday, Sunday or legal holiday in any year, the return is due on the next business day. Mail your return to: **NYS Corporation Tax, Processing Unit, PO Box 1909, Albany NY 12201-1909.**

Extension of Time for Filing Tax Return

A request for an extension of time to file a tax return must be filed on Form CT-5.9 on or before March 15, 1996. 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-A.

Metropolitan Transportation Business Tax (MTA Surcharge)

All corporations that file Form CT-186-A must answer the question above line A. Any business taxable under Article 9, section 186-a of the Tax Law that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-A/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, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. If you are not doing business in the MCTD, you must disclaim liability for the MTA surcharge by answering **No** and are not required to file Form CT-186-A/M.

Exemption from Tax

The following are exempt from taxation under section 186-a:

The state of New York, including its political and civil subdivisions; municipalities of the state of New York; public districts, not-for-profit corporations and associations organized and operated exclusively for religious, charitable or educational purposes; a corporation leasing from a city in New York State a water works system to supply water at cost to relieve water pollution in a river within that city; and limited dividend housing corporations organized under the Private Housing Finance Law.

Maintenance Fee - Foreign Corporations

A corporation organized outside of New York State (a foreign corporation) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay the annual maintenance fee or its equivalent in New York State taxes (including state and MTA surcharges) under Article 9 (or Article 9-A or 32) will result in annulment of the authorization to do business in New York State. Payment of such taxes (but not a license fee reported on Form CT-240) are counted as payments toward the \$300 annual maintenance fee. If the total of such taxes paid for 1995 is more than \$300, the corporation has satisfied the requirement to pay the \$300 annual maintenance fee. If the total of such taxes paid for 1995 is less than \$300 and you are filing Form CT-183, enter \$300 on line 8 of Form CT-183 and make a payment with that form; if you are filing Form CT-186, enter \$300 on line 9 of Form CT-186 and make a payment with that form. In addition, on any other Article 9 returns that you are required to file, indicate that a total tax and maintenance fee of \$300 was paid with Form CT-183 or CT-186, and make no remittance of tax with the other returns. Article 9 returns include CT-183, 183-M, 184, 184-M, 184-R, 186, 186-M, 186-A, 186-A/M, 186-E, 186-P, 186-P/M and 189.

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

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.

Change of Address

If your address has changed, enter your new address on the label and check the box next to the name and address block at the top of your corporation tax return. Do not check this box for any change of business information other than address. You must still attach the preprinted label with the old address to enable us to update your account.

Identifying Information

To ensure that your corporation tax forms are processed as quickly and efficiently as possible, it is important that we have the necessary identifying information from your preprinted label. **Keep a record of the label information for future use.** Please be certain to include your employer identification number and file number on each corporation tax form mailed. This will facilitate processing of your return to the correct account. Without this information, we may not be able to process your return.

If you use a paid preparer or accounting firm, make sure they use the mailing label or label information when completing all forms prepared for you.

Show any negative amounts in parentheses.

Line Instructions

Computation of Tax

Line 2 — The Laws of 1994 amended the state tax surcharge.

The state tax surcharge rates are:

- 7½% (.075) for tax years beginning on 1/1/95 and ending on 12/31/95 (including a tax year of less than 12 months); and
- 2½% (.025) for tax years beginning on 1/1/96 and ending on 12/31/96 (including a tax year of less than 12 months).

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

Line 4b First installment for 1996 — If you did not file Form CT-5.9 and the amount on line 3 (franchise tax plus state tax surcharge) is more than \$1,000, you must pay a mandatory 25% first installment of estimated tax for 1996.

Additional installments for 1996, Form CT-400 — If you expect your franchise tax plus tax surcharge for 1996 to exceed \$1,000, you must file Form CT-400 and pay additional installments of estimated tax on June 15, September 15, and December 15.

Line 8 Estimated tax penalties — If you underpaid your estimated tax for 1995, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, check the box, and enter the amount of penalty on line 8. If no CT-222 penalty is due, enter "0" on line 8.

Line 9 Interest on late payments — If you do not pay the tax and tax surcharge in full on or before the due date (without regard to an extension of time) you must pay interest on the unpaid amount from the due date until you pay it. Exclude from the interest computation any amount shown on line 4a or 4b, first installment of estimated 1996 tax. You may call the Taxpayer Assistance Bureau for the current interest rate or to have the interest computed for you. See *Need Help?* below.

Line 10 Late filing and late payment penalties — Additional charges for late filing and late payment are computed on the amount of tax and tax surcharge less any payment made on or before the due date. Exclude from the penalty computation any amount shown on line 4a or 4b, first installment of estimated 1996 tax.

- A If you do not file a return when due, or if the request 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 in item A above 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 items A and C may not exceed 5% for any one month, except as provided for in item 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).

Schedule A — Computation of Gross Operating Income (other than telephone and telegraph)

A taxpayer required to complete Schedule A must report all purchases of gas, electricity, steam, water or refrigeration which form the basis for the tax. The taxpayer must show the quantity sold, receipts from the sale of the commodity and the quantity of the commodity consumed by the taxpayer that was not sold. In determining gross operating income, receipts include cash, credits and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services or other costs, interest or discount paid, or any other expense, except as stated in the instructions for line 20.

Line 17 — Enter the total receipts from the sale or furnishing of each commodity made for ultimate consumption or use within New York State.

Line 18 — Enter all receipts from services rendered for ultimate use within New York State that are directly connected with the sale or furnishing of each commodity.

Receipts include installation charges, service charges (other than installation) that are connected with the sale or furnishing of the commodity, and rentals within the state which in fact constitute service charges.

Line 20 — Deductions allowed from gross operating income are the taxpayer's cost of utilities resold on which the tax under section 186-a was paid by the utility that sold the commodity to the taxpayer; uncollectible accounts; and taxes imposed by New York State, its municipalities or the federal government for which the taxpayer is merely a collecting agency for the taxing authority.

Enter all deductions listed above that are included as receipts on lines 17 and 18.

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, forms or publications, call the Business Tax Information Center at 1 800 972-1233. The call is toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. For information, 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) 438-8581.

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 1 800 634-2110 toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. Hours of operation are from 8:30 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.