



Instructions for Form CT-4
General Business Corporation Franchise Tax Return
Short Form for Small Businesses

General Information

Who Must File

All general business corporations taxable under Article 9-A, other than New York S corporations, must file franchise tax returns on either Form CT-3 or Form CT-4. This includes corporations organized under New York State law and foreign corporations (those organized under the laws of any other state or country) that do business, employ capital, own or lease property or maintain an office in New York State.

A general business corporation that has elected to be treated as an S corporation by filing Form CT-6, must file either Form CT-3-S or CT-4-S, New York S Corporation Franchise Tax Return, instead of Form CT-3 or Form CT-4.

The definition of corporation in Article 9-A of the Tax Law and in these instructions includes associations and publicly traded partnerships which are taxed as corporations under the Internal Revenue Code. See TSB-M-89(12)C for further information.

A general business corporation 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 (these may be subject to an unrelated business income tax) (Article 13).

Who May Use the Short Form

Form CT-4 is a simplified general business franchise tax return that will meet the filing needs of most small businesses. You may use this short form if you meet all of the following:

- You are a qualified small business taxpayer. A corporation qualifies as a small business taxpayer if:
Its entire net income (before allocation) is not more than \$290,000; and
The total amount of money and other property received for stock, as a contribution to capital and as paid-in surplus, is not more than \$1 million as of the last day of its tax year; and
The corporation 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.
- Your total tax and state tax surcharge is \$1,000 or less.
- You have no federal adjustment or tax preference items other than the depreciation adjustment used to compute the minimum taxable income base.
- You are not required to make an addition on Form CT-3, line 8. Additions required on line 8 include optional depreciation, worldwide income and losses, safe harbor lease adjustments, addback of certain credits, a corporation's pro-rata share of business from the Insurance Exchange and certain interest paid by an acquiring corporation.

- You do not have a subtraction on Form CT-3, line 15, other than the subtraction allowed on Form CT-4, line 7b. Subtractions required on line 15 include optional depreciation, receipts from the operation of school buses, wages disallowed in computation of federal jobs credit, safe harbor lease adjustments and the pro-rata share of business from the Insurance Exchange.

You must use Form CT-3 if your total franchise tax and state tax surcharge is greater than \$1,000 or you do not meet all of the above conditions as a small business taxpayer. Even if you do meet the above qualifications, you must file Form CT-3 if any of the following conditions exist:

- You claim a deduction for a net operating loss, capital loss or optional depreciation.
- You claim any tax credits. Tax credits include the eligible business facility tax credit, investment tax credit, employment incentive tax credit, special additional mortgage recording tax credit, research and development tax credit carryover, economic development zone credits, servicing mortgage credit and minimum tax credit.
- You are a real estate investment trust, a taxable domestic international sales corporation (DISC) or a stockholder in a DISC (see Special Instructions for DISCs in Form CT-3-1).
- You have business income or capital attributable to sources outside New York State, and you want to allocate this income and capital.
- You have investment income or capital and you want to allocate.
- You have a subsidiary (another corporation of which you own more than half of its voting stock).
- You are a new small business corporation (first or second year) and you want to claim an exemption from the tax based on business and investment capital (see the instructions for Form CT-3, line 69).
- You were involved in a merger, acquisition, or consolidation in the current year.
- You have any adjustments (except for depreciation) or tax preference items used to compute the minimum taxable income base.
- You are required to make an addition on Form CT-3, line 8 (see listing above).
- You have a subtraction on Form CT-3, line 15, other than the subtraction allowed on Form CT-4, line 7b (see listing above).

Unrequested Refunds to be Credited Forward

If you overpay your tax, you will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year, unless you request a refund on your return. We will notify you that the overpayment has been credited. You may then claim a refund of the overpayment before the original due date of the following year's return.

When and Where to File

File your return within 2 1/2 months after the end of your reporting period. If you are reporting for the 1995 calendar year, file your return on or before March 15, 1996.

Mail returns to:

NYS CORPORATION TAX
PROCESSING UNIT
PO BOX 1909
ALBANY NY 12201-1909

If you cannot meet the filing deadline, ask for a six-month extension of time by filing Form CT-5.

You may be subject to other business taxes such as:

- Sales and Use Tax - If you sell goods and services delivered in New York State, you may have to collect and pay the New York State sales and use tax.
- Employer's Withholding Tax - If you hire anyone to help operate your business in New York State, you must withhold and remit New York State (and New York City and Yonkers, if applicable) income taxes from the wages of your employees.

Motor Fuel Tax - Motor fuel distributors and diesel motor fuel distributors or users in New York State must register with the Tax Department and file the appropriate tax returns.

Highway Use Tax - Any motor vehicle having a maximum gross weight, alone or in combination with another motor vehicle, of more than 18,000 lbs. is subject to this tax.

Tax on Utility Services (Article 9, section 186-a) - A corporation not supervised by the New York State Department of Public Service that engages in the sale or furnishing of gas, electricity, steam, water or refrigeration, must pay a tax of 3.5% on its gross operating income.

Tax on Telecommunication Services (Article 9, section 186-e) - A corporation that also provides telecommunication services, must file a return under section 186-e, excise tax on telecommunication services, and pay a tax of 3.5% on its gross receipts from the provision of telecommunication services. For further information see Form CT-186-E-1, Instructions for Form CT-186-E, Telecommunications Tax Return and Utility Services Tax Return.

Tax on Importers of Natural Gas (Article 9, section 189) imposes a tax on gas importers who import, or cause to be imported, gas for their own use. The tax is computed at the rate of 4 1/4% of the consideration given for the gas. (See Form CT-189, Form CT-189-WR and TSB-M-91(5)C for more information.)

Independently Procured Insurance Tax - If you purchase or renew a taxable insurance contract from an insurer who is not authorized to transact business in New York State (i.e., the insurer does not have a Certificate of Authority from the Superintendent of Insurance), you must pay a tax of 3.6% of the premium. (See Form CT-33-D or TSB-M-90(9)C for more information.)

For more information contact the Taxpayer Assistance Bureau. See page 6 for the address and telephone numbers.

**Tax Rates**

The current tax rates are:

Entire net income base .....	.09
Entire net income base for qualified small business taxpayers with entire net income base of \$200,000 or less .....	.08
Capital base .....	.00178
Minimum taxable income base .....	.035

For a corporation with a gross payroll of:	The fixed dollar minimum tax is:
— \$6,250,000 or more .....	\$1,500
— Less than \$6,250,000 but more than \$1,000,000 .....	\$425
— \$1,000,000 or less .....	\$325
However, if your gross payroll, total receipts and average value of gross assets are each \$1,000 or less .....	\$800

Qualified cooperative housing capital base .....

.....	.0004
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**State Tax Surcharge**

(for periods ending after June 30, 1994, and before July 1, 1995) .....

.....	12½% (.125)
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(for periods ending after June 30, 1995, and before July 1, 1996) .....

.....	7½% (.075)
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(for periods ending after June 30, 1996, and before July 1, 1997) .....

.....	2½% (.025)
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Gross Payroll for Short Periods - Annualize gross payroll for tax periods of less than 12 months by dividing the amount of gross payroll by the number of months in the short period and multiplying the result by 12.

The fixed dollar minimum tax and maintenance fee may be reduced for short periods:

Period	Reduction
A period of not more than 6 months .....	50%
A period of more than 6 months but not more than 9 months .....	25%
A period of over 9 months .....	None

**How to Avoid an Erroneous Assessment Based on Fixed Dollar Minimum Tax Rates**

The fixed dollar minimum tax rate has four levels. The amount of the tax ranges from \$325 to \$1,500.

Your fixed dollar minimum tax rate is determined by the corporation's gross payroll, total receipts and average value of gross assets.

To avoid an erroneous assessment or a delay in your refund, you **must** enter an amount in each of the three boxes provided on Form CT-4, line 22. If you do not have assets, payroll or receipts, enter "0" in the appropriate boxes. Failure to make an entry in each box will result in an assessment of tax or reduction of your refund.

**Cooperative Housing Corporation**

A qualified cooperative housing corporation may use a reduced tax rate of .0004 when computing its tax on the capital base. A corporation having only one class of stock which entitles the shareholder to live in a house or an apartment in a building owned or leased by a corporation may be a cooperative housing corporation. For a complete definition see IRC section 216 or NYCCR 3-1.2.

**Metropolitan Transportation Business Tax (MTA Surcharge)**

Any corporation taxable under Article 9-A (except a New York S corporation) that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-3M/4M 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.

**Foreign Corporations — Annual Maintenance Fee and License Fee**

A corporation organized outside of New York State that is authorized to do business in New York must pay an annual maintenance fee of \$300. This fee may be claimed as a credit against tax due under Article 9-A. Full payment of the franchise tax, state tax surcharge and MTA surcharge due will satisfy the maintenance fee requirement. It is not necessary to file a separate return. If you claim nontaxability in New York State because you did not employ capital, maintain an office, own or lease property or otherwise do business in New York State, you must file Form CT-245 and pay the maintenance fee.

A foreign corporation must also pay a license fee based on its issued capital stock. For details see Form CT-240, *Foreign Corporation License Fee Report*.

**Federal Changes to Corporate Taxable Income**

You must report any corrections made by the Internal Revenue Service in taxable income previously reported for any year, including changes based on the renegotiation of a government contract. Use Form CT-3360.

**Issuer's Allocation Percentage**

Your issuer's allocation percentage is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of your capital employed within New York State compared to the total amount of capital employed everywhere. The issuer's allocation percentage for a corporation filing Form CT-4 is 100%.

**Interest and Penalties**

You must pay the entire tax, state tax surcharge and MTA surcharge, if applicable, 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.

**Late Payment - Interest**

If you do not pay the tax, state tax surcharge and MTA surcharge, if applicable, on or before the 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. From New York State call 1 800 CALL TAX (1 800 225-5829); from areas outside New York State, call (518) 438-8581.

**Late Filing - Additional Charges**

Additional charges for late filing and late payment are computed on the amount of franchise tax, state tax surcharge and MTA surcharge, if applicable, less any payment made on or before the due date.

- A If you do not file a return when due or if the request for extension is invalid, add to the franchise 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 franchise 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 fail to pay the franchise 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 items A and C may not exceed 5% for any one month except as provided for in item 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 part for which (1) there is or was substantial authority for the way you treated it, or (2) there is adequate disclosure on the return or in an attached statement (see Article 27, section 1085(k)).

**Civil and Criminal Penalties**

The Omnibus Tax Equity and Enforcement Act imposes strong civil and criminal penalties for negligence or fraud. For more information about this act contact the Taxpayer Assistance Bureau (address and telephone numbers are on page 6 under *Need Help*).

**Privacy Notification**

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 8, 9, 9-A, 13, 19, 27, 32, 33 and 33-A of the Tax Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer corporate tax liabilities under the Tax Law, for certain tax refund offsets, and for any other purpose authorized by law.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Data Management Services Bureau, NYS Tax Department, Building 9 Room 905, W A Harriman Campus, Albany NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from areas outside New York State call (518) 438-8581.

**Identifying Information**

To assist in processing your corporation tax forms 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.

## 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.

## 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.

## Final Return

Check the *Final Return* box on page 1 of the return, under the form number, only if filing a final return for one of the following reasons:

- Voluntary Dissolution - New York Corporation (New York Business Corporation Law sections 1001 through 1003)
- Surrender of Authority by a Foreign Corporation (New York Business Corporation Law section 1310)
- Merger or Consolidation (New York Business Corporation Law sections 904, 905 and 907)
- Disposition of Assets - New York Corporation (New York Business Corporation Law section 909(d))
- Termination of Existence - Foreign Corporation (New York Business Corporation Law section 1311)
- Liquidation Under Internal Revenue Code (IRC sections 332, 333, 334 and 337).

See *Voluntary Dissolution and Surrender of Authority and Liability for Taxes and Fees* below and also Publication 110, *Information and Instructions for Termination of Business Corporations*, for the proper procedures to follow in terminating your business.

In the case of a merger or consolidation, the final return check box would only be used by the non-surviving corporation.

The return will be treated as a final return if your business is terminated with the Department of State and the return covers the tax period from the last return filed to the date of the termination.

Foreign authorized corporations see *Foreign Corporation Annual Maintenance Fee and License Fee* on page 2 of these instructions, or refer to Form CT-245 if you are disclaiming tax liability but want to continue to be authorized to do business in New York State.

**Do not check the box** if you are only changing the type of return that you file (i.e., CT-3 to CT-3-S, CT-4 to CT-3).

## Voluntary Dissolution and Surrender of Authority and Liability for Taxes and Fees

A domestic corporation (incorporated in New York State) is generally liable for corporate franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, regardless of whether it carries on any activity. For example, a person who intends to go into business organizes a new corporation under the New York Business Corporation Law for the

purpose of operating the new business as a corporation. However, the business is never started and the corporation never conducts any business. Under the circumstances, the corporation would usually be liable for franchise taxes for each taxable year until it is formally dissolved with the Department of State.

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it does business, employs capital, owns or leases property or maintains an office in New York. In addition, a foreign corporation which is authorized to do business in New York is also liable for payments of its annual maintenance fee until such time as it surrenders with the Department of State its authority to do business, regardless of whether it does business, employs capital, owns or leases property or maintains an office in the state. The maintenance fee may be taken as a credit against the franchise tax.

In order to voluntarily dissolve a domestic corporation or surrender the authority of a foreign corporation which is authorized to do business in this state, the Tax Law requires the consent of the Commissioner of Taxation and Finance. Such consent will be given only if the commissioner ascertains that all fees, franchise taxes, and other taxes (e.g., sales tax) imposed under the Tax Law which have accrued against the corporation have been paid. The procedure for obtaining such a consent and the forms that are required to be filed with this department are set forth in Publication 110. You can request this publication by calling 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. 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.

## Whole Dollar Amounts

Amounts may be shown in whole dollars rather than dollars and cents. Round an amount from 50 cents through 99 cents to the next higher dollar and round any amount less than 50 cents to the next lower dollar. If you round to the nearest dollar, round for all amounts.

## Processible Forms

Returns must be prepared in a manner that will permit their routine handling and processing. Interest will not be paid on an overpayment of taxes until the return is in a processible form.

## Use of Reproduced Forms and Computerized Returns

Photocopies of returns are acceptable if they are of good quality and are signed in the proper place. Computer-produced corporation tax returns will be accepted if you have received permission to file them and they meet our specifications. For more information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*. For details write to:

NYS TAX DEPARTMENT  
TAXPAYER ASSISTANCE BUREAU  
W A HARRIMAN CAMPUS  
ALBANY NY 12227

## Do You Need a Tax Packet?

If you use a paid preparer, or if you use computer software to prepare your return or if for any other reason you do not need a tax packet mailed to you for next year's taxes, please check the box above the certification and signature. When you check the box, we will send you a mailing label that you or whoever prepares your return should use on your 1996 return. By checking this box, you will help us reduce printing and mailing costs.

## Signature

The return must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer or other officer authorized by the taxpayer.

The return of an association, publicly traded partnership or business conducted by a trustee or trustees must be signed by a person authorized to act for the association, publicly traded partnership or business.

If an outside individual or firm prepares the return, the signature of the person and the name, address and ID number of the firm must be included.

## Your Rights Under the Tax Law

The taxpayer bill of rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when appealing a departmental decision and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the department to obtain payment. For a complete copy of the information contained in all of these statements, you may request Publication 131, *Your Rights and Obligations Under the Tax Law*, by calling toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.

## Resolving Tax Problems

The best ways to avoid tax problems are to keep accurate tax records and to stay on top of current tax requirements.

We have free publications you can order and toll-free numbers you can call for answers to your specific questions.

Most tax problems can be resolved informally. If you receive a tax deficiency notice that you think is in error, promptly call the number listed on the notice.

Only a relative handful of tax problems fail to be resolved by informal means. However, if you are issued a *Notice of Deficiency* or a refund denial and you feel that the Tax Department has made a mistake, you still have a number of options available to you:

- You can request a **conciliation conference** through the Bureau of Conciliation and Mediation Services. The conference is conducted informally by a conferee who issues an order that is binding on the Tax Department but not on you (you can appeal by filing a petition for a formal hearing, as explained below). To set up a conference, get Form CMS-1, *Request for Conciliation Conference*, by calling toll free 1 800 462-8100 or by writing to the Bureau of Conciliation and Mediation Services, NYS Tax Department, W A Harriman Campus, Albany NY 12227.
- You can request a **small claims hearing** before an impartial presiding officer if the disputed amount is within certain dollar limitations set by the *Rules of Practice and Procedure*. The presiding officer's decision is final, but at any time before the end of the small claims hearing, you can request a transfer to a formal hearing before an administrative law judge. A copy of the *Rules of Practice and Procedure* will be sent to you when you request a petition form as explained below.
- You can file a petition for a **tax appeals hearing**. The hearing is held before an administrative law judge, and both you and the Tax Department may appeal the judge's decision to the Tax Appeals Tribunal. The Tax Department cannot seek a review of the Tribunal's decision, but you can by instituting an Article 78 proceeding in the Appellate

Division of the State Supreme Court. You can get the petition forms by writing to the Division of Tax Appeals, 500 Federal Street 4th Floor, Troy NY 12180-2893.

Regardless of which appeal option you exercise, you may appear on your own behalf or you may have an authorized representative present your case for review. An authorized representative must have Power of Attorney from you in order to appear on your behalf. Further, your representative must be in compliance with the Ethics in Government Act which restricts appearances by former department employees. A summary of these restrictions is included on the back of Form DTF-14.1, *Power of Attorney (Corporate)*.

## Line Instructions for Form CT-4

### Reporting Period

Your tax year for New York State must be the same as your federal tax year. Use this 1995 tax return if you are a 1995 calendar year taxpayer, or if you have a fiscal period beginning in 1995 and ending in 1996 or a short period beginning in 1995 and ending before December 31, 1996. If you are a calendar year filer, check the box in the upper right corner on the front of the form. If you are a fiscal year filer, complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

### 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

**Line A** — After completing your return, enter the amount of your payment enclosed. This should be the full amount shown on line 30c.

**Negative amounts, if any, should be shown in parentheses.**

### Lines 1-9

#### Computation of Entire Net Income Base

**Line 1** — Enter the corporation's federal taxable income (before net operating loss and special deductions).

- If you file federal Form 1120, use the amount from line 28.
- If you file federal Form 1120-A, use the amount from line 24.
- If you file federal Form 1120-H, use the amount from line 19.
- If you are an S corporation filing federal Form 1120S but you have not made an election to be treated as a New York State S corporation, you must determine the amount you would have had to report as federal taxable income, before net operating loss and special deductions, were you not a federal S corporation. Attach a separate sheet showing how you determined this amount. In general, the items affected are:

Dividends - Form 1120, line 4  
Interest - Form 1120, line 5  
Gross rent - Form 1120, line 6  
Gross royalties - Form 1120, line 7  
Capital gain net income - Form 1120, line 8  
Contributions - Form 1120, line 19

**Line 2** — Enter all interest received or accrued from federal, state, municipal and other obligations that was exempt from federal tax and 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, section 183, 183a, 184, 184a, Articles 9-A and 32. This includes the state tax surcharge and MTA surcharge. However, do not include New York City taxes. Include the amount deducted for taxes paid or accrued to other US 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, including taxes expressly in lieu of the foregoing.

**Line 4** — Enter the amount deducted in computing federal taxable income for interest on indebtedness paid to a corporate stockholder owning more than 50% of your issued and outstanding capital stock. If you do not make this entry, this indebtedness will not constitute subsidiary capital in the hands of the corporate stockholder, and the parent corporation will not be allowed to exclude the interest from its entire net income as income from subsidiary capital.

**Line 5** — Before making any entry on this line, complete Form CT-399, *Depreciation Adjustment Schedule*. Enter from Form CT-399, line 4, the amount of your federal deduction that must be added back to federal taxable income, or if you disposed of property this year use the amount from line 12, column A (enter your recomputed deduction on line 7a).

**Line 7a** — In place of the disallowed ACRS and MACRS deduction entered on line 5, you may compute a depreciation deduction by any method permitted under IRC section 167 (as if it would have applied to property placed in service on December 31, 1980). For more information see Form CT-399, *Depreciation Adjustment Schedule*. Enter the amount from Form CT-399, line 5, column I, or if you have disposed of property this year, use the amount from line 12, column B, and attach the form.

**Line 7b** — Include any refund or credit of a tax imposed under Article 9-A or Article 32 of the Tax Law for which tax no exclusion or deduction was allowed in determining entire net income for any prior year, or any refund or credit of a tax imposed under section 183, 183a, 184, or 184a of the Tax Law. Do not include on this line any refund or credit of tax that was used to offset an addition of tax on line 3. Do not include any refund or credit of New York City taxes.

### Lines 10-17

#### Computation of Capital Base

To determine the value of your assets for the capital base computation, you must include real property and marketable securities at fair market value. All other property must be included at the value shown on your books in accordance with generally accepted accounting principles. Use lines 10 through 14 to adjust the value of the assets you reported on your federal return.

On lines 10 through 15, enter the values at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. **Average value** is generally computed quarterly. However, you may use a more frequent basis such as monthly, weekly or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average value results.

**Line 10** — Enter your total assets from the balance sheet of your federal tax return.

**Line 13** — Enter the fair market value of real property and marketable securities included on line 11. The **fair market value** of an asset is the

price (without deduction of an encumbrance whether or not the taxpayer is personally liable) at which a willing seller will sell and a willing purchaser will buy.

You can generally find the fair market value of marketable securities from price quotes in financial newspapers. To determine the fair market value of real property, you might consider recent sales of similar property or insurance value if fully insured, disregarding any co-insurance provisions.

**Line 15** — Enter the amount of all liabilities (both long and short term) when computing the capital base. Use the same method of averaging used to determine average value of assets.

### Line 18-21

#### Computation of Minimum Taxable Income Base

To calculate your minimum taxable income, you must add to entire net income three federal tax preference items, add or subtract certain federal adjustments used to compute federal alternative minimum taxable income (federal Form 4626) and add the New York State net operating loss deduction and subtract the alternative net operating loss deduction.

You must determine a minimum taxable income base and tax whether or not you file federal Form 4626, *Alternative Minimum Tax - Corporations*.

If you have any federal tax preference items or any federal adjustments **other than depreciation**, or if you are claiming a net operating loss deduction or are calculating an alternative net operating loss deduction (see Form CT-3-I, line 56b for definition of this term), use Forms CT-3 and CT-3-ATT to compute your tax.

The tax preference items are depletion and intangible drilling costs, and the carryover of appreciated property charitable deduction.

The federal adjustments are:

- depreciation of tangible property placed in service after 1986
- amortization of mining exploration and development costs paid or incurred after 1986
- amortization of circulation expenditures paid or incurred after 1986 (personal holding companies only)
- basis adjustments in determining gain or loss from sale or exchange of property
- long term contracts entered into after 2/28/86
- installment sales of certain property
- merchant marine capital construction funds
- passive activity loss.

**Line 19** — Enter "0" on this line if you did not make a depreciation deduction when determining your federal taxable income or if your federal depreciation deduction was based on property placed in service **before** 1987.

Otherwise, complete Form CT-399, lines 13, 14 and 15, columns A through E. Add the total of column D (federal depreciation deduction) to your entire net income (Form CT-4, line 8) and multiply the result by .035. If the result is **less** than the amount of tax computed on your entire net income on line 9 (ENI times .08) enter zero on this line and attach a copy of Form CT-399.

If you must complete Form CT-399, enter the information required on lines 13, 14 and 15 for every item of tangible property placed in service after 1986. Column E requires you to recompute the depreciation deduction for each item of property pursuant to the rules set forth in IRC section 56(a)(1). Use the instructions for federal Form 4626, line 2a, to assist you in this computation.

**Line 21** — The rate of tax on the minimum taxable income base is 3½% (.035) for tax years beginning in 1995. Multiply the amount on line 20 by 3½% (.035).

**Line 22**  
**Fixed Dollar Minimum Tax**

**Line 22** — The fixed dollar minimum tax is determined by the corporation's gross payroll, total receipts and average value of gross assets. Enter your gross payroll, total receipts and gross assets in the appropriate boxes. Use the tax rates on page one of these instructions to determine your minimum tax.

You **must** enter an amount in each of the three boxes provided on Form CT-4, line 22. If you do not have gross assets, gross payroll or total receipts enter "0" in the appropriate boxes.

**Gross payroll** includes the total wages, salaries and other personal service compensation of all employees including general executive officers wherever located. For a period of less than 12 months, annualize gross payroll by dividing it by the number of months in the short period and multiplying the result by 12.

Use the total amounts shown on federal Form 1120 or Form 1120-A, lines 12 and 13, including any employment credits deducted on line 13, plus any wages included in the cost of goods sold, Form 1120, Schedule A, line 3.

If your gross payroll is \$6,250,000 or more, you must file Form CT-3.

**Total receipts** includes receipts from the sales of tangible personal property, the performance of services, rentals, royalties, receipts from the sales of rights for closed circuit and cable television transmissions and all other business receipts received in the regular course of business. These items can be found on federal Form 1120 or 1120-A, Income Section, lines 1c, 6, 7, and 10.

Do not include any dividends, nonbusiness interest or business or investment gains or losses.

**Average value of gross assets** is the average fair market value of real property and marketable securities plus all other assets at the value shown on your books in accordance with generally accepted accounting principles. Use the amount from Form CT-4, line 14, column C.

**Lines 23-26**  
**Computation of Tax**

**Line 23** — Your franchise tax is the amount from line 9, 17, 21 or line 22, whichever is largest. If line 9, line 21 or line 22 is the largest enter that amount on line 23. If line 17 is the largest, use the following worksheet to determine the line 23 amount.

**Worksheet**

If the tax based on capital (line 17) is larger than the tax based on entire net income (line 9) only because of the 8% (.08) tax rate, then the lower amount becomes the franchise tax due. Use this worksheet to determine if this exception applies to you.

A. Tax on capital base from line 17 .....

B. ENI base from line 8 \$  × .08 ...

C. ENI base from line 8 \$  × .09 ...

If line A is the largest amount, enter that amount on line 23.

If line C is the largest amount, enter the line B amount on line 23.

The franchise tax due cannot be less than the fixed dollar minimum on line 22.

**Computation of State Tax Surcharge**

**Line 24** — Enter the appropriate state tax surcharge rate from the chart below in the box on line 24 and compute your state tax surcharge on the worksheet below.

The state tax surcharge rates are:

	For Tax Years Ending	Maximum number
	After and Before	of months
		surcharge imposed
12½%	6/30/94 7/1/95	12
7½%	6/30/95 7/1/96	12
2½%	6/30/96 7/1/97	12

**Worksheet for State Tax Surcharge**

A. State tax surcharge rate which applies to this return (see chart above) ..... %

B. Maximum number of months for which the state tax surcharge percentage on line A is imposed (see chart above) ...

C. Number of months for which the state tax surcharge percentage on line A has been paid .....

D. Number of months still subject to the state tax surcharge percentage on line A (subtract line C from line B) ....

- If line D is zero, stop here and enter "0" on line 24 of the return.

E. Number of months covered by this return .....

- If line E is less than or equal to line D, stop here and multiply the franchise tax on line 23 by the state tax surcharge percentage on line A. Enter this amount on line 24 of the return.

- If line E is more than line D, complete lines F through I.

F. Proration percentage (divide line D by E) .....

G. Franchise tax from line 23 of the return .....

H. Franchise tax subject to the state tax surcharge (multiply line G by line F) .....

I. State tax surcharge after proration (multiply line H by the state tax surcharge rate on line A. Enter this amount on line 24 of the return) .....

**Line 26** — Enter the total of all prepayments made for the period covered by this return. If you have filed an application for extension and you entered an amount on line 5 of that form (mandatory 25% installment) do not use this form; use Form CT-3.

**Line 28 and 29** — If you are not filing this return on time, you must pay interest and additional charges. See *Interest and Penalties* on page 2.

**Line 30b** — If you want to make a gift to the wildlife fund, enter the amount of your gift on this line. The amount you give must be in whole dollars. Your gift will increase your payment or reduce your overpayment. Also, you cannot change the amount of your gift after you file your return.

**Lines 30c and 31** — Add lines 25, 28, 29 and 30b. If line 26 is less than the total, subtract line 26 from that total. Enter the difference on line 30c. This is your balance due and should represent the total amount of franchise tax and state tax surcharge due, interest, penalties and the gift to wildlife. Enter your payment on line A of page 1.

If line 26 is more than the total of lines 25, 28, 29 and 30b, subtract the total from line 26. Enter the difference on line 31 as an overpayment.

**Lines 32 - 35** — You may apply an overpayment as a credit to your next franchise tax period or to your MTA surcharge for this period or you may have it refunded. Indicate on lines 32 through 35 the amounts you wish transferred as credits or refunded. If you are requesting a refund on line 35, check the box on the front of your return, just above line A.

**Line 36 — Metropolitan Transportation Business Tax (MTA surcharge)** — If you do not do business, employ capital, own or lease property or maintain an office in the Metropolitan Commuter Transportation District (MCTD) you must disclaim liability for the MTA surcharge by answering No. See page 2 for the list of counties in the MCTD.

**General Information Required**

**Lines 39 and 40 — Real Property Gains Tax**  
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 the stock and any other information that may be required to enforce this tax (Article 31-B, section 1449-a).

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 that voting stock.

Answer both questions (lines 39 and 40). 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 46** — If you deducted from your entire net income interest payments you made to a shareholder owning directly or indirectly, individually or in the aggregate, more than 50% of your issued capital stock, complete line 46 (section 211.2-a). If you do not provide this information, you will have to pay a penalty of \$500 (section 1085(n)).

**Line 47** — The law sometimes disallows the benefits of tax credits and net operating losses when a merger, acquisition or consolidation occurs. It also denies subsidiary capital treatment and disallows the deduction of a portion of your interest expense. Form CT-3 and Form CT-244 must be used to report these changes. For more information see the instructions for Form CT-3 and TSB-M-89(17)C.

**Lines 48 - 53 — Prepayments** - Enter all prepayments you have made on lines 48 through 52 and total them on line 53. Also enter the total amount of prepayments on line 26.

Imagine hundreds of creatures that sprint, swim, fly or slither. That is exactly how diverse New York's fish and wildlife species are. You, too, can take an active part in ensuring the fish and wildlife diversity in New York State.

Picture yourself involved in learning about the wildlife in New York State, observing various fish and wildlife resources and helping to restore and manage them to benefit both wildlife and people.

This can be done when you **Return a Gift to Wildlife** on your New York State tax form. Also, remind your tax preparer that you wish to contribute to this worthwhile program. Remember to **Return a Gift to Wildlife**, the program dedicated to conserving New York's fish and wildlife diversity.



For additional program information or to donate directly, please write to:

**Return a Gift to Wildlife, NYS DEC, Room 122, Program 5, 50 Wolf Road, Albany NY 12233-4830.**

### Mailing Label

**Use the mailing label provided by the Tax Department.**

The preprinted mailing label contains the taxpayer account identification information necessary for correct and effective processing of your tax form.

Check your label to see that the information is complete and correct. If it is incorrect, make any corrections directly on the label. (You must also file Form DTF-95, *Change of Business Information*, with the Tax Department as soon as possible.) If your mailing address is incorrect, check the box next to the name and address block at the top of your corporation tax return.

Remove the peel-off label from the front cover of your packet or postcard and place it in the **name and address box** at the top of your corporation tax return.

To assist in processing your corporation tax forms 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.

These numbers can be copied directly from the label.

Employer ID number	File number
Name	
Number and Street	
City and Town	State ZIP code

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.

### 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.