



# Instructions for Form CT-186-A

## Utility Services Tax Return - Gross Operating Income

Tax Law — Article 9, Section 186-a

# CT-186-A-I

### 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

The Tax Law was amended to reduce the tax rate applicable to section 186-a. The rate change is effective October 1, 1998.

For the period January 1, 1998, through September 30, 1998, the tax rate is 3.5%.

For the period October 1, 1998, through December 31, 1998, the tax rate is 3.25%.

However, the MTA surcharge must be computed as if the 3.5% tax rate is in effect for the entire year.

### 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. (Those who are subject to the supervision of the Department of Public Service file Form CT-186-P.)

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. (See *Special Rules for Landlords* on the back page for additional information.)

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, the return is due on the next business day. Mail your return to: **NYS Corporation Tax, Processing Unit, PO Box 22038, Albany NY 12201-2038.**

### Private Delivery Services

The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance, will be treated as a postmark, and that date will be considered to be the date of delivery in determining whether your return was filed on time. If you use one of these services, address your return to: NYS Processing Center, 431C Broadway, Menands NY 12204. Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. (See *Need Help?* on the back page of these instructions for information on ordering forms and publications.)

### 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. 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.

### 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.

### Other Forms You May Have to File

**Excise tax on telecommunication services** — 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 or Form CT-186-EZ, whichever applies.

**Tax on importation of gas services** — Article 9, Section 189, imposes a tax upon gas importers who import, or cause to be imported, gas services into New York State for their own use or consumption. For additional information, see TSB-M-91(5)C. Use Form CT-189, *Tax on Importation of Gas Services*, to remit the tax collected from the individual gas importer.

### Other Surcharges, Taxes, and Fees That May Apply

#### 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**; you are not required to file Form CT-186-A/M.

**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 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 the tax year 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 the tax year is less than \$300 and you are filing Form CT-183, enter \$300 on line 6 of Form CT-183 and make a payment with that form. If you are filing Form CT-186, enter \$300 on line 7 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, CT-183-M, CT-184, CT-184-M, CT-184-R, CT-186, CT-186-M, CT-186-A, CT-186-A/M, CT-186-E, CT-186-EZ, CT-186-P, CT-186-P/M, and CT-189.

**Foreign Corporations – License Fee** — Foreign corporations must also file Form CT-240, *Foreign Corporation License Fee Return*, whether or not they are authorized to do business in New York State. Form CT-240 is required to be filed with the corporation's first franchise tax return, or if the capital stock employed in New York State has increased since the last license fee return was filed.

### Amended Return

If you are filing an amended return, please write **Amended Return** across the top of the front page.

### How to Complete the Name and Address Section

#### Employer Identification Number, File Number, and Other Identifying Information

To assist us 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.

#### Business Activity Code Number

Enter the business activity code number from your federal return. Please check the appropriate box for the type of code you are using. Check the box marked *NAICS* if you use the North American Industry Classification System. If you have entered a Principal Industrial Activity (PIA) or Standard Industrial Classification (SIC) code, check the box marked *Other*.

**Whole Dollar Amounts** - You may elect to show amounts in whole dollars rather than dollars and cents. Round an amount from 50 through 99 cents to the next higher dollar, and round any amount less than 50 cents to the next lower dollar.

Show any negative amounts in parentheses.

## Line Instructions

**Line A** — Make your payment in United States funds. A foreign check or foreign money order will be accepted only if payable through a United States bank or if marked *Payable in U.S. Funds*.

## Computation of Tax

**Line 2b – First installment of tax for the next period** — If you did not file Form CT-5.9 and the amount on line 1 is more than \$1,000, you must pay a mandatory 25% first installment of estimated tax for the next period.

**Additional installments for the next period, Form CT-400** — If you expect your tax for the next period 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 6 – Estimated tax penalties** — If you underpaid your estimated tax, 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 6. If no CT-222 penalty is due, enter "0" on line 6.

**Line 7 – Interest on late payments** — If you do not pay the tax in full on or before the original due date (determined **without** regard to any extension of time for filing) you must pay interest on the unpaid amount from the original due date until you pay it. Exclude from the interest computation any amount shown on line 2a or 2b, first installment of estimated tax for the next period.

**Line 8 – Late filing and late payment penalties** — Additional charges for late filing and late payment are computed on the amount of tax less any payment made on or before the due date (determined **with** regard to any extension of time for filing). Exclude from the penalty computation any amount shown on line 2a or 2b, first installment of estimated tax for the next period.

- If you do not file a return when due, or if your request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- 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)).
- If you do not pay the tax shown on a return when due, add to the tax ½% per month up to 25% (section 1085(a)(2)).
- 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).

**Note:** You may have the interest (line 7) and penalty (line 8) computed for you by calling the Business Tax Information Center at the number listed under *Need Help?* below.

**Line 14 – Collection of debts from your refund** — We will keep all or part of your refund if you owe a past due, legally enforceable debt to the Internal Revenue Service or a New York State agency. This includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district. Any amount over your debt will be refunded.

If you have any questions about whether you owe a past due, legally enforceable debt to the Internal Revenue Service or a state agency, contact the IRS or that particular state agency.

For New York State tax liabilities **only** call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800) or write to NYS TAX DEPARTMENT, TAX COMPLIANCE DIVISION, W A HARRIMAN CAMPUS, ALBANY NY 12227.

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

Use Schedule A, Part I, to compute the tax on gross operating income for the period January 1, 1998, through September 30, 1998, at the tax rate of 3.5%.

Use Schedule A, Part II, to compute the tax on gross operating income for the period October 1, 1998, through December 31, 1998, at the tax rate of 3.25%.

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 lines 18 and 24.

## Special Rules for Landlords

**Sales to landlords** — *Gross operating income also includes* receipts from utility services to a landlord for resale to a tenant for consumption or use by the tenant as incidental to the landlord's renting of premises to the tenant, even though such sales are not for ultimate consumption by the landlord. *Utility services* means the furnishing of gas, electricity, steam, water, or refrigeration, and services directly connected to the furnishing of gas, electricity, steam, water, or refrigeration. Include these receipts with all other utility service receipts on lines 15, 16, 21, and 22.

**Sales by landlords** — If **all** utility services purchased by a landlord for resale to the tenants included the section 186-a tax, then the landlord is not required to complete Form CT-186-A.

If **any** utility services were purchased by a landlord for resale to tenants that **did not include** the section 186-a tax, then Form CT-186-A must be completed as follows:

- Receipts derived by a landlord from the resale of utility services to a tenant are deemed to be equal to the landlord's cost of the same service (including any associated transportation cost). Include these amounts on lines 15, 16, 21, and 22; do not include the markup billed to the tenants.
- If the tax under section 186-a was included on the purchase of a utility service by the landlord, then the landlord may deduct the cost of the same service (including any associated transportation cost) on lines 18 and 24. If the tax under section 186-a was not included on the purchase by the landlord, then do not deduct this cost on lines 18 and 24.

**Lines 15 and 21** — Enter the total receipts from the sale or furnishing of each commodity made for ultimate consumption or use within New York State. See *Special Rules for Landlords* above.

**Lines 16 and 22** — 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 that in fact constitute service charges. See *Special Rules for Landlords* above.

**Lines 18 and 24** — Deductions allowed from gross operating income are 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. In addition, if your utility has passed on its section 186-a tax when originally purchased, you may deduct the cost of such services when you resell them.

Article 2-I of the general city law provides for certain rebates of charges for energy in revitalization areas of New York City. However, nothing contained in Article 2-I shall be construed as reducing the amount of the gross receipts subject to tax pursuant to section 186-a of the Tax Law. See *Special Rules for Landlords* above.

Enter all deductions listed above that are included as receipts on lines 15, 16, 21, and 22.

## Need Help?

**Telephone Assistance** is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. **For business tax information and forms**, call the Business Tax Information Center at 1 800 972-1233. **For general information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and outside Canada**, call (518) 485-6800.

**Fax-on-Demand Forms Ordering System** - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

**Internet Access** - <http://www.tax.state.ny.us>

Access our website for forms, publications, and information.

**Hotline for the Hearing and Speech Impaired** - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m. (eastern time), 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.

**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 numbers listed above.

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