



# Instructions for Form CT-33-C

## Captive Insurance Company Franchise Tax Return

Effective January 1, 1998, a special premiums tax is imposed, pursuant to section 1502-b of the Tax Law, on captive insurance companies licensed by the Superintendent of Insurance pursuant to Article 70 of the Insurance Law. Captive insurance companies will not be subject to the taxes imposed by sections 1501 or 1510 of the Tax Law or the Metropolitan Business Tax Surcharge imposed by section 1505-a of the Tax Law.

The tax on captive insurance companies is based on gross direct premiums and assumed reinsurance premiums. However, in no event shall the tax be less than the required minimum tax of \$5,000. No tax credits will be allowed against the tax imposed on captive insurance companies. Captive insurance companies will not be permitted or required to file a combined return, and must compute their tax separately on Form CT-33-C.

### When and Where to File

#### Reporting Period

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.

File your return within 2½ months after the end of your reporting period. If you are reporting for the calendar year, file your return on or before March 15. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

If you cannot meet this filing deadline, you may ask for a six-month extension of time by filing Form CT-5, *Request for Six-Month Extension to File*.

Mail returns 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. (Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need Help?* on the back of these instructions for information on ordering forms and publications.) If you use **any** private delivery service, address your return to: **State Processing Center, 431C Broadway, Menands, NY 12204.**

You must also file a copy of Form CT-33-C, *Captive Insurance Company Franchise Tax Return*, with the New York State Insurance Department.

**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 the enclosed Form DTF-95, *Change of Business Information*. If no form is enclosed call toll free 1 800 462-8100 to request one. From areas outside the U.S. and outside Canada, call (518) 485-6800.

#### 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.

**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*.

#### Computerized Returns

Computer-produced corporation tax returns will be accepted if they meet our printing specifications. For information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

#### Amended Return

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

#### Signature

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

If an outside individual or firm prepared the return, the signature of the person and the name of the firm must be included.

#### Line Instructions

**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.

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

**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 and Installment Payments of Estimated Tax

Unless the captive insurance company can prove otherwise, it will be assumed that all its premiums on lines 1 through 8 are allocated to New York State and its issuer's allocation percentage is 100%. In order for a captive company to prove that less than 100% of its premiums are allocated to New York State and its issuer's allocation percentage is less than 100%, it must demonstrate that the premiums were taxed by another state.

**Lines 1 through 4** — Four tax rates apply to gross direct premiums, as shown on lines 1 through 4 of this form. Gross direct premiums are defined in Section 1510(c) of Article 33 of the Tax Law. Such premiums shall include total gross premiums, deposit premiums, and assessments, less returns thereon, on all policies, certificates, renewals subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State. Such premiums also include premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums, or which have not been used as a measure of tax of any other state or states. Also include special risk premiums written, procured, or received in New York State on risks located or resident in New York State. Do not include premiums on annuity contracts, ocean marine insurance, and policies issued pursuant to Section 4236 of the Insurance Law. Also exempt from this tax are premiums on risks located outside the United States which were written, procured, or received in New York State.

The term *premiums*, as used in the previous paragraph, shall include all amounts received as consideration for insurance or reinsurance contracts (other than for annuity contracts), and shall

**CT-33-C-I (1998) (back)**

include premium deposits, assessments, policy fees, membership fees, and separate costs assessed upon the captive insurance company's policyholders and every other compensation for such contract. In addition, *premiums* include any amount received by a captive insurance company as consideration for insurance provided to its parents and affiliated companies, in the case of a pure captive insurance company, and to the industrial insureds that comprise the industrial insured group, in the case of a group captive insurance company. The terms *pure captive insurance company*, *group captive insurance company*, *industrial insureds*, and *industrial insured group* are defined in section 7002 of the Insurance Law.

Deductions from gross direct premiums include:

**A. Reinsurance Premiums** - When computing gross direct premiums you may deduct reinsurance premiums that have been received by way of reinsurance by corporations or other insurers authorized to transact business in New York State.

**B. Dividends Paid or Credited** - You may deduct dividends on direct premiums and unused or unabsorbed portions of premium deposits paid or credited to policyholders. This deduction does not include deferred dividends paid in cash to policyholders on maturing policies, or cash surrender values.

**Lines 5 through 8** — Section 7010 of the Insurance Law explains the reinsurance business which may be performed by a captive insurance company. A captive insurance company may assume reinsurance on risks ceded by any other insurer when the risks ceded are solely those of the industrial insured or members of the industrial insured group owning the captive insurance company. Also, when it has the permission of the Superintendent of Insurance, a captive insurance company may assume risks of any insurer, provided the reinsurance premiums assumed do not exceed 50% of the gross premiums written by the captive insurance company in the calendar year.

Four rates apply to reinsurance premiums. Any reinsurance premiums deducted from gross direct premiums on lines 1 through 4 should be included and subjected to tax on lines 5 through 8.

**Line 10** — Section 1502-b of the Tax Law imposes a minimum tax of \$5,000.

**Line 12b** — If you did not file Form CT-5, a mandatory first installment is required for the period following that covered by this return. Enter 25% of the tax shown on line 11.

**Line 14** — The amount entered on this line should be the total of all prepayments of estimated tax from line 26.

**Line 17** — If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment from the original due date to the date you paid (line 11 minus line 14). Exclude from the interest computation any amount shown on line 12a or 12b, first installment of estimated tax for next period.

**Line 18** — Additional charges for late filing and late payments 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 (line 11 minus line 14). Exclude from the penalty computation any amount shown on line 12a or 12b, first installment of estimated tax for next period.

- 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 above 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 reasonable cause for the delay in filing or payment (section 1085).

**Note:** You may have the interest (line 17) and penalty (line 18) computed for you by calling the Business Tax Information Center at the number listed in the *Need Help?* section.

**Line 22 — Collection of debts from your refund** — We will keep all or part of your refund if you owe past-due support or 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.

### 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 Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.

### 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.