



# Instructions for Form CT-33-C

## Captive Insurance Company Franchise Tax Return

# CT-33-C-I

### Up-to-date information affecting your 2005 tax return

Visit the *Corporation Tax Up-to-Date Information* page on our Web site at [www.nystax.gov](http://www.nystax.gov) for Tax Law changes or forms corrections that occurred after the forms and instructions were printed.

**Your refund or overpayment may be applied against outstanding tax debts owed to other states** — Due to a recent law change, your refund or overpayment may be reduced by amounts of outstanding tax debts owed to other states. The Commissioner of Taxation and Finance may enter into a reciprocal agreement with other states to offset a New York tax refund or overpayment against tax liabilities owed to other states, provided those other states agree to offset overpayments due their taxpayers against tax debt owed to New York. For more information concerning these changes, see *Collection of debts from your refund or overpayment* on the back page and TSB-M-05(3)C, *Summary of Corporation Tax Legislative Changes Enacted in 2005*.

**Additional reporting requirements for tax shelters** — The Tax Law has been amended to provide new reporting requirements with respect to the disclosure of information relating to transactions that present the potential for tax avoidance (tax shelters). These new reporting requirements are similar to the tax shelter disclosure requirements for federal income tax purposes. Separate reporting requirements are imposed on those who utilize tax shelters and on those who promote the use of tax shelters. The amendments impose penalties for nondisclosure and the underpayment of taxes due to participation in these transactions, extend the statute of limitations for assessments relating to these transactions, and create a voluntary compliance initiative to allow taxpayers to report and pay underreported tax liabilities and interest attributable to these transactions with a waiver of penalties. For more information, see TSB-M-05(2)C (for business taxes) or TSB-M-05(4)I (for personal income tax), *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*. Also see TSB-M-05(2.1)C (for business taxes) or TSB-M-05(4.1)I (for personal income tax), *Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*.

**Third-party designee** — You can authorize another person to discuss this tax return with the Tax Department by completing the Third-party designee section of this form. For more information, see *Third-party designee* below.

### General information

A premiums tax is imposed under section 1502-b of the Tax Law on captive insurance companies licensed by the Superintendent of Insurance under Article 70 of the Insurance Law. Captive insurance companies are not subject to the taxes imposed by sections 1501, 1502-a, or 1510 of the Tax Law, or to the metropolitan transportation 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, the tax cannot be less than the minimum tax of \$5,000. Tax credits are not allowed against the tax imposed on captive insurance companies. Captive insurance companies are not permitted to file a combined return and must compute their tax separately on Form CT-33-C.

### When and where to file

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.**

If you use a delivery service other than the U.S. Postal Service, see *Private delivery services* on the back of Form CT-33-C.

You **must** also send a **copy** of Form CT-33-C to: **The New York State Insurance Department, One Commerce Plaza, Albany NY 12257.**

### Computerized returns

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

### Specific instructions

**Reporting period** — Complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

Your tax year for New York State must be the same as your federal tax year. Use this tax return for both calendar and fiscal tax years beginning in 2005, and for short periods beginning in 2006 and ending before December 31, 2006.

**Changes in business information** — You must report any changes in your business name, ID number, mailing address, physical address, telephone number, or owner/officer information on Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*, to correct your address for this and all other tax types. You can get these forms from our Web site, by phone, or by fax. See *Need help?* on back of Form CT-33-C for the phone number and Web address.

**Change of address** — If your address has changed, please enter your new address in the appropriate area and mark an **X** in the box below the address so that we can update your address for this tax type. Do not mark an **X** in this box for any change of business information other than for your address.

**Amended return** — If you are filing an amended return, please mark an **X** in the *Amended return* box on the top of Form CT-33-C.

**NAICS code and principal business activity** — Enter the six-digit NAICS business code number and principal business activity.

**Third-party designee** — If you want to authorize another person (third-party designee) to discuss your 2005 tax return with the New York State Tax Department, mark an **X** in the *Yes* box in the *Third-party designee* area of your return. Also, enter the designee's name, phone number, and any five-digit number the designee chooses as his or her personal identification number (PIN). If you want to authorize the paid preparer who signed your return to discuss the return with the Tax Department, enter **Preparer** in the space for the designee's name. You do not have to provide the other information requested.

If you mark the *Yes* box, you are authorizing the Tax Department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from your return;
- call the Tax Department for information about the processing of your return or the status of your refund or payment(s); and
- respond to certain Tax Department notices that you shared with the designee about math errors, offsets, and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to receive your refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file Form POA-1, *Power of Attorney*, making that designation with the Tax Department. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to your designee if you file Form POA-1.

You cannot revoke the third-party designee authorization or change the PIN. However, the authorization will automatically end on the due date (without regard to extensions) for filing your 2006 tax return.

**Signature** — The company's president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the taxpayer must certify the return.

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

**Whole dollar amounts** — You may elect to show amounts in whole dollars rather than in dollars and cents. Round any amount from

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50 cents through 99 cents to the next higher dollar. Round any amount less than 50 cents to the next lower dollar.

**Negative amounts** — Show any negative amounts with a minus (-) sign.

## Line instructions

**Line A** — Make your payment in United States funds. We will accept a foreign check or foreign money order 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, we will assume that all its premiums on lines 1 through 8 are allocated to New York State and its issuer's allocation percentage is 100%. 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.

### Tax on New York State gross direct premiums

**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. These premiums include total gross premiums, deposit premiums, and assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State. Gross direct 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 that have not been used as a measure of a tax on business of any other state or states. For special risk premiums, only include 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, policies issued under section 4236 of the Insurance Law, and federal long-term care insurance policies issued under Chapter 90, Title 5, of the United States Code. Also exempt from this tax are premiums on risks located outside the United States that were written, procured, or received in New York State.

The term *premiums*, as used in the previous paragraph, includes all amounts received as consideration for insurance or reinsurance contracts (other than for annuity contracts), and includes 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, deduct (1) reinsurance premiums that have been received by way of reinsurance from corporations or other insurers authorized to transact business in New York State and (2) reinsurance premiums that relate to transactions authorized under section 2105 of the Insurance Law and that are subject to the premiums tax on excess-lines brokers under section 2118 of the Insurance Law.

**B. Dividends paid or credited** — 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 nor cash surrender values.

### Tax on New York State reinsurance premiums

**Lines 5 through 8** — Section 7010 of the Insurance Law explains the reinsurance business that 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 the one that is covered by this return. Enter 25% of the tax shown on line 11.

**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** — Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deducting any payment made on or before the due date, **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)(4)).

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, or both (section 1085).

**Note:** You may compute your penalty and interest by accessing our Web site and clicking on *Electronic Services*, or you may call and we will compute the penalty and interest for you. See *Need help?* on Form CT-33-C.

### Collection of debts from your refund or overpayment

We will keep all or part of your refund or overpayment if you owe a past-due, legally enforceable debt to a New York State agency, or to another state, or if you owe a New York City tax warrant judgment debt. If we keep your refund or overpayment, we will notify you.

A New York State agency 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. We will refund or apply as an overpayment any amount over your debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to a state agency, or to another state, or whether you owe a New York City tax warrant judgment debt, contact the state agency, the other state, or the New York City Department of Finance.

For New York State tax liabilities only, call 1 800 835-3554 (from areas 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.

For New York City liabilities only, call (212) 232-3550.

**Line 27 — Composition of prepayments on line 14** — If you need additional space, enter see attached under line 27 and attach all additional prepayment information. Include additional amounts in the total on line 27 and on line 14.

**Privacy notification** — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.