



# Instructions for Form CT-33-M

## Insurance Corporation MTA Surcharge Return

Tax Law — Article 33, Section 1505-a

# CT-33-M-I

**Important reminder to file a complete return:** You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

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

Visit our Web site for tax law changes or forms corrections that occurred after the forms and instructions were printed (see *Need help?*).

### Changes for 2008

**Increase in the mandatory first installment of estimated tax for non-life insurance corporations** — The Tax Law was amended to provide an increase in the mandatory first installment for taxpayers, other than life insurance corporations filing Forms CT-33 or CT-33-A, and continuing section 186 taxpayers filing Form CT-186, whose preceding year's tax, exclusive of the metropolitan transportation business tax (MTA surcharge), exceeded \$100,000. For tax years beginning on or after January 1, 2009, those taxpayers are required to pay a first installment equal to 30% of the preceding year's tax. Additionally, taxpayers who are required to pay their mandatory first installment at the 30% rate and are subject to the MTA surcharge are also required to calculate their estimated tax for the MTA surcharge at 30% of the preceding year's MTA surcharge. The remaining three estimated tax payments are to be adjusted so that the total payments do not exceed 100% of the estimated tax due. The mandatory first installment of estimated tax and estimated MTA surcharge remains at 25% of the preceding year's tax and tax surcharge, respectively, for those taxpayers whose preceding year's tax exceeded \$1,000, but was less than or equal to \$100,000.

**Form CT-222, Underpayment of Estimated Tax by a Corporation, revised** — Previously, Form CT-222 was used by a corporation to report to the Tax Department the amount of the underpayment of estimated tax penalty the corporation was subject to. Beginning with the 2008 Form CT-222, corporations will file Form CT-222 only to inform the Tax Department that the corporation meets one of the exceptions to the underpayment of estimated tax penalty. The Tax Department will compute the amount of any penalty and notify the corporation of any amount due.

### General information

#### Who must file

If you do business, employ capital, own or lease property, or maintain an office in the Metropolitan Commuter Transportation District (MCTD), you must 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, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

If you file Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return*, Form CT-33, *Life Insurance Corporation Franchise Tax Return*, or Form CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return*, use Form CT-33-M to report and pay the MTA surcharge.

Life insurance corporations filing on a combined basis are required to file only one return for the combined group. Use combined figures, as shown on your Form CT-33-A, to complete this form.

### MTA surcharge for non-life insurance corporations

The MTA tax surcharge for non-life insurance corporations is equal to 17% of the franchise tax based solely on premiums under Tax Law section 1502-a, after the deduction of any tax credits allowed under Article 33, and as allocated to the MCTD as described in *MCTD allocation percentage for non-life insurance corporations*.

### MCTD allocation percentage for non-life insurance corporations

The MCTD allocation percentage for non-life insurance corporations is calculated by dividing the direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in the MCTD by the direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in New York State.

### MTA surcharge for life insurance corporations

The MTA surcharge for life insurance corporations is computed using the tax rates in effect immediately prior to tax years beginning on or after July 1, 2000. Therefore it may be necessary to recompute your tax for purposes of computing the MTA surcharge. The MTA surcharge rate is 17% and is applied to the tax, after the deduction of any tax credits, allowed under Article 33, and as allocated to the MCTD as described in *MCTD allocation percentage for life insurance corporations*. See instructions for line 10.

### MCTD allocation percentage for life insurance corporations

The MCTD allocation percentage for life insurance corporations is calculated by adding the percentages of the taxpayer's premiums allocated to the MCTD (multiplied by nine) and payroll allocated to the MCTD and dividing the sum by ten.

### Installment payments

A taxpayer whose franchise tax is more than \$1,000 must file a declaration of estimated MTA surcharge and make quarterly installment payments on Form CT-400, *Estimated Tax for Corporations*.

### 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, file your return on or before the next business day.

File with, but do not attach to, Form CT-33-NL, Form CT-33, or Form CT-33-A.

Mail your return to:

**NYS CORPORATION TAX  
PROCESSING UNIT  
PO BOX 22038  
ALBANY NY 12201-2038**

See Form CT-33-NL-I, Form CT-33-I, or Form CT-33-A-I for an alternative address if you wish to use a private delivery service.

Also mail a copy to: **NYS INSURANCE DEPARTMENT,  
ONE COMMERCE PLAZA, ALBANY NY 12257**

### Extension of time for filing MTA surcharge return

You may request additional time to file Form CT-33-M. To do this, file Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*, or Form CT-5.3, *Request for Six-Month Extension to File (for combined franchise tax return, or combined MTA surcharge return, or both)*, on or before the due date of the return for which you are requesting the extension, and pay the MTA surcharge you estimate to be due.

### Specific instructions

#### 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-M.

#### Reporting period

Use this tax return for calendar year 2008 and fiscal years that begin in 2008 and end in 2009.

You can also use the 2008 return if:

- you have a tax year of less than 12 months that begins and ends in 2009, **and**
- the 2009 return is not yet available at the time you are required to file the return.

In this case you must show your 2009 tax year on the 2008 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2008.

All filers must complete the beginning and ending tax year boxes in the upper right corner on page 1 of the form.

### Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Enter your employer identification number and file number. If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

### 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, or by fax, or by phone. See *Need help?*.

### Whole dollar amounts

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

### Percentages

When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Round percentages to four decimal places.

**Example:**  $5,000/7,500 = 0.6666666 = 66.6667\%$ .

### Entering dates

Unless you are specifically directed to use a different format, enter dates in the *mm-dd-yy* format (using dashes and not slashes).

### Line instructions

**Line A** — Make your check or money order payable 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 MCTD allocation percentage

#### Non-life insurance corporations MCTD allocation percentage

Life insurance corporations skip lines 1a through 2.

**Lines 1a through 2** — If all your direct premiums described as taxable premiums under section 1510 are written on risks located or resident in the 12 counties of the MCTD, skip lines 1a and 1b and enter **100** on line 2. Otherwise, compute your MCTD allocation percentage by completing lines 1a, 1b, and 2.

**Line 1b** — Enter your direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in the MCTD. Also, include premiums written, procured, or received in the MCTD on business that cannot be specifically assigned as located or resident in an area outside the MCTD, or in another state(s). However, in the case of special risk premiums, include only those premiums written, procured, or received in the MCTD on property or risks located or resident in the MCTD.

#### Life insurance corporations MCTD allocation percentage

Non-life insurance corporations skip lines 3a through 9.

**Lines 3a through 9** — If all of your New York State business is within the 12 counties of the MCTD, skip lines 3a through 8 and enter **100** on line 9. Otherwise, compute your MCTD allocation percentage by completing lines 3a through 9.

Life insurance corporations taxable under Article 33 that are filing on a combined basis must use a combined MCTD allocation percentage.

**Line 3b** — Determine MCTD premiums included on line 3a using the same principles set out in Tax Law sections 1504(a) and (b) to determine New York State premiums.

**Line 6b** — Determine MCTD wages included on line 6a using the same principles set out in Tax Law section 1504(a) to determine New York State wages, salaries, commissions, and other compensation.

**Line 9** — If the MCTD premium factor is missing from line 4, the MCTD allocation percentage is the MCTD wage factor percentage on line 7. If the MCTD wage factor is missing from line 7, the MCTD allocation percentage is the MCTD premiums factor percentage on line 4. A factor is missing if both its numerator and denominator are zero. If the numerator is zero and the denominator has a positive figure, the factor has an allocation value of 0% and this percentage is included in the computation of the MCTD allocation percentage.

### Computation of MTA surcharge

**Line 10** — Enter the amount from Form CT-33, line 13, or Form CT-33-A, line 17 **unless** you meet **all** of the following criteria:

- the tax on Form CT-33, line 11, or Form CT-33-A, line 15, is equal to the tax on Form CT-33, line 9c or Form CT-33-A, line 13; **and**
- the tax on Form CT-33 or CT-33-A, line 1 is larger than each of the taxes on line 2, line 3, and line 4 of that form; **and**
- the tax from Form CT-33, line 7, or CT-33-A, line 8, is larger than the floor limitation on tax on Form CT-33, line 8 or Form CT-33-A, line 9.

If you meet the criteria, complete *Worksheet*.

**Worksheet****Recomputation of tax for life insurance companies when franchise tax base is on entire net income and not the section 1505(b) floor limitation or the section 1505(a)(2) limitation on tax**

|  |                         |
|--|-------------------------|
| A. Allocated entire net income (enter amount from Form CT-33, line 82, or CT-33-A, line 86) .....  | A. _____                |
| B. "As if" entire net income tax rate (9%) .....   | B. <u>          .09</u> |
| C. Recomputed tax on entire net income (multiply line A by line B) .....   | C. _____                |
| D. Allocated subsidiary capital tax (enter amount from line 5 of Form CT-33 or CT-33-A) .....  | D. _____                |
| E. Total tax on premiums (enter amount from Form CT-33, line 6, or CT-33-A, line 7) .....  | E. _____                |
| F. Tax before empire zone (EZ) and zone equivalent area (ZEA) tax credits (add lines C through E) ...                                      | F. _____                |
| G. EZ and ZEA tax credits claimed (enter amount from Form CT-33, line 9b, or CT-33-A, line 11a) .....                                      | G. _____                |
| H. Tax after EZ and ZEA tax credits (subtract line G from line F) .....  | H. _____                |
| I. Combined minimum tax for subsidiaries (Form CT-33 filers enter 0; Form CT-33-A filers enter the amount from line 12 of that form) ..... | I. _____                |
| J. Total tax after EZ and ZEA tax credits (add lines H and I) .....  | J. _____                |
| K. Section 1505(a)(2) limitation on tax (enter amount from Form CT-33, line 10, or CT-33-A, line 14) .....                                 | K. _____                |
| L. Recomputed New York State franchise tax (enter amount from line J or K, whichever is less) .....  | L. _____                |
| M. Tax credits (enter amount from Form CT-33, line 12, or CT-33-A, line 16) .....  | M. _____                |
| N. Net recomputed New York State franchise tax (subtract line M from line L; enter here and on Form CT-33-M, line 10) .....                | N. _____                |

**Line 13** — Insurance corporations organized or domiciled in New York State may claim a credit on this line for 90% (.9) of retaliatory taxes paid to other states for the privilege of doing business in those states, resulting from the imposition of the MTA surcharge for the 2008 tax year. Enter the smaller of 90% of retaliatory taxes paid in 2008 attributable to the 2008 MTA surcharge or the amount of MTA surcharge shown on line 12. Attach computation. Enter 0 if you are not claiming a retaliatory tax credit. To claim a refund for retaliatory taxes paid in 2008 as a result of the imposition of the MTA surcharge for previous periods, see lines 29 through 38.

**Line 15b** — If you did not file Form CT-5 or Form CT-5.3, and your franchise tax on line 7 of Form CT-33-NL, line 13 of Form CT-33, or line 17 of Form CT-33-A exceeds \$1,000, then you must pay a mandatory first installment on line 15b.

**Life insurance corporations:** Enter 40% (.4) of the MTA surcharge shown on line 14 of Form CT-33-M.

**Non-life insurance corporations:** If your franchise tax on line 7 of Form CT-33-NL exceeds \$1,000, but does not exceed \$100,000, enter 25% (.25) of the MTA surcharge shown on line 14 of Form CT-33-M. If your franchise tax on line 7 of Form CT-33-NL exceeds \$100,000, enter 30% (.3) of the MTA surcharge shown on line 14 of Form CT-33-M.

**Line 19** — Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to the underpayment of estimated tax penalty pursuant to Tax Law section 1085(d).

**Line 20** — If you do not pay the MTA surcharge on or before the original due date (**without** regard to any extension of time), you must pay interest on the amount of the underpayment from the original due date to the date paid. Exclude from the interest computation any amount shown on line 15a or 15b, first installment of estimated tax for next period.

**Line 21** — Compute additional charges for late filing and late payment on the amount of MTA surcharge required to be shown on the return after deduction of any payment made on or before the due date (**with** regard to any extension of time for filing). Exclude from the penalty computation any amount shown on line 15a or 15b, first installment of estimated tax for next period.

- If you do not file a return when due or if your request for extension is invalid, add to the MTA surcharge 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 the MTA surcharge in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as the MTA surcharge (section 1085(a)(1)(B)).
- If you do not pay the MTA surcharge shown on a return, add to the MTA surcharge ½% per month up to 25% (section 1085(a)(2)).
- 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 the delay in filing, payment, or both (section 1085).

**Note:** You may compute your penalty and interest by accessing our Web site and clicking on *Online Tax Center*, or you may call and we will compute the penalty and interest for you (see *Need help?*).

**Lines 23 through 26** — You may apply all or part of your overpayment to your New York State franchise tax, next year's MTA surcharge, or request a refund. Indicate the amount to be credited to New York State franchise tax on line 24, the amount to be credited to next year's MTA surcharge on line 25, and the amount to be refunded on line 26.

**Line 28 — 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 if you owe a New York City tax warrant judgment debt. We may also keep all or part of your refund or overpayment if you owe a past-due legally enforceable debt to another state, provided that state has entered into a reciprocal agreement with New York State. 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, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

## Claim for refund of MTA surcharge retaliatory tax credit

Insurance corporations organized or domiciled in New York State must use lines 29 through 38 to claim a refund for retaliatory taxes paid to other states as a result of the imposition of the metropolitan transportation business tax (MTA surcharge). The surcharge credit available for a given year may not exceed the MTA surcharge payable for that year as computed under Tax Law section 1505-a. The credit is claimed in the year paid, but is attributed to the year in which the retaliatory taxes were imposed or assessed.

Attach a separate sheet to the refund claim, identifying the recipients of the retaliatory tax and the amount paid to each recipient, broken down to reflect the year to which the taxes are attributable.

For tax years beginning on or after January 1, 2003, the four million dollar limitation on the total amount of the surcharge retaliatory tax credit claimed in any *surcharge taxable year* has been repealed. Also, there is no longer a limitation date for the surcharge retaliatory tax credit, and this credit may now be claimed for taxes paid to other states regardless of the *limitation date* for a *surcharge taxable year*.

**Line 29** — Enter MTA surcharge payable for each year for which you are claiming a credit.

**Line 30** — Enter retaliatory tax credits allowed in prior years that are attributable to the MTA surcharge. Include all credits claimed on Form CT-33-M.

**Lines 32 through 36** — Do not include on these lines any amounts attributable to retaliatory taxes that were previously claimed on Form CT-33-M for any year.

**Line 37** — Enter in the appropriate column, for the correct year, the total MTA surcharge retaliatory tax credits allowed to date. Include any credits previously allowed on Form CT-33-M as well as amounts claimed in Columns A through E on lines 32 through 36.

### Lines 39 through 45 — Composition of prepayments claimed on line 17

If you need more space, write **see attached** in this section and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to line 17.

### Third-party designee

If you want to authorize another person (third-party designee) to discuss this 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 **print** 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, **print** the preparer's name in the space for the designee's name and enter the preparer's phone number in the space for the designee's phone number. You do not have to provide the other information requested. If you do not want to authorize another person, mark an **X** in the **No** box.

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 change the PIN. The authorization will automatically end on the due date (without regard to extensions) for filing your next year's tax return.

### 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 5-a, 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.

## Need help?



**Internet access:** [www.nystax.gov](http://www.nystax.gov)  
(for information, forms, and publications)



**Fax-on-demand forms:** Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.  
To order forms and publications: 1 800 462-8100  
**Corporation Tax Information Center:** 1 888 698-2908  
From areas outside the U.S. and outside Canada: (518) 485-6800



**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, 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 1 800 972-1233.