



# Instructions for Form CT-13

## Unrelated Business Income Tax Return

**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 2009

**Credit, refund, and federal change forms are obsolete —** Effective January 1, 2009, and applicable to all open tax periods, Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*, can no longer be used. For further information, see Important Notice, N-09-2, *Form CT-8, Claim for Credit or Refund of Corporation Tax Paid, and Form CT-9, Claim for Tentative Refund Based Upon Carryback of Net Operating Loss, Are Obsolete*.

In addition, you can no longer use Form CT-3360, *Federal Changes to Corporate Taxable Income*. If your corporation's federal taxable income (FTI) has been changed or corrected by a final determination of the Commissioner of Internal Revenue, you must file an amended New York State return reflecting the federal changes.

**More collection options for New York State —** If you owe unpaid debt to New York State, we are now able to collect your debt by taking money from, or offsetting, payments owed you by the federal government or by another state. Reciprocal offset agreements also allow the federal government, as well as other states, to collect delinquent non-tax debt by offsetting payments owed you by New York State.

**New tax under Tax Law Article 23 —** A new Metropolitan Commuter Transportation Mobility Tax (MCTMT) applies to certain employers and self-employed individuals engaging in business within the Metropolitan Commuter Transportation District (MCTD). The tax applies to employers required to withhold New York State income tax from wages that have a payroll expense exceeding \$2,500 in any calendar quarter. It also applies to individuals with net earnings from self-employment allocated to the MCTD that exceed \$10,000 for the tax year. For more information about this new tax, visit our Web site at [www.nystax.gov](http://www.nystax.gov).

When computing your unrelated business taxable income, you must add back any Article 23 MCTMT deducted on your federal return. If you included a refund or credit on your federal return for Article 23 taxes, subtract that refund or credit from your federal unrelated business taxable income if no exclusion or deduction in computing Article 13 unrelated business taxable income was previously allowed for the refund or credit amount.

**Fee for payments returned by banks —** A new law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

### Who must file Form CT-13

An organization or trust, as described in Internal Revenue Code (IRC) section 511(a)(2) or (b)(2), that is carrying on an unrelated trade or business in New York State must file this return and pay the tax due regardless of the amount of federal gross income from an unrelated trade or business. *An unrelated trade or business* is one not related to the purposes that exempt an organization from tax under IRC section 501. However, the following organizations are not subject to tax under Article 13 and are not required to file Form CT-13:

1. Corporations liable for tax under the Tax Law Article 9-A.
2. Organizations whose sole unrelated trade or business in New York State consists of providing commercial-type insurance (IRC section 501(m)(2)(A)).

Mark an **X** in the appropriate box above line A on Form CT-13 if you ceased operating the unrelated business during the tax year covered by this return. If you become liable for the unrelated business income tax during any subsequent tax year, you must resume filing Form CT-13.

### When to file

File this form within 4½ months after the end of the reporting period. If you need more time to file, you may request an extension of the filing date by completing and filing Form CT-5, *Request for Six-Month Extension to File*, and paying the tax due on or before the due date of this return.

**Exception:** Employee trusts, as described in IRC section 401(a), must file within 3½ months after the reporting period ends. If you are an employee trust, mark an **X** in the appropriate box above line A on Form CT-13.

### Where to file

Mail your return to: **NYS CORPORATION TAX  
PROCESSING UNIT  
PO BOX 22038  
ALBANY NY 12201-2038**

### Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: State Processing Center, 431C Broadway, Albany NY 12204-4836

### Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box on the top of Form CT-13.

If you file an amended federal return, you must file an amended New York State return within 90 days thereafter.

**For amended returns based on changes by the Internal Revenue Service (IRS) —** If your federal taxable income (FTI) has been changed or corrected by a final determination of the

Commissioner of Internal Revenue, you must file an amended return reflecting the federal changes within 90 days of the final federal determination. For a definition of final determination, see NYS Regulation section 6-1.3(b).

You must attach a copy of federal Form 4549, *Income Tax Examination Changes*, to your amended return.

**For credits or refunds based upon carryback of a net operating loss (NOL)** — To claim a credit or refund resulting from the carryback of an NOL to a prior year, file an amended return within 90 days from the date of the document indicating approval of the federal refund or credit.

You must attach the following to your amended return:

- federal claim Form 1139, *Corporation Application for Tentative Refund*, or federal amended Form 990T, *Exempt Organization Business Income Tax Return*;
- a copy of the New York State return for the loss year; and
- proof of federal refund approval, *Statement of Adjustment to Your Account*.

**For credits or refunds of corporation tax paid** — To claim any refund type that requires an amended return, other than an NOL carryback (see above), file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually amended Form 990T) and proof of federal refund approval, *Statement of Adjustment to Your Account*.

The amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. However, a claim for credit or refund based on a federal change must be filed within two years from the time the amended return reporting the change or correction was required to be filed (see above). For additional limitations on credits or refunds, see Tax Law section 1087.

## Business information

Enter the corporation's business information at the top of the first page. Be sure to enter the corporation's mailing name if different from its legal name.

If you need to update your corporation tax address or phone information, you can do so online. Visit our Web site at [www.nystax.gov](http://www.nystax.gov) and look for the change my address option. Otherwise, enter your new address and/or phone number in the appropriate area of your return and mark an **X** in the box under the address. Do not mark an **X** in this box if your address and/or phone number is new since your last filing but was already updated online, or for any change of business information other than your address and/or phone number. Once your corporation tax information is updated online, you do not need to indicate a change of address on any corporation tax forms submitted to the Tax Department (or for any forms for tax types you select to be updated in addition to corporation tax).

If you prefer to change this information by form, use Form DTF-96, *Report of Address Change for Business Tax Accounts*. You must report other changes (such as business name or ID number) on Form DTF-95, *Business Tax Account Update*. You can get these forms from our Web site, by fax, or by phone (see *Need help?*).

## Reporting period

Use this tax return for calendar year 2009 and fiscal years that begin in 2009 and end in 2010.

You can also use the 2009 return if:

- you have a tax year of less than 12 months that begins and ends in 2010, **and**

- the 2010 return is not yet available at the time you are required to file the return.

In this case you must show your 2010 tax year on the 2009 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2009.

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

## Principal unrelated business activity

In the box labeled *Principal unrelated business activity*, give the one unrelated business activity that accounts for the largest percentage of total receipts. *Total receipts* are gross receipts and all other income. State the broad field of unrelated business activity as well as the specific product or services (for example, investments, providing services to or selling products to nonmembers, rental income, etc.).

**Whole dollar amounts** — You may elect to show amounts in whole dollars rather than 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).

## Specific 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**.

**Line 3** — If you are a shareholder of a federal S corporation that did not make a New York S election, enter your pro rata share of any amounts that are required to be added to federal unrelated business taxable income.

- Add back any items of deduction or loss that were passed through from the corporation and are included in federal unrelated business taxable income on line 1.
- Add back any distributions of cash or property from the S corporation that are not already included in federal unrelated business income pursuant to IRC section 1368 or 1371(e). Any distribution under IRC section 1368(b)(2) is treated as ordinary income.
- If gain or loss is included in unrelated business income, upon the disposition of stock or discharge of the indebtedness, add any increase in basis resulting from years that the corporation was a federal S corporation but was a C corporation for New York State tax purposes. Refer to Tax Law Article 13, section 292(a)(5), and Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*, for more information.

**Line 4** — If you are a shareholder of a federal S corporation that did make a New York S election, enter your shareholder's pro rata share of the federal subchapter S corporation's reduction for taxes on built-in gains or excess net passive income (IRC section 1366(f)). These taxes were paid at the entity level for federal tax purposes, reducing the gain for shareholders. The taxes are *grossed up* for New York State purposes.

**Line 5**

**IRC section 199 deduction** — Enter in the first entry box the amount of the deduction for domestic production activities from your federal return that is required to be added back under Tax Law section 292(a)(7).

If you have the following other addition to federal unrelated business taxable income, add the amount from the first entry box to this addition and enter the result.

**Royalty payments made to a related member or members** — Enter the amount of related-member royalty expense required to be added back under Tax Law section 292(a)(6).

**Line 7** — Enter income derived from the conduct of games of chance or from the rental of premises for the conduct of games of chance permitted by a license granted under General Municipal Law Article 9-A. Games of chance **do not** include bingo or lottery games. Also enter income from providing commercial-type insurance that is included in federal unrelated business taxable income because of IRC section 501(m)(2)(A).

**Line 8** — If you are a shareholder of a federal S corporation that did not make a New York S election, enter any amounts that must be subtracted from federal unrelated business taxable income.

- Subtract items of income or gain passed through from the federal S corporation.
- If gain or loss is included in unrelated business income, upon the disposition of stock or discharge of the indebtedness, subtract any decrease in basis resulting from years that the corporation was a federal S corporation but was a C corporation for New York State tax purposes.
- Subtract the amount of any modifications to unrelated business income that were made on your federal return and that are attributable to the distribution of cash or property from the federal S corporation pursuant to IRC section 1368 or section 1371(e).

**Line 9** — Other subtractions (attach list)

**S-1** Enter the amount of related-member royalty income required to be subtracted under Tax Law section 292(a)(6).

**S-2** Enter any amount of tax refunded or credited as an overpayment under this article or Article 23.

**Line 12** — The net operating loss deduction (NOLD) is limited to the lower of either the federal or New York State net operating loss (NOL). Your NOL may not exceed the deduction allowable for federal tax. A NOLD cannot be claimed for periods that the taxpayer was not subject to tax under Tax Law Article 13.

**Line 20** — If you do not pay the tax on or before the original due date, not the extended due date, you must pay interest on the amount of the underpayment from the original due date to the date paid.

**Line 21 — 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.

- A. If you do not file a return when due, or if the application for extension is invalid, add to the tax 5% (.05) per month up to a maximum 25% (.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 fail to pay the tax shown on a return, add ½% (.005) per month to the balance due, up to a maximum 25% (.25) (section 1085(a)(2)).
- D. The total of the additional charges in items A and C above may not exceed 5% (.05) in 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 or 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 interest and penalty for you (see *Need help?*).

**Line 23 — 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.

The Tax Department is authorized to charge the taxpayer, as part of the taxpayer's tax debt, any cost or fee imposed or charged by the United States, or any state, for the payment or remittance of a taxpayer's overpayment to satisfy a New York State tax 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 (518) 457-5434 (in-state callers without free long distance call 1 800 835-3554) or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

**Schedule A**

**Lines 26 through 39** — Enter the New York State amount in column A and the entire amount in column B.

**Line 26** — The *fair market value* of any asset is the price (without any encumbrance, whether or not the taxpayer is liable) at which a willing seller will sell and a willing purchaser will buy. Average fair market value is generally computed on a quarterly basis. If your usual accounting practice does not permit computing average fair market value quarterly or more frequently, you may use a semiannual or annual basis if no distortion of average fair market value results.

**Line 27** — *Gross rent* includes any amount payable as rent or instead of rent, such as taxes and repairs, and the amount of annual amortization of any costs of leasehold improvements made by or on the behalf of the taxpayer. Multiply gross rents, paid or payable during the year covered by the return, by eight to arrive at the amount of gross rents to be included on line 27.

**Line 29** — *Tangible personal property* includes personal property, such as machinery, tools, implements, goods, wares, and merchandise. **Do not** include cash, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidence of debt.

**Line 39** — Include only the personal service compensation of employees (other than general executive officers) of the unrelated trade or business.

*General executive officers* include the chairman, president, vice president, secretary, assistant secretary, treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either within or outside New York State is not a general executive officer.

## 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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

## 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.

**Corporation Tax Information Center:** (518) 485-6027  
In-state callers without free long distance: 1 888 698-2908

To order forms and publications: (518) 457-5431  
In-state callers without free long distance: 1 800 462-8100



**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, call the information center.