New York State Department of Taxation and Finance

2009

Instructions for Forms CT-3-S and CT-3-S-ATT
New York S Corporation Franchise Tax Return and Attachment

CT-3-S-I

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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?* on page 13).

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*.

When computing your entire net income (ENI), 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 taxable income (FTI) if no exclusion or deduction in computing ENI was previously allowed for the refund or credit amount.

Fuel cell credit expires — Effective for tax years beginning on or after January 1, 2009, the tax credit for fuel cell electric generating equipment expired. However, if you have unused carryforwards of previously-earned credits, you may use them until they are exhausted.

Health maintenance organizations (HMOs) taxed as insurance corporations — Effective for tax years beginning on or after January 1, 2009, any for-profit HMO required to obtain a certificate of authority under Article 44 of the Public Health Law is subject to a franchise tax based solely on premiums under Tax Law section 1502-a. These HMOs are now included in the definition of an insurance corporation under Tax Law section 1500(a). For more information, see Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return*, and its instructions.

Overcapitalized captive insurance companies must be included in combined returns under Article 9-A or 32 — Effective for tax years beginning on or after January 1, 2009, any overcapitalized captive insurance company (as defined in Tax Law section 2.11) must be included in a combined return under Article 9-A or 32 with the closest corporation that directly or indirectly owns or controls over 50% of the voting stock of the insurance company. Such insurance companies no longer meet the definition of an insurance corporation under Tax Law section 1500(a). For more information, see TSB-M-09(9)C, *Tax Treatment of Overcapitalized Captive Insurance Companies*.

New requirements for film production credit — Effective for tax years beginning on or after January 1, 2009, if the Empire State film production credit allocated to you by the New York State Governor's Office for Motion Picture and Television Development is at least $1 million but less than $5 million, you must claim the credit over two years. If the credit is at least $5 million dollars, you must claim it over three years. For more information, see Form CT-248, *Claim for Empire State Film Production Credit.*

Increase in the mandatory first installment (MFI) of estimated tax — The Tax Law was amended to provide an increase in the MFI for taxpayers, other than life insurance corporations filing Form CT-33, *Life Insurance Corporation Franchise Tax Return,* or CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return,* and continuing section 186 taxpayers filing Form CT-186, *Utility Corporation Franchise Tax Return,* 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, 2010, those taxpayers

are required to pay a first installment equal to 40% of the preceding year's tax. Additionally, taxpayers who are required to pay their MFI at the 40% rate and are subject to the MTA surcharge are also required to calculate their estimated tax for the MTA surcharge at 40% 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 MFI 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.

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

An *S corporation* is a small business corporation whose shareholders have made an election to be taxed under personal income tax law, rather than corporation tax law, as permitted under Subchapter S of Chapter One of the Internal Revenue Code (IRC). The shareholders of federal S corporations subject to Tax Law Article 9-A may make the same election for New York State, called a *New York S election*, by filing Form CT-6, *Election by a Federal S Corporation to be Treated as a New York S Corporation*. This includes both corporations organized under New York State law and foreign corporations (those organized under the laws of any other state) that do business, employ capital, own or lease property, or maintain an office in New York State.

If a corporation is a federal S corporation and wishes to make the same election for New York State, the corporation is required to file Form CT-6 and receive approval **before** filing Form CT-3-S, CT-3-S-ATT, *Attachment to Form CT-3-S,* or CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Federal approval as an S corporation is **not** automatic approval for New York State.

Once a corporation has approval from the New York State Tax Department to be treated as a New York S corporation, it is required to file Form CT-3-S instead of Form CT-3, *General Business Corporation Franchise Tax Return,* or Form CT-4, *General Business Corporation Franchise Tax Return Short Form.* The corporation must attach Form CT-34-SH to report information for all individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the year. If required, the corporation must also attach Form CT-3-S-ATT to report its business allocation percentage (BAP) and investment allocation percentage.

Mandated New York S corporation — Shareholders of eligible federal S corporations that have not made the election to be treated as a New York S corporation for the current tax year will be deemed to have made that election if the corporation's investment income is more than 50% of its federal gross income for that year. For purposes of the mandated New York State S election, *investment income* means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate, or trust, to the extent such items would be includable in the corporation's federal gross income for the tax year. In this case, the taxpayer must file Form CT-3-S. This provision does not apply to S corporations subject to tax under Tax Law Article 32 (Franchise Tax on Banking Corporations).

A bank S corporation must use Form CT-32-S, *New York Bank S Corporation Franchise Tax Return,* instead of Form CT-3-S.

Domestic corporations — A domestic corporation (incorporated in New York State) is generally liable for franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated until it is formally dissolved with the Department of State *(www.dos.state.ny.us)*. However, a domestic corporation that is no longer doing business, employing capital, or owning or leasing property in New York State is exempt from the fixed dollar minimum tax for years following its final tax year and is no longer required to file a franchise tax return provided it meets the requirements listed in TSB-M-06(5)C, *Certain Domestic Business Corporations Exempt from the Article 9-A Fixed Dollar Minimum Tax.*

Foreign corporations — A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it is doing business, employing capital, owning or leasing property, or maintaining an office in New York State. In addition, a foreign corporation authorized to do business in New York State is also liable for payments of its annual maintenance fee, until such time as it surrenders to the Department of State its authority to do business, regardless of whether it is doing business, employing capital, owning or leasing property, or maintaining an office in the state.

Foreign corporations authorized to do business but disclaiming tax liability

If you are a foreign corporation authorized to do business in New York State but disclaiming tax liability you do not have to file a franchise tax return. Instead, file Form CT-245, *Maintenance Fee and Activities Return For a Foreign Corporation Disclaiming Tax Liability,* to pay the annual maintenance fee. The annual maintenance fee is $300, unless you file a short period return, which may reduce your maintenance fee to less than $300.

If it is determined that a franchise tax return is required, the maintenance fee may be allowed as a credit against any tax due under Article 9-A.

Corporate partners

- If a partnership is doing business, employing capital, owning or leasing property, or maintaining an office in New York State, then all of its corporate general partners must file franchise tax returns.
- A foreign corporation is doing business, employing capital, owning or leasing property, or maintaining an office in New York State if it is a limited partner of a partnership (other than a portfolio investment partnership) that is doing business, employing capital, owning or leasing property, or maintaining an office in New York State, and if it is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities or affairs of the partnership. For more information, see New York State (NYS) Regulation section 1-3.2(a)(6).

New York State regulations provide that a corporate partner (except for certain foreign corporate limited partners) must compute its tax with respect to its interest in the partnership under either the aggregate or entity method. The regulations also discuss each method and set forth the determination of the applicable methodology. Under the aggregate method, a corporate partner takes into account its distributive share of receipts, income, gain, loss or deduction, and its proportionate part of assets, liabilities and transactions from the partnership. Under the entity method, a corporate partner is treated as owning an interest in a partnership entity. The interest is considered an intangible asset that constitutes business capital. The regulations make it clear that the aggregate method, which was required under the previous regulations, is the preferred method.

For more information on the adopted regulations, see TSB-M-07(2)C, (1)I, *Amendments to the Business Corporation Franchise Tax Regulations Relating to the Taxation of Corporate Partners.*

New York State equivalents to federal Schedule K-1

— Form IT-204-IP, *New York Partner's Schedule K-1*, is completed for each partner who is an individual, estate or trust, or partnership required to file under Tax Law Article 22 (Personal Income Tax).

— Form IT-204-CP, *New York Corporate Partner's Schedule K-1*, is completed for each corporate partner that is taxable under Tax Law Article 9-A.

These forms give each partner its distributive share of income, deductions, New York modifications, credits, and other information the partner needs to complete the partner's New York State personal income tax or corporation franchise tax return.

If you received a complete Form IT-204-CP from your partnership, see Form IT-204-CP-I, *Partner's Instructions for Form IT-204-CP,* before completing your franchise tax return.

Transitional provisions for the Gramm-Leach-Bliley (GLB) Act

Under the federal GLB Act, an entity was created called a *financial holding company* (FHC) that can own banks, insurance companies, and securities firms. As a result of the GLB Act, the Tax Law was amended in 2000 to allow certain corporations that were taxed under Article 9-A or Article 32 in 1999 to retain their tax status in 2000.

These transitional provisions were extended by adding new Tax Law section 1452(m), and amending Tax Law section 1462(f)(2)(iv) so they now expire for tax years beginning on or after January 1, 2010. The GLB provisions do not preclude taxpayers that made the one time election to remain taxable under Article 9-A, pursuant to section 1452(d) (the grandfather election), from revoking that election.

Revocation of Article 9-A status

Pursuant to Tax Law section 1452(d), a corporation 65% or more owned by a bank or a bank holding company as described in Tax Law section 1452(a)(9) that was subject to tax under Article 9-A for its tax year ending in 1984, was allowed in 1985 to make a one-time grandfather election to continue to be taxable under Article 9-A. This election remains in effect until revoked by the taxpayer. In no event can the revocation of the election be for part of the tax year. The revocation is made by the filing of a tax return under Tax Law Article 32. However, if any of the conditions set forth below exist or occur in a tax year beginning on or after January 1, 2007, with respect to the electing corporation, the election will be deemed revoked as of the first day of the tax year in which the condition applied.

If any of the conditions set forth below exist or occur in a tax year beginning on or after January 1, 2007, with respect to a corporation required to be taxable under Article 9-A pursuant to the Gramm-Leach-Bliley (GLB) provisions of Tax Law section 1452, then such corporation, if it otherwise meets the requirements of Tax Law section 1452(a), will be taxable under Article 32 as of the first day of the tax year in which the condition applied.

If any of the conditions set forth below exist or occur in a tax year beginning on or after January 1, 2007, with respect to a corporation that has made the election to be taxable under Article 9-A pursuant to the GLB provisions of Tax Law section 1452, then the electing corporation will be deemed to have revoked the election as of the first day of the tax year in which the condition applied.

Conditions

- The corporation ceases to be a taxpayer under Article 9-A.
- The corporation has no wages or receipts allocable to New York State pursuant to Tax Law section 210.3, or is otherwise inactive. However, this condition does not apply to a corporation that is engaged in the active conduct of a trade or business, or substantially all of the assets of which are stock and securities of corporations that are directly or indirectly controlled by it and are engaged in the active conduct of a trade or business.
- 65% or more of the voting stock of the corporation becomes owned or controlled directly by a corporation that acquired the stock in a transaction (or series of related transactions) that qualifies as a purchase within the meaning of IRC section 338(h)(3), unless both corporations, immediately prior to the purchase, were members of the same affiliated group (as such term is defined in IRC section 1504 without regard to the exclusions provided for in 1504(b)). However, any acquisition that was completed on or before January 3, 2007, shall be treated as a new acquisition made before January 1, 2007.
- The corporation, in a transaction or series of related transactions, acquires assets, whether by contribution, purchase, or otherwise, having an average value as determined in accordance with Tax Law section 210.2 (or, if greater, a total tax basis) in excess of 40% of the average value (or, if greater, the total tax basis) of all assets of the corporation immediately prior to the acquisition and, as a result of the acquisition, the corporation is principally engaged in a business that is different from the business immediately prior to the acquisition (provided that such different business is described in Tax Law section 1452(a)(9)(i), (ii), or (iii)).

Electronic filing and electronic payment mandate

Certain tax preparers using tax software to prepare tax documents, and certain taxpayers preparing their own tax documents using tax software, must, for the applicable calendar year and all succeeding calendar years, e-file all documents authorized by the Commissioner to be e-filed. Any tax liability or other amount due required to be paid with a tax document that must be e-filed must also be e-paid.

Other forms you may need to file

Form CT-6.1, *Termination of Election to be Treated as a New York S Corporation*, must be filed to terminate New York S corporation status.

Form CT-33-D, *Tax on Premiums Paid or Payable to an Unauthorized Insurer*, must be filed if you purchased or renewed a taxable insurance contract that covers risks located in New York State from an insurer not authorized to transact business in New York State. This return must be filed within 60 days following the end of the calendar quarter in which the contract was purchased or renewed. For more information, see TSB-M-90(9)C, *1990 Legislation - Direct Writings Tax*.

Form CT-60-QSSS, *Qualified Subchapter S Subsidiary Information Schedule*, must be filed to notify the Tax Department that a qualified subchapter S subsidiary (QSSS) is included in your return. Remember to mark an ***X*** in the line C box on page 1 of Form CT-3-S, and attach Form CT-60-QSSS.

Qualified subchapter S subsidiary (QSSS)

The filing requirements for a QSSS that is owned by a New York S corporation or a nontaxpayer corporation are outlined below. Where New York State follows federal QSSS treatment, the parent and QSSS file a single franchise tax return. The QSSS is ignored as a separate taxable entity, and the assets, liabilities, income, and deductions of the QSSS are included on the parent's franchise tax return. However, for other taxes such as sales and excise taxes, and the license and maintenance fees imposed under Article 9, the QSSS continues to be recognized as a separate corporation.

A. **Parent is a New York S corporation –** New York State will follow the federal QSSS treatment. The parent and QSSS are taxed as a single New York S corporation and file Form CT-3-S.

B. **Nontaxpayer parent –** New York State follows the federal QSSS treatment if the QSSS is a New York State taxpayer but the parent is not, if the parent elects to be taxed as a New York S corporation by filing Form CT-6. The parent and QSSS are taxed as a single New York S corporation and file Form CT-3-S on a joint basis. If the parent does not elect to be a New York S corporation, the QSSS must file as a New York C corporation on a stand-alone basis on Form CT-3 or CT-4.

C. **Exception: excluded corporation –** Notwithstanding the above rules, QSSS treatment will not be allowed unless both parent and QSSS are general business corporations. That is, the corporations will have to file on a stand-alone basis if one is an Article 9-A taxpayer but the other is an Article 9, 32, or 33 taxpayer, or is a corporation that would be subject to such taxes if taxable in New York State.

Where New York State follows federal QSSS treatment, the QSSS is not considered a subsidiary of the parent corporation.

Form CT-186-E, *Telecommunications Tax Return and Utility Services Tax Return,* or Form CT-186-EZ, *Telecommunications Tax Return — Short Form,* must be filed by a corporation that provides telecommunication services. The corporation must pay an excise tax on its gross receipts from the sale of telecommunication services under Article 9, section 186-e.

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

Form CT-240, *Foreign Corporation License Fee Return*, must be filed by any foreign corporation (organized outside New York State) that is doing business in New York State in order to pay the license fee based on capital stock. This return must be filed when the corporation files its first franchise tax return, or if capital stock employed in New York State has increased since the last license fee report was filed.

Form CT-399, *Depreciation Adjustment Schedule*, must be filed to compute the allowable New York State depreciation deduction if you claim: 1) the federal accelerated cost recovery system (ACRS) depreciation or modified accelerated cost recovery system (MACRS) deduction for certain property placed in service after

December 31, 1980, or 2) a 30%/50% federal special depreciation deduction for certain property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002.

Form CT-400, *Estimated Tax for Corporations*, must be filed if your New York State franchise tax liability can reasonably be expected to exceed $1,000.

Form DTF-686, *Tax Shelter Reportable Transactions Attachment to New York State Tax Return,* has been developed to assist taxpayers and persons in complying with New York State's disclosure requirements.

Form DTF-664, *Tax Shelter Disclosure for Material Advisors,* has been developed to assist taxpayers and persons in complying with New York State's disclosure requirements.

Reporting requirements for tax shelters — The Tax Law requires taxpayers to report information about transactions that present the potential for tax avoidance (tax shelters). There are separate reporting requirements for those who use tax shelters and for those who promote the use of tax shelters. For the most recent information on these reporting requirements visit our Web site.

Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders,* must be filed by a New York S corporation that is required to pay estimated tax on behalf of a shareholder who is a nonresident individual.

Form IT-2659, *Estimated Tax Penalties for Partnerships and New York S Corporations,* is used to determine if estimated tax has been underpaid on behalf of a shareholder who is a nonresident individual. Form IT-2659 is also used to compute the penalty if the estimated tax has been underpaid.

Form DTF-95, *Business Tax Account Update,* and Form DTF-96, *Report of Address Change for Business Tax Accounts* — See *Business information* on page 7.

Consult **Publication 20**, ***Tax Guide for New Businesses***, for additional information regarding other taxes that may apply to you.

You may be subject to other business taxes such as:

- Sales and compensating use tax
- Employer's withholding tax
- Estimated taxes for corporations and personal income taxes
- Motor fuel taxes
- Highway use taxes
- Tax on sales or consumption of petroleum

See *Need help?* on page 13 if you would like more information.

When to file

File your return within 2½ months after the end of your reporting period. If you are reporting for the calendar year, your return is due 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.

Extension if you cannot meet the filing deadline

If you cannot meet the filing deadline, file Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*, and pay the properly estimated franchise tax on or before the original due date of the return. **Additional extension of time to file Form CT-3-S will not be granted beyond six months.**

Where to file

Form CT-3-S — Use one of the following addresses:

With payment	Without payment
NYS CORPORATION TAX PROCESSING UNIT PO BOX 22092 ALBANY NY 12201-2092	**NYS CORPORATION TAX PROCESSING UNIT PO BOX 22096 ALBANY NY 12201-2096**

If you use a delivery service other than the U.S. Postal Service, see *Private delivery services* below.

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?* on page 13 of these instructions 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.

Penalties and interest

If you pay after the due date

If you do not pay the tax due on or before the original due date, you must pay interest on the amount of underpayment from the original due date (**without** regard to an extension of time for filing) of the return to the date the tax is paid. Exclude from the interest computation any amount representing the first installment of estimated tax for next period. Interest is always due, without any exceptions, on any underpayment of tax. **An extension of time for filing does not extend the due date for payment of tax.**

If you file and pay after the due date

Compute additional charges for late filing and late payment on the amount of tax minus 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 representing the first installment of estimated tax for the 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 a total of 25% (section 1085(a)(1)(A)).

B. If you do not file a return within 60 days of the due date, the additional charge in item A 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 a total of 25% (section 1085 (a)(2)).

D. 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 (section 1085 (a)).

If you think you are not liable for these additional charges, attach a statement to the 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?* on page 13).

If you understate your tax

If the tax you report is understated by 10% or $5,000, whichever is greater, you will have to pay a penalty of 10% of the amount of understated tax. You can reduce the amount on which you pay penalty by subtracting any item for which there is or was substantial authority for the way you treated it, **or** there is adequate disclosure on the return or in an attached statement (see Article 27, section 1085(k)).

If you underpay your estimated tax

If you can reasonably expect your New York State franchise tax liability to exceed $1,000, you must file Form CT-400. A penalty will be imposed if you fail to file a declaration of estimated tax or fail to pay the entire installment payment of estimated tax due. For complete details, see Form CT-222.

If you fail to pay estimated tax on behalf of a shareholder — If the New York S corporation is required to pay estimated tax and fails to pay estimated tax on behalf of a shareholder, a penalty of $50 per shareholder for each failure to pay may be imposed. The penalty may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

If you underpay estimated tax on behalf of a shareholder — A New York S corporation may be subject to the underpayment of estimated tax penalty. For complete details, see Form IT-2659.

If you fail to provide shareholder information

If you do not file Form CT-3-S on time, or you fail to provide the shareholder information required (all items of income, loss, deduction, and other pertinent information), you will have to pay a penalty. The penalty is $50 per shareholder per month or fraction of a month, up to a total of $250 per shareholder (section 685(h)(2)). You will also have to pay an additional penalty of $50 for each shareholder whose social security number you do not show (section 685(k)). All shareholders of the S corporation during any part of the tax year must be counted. These penalties may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

If you fail to provide information about your issuer's allocation percentage

Tax Law section 1085(o) provides for a penalty of $500 for failure to provide information needed to compute issuer's allocation percentages.

Tax shelter penalties

The Tax Law also provides for penalties for failure to disclose certain transactions and related information regarding tax shelters and for the underpayment of taxes due to participation in these shelters. For more information, refer to TSB-M-05(2)C, *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters.* Also see TSB-M-05(2.1)C, *Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*.

Voluntary Disclosure and Compliance Program

A Voluntary Disclosure and Compliance Program has been established. The program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities.

Other penalties

Strong civil and criminal penalties may be imposed for negligence or fraud. For more information, contact the Corporation Tax Information Center (see *Need help?* on page 13).

Is this an amended return?

If you are filing an amended return for any purpose, mark an ***X*** in the *Amended return* box on page 1 of the return.

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 (120 days if filing an amended combined return) 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.

If you filed as part of a consolidated group for federal tax purposes but on a separate basis for New York State tax purposes, you must submit a statement indicating the changes that would have been made if you had filed on a separate basis for federal tax purposes.

For credits or refunds of corporation tax paid — To claim any refund type that requires an amended return, 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 Form 1120X) and proof of federal refund approval, *Statement of Adjustment to Your Account*.

If you are a federal S corporation, file an amended New York State return for the year being amended. If applicable, attach a copy of the amended federal Form 1120S. Every shareholder of the electing New York S corporation must file an amended return on a designated New York State individual, estate, or trust return.

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.

Filing your final return

Mark an ***X*** in the *Final return* box on page 1 of the return if the corporation is a:

- domestic corporation that ceased doing business, employing capital, or owning or leasing property in New York State during the tax year and wishes to dissolve; or
- foreign corporation that is no longer subject to the franchise tax in New York State.

Do not mark an ***X*** in the *Final return* box if you are only changing the type of return that you file (for example, from Form CT-3-S to CT-3, or from Form CT-3-S to CT-32-S).

Do not mark an ***X*** in the *Final return* box in the case of a merger or consolidation.

Note: A foreign corporation, authorized to do business in New York State but disclaiming tax liability, that wishes to continue to be authorized must file Form CT-245.

Call the Dissolution Unit at (518) 485-2639 (in-state callers without free long distance call 1 800 327-9688) if you have questions concerning surrendering authority to do business in New York State.

New York S corporation termination year

The New York S election can terminate on a day other than the first day of the tax year, whether or not the federal S election terminates at the same time. In either case, the tax year is divided into two tax periods (an S short year and a C short year). The corporation must file Form CT-3-S for the S short year. For the C short year, the corporation must file Form CT-3 **or** CT-4. The due date of the S short year return is the same as the New York C short year return.

When an IRC section 338(h)(10) election is made for a target corporation that is a New York S corporation, the target corporation must file two short period reports. When filing the second short period report, the federal taxable income (FTI) of the new target is the starting point for computing entire net income (ENI).

If the federal and New York S elections terminate at the same time, ENI assigned to Form CT-3 **or** CT-4 for the C short year is determined using the same method of accounting as used for federal income tax purposes; that is, daily pro rata allocation under IRC section 1362(e)(2) or normal tax accounting rules under IRC section 1362(e)(3).

If the federal S election continues but the New York S election terminates, use normal tax accounting rules under IRC section 1362(e)(3) if either of the following applies:

- all persons who are shareholders in the corporation at any time during the New York S short year and all persons who are shareholders in the corporation on the first day of the New York C short year consent to such election; **or**
- there is a sale or exchange of 50% or more of the stock in the corporation during the year.

Otherwise, use the daily pro rata allocation method under IRC section 1362(e)(2).

Mark an ***X*** in the appropriate Line K box on page 1 of Form CT-3-S to indicate which method of accounting the New York S corporation elected for the New York S short year and subsequent New York C short year.

The total tax for the New York S short year and New York C short year may not be less than the fixed dollar minimum tax determined as if the corporation were a C corporation for the entire year.

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.

Short periods — proration of fixed dollar minimum tax and maintenance fee

Compute the New York receipts for short periods (a tax period of less than 12 months) by dividing the amount by the number of months in the short period and multiplying the result by 12.

The fixed dollar minimum tax and maintenance fee may be reduced for short periods as follows:

Period	Reduction
Not more than six months	50%
More than six months but not more than nine months	25%
Over nine months	none

Maintenance fee

If you are a foreign authorized corporation, you are subject to the annual maintenance fee for the entire period in which you are authorized, whether or not you are doing business in New York State. The Tax Law allows a reduction of the maintenance fee, as shown above, if the period for which the fee is imposed is nine months or less. For more information, see page 2.

Overview of corporation franchise tax

New York S corporations taxable under Article 9-A are required to pay the fixed dollar minimum tax imposed under Tax Law section 210.1(d).

Fixed dollar minimum tax schedule

A domestic corporation that is no longer doing business, employing capital, or owning or leasing property in New York State is exempt from the fixed dollar minimum tax for years following its final tax year and is no longer required to file a franchise tax return provided it meets the requirements listed in TSB-M-06(5)C, *Certain Domestic Business Corporations Exempt from the Article 9-A Fixed Dollar Minimum Tax*.

Fixed dollar minimum tax for all New York S corporations.

For a New York S corporation with New York receipts of:	Fixed dollar minimum tax equals:
Not more than $100,000	$ 25 *
More than $100,000 but not over $250,000	$ 50 *
More than $250,000 but not over $500,000	$ 175 *
More than $500,000 but not over $1,000,000	$ 300
More than $1,000,000 but not over $5,000,000	$1,000
More than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

* Foreign authorized corporations: If the total of your tax is less than $300, you must increase your payment accordingly to satisfy the $300 maintenance fee requirement.

If a short period, compute the New York receipts by dividing the amount of the receipts by the total number of months in the short period and multiplying the result by 12.

To avoid an erroneous assessment or a delay of your refund, you must enter an amount on line 22, *New York receipts* on Form CT-3-S. If you do not have New York receipts, enter ***0*** on this line. Failure to make an entry on this line may result in an assessment of tax or a reduction of your refund/credit.

Computation of tax for corporate partners

A taxpayer that is a partner in a partnership (a corporate partner) computes its tax for its interest in the partnership using either the aggregate method or entity method, whichever applies. (For exception under Regulation section 3-13.5, see *Election by a foreign corporate limited partner* below.)

Aggregate method — Under the aggregate method, a corporate partner is viewed as having an undivided interest in the partnership's assets, liabilities, and items of receipts, income, gain, loss and deduction. The partner is treated as participating in the partnership's transactions and activities (Regulation section 3-13.3).

Entity method — Under the entity method, a partnership is treated as a separate entity and a corporate partner is treated as owning an interest in the partnership entity. The partner's interest is an intangible asset that is classified as business capital (Regulation section 3-13.4).

Corporate partners required to file under the aggregate method

A corporate partner receiving a complete Form IT-204-CP must file using the aggregate method. In addition, a corporate partner must file using the aggregate method if the corporate partner has access to the information necessary to compute its tax using the aggregate method. A corporate partner is presumed to have access to the information and therefore is required to file using the aggregate method if it meets **one or more** of the following conditions:

- it is conducting a unitary business with the partnership;
- it is a general partner of the partnership or is a managing member of a limited liability company (LLC) which is treated as a partnership for federal income tax purposes;
- it has a 5% or more interest in the partnership;
- it has reported information from the partnership in a prior tax year using the aggregate method;
- its partnership interest constitutes more than 50% of its total assets;
- its basis in its interest in the partnership determined under IRC section 705 on the last day of the partnership year that ends within or with the taxpayer's tax year is more than $5,000,000; or
- any member of its affiliated group has the information necessary to perform such computation.

A corporate partner that does not receive a complete Form IT-204-CP may file using the entity method **only** if it does **not** meet any of the conditions listed above **and** does not have access (and will not have access within the time period allowed for filing a return with regard to all extensions of time to file) to the information necessary to compute its tax using the aggregate method and certifies these facts to the commissioner (see Regulation section 3-13.2(b)).

Computation of tax under the aggregate method — The taxpayer's **distributive share** (see IRC section 704) of each partnership item of receipts, income, gain, loss, and deduction and the taxpayer's **proportionate part** of each partnership asset, liability, and partnership activity are included in the computation of the taxpayer's fixed dollar minimum tax. These items have the same source and character in the hands of the partner for Article 9-A purposes that the items have for the partner for federal income tax purposes (see Regulation section 3-13.3(a)(1)).

Election by a foreign corporate limited partner — A foreign corporation that is a limited partner in one or more limited partnerships, that is subject to tax solely as a result of the application of Regulation section 1-3.2(a)(6) may elect to compute its tax by taking into account **only** its distributive share of each partnership item of receipts, income, gain, loss, and deduction (including any modifications), and its proportionate part of each asset, liability, and partnership activity of the limited partnership (see Regulation section 3-13.5).

If the taxpayer meets the criteria to make the election and does not have access to the information necessary to do the computation, the taxpayer may treat its distributive share of the partnership's items of income, gain, loss, and deduction as business income and its interest

in the partnership as business capital and may allocate that business income and capital entirely to New York State.

This election may not be made if the limited partnership and corporate group are engaged in a unitary business, wherever conducted, and there are substantial inter-entity transactions between the limited partnership and the corporate group.

Corporate group means the corporate limited partner itself or, if it is a member of an affiliated group, the corporate limited partner and all other members of such affiliated group.

Affiliated group has the same meaning as such term is defined in IRC section 1504 without regard to the exclusions provided for in section 1504(b). However, the term *common parent corporation* is deemed to mean any person as defined in IRC section 7701(a)(1).

How to fill out your tax return

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* 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?* on page 13).

Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Include your employer identification number (EIN) and file number on each corporation tax form filed and keep a record of that information.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

Are you claiming an overpayment?

If you are claiming an overpayment on Form CT-3-S, line 47, mark an ***X*** in the box on page 1 of your return to the right of your EIN and file number.

Whole dollar amounts

You may elect to show 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).

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.

Signature

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

The return of a business conducted by a trustee or trustees must be signed by a person authorized to act for the business.

If an outside individual or firm prepared the return, the signature of the person and the name, address, and identification number of the firm must be included. Failure to sign the return will delay the processing of any refunds and may result in penalties.

Is your return in processible form?

Returns must be prepared in a manner that will permit their routine handling and processing. Interest will not be paid on an overpayment of taxes until the return is in a processible format.

Use of reproduced and computerized forms

Photocopies of returns are acceptable if they are of good quality and have an original signature in the proper place.

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

Line instructions for Form CT-3-S

Additional schedules — You may need to use additional schedules to complete your return. Schedules A and B appear on Form CT-3-S-ATT. If you use additional schedules, you must attach the forms to your return.

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 D — Tax Law, Article 36, section 1700 authorizes the Tax Department to waive civil and criminal penalties for taxpayers who disclose and pay overdue taxes. Under the Tax Department's Voluntary

Disclosure and Compliance Program, eligible taxpayers who owe back taxes can avoid monetary penalties and possible criminal charges by:

- telling the Tax Department what taxes they owe;
- paying those taxes; and
- entering an agreement to pay all future taxes.

It's easy to apply. Visit our Web site at ***www.nystax.gov***. Just follow the prompts, answer a few questions, and submit your application electronically.

Line L – Issuer's allocation percentage — Your *issuer's allocation percentage* represents the amount of your capital employed within New York State compared to the total amount of capital employed everywhere. If all of your capital is employed within New York State enter ***100***. If less than 100% of your capital is employed in New York State, use Form CT-3/4-I, *Instructions for Forms CT-4, CT-3, and CT-3-ATT*, line 41 (line instructions for Form CT-3), to compute your issuer's allocation percentage and enter the amount here. Attach a copy of this computation to your return.

Your issuer's allocation percentage will be used by other corporations in completing their New York State franchise tax returns **if** those corporations hold:

- corporate debt issued by you that qualifies as investment capital or subsidiary capital in the hands of the corporation, or
- stock issued by you that qualifies as either investment capital or subsidiary capital in the hands of the corporation.

Computation of tax

To avoid an erroneous assessment or a delay of your refund, you must enter an amount on line 22, *New York receipts*. If you do not have receipts, enter ***0*** on line 22.

Line 22 – New York receipts — Include the receipts from the sale of tangible personal property, services performed, rentals, royalties, receipts from the sales of rights for closed circuit and cable television transmissions, and all other business receipts received in the regular course of business. For a short period, annualize total receipts by dividing by the number of months in the short period and multiplying the result by 12. Include the amount reported on federal Form 1120S, *Income* section, lines 1c and 5, and the amount that you would have reported on federal Form 1120, *Income* section, lines 6 and 7. **Do not** include any nonbusiness dividends, nonbusiness interest, or business or investment gains or losses.

Line 23 – Fixed dollar minimum tax — Determined by your New York receipts. See *Fixed dollar minimum tax schedule* on page 6 to determine the applicable fixed dollar minimum tax. The fixed dollar minimum tax may be reduced for short periods. See *Short periods — proration of fixed dollar minimum tax and maintenance fee* on page 6 for the appropriate reduction for short periods.

Line 24 — If you claimed any New York State tax credits for any tax year prior to becoming a New York S corporation and the property on which you claimed the credit is disposed of or ceases to be in qualified use, you must recapture some or all of the credit. Use the appropriate credit form to compute the recaptured tax credits.

Lines 32 through 38 – Composition of prepayments — If additional space is necessary, enter ***see attached*** in this section and attach all relevant prepayment information.

Line 37 — Include overpayment credited from prior years. You may also include, from last year's return, any amount of refundable special additional mortgage recording tax credit you chose to be credited as an overpayment.

Line 40 — Form CT-222 is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law section 1085(d).

Lines 41 and 42 — If you are not filing this return on time, you must pay interest and additional charges. See *Penalties and interest* on page 4.

Lines 44a through 44d — If you want to contribute to *Return a Gift to Wildlife, Breast Cancer Research and Education Fund, Prostate Cancer Research, Detection, and Education Fund, National September 11 Memorial & Museum at the World Trade Center*, or all four, enter the amount(s) on the appropriate line(s). The amount you give must be in whole dollars. Your gift will increase your payment or reduce your overpayment. You cannot change the amount of your gift after you file your return.

Line 44a – Return a Gift to Wildlife — Your contribution will benefit New York's fish, wildlife, and marine resources, and you can receive a free issue of *Conservationist* magazine. Call 1 800 678-6399 for your free sample issue. For more information about New York State's environmental conservation programs go to *www.dec.ny.gov*. For information about *Conservationist*, go to *www.TheConservationist.org*.

Line 44b – Breast Cancer Research and Education Fund — Your contributions to the Breast Cancer Research and Education Fund will support ground-breaking biomedical research studies and education projects in New York State. Help make breast cancer a disease of the past. New York State will match your contribution to the Breast Cancer Research and Education Fund, dollar for dollar.

Line 44c – Prostate Cancer Research, Detection, and Education Fund — The New York State Prostate Cancer Coalition is a statewide nonprofit organization, focused on promotion and coordination of prostate cancer awareness, research, support groups and improving access to clinical trials. We are patients, family friends and caregivers, all fighting cancer, together. For more information, go to *www.newyorkprostate.org*. New York State will match your contribution to the Prostate Cancer Research, Detection, and Education Fund, dollar for dollar.

Line 44d – National September 11 Memorial & Museum at the World Trade Center *(9/11 Memorial)* — Your contribution to the National September 11 Memorial & Museum will help create the Memorial & Museum which will commemorate and honor the thousands of people who died in the attacks of September 11, 2001, and February 26, 1993. The Memorial will recognize the endurance of those who survived, the courage of those who risked their lives to save others, and the compassion of all who supported us in our darkest hours. Help New York State, the nation, and the world remember by making a contribution. For more information, go to *www.national911memorial.org*.

Line 47 – Unrequested refunds to be credited forward
If you have overpaid your tax, you will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year unless you indicate a refund on line 49. We will notify you that the overpayment has been credited and explain how to request a refund of the credited amount. If you choose to request a refund of such credited amount, you must claim a refund of such overpayment prior to the original due date of the following year's return.

Lines 48 and 49 — You may apply an overpayment as a credit to your next state franchise tax period or you may have it refunded. Indicate on lines 48 and 49 the amount of overpayment you wish to be credited or refunded.

Line 50 — Enter the amount of refundable special additional mortgage recording tax credit from Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit,* line 13. Do not include on this line any amount of special additional mortgage recording tax credit shown on Form CT-43, line 9.

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.

Line instructions for Form CT-3-S-ATT

Complete Schedule A, Part 1, 2, or 3, as applicable, if you claim a BAP of greater than 0% or less than 100%. If you claim a BAP of 0%, you must enter ***0*** on Form CT-3-S, line E. If you claim a BAP of 100%, you must enter ***100*** on Form CT-3-S, line E.

Schedule A, Part 1, Computation of business allocation percentage

For tax years beginning in 2007, and after, complete lines 8 through 15 only. The result on line 15 is your BAP. Enter this amount on line 18. However, air freight forwarders acting as principal and like indirect air carriers and qualified foreign air carriers continue to use a formula in which the three factors are equally weighted and, as a result, must continue to complete all applicable lines of Part 1.

The *property factor* is the percentage of the average value of your real and tangible personal property, whether owned or rented, that is located within New York State. The *business receipts factor* is the percentage of your business receipts attributable to New York State. The *payroll factor* is the percentage of your payroll that is attributable to New York State.

Lines 1 through 5 — Enter the New York State amounts in column A and the total amounts everywhere in column B.

You must value real and tangible personal property owned by the corporation at the adjusted basis for federal income tax purposes. However, you may make a one-time, revocable election to value real and tangible personal property at fair market value (FMV). You must make this election on or before the due date (or extended due date) for filing the franchise tax return for your first tax year.

The average value is generally computed on a quarterly basis if your usual accounting practice permits it, but you may use a more frequent basis, such as monthly, weekly, or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of average value, you may use a semiannual or annual computation if no distortion of average value results.

Line 1 — Enter the average value of real property you owned. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

Line 2 — Enter the average value of real property rented to you as lessee. The value of rented real property is generally eight times the gross rent payable during the year covered by this return. *Gross rent* includes any amount payable as rent or in lieu of rent (such as taxes or repairs) and amortization of leasehold improvements that revert to the lessor at the end of the lease.

Line 3 — Enter the average value of inventories.

Line 4 — Enter the average value of tangible personal property you owned, such as machinery, tools, and implements. **Do not** include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of credit.

Line 5 — Enter the average value of tangible personal property rented to you as lessee. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

Lines 8 and 9 — Receipts from the sale of tangible personal property are allocable to New York State if (1) shipments are made to points in New York State, **or** (2) the receipts are earned within New York State.

Receipts from the sale of tangible personal property are allocated to New York State if:

- The property is shipped via common carrier, contract carrier, or via the taxpayer's vehicle or other means of transportation, to a point in New York State. If the property is shipped to a point in New York State, it is presumed that the destination of the property is a point in New York State, unless the taxpayer has evidence that shows the property was shipped to a point outside New York State. It doesn't matter who arranges for the shipment of the property.
- The possession of the property is transferred to a purchaser or purchaser's designee at a point in New York State. If possession of the property is transferred in New York State, it is presumed that the destination of the property is a point in New York State, unless the taxpayer has evidence that shows that the destination of the property is a point outside New York State.
- The possession of the property is transferred to a purchaser or purchaser's designee at a point outside New York State, if the destination of the property is a point in New York State. If possession of the property is transferred outside New York State, it is presumed that the destination of the property is a point outside New York State, unless the taxpayer has evidence that shows the destination of the property is a point in New York State.

Examples of types of evidence sufficient to demonstrate the destination of property include (1) a bill of lading or other shipping document designating the destination location, regardless of the free on board (FOB) point, and (2) a purchase invoice designating the destination location.

Receipts of art merchants

The Arts and Cultural Affairs Law provides that receipts from the sale of works of art, by an art merchant, are receipts from the sale of tangible personal property (rather than receipts for services performed).

This provision applies to works of art that are:

- created by an artist or craftsman; **and**
- consigned by such artist or craftsman to an art merchant; **and**
- sold by the art merchant on and after August 9, 1995.

The provision **does not** apply to consigned works of art sold at a public auction.

Line 10 — Enter receipts for services performed based on where they are performed.

Receipts from broadcasting or publishing — Corporations engaged in broadcasting or the publication of newspapers and periodicals must allocate to New York State receipts from the sale of advertising to the extent that the broadcasts or publications are delivered to the ultimate purchasers, subscribers, listeners, or viewers in New York State.

Receipts for services to regulated investment companies
The receipts received from an investment company for the sale of management, administration, or distribution services must be allocated based on the domicile of the shareholders of the investment company (section 210.3(a)(6). For more information, see TSB-M-88(9)C, *Allocation of Receipts from services provided to a Regulated Investment Company (Mutual Fund) and Similar Investment Companies*.

Receipts earned by registered securities and commodities dealers — The rules below apply for determining whether a receipt is deemed to arise from services performed in New York State by a registered securities or commodities broker or dealer for purposes of computing the receipts factor of the business allocation percentage (section 210.3(a)(9)(A)). A *registered securities or commodities broker or dealer* is a broker or dealer who is registered by the Securities and Exchange Commission or the Commodities Futures Trading Commission and includes over-the-counter (OTC) derivatives dealers as defined under regulations of the Securities and Exchange Commission (SEC) (17 CFR 240.3b-12). The terms securities and commodities have the same meanings as the meanings in IRC sections 475(c)(2) and 475(e)(2).

- **Brokerage commissions —** Brokerage commissions earned from the execution of securities or commodities purchase or sales orders for the accounts of customers are deemed to arise from a service performed in New York State if the customer who is responsible for paying the commissions is located in New York State.
- **Margin interest —** Margin interest earned on brokerage accounts is deemed to arise from a service performed in New York State if the customer who is responsible for paying the margin interest is located in New York State.

- **Account maintenance fees —** Account maintenance fees are deemed to arise from a service performed in New York State if the customer who is responsible for paying the account maintenance fees is located in New York State.
- **Income from principal transactions —** Gross income from principal transactions (that is, transactions where the registered broker or dealer is acting as principal for its own account, rather than as an agent for the customer) are deemed to arise from a service performed in New York State if the production credits for these transactions are awarded to a New York State branch, office, or employee of the taxpayer. Registered broker dealers may elect to source the gross income from principal transactions based on the location of the customer to the principal transaction. If the election is made, gross income from principal transactions is deemed to arise from a service performed in New York State to the extent that the gross proceeds from the transactions are generated from sales of securities or commodities to customers within the state based upon the mailing address of those customers in the records of the taxpayer. For additional information, see TSB-M-02(5)C, *Summary of Corporation Tax Legislative Changes Enacted in 2002.*
- **Fees from advisory services for the underwriting of securities** Fees earned from advisory services for a customer in connection with the underwriting of securities (where the customer is the entity contemplating the issuance of the securities or is issuing securities) or for the management of an underwriting of securities are deemed to arise from a service performed in New York State if the customer responsible for paying the fee is located in New York State.
- **Receipts from the primary spread for the underwriting of securities —** Receipts from the primary spread or selling concession from underwritten securities are deemed to arise from a service performed in New York State if production credits are awarded to a branch, office, or employee of the taxpayer in New York State as a result of the sale of underwritten securities.
- **Interest earned on loans to affiliates —** Interest earned on loans and advances made by a taxpayer to an affiliate with whom they are not required or permitted to file a combined return are deemed to arise from a service performed in New York State if the principal place of business of the affiliate who is responsible for the payment of interest is located in New York State.
- **Fees for management or advisory services —** Fees earned from management or advisory services, including fees from advisory services for activities relating to mergers or acquisition activities, are deemed to arise from a service performed in New York State if the customer responsible for paying these fees is located in New York State.

A customer is located in New York State if the mailing address of the customer that appears in the broker's or dealer's records is in New York State.

Receipts for services by air freight forwarders — Receipts for services performed by air freight forwarders acting as principal and like indirect air carriers are allocated to New York State as follows:

Receipts from:	**Allocate receipts**
• Pickup and deliveries both made in New York State	100% to New York State
• Pickup only made in New York State	50% to New York State
• Delivery only made in New York State	50% to New York State

Receipts for transporting or transmitting gas through pipes
Receipts from the service of transporting or transmitting gas through pipes are allocated to New York State using the following formula:

$$\frac{\text{miles of transportation units within New York State}}{\text{miles of transportation units within and outside New York State}} \times \text{Receipts from the service of transporting or transmitting gas through pipes} = \text{Receipts from the service of transporting or transmitting gas through pipes allocated to New York State}$$

A *transportation unit* is the transportation of one cubic foot of gas over a distance of one mile.

Line 11 — Enter receipts from all property that was rented to others. Receipts from rentals of real and tangible personal property situated in New York State are allocated to New York State. Rental receipts include all amounts received for the use of, or occupation of, property, whether or not such property is owned by the taxpayer. Gross receipts from real and tangible personal property that is subleased must be included in the receipts factor.

Line 12 — Enter receipts of royalties. Receipts of royalties from the use in New York State of patents and copyrights are allocated to New York State. Royalties include all amounts received by the taxpayer for the use of patents or copyrights, whether or not such patents or copyrights were issued to or are owned by the taxpayer. A patent or copyright is used in New York State to the extent that the activities thereunder are carried on in New York State.

Line 13 — Enter all other business receipts, allocated where earned.

Line 15 — For tax years beginning in 2007, and after, if you are not an air freight forwarder acting as principal or like indirect air carriers, or a qualified foreign air carrier, the result on line 15 is your BAP and should be entered on line 18. Do not complete lines 16 or 17.

Line 16 — Enter the total amount of all wages and compensation of employees other than general executive officers.

General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant 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 inside or outside New York State is not a general executive officer. Employees within New York State include all employees regularly connected with or working out of an office or other place of business you maintained within New York State, no matter where the services of the employees were performed.

Line 18 — For tax years beginning in 2007, and after, if you are an air freight forwarder acting as principal or like indirect air carriers, or a qualified foreign air carrier, add lines 7, 15, and 17 and divide by three or by the number of factors. If a factor is missing, add the remaining factors and divide by the total number of factors present. If all factors but one are missing, the remaining factor is the allocation percentage. A factor is not missing merely because its numerator is zero, but a factor is missing if both the numerator and denominator are zero. Enter the result on line 18. This is your BAP.

All others enter the result of line 15 on line 18. This is your BAP.

All taxpayers enter the line 18 result on Form CT-3-S, line E.

Schedule A, Part 2 — Computation of business allocation percentage for aviation corporations

Business allocation percentage for aviation corporations — Only 60% of the New York revenue (revenue aircraft arrivals and departures, revenue tons handled, and originating revenue) will be included in the numerator of each of the three allocation factors on lines 21, 25, and 29 when calculating the business allocation for aviation corporations (section 210.3(a)(7)(A)).

Line 19 – Aircraft arrivals and departures — Enter the number of landings and takeoffs of an aircraft of an aviation corporation and the number of pickups and deliveries by the aircraft. Do not include arrivals and departures for maintenance, repair, refueling (if no debarkation or embarkation of traffic occurs), training, emergencies, and nonrevenue flights.

Line 23 – Revenue tons handled — Enter the weight, in tons, of revenue passengers (at 200 pounds per passenger) and revenue cargo first received as originating or connecting traffic, or finally discharged at an airport.

Line 27 – Originating revenue — Enter revenue from the transportation of revenue passengers and revenue property first received as originating or connecting traffic.

Schedule A, Part 3 — Computation of business allocation percentage for trucking and railroad corporations

Trucking and railroad corporations that have not made an election to remain taxable under Article 9 are taxable under Article 9-A.

Use Schedule A, Part 3, to compute the BAP. The BAP is computed on the basis of mileage.

The *mileage allocation* is a percentage based on the number of revenue miles traveled within New York State, compared to the total revenue miles traveled everywhere (exclude nonrevenue miles, such as deadheading miles).

Line 33 — Enter in column A the number of revenue miles within New York State. Enter in column B the number of revenue miles everywhere.

Schedule B — Computation of investment allocation percentage

Complete Schedule B if you claim an investment allocation percentage of greater than 0% or less than 100%. If you claim an investment allocation percentage of 0%, you must enter ***0*** on Form CT-3-S, line F. If you claim an investment allocation percentage of 100%, you must enter ***100*** on Form CT-3-S, line F. If additional space is required, attach separate sheets displaying the information as formatted in Sections 1 and 2.

The term *investment capital* means the value of the taxpayer's investments in stocks, bonds, and other corporate or government securities, reduced by directly and indirectly attributable liabilities.

Do not include stocks, bonds, and other securities issued by, and any indebtedness from, a QSSS in the computation of investment capital if the QSSS is included in the parent's return (see page 3).

The term *instrument* includes stock and debt held in book entry form.

Include in investment capital only those stocks, bonds, or other securities that are:

1. Stocks and similar corporate equity instruments (such as business trust certificates, and units in a publicly traded partnership taxable as a corporation pursuant to Tax Law section 208.1).
2. Debt instruments (such as bonds) issued by the United States, the District of Columbia, and any state, territory, or possession of the United States, any foreign country, or any political subdivision or governmental instrumentality of the foregoing.
3. Qualifying corporate debt instruments (see *Section 1* below).
4. Options on any item described in 1, 2, or 3 above and not excluded from investment capital nor deemed to be cash (see *Instruments deemed cash* below), or on a stock or bond index, or on a futures contract on such an index, unless the options are purchased primarily to diminish the taxpayer's risk of loss from holding one or more positions in assets that constitute business or subsidiary capital.
5. Stock rights and stock warrants not in the possession of the issuer.
6. Investments in stocks, bonds, and other securities of an LLC that is not 50% or more owned by the taxpayer and has elected to be treated as a corporation for federal tax purposes.

Investment capital **does not** include:

- Stock issued by the taxpayer.
- Stocks, bonds, or other securities constituting subsidiary capital (see Tax Law section 208.4). Debt instruments issued by a subsidiary are not subsidiary capital if the subsidiary claimed and deducted interest on the instruments under Tax Law Article 9-A, 32, or 33.
- Securities of an individual, partnership, trust, or other nongovernmental entity that is not a corporation pursuant to Tax Law section 208.1 (such as FNMA and GNMA pass-through certificates).
- Stocks, bonds, and other securities of a domestic international sales corporation (DISC), or any indebtedness from a DISC.
- Regular and residual interests in a real estate mortgage investment conduit (REMIC) as defined in IRC section 860D.
- Futures and forward contracts.
- Stocks, bonds, and other securities held by the taxpayer for sale to customers in the regular course of business.

Section 1 — Corporate and governmental debt instruments

Column A — List investments in governmental and qualifying corporate debt instruments (including certificates of deposit), debt instruments issued by the U.S., any state, territory, or possession of the U.S., the District of Columbia, or any foreign country or any political subdivision or government instrumentality of any of the foregoing. **Do not** include instruments deemed to be cash. See *Instruments deemed cash* below.

The term *qualifying corporate debt instrument* means all debt instruments issued by a corporation **other than** the following:

- Instruments issued by the taxpayer or a DISC.
- Instruments that constitute subsidiary capital in the hands of the taxpayer.
- Instruments acquired by the taxpayer for services rendered or for the sale, rental, or other transfer of property, if the obligor is the recipient of the services or property. However, when a taxpayer sells or otherwise transfers property that is investment capital in the taxpayer's hands and receives in return a corporate obligation issued by the recipient of the property, the corporate obligation, if it is not otherwise excluded from investment capital, would constitute investment capital in the hands of the taxpayer.
- Instruments acquired for funds if (1) the obligor is the recipient of the funds, (2) the taxpayer is principally engaged in the business of lending funds, and (3) the obligation is acquired in the regular course of the taxpayer's business of lending funds. A taxpayer is principally engaged in the business of lending funds if, during the tax year, more than 50% of its gross receipts consist of interest income from loans or net gain from the sale or redemption of notes or other evidences of indebtedness arising from loans made by the taxpayer. Receipts do not include return of principal or nonrecurring, extraordinary items.
- Accepted drafts (such as banker's acceptances and trade acceptances) if the taxpayer is the drawer of the draft.
- Instruments issued by a corporation that is a member of an affiliated group that includes the taxpayer. An *affiliated group* is a corporation or corporations and the common parent thereof.

  A *common parent* means an individual, corporation, partnership, trust, or estate that owns or controls, either directly or indirectly, at least 80% of the voting stock of the corporation or corporations. An affiliated group also includes all other corporations with at least 80% of the voting stock owned or controlled, either directly or indirectly, by one or more of the corporations included in the affiliated group or by the common parent and one or more of the corporations included in the affiliated group.
- Accounts receivable, including those held by a factor.

Instruments deemed cash — A debt instrument described above or included in investment capital must be treated as cash if it is payable:

- on demand;
- by its terms within six months and one day from the date the debt was incurred; or
- by its terms more than six months and one day from the date the debt was incurred, on each day in the tax year on and after the first day in the tax year that is not more than six months and one day prior to the maturity date (see *Examples* below).

Cash, under some circumstances, may be treated as investment capital. See the instructions for line 37 on page 12.

Examples:

1. *A calendar-year taxpayer owns a municipal bond with a maturity date of January 1, 2010. As of July 30, 2009, the first day not more than six months and one day before the maturity date, and on each day thereafter, the bond is deemed to be cash. The bond should be included in Section 1, but in computing the average value of the bond and attributable liabilities, the taxpayer should be treated as no longer owning the bond on any date on or after July 30, 2009. The value of the bond should then be treated as cash for each day the taxpayer continues to own the bond after July 29, 2009.*
2. *A taxpayer purchased a four-month qualifying corporate debt instrument on the day it was issued, and on the maturity date, renewed it for an additional four-month term. The two four-month debt instruments are deemed to be cash. The renewal of the first four-month debt instrument is treated as the creation of a second, separate debt instrument, each of the two instruments being due within six months and one day of the date on which the debt was incurred.*
3. *A calendar-year taxpayer owns a five-year qualifying marketable corporate bond with a maturity date of January 1, 2010. The taxpayer also owns corporate stock, but has no cash at any point during the 2009 tax year. The bond is deemed to be cash as of July 1, 2009, the date six months and one day prior to maturity. The fair market value of the bond is $95,000 on March 31, 2009, $90,000 on June 30, 2009, $98,000 on September 30, 2009, and $100,000 on December 31, 2009. The bond should be listed in Section 1, column A, because it qualifies as investment*

capital. Its average value, to be stated in Section 1, column C, is computed as ($95,000 + $90,000 + 0 + 0)/4 = $46,250. The use of the zeros represents the fact that the taxpayer is deemed to own cash, and not a bond, on September 30 and December 31. The average value of the bond insofar as it is deemed to be cash is computed as (0 + 0 + $98,000 + $100,000)/4 = $49,500. The use of the zeros represents the fact that the taxpayer owned no cash on March 31 or June 30. The figures $98,000 and $100,000 represent the fact that the taxpayer is deemed to own cash in these amounts on September 30 and December 31, respectively. The taxpayer had liabilities attributable to the bond. The amount of the liabilities should be treated in conformity with the above treatment of the value of the bond itself. Thus, the liabilities, that were in the amount of $10,000, $12,000, $8,000, and $6,000 on the four test dates yield an average liability of $5,500 attributable to the listed bond [($10,000 + $12,000 + 0 + 0)/4 = $5,500], to be entered in column D of Section 1, and an average liability of $3,500 [(0 + 0 + $8,000 + $6,000)/4 = $3,500] to be applied to determine the net average value of the taxpayer's cash. If the taxpayer elects to treat the deemed cash as investment capital, it would include $49,500 on line 39, column C, and $3,500 on line 39, column D. If the cash election is not made, the $49,500, reduced by $3,500, would constitute business capital.

4. *A taxpayer purchased a debt instrument includable in Section 1 with a maturity date of December 15, 2009. Any such investment will be deemed cash on the same numerical date as the maturity date, less one day, six months prior. Thus, the date on which this debt instrument becomes cash is June 14, 2009.*

Section 2 — Corporate stock, stock rights, stock warrants, and stock options

Column A — List investments in the following:

- Stock issued by a corporation.
- Options as described in item 4 of the definition of investment capital on page 11.
- Units in a publicly traded partnership treated as a corporation for purposes of Tax Law Article 9-A.
- Business trust certificates.
- Stock rights and stock warrants not in the possession of the issuer.
- Other corporate equity instruments similar to stock.

Sections 1 and 2 — Columns C through G

Column C — Enter the total average fair market value of each item listed in column A. On any date, the fair market value of stocks, bonds, and other regularly traded securities is the mean between the highest and lowest selling prices. The average value is generally computed quarterly if your usual accounting practice permits it, but you may use a monthly, weekly, or daily average. If your usual accounting practice does not permit a quarterly or more frequent computation of average fair market value, you may use a semiannual or annual computation if no distortion of average fair market value results. If the security is not marketable, value it using generally accepted accounting principals (GAAP).

When a debt instrument ceases to be treated as investment capital in Section 1 and is treated as cash because of the six-month-and-one-day rule, compute the column C average value of the debt instrument and the column C average value of cash as shown in example 3 on page 11.

Column D — Deduct all liabilities, both long-term and short-term, directly or indirectly attributable to investment capital. Use the same method of averaging used to determine the average value of assets in column C. Enter, for each item of investment capital listed in column A, the sum of the liabilities directly or indirectly attributable to it. Liabilities directly attributable to an asset are those that were incurred to acquire that asset. When a debt instrument ceases to be treated as investment capital in Section 1 and is treated as cash because of the six-month-and-one-day rule, compute the column D liabilities of the debt instrument and the column D liabilities of cash as shown in example 3 on page 11.

Use the *Column D Worksheet* below to determine the amount of liabilities indirectly attributable to a particular asset.

In column D, on the line for the asset in question, include the sum of the amount from line O of this worksheet and the amount of liabilities directly attributable to that asset.

Column D Worksheet

A. Total liabilities *(use the same method of averaging that you used to determine average value of gross assets for column C)* ..... A. _____

Liabilities directly attributable to:

B. Subsidiary capital ..... B. _____

C. Investment capital ..... C. _____

D. Business capital ..... D. _____

E. Total liabilities directly attributable *(add lines B, C, and D)* ..... E. _____

F. Total liabilities indirectly attributable *(subtract line E from line A)* ..... F. _____

G. Average value of investment capital *(enter amount from Form CT-3-S-ATT, Schedule B, line 38, column C)* ..... G. _____

H. Average value of adjusted total assets *(FMV of real property and marketable securities, plus book value, per GAAP, of all other property)* ... H. _____

I. Divide line G by line H ..... I. _____ %

J. Multiply line F by line I ..... J. _____

K. Value of the particular asset shown in Schedule B, section 1 or 2, column C ..... K. _____

L. Enter amount from line G ..... L. _____

M. Divide line K by line L ..... M. _____ %

N. Enter amount from line J ..... N. _____

O. Liabilities indirectly attributable to a particular asset *(multiply line M by line N)* ..... O. _____

Column E — Determine the net average value of each item listed in column A by subtracting column D from column C. If the net average value of any item is less than zero, enter ***0***.

Column F — Enter the issuer's allocation percentage for each investment listed in column A. The issuer's allocation percentage is used to compute the amount of investment capital allocated to New York State. The issuer's allocation percentage is obtained from the New York State corporation franchise tax return filed by the corporation that issued the stock, bond, or other security and represents that corporation's amount of capital employed in New York State as compared to total capital employed everywhere.

If the corporation that issued the stock, bond, or other security is not required to file a New York State corporation franchise tax return, its issuer's allocation percentage is zero.

The issuer's allocation percentage is zero for all governmental securities.

Always enter the issuer's allocation percentage from the first year preceding the current tax year. For example, if the New York S corporation is computing Schedule B for 2009, enter the issuer's allocation percentage obtained from the issuer's 2008 tax return.

Issuer's allocation percentages are available on the Tax Department's Web site or by telephone. You may obtain up to three issuer's allocation percentages by calling us. To obtain more than three, you must access our Web site (see *Need help?* on page 13). Issuer's allocation percentages are also available from many online and printed tax services.

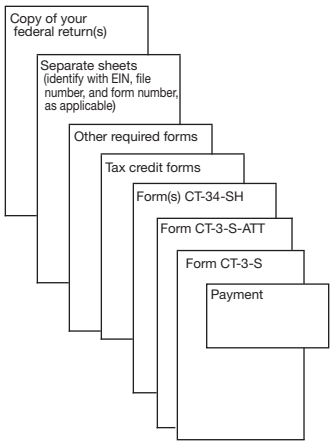
Line 37 – Cash election — At the election of the taxpayer, cash on hand and cash on deposit may be treated as either investment capital or business capital. However, no election to treat cash as investment capital may be made when the taxpayer has no other investment capital.

Cash includes shares in a money market mutual fund. A *money market mutual fund* is a no-load, open-end investment company registered under the Federal Investment Company Act of 1940 that attempts to maintain a constant net asset value per share (that is, a *money market fund*). *Cash* also includes debt instruments deemed cash. See *Instruments deemed cash* on page 11.

Cash cannot be split between business capital and investment capital. It must be treated as all business capital or all investment capital.

When preparing and mailing your New York S Corporation Franchise Tax Return, be sure to:

- Read the instructions.
- Use the correct forms and include all pages.
- Include your employer identification number (EIN) and file number on each form filed.
- Have the appropriate individuals sign the completed return.
- Make your check or money order payable to: ***New York State Corporation Tax.***
- If completed, attach Form CT-3-S-ATT and all other schedules you are required to file.
- Attach Form(s) CT-34-SH and the appropriate tax credit forms.
- Attach a complete copy of your federal return(s) to Form CT-3-S.
- Assemble your return and attachments this way:



For mailing address information, see *Where to file* on page 4.

Keep a record of your identifying information for future use.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate information when completing all forms prepared for you.

Your rights under the Tax Law

The Taxpayer Bill of Rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when you appeal a departmental decision, and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the department to obtain payment. For a complete copy of the information contained in all of these statements, you may request Publication 131, *Your Rights and Obligations Under the Tax Law*, by calling (see *Need help?* below).

Need help?

Internet access: *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.

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.