



# Instructions for Form CT-186

## Utility Corporation Franchise Tax Return

# CT-186-1

For continuing section 186 taxpayers only (certain independent power producers)  
Tax Law – Article 9, Section 186

### New for 2010

This year the Tax Department introduces new Form CT-1, *Supplement to Corporation Tax Instructions*. Changes for this year and general instructions related to your corporation tax return — previously found in individual return instructions — have been compiled in this single form.

See Form CT-1 for the following topics:

- Changes for the current tax year (general and by Tax Law Article)
- Business information (how to enter and update)
- Entry formats
  - Dates
  - Negative amounts
  - Percentages
  - Whole dollar amounts
- Third-party designee
- Use of reproduced and computerized forms
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

### General information

A continuing section 186 taxpayer is a corporation that was subject to section 186 on December 31, 1999, and elected to remain subject to section 186. The corporation was:

- primarily engaged in the business of co-generation for a tax year ending on December 31, 1999; **and**
- subject to tax under Tax Law section 186, but not section 186-a, for the tax year ending on December 31, 1999; **and**
- a party to a total output contract as of January 1, 2000.

A continuing section 186 taxpayer may make an irrevocable election not to be taxed as a section 186 taxpayer, and instead be taxed as an Article 9-A taxpayer. The irrevocable election is made by filing Form CT-3, *General Business Corporation Franchise Tax Return*, or CT-3-S, *New York S Corporation Franchise Tax Return*.

For additional information see Laws of 2000, Chapter 63.

### More collection options for New York State

If you owe unpaid debt to New York State, we may 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.

### Who must file

A continuing section 186 taxpayer must file Form CT-186. The tax is computed on gross earnings received from the employment of capital, plus a tax on dividends paid for the tax year January 1 to December 31. You must report income for the calendar year even if you maintain your records and report to the Internal Revenue Service (IRS) using a fiscal accounting period.

### 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.

### When and where to file

This return is due on March 15, following the close of the calendar year. If March 15 falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day.

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

### Private delivery services

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

### Extension of time for filing tax return

If you cannot meet the filing deadline, request a three-month extension of time by filing Form CT-5.9, *Request for Three-Month Extension to File*, and paying any tax due on or before March 15, or the next business day thereafter if March 15 falls on a Saturday, Sunday, or legal holiday. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186.

### Final return

Mark an **X** in the *Final return* box on page 1 of the return, under the form number, only if filing a final tax return for one of the following reasons:

- Voluntary dissolution of a New York State corporation (New York Business Corporation Law section 1003)
- Surrender of authority by a foreign corporation (New York Business Corporation Law section 1310)
- Merger or consolidation (New York Business Corporation Law sections 904, 905, and 907)
- Disposition of assets of a New York State corporation (New York Business Corporation Law section 909(d))
- Termination of existence of a foreign corporation (New York Business Corporation Law section 1311)
- Liquidation under Internal Revenue Code (IRC) sections 332, 333, 334, and 337

See *Voluntary dissolution and surrender of authority and liability for taxes and fees* for the proper procedures to follow in terminating your business.

In the case of a merger or consolidation, the *Final return* box would be used only by the nonsurviving corporation.

The return will be treated as a final return if your business is terminated with the Department of State and the return covers the tax period from the last return filed to the date of the termination.

Foreign authorized corporations: If you are disclaiming tax liability but want to continue to be authorized to do business in New York State, refer to Form CT-245, *Maintenance Fee and Activities Return For a Foreign Corporation Disclaiming Tax Liability*.

**Do not** mark the *Final return* box if you are only changing the type of return that you file (for example, from Form CT-186 to Form CT-3 or Form CT-3-S).

### Amended return

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

An amended New York State return requesting a credit or refund must be filed within three years of the time the original return was filed or within two years of the time the tax was paid, whichever is later; or, if no return was filed, within two years of the time the tax was paid. For additional limitations on credits or refunds, see Tax Law, Article 27, section 1087.

### Other forms you may have to file

#### 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.

#### Independently procured insurance tax – Article 33-A

If you purchase or renew a taxable insurance contract from an insurer not authorized to transact business in New York State under a *Certificate of Authority* from the Superintendent of Insurance, you will be liable for a tax of 3.6% (.036) of the premium (see Form CT-33-D, *Tax on Premiums Paid or Payable To an Unauthorized Insurer*; or TSB-M-90(9)C, *1990 Legislation - Direct Writings Tax*, for more information).

#### Foreign corporations – maintenance fee

If you are a *foreign corporation* (a corporation organized outside of New York State) authorized to do business in New York State under Business Corporation Law Article 13 or 15-A, you must pay an annual maintenance fee of \$300. If you do not pay this fee or its equivalent in New York State corporation taxes and metropolitan transportation business taxes (MTA surcharges), your authorization to do business in New York State may be annulled. Payments of New York State corporation taxes (including the MTA surcharge) under Articles 9, 9-A, and 32 are counted as payments toward the \$300 annual maintenance fee. However, the license fee reported on Form CT-240, *Foreign Corporation License Fee Return*, is not considered corporation tax and cannot be considered as a payment toward the maintenance fee.

If the total of corporation taxes you paid in the current tax year is less than \$300, enter **300** on Form CT-186, line 7, and make a payment of \$300 with that form. In addition, on any other Article 9 returns, indicate that you paid a total tax and maintenance fee of \$300 with Form CT-186, and make no remittance with any other returns.

#### Foreign corporations – license fee

Foreign corporations doing business in New York State must also file Form CT-240 whether or not they are authorized to do business in New York State. Form CT-240 must be filed with the corporation's first franchise tax return or if the capital stock employed in New York State has increased since the last license fee return was filed.

#### Voluntary dissolution and surrender of authority and liability for taxes and fees

A *domestic corporation* (incorporated in New York State) is generally liable for corporate franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, regardless of whether it carries on any activity. For example, a person who intends to go into business organizes a new corporation under the New York Business Corporation Law for the purpose of operating the new business as a corporation. However, the business is never started and the corporation never conducts any business. Under these circumstances, the corporation would usually be liable for franchise taxes for each tax year until it is formally dissolved with the Department of State.

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it does business, employs capital, owns or leases property, or maintains an office within New York State. In addition, a foreign corporation that is authorized to do business in New York State is also liable for payments of its annual maintenance fee until the time it surrenders with the Department of State its authority to do business, regardless of whether it does business, employs capital, owns or leases property, or maintains an office in the state. The maintenance fee may be taken as a credit against the franchise tax.

For information on voluntary dissolution and surrender of authority, see Forms TR-125, *Instructions for Voluntary Dissolution of New York State Business Corporation*, and TR-199, *Surrender of Authority-Foreign Corporation*, on our Web site at [www.nystax.gov](http://www.nystax.gov).

#### Employer identification number, file number, and other identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Keep a record of that information and include it on each corporation tax form mailed. If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

#### MTA surcharge

Any corporation taxable under Article 9 section 186, that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-M, *Utility Corporation MTA Surcharge Return*, and pay an MTA surcharge on business done in the Metropolitan Transportation Authority region. The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

#### Specific instructions

**Line A** – Make your check or money order payable in United States funds. We will accept a foreign check or foreign money order only if payable through a United States bank or if marked **Payable in U.S. funds**.

#### Line 6

**Temporary deferral of certain tax credits** – For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and

used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

Mark an **X** in the appropriate box(es) and enter the total amount of tax credits claimed. Attach the form(s) to your return. If you are claiming a credit for which no specific box is provided, mark an **X** in the *Other credits* box and attach the appropriate form(s).

These credits may not reduce your tax below the minimum tax. If you are an authorized foreign corporation, these credits may not reduce your total tax and MTA surcharge below the \$300 maintenance fee.

If more than one of these credits applies, you may use them in any order you choose.

**Line 8b** – If you did not file Form CT-5.9 and the amount on line 7 (net franchise tax) is more than \$1,000, you must pay a mandatory 25% (.25) first installment of estimated tax for the period following the period covered by the return.

Use Form CT-400, *Estimated Tax for Corporations*, to file and pay the additional installments of estimated tax for the next period. If you expect the franchise tax for the next period to exceed \$1,000, you must file additional installments of estimated tax on June 15, September 15, and December 15.

**Line 12** – Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law, Article 27, section 1085(d).

**Line 13** – If you do not pay the franchise tax on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of the underpayment from the original due date to the date paid. Exclude from the interest computation any amount shown on line 8a or 8b.

**Line 14** – Compute additional charges for late filing and late payments on the amount of franchise 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 shown on line 8a or 8b.

- A. If you do not file a return when due or if the application for extension is invalid, add to the tax 5% (.05) per month up to 25% (.25) (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (section 1085(a)(1)(B)).
- C. If you do not pay the tax shown on a return, add to the tax ½% (.005) per month up to 25% (.25) (section 1085(a)(2)).
- D. The total of the additional charges in items A and C may not exceed 5% (.05) for any one month, except as provided for in item B above (section 1085(a)).

If you think you are not liable for these additional charges, attach a statement to your return explaining the delay in filing, payment, or both.

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

**Line 20b** – If you are claiming a refund of unused tax credits, enter the refund amount and attach the appropriate tax credit form(s). Do not include the refund amount on line 6.

**Line 20c** – If you are applying an amount of unused tax credits as an overpayment to the next tax period, enter that amount and attach the appropriate tax credit form(s). Do not include the overpayment amount on line 6.

### Schedule A – Computation of gross earnings tax and allocation percentage/issuer's allocation percentage

On lines 21 through 24, enter gross earnings attributable to New York State in column A and total gross earnings everywhere in column B.

*Gross earnings* are all receipts from the employment of capital, without any deductions.

Do not take a deduction relating to a financial resource asset unless you attach to Form CT-186 a certificate issued by the New York State Department of Public Service verifying this deduction.

General City Law Article 2-I provides for certain rebates of charges for energy in revitalization areas of New York City. However, nothing contained in Article 2-I should be construed as reducing the amount of the gross receipts subject to tax under Tax Law section 186.

Your *issuer's allocation percentage* is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of New York State gross earnings compared to gross earnings everywhere.

The Tax Law requires most corporations doing business in New York State to provide the information needed to compute their issuer's allocation percentages. Tax Law section 1085 provides for a \$500 penalty for failure to provide this information.

Taxpayers paying the minimum tax must also complete this schedule and compute their issuer's allocation percentages.

### Schedule B – Computation of allocated dividend tax

**Line 30** – The *actual amount of paid-in capital* is that part of the equity that was invested in the business enterprise by shareholders.

**Line 31** – If dividends are paid once a year, include the value of the paid-in capital on the declaration date. If dividends are declared and paid more than once a year, average the value of paid-in capital on which these dividends were paid by computing the value of paid-in capital on each declaration date and dividing by the number of dividend dates. For more information about computation of the tax on dividends, see TSB-M-82(8)C, *Tax on Dividends for Section 186 of Article 9*.

### Signature

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

The return of an association, publicly traded partnership, or business conducted by a trustee or trustees must be signed by a person authorized to act for the association, publicly traded partnership, or business.

If an outside individual or firm prepared the return, all applicable entries in the paid preparer section must be completed, including identification numbers. Failure to sign the return will delay the processing of any refunds and may result in penalties. (For more information on paid preparer identification numbers, see *Changes for 2010* in Form CT-1.)



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

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

## Contents of this form

Form CT-1 contains both changes for the current tax year and general instructional information, serving as a supplement to corporation tax instructions.

This form contains information on the following topics:

- Changes for the current tax year (non-legislative and legislative)
- Business information (how to enter and update)
- Entry formats
  - Dates
  - Negative amounts
  - Percentages
  - Whole dollar amounts
- Third-party designee
- Use of reproduced and computerized forms
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## Changes for 2010

### Non-legislative changes

**Web File** — You can Web File Form CT-400, *Estimated Tax for Corporations*, on our Web site (see *Need help?*). You'll need to create an *Online Services* account or log into your existing one, and select the corporation tax estimated payment option.

You can also Web File the following extension requests:

- Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*
- Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*
- Form CT-5.9, *Request for Three-Month Extension To File (for Article 9 tax return, MTA surcharge, or both)*

Benefits of Web filing include:

- direct payment from your bank account or by ACH credit
- instant confirmation

For more information, visit our Web site and select the corporation tax Web File option.

**Form CT-200-V, Payment Voucher for E-Filed Corporation Tax Returns and Extensions** — This form is a payment voucher for taxpayers who e-file their forms but cannot e-pay and need to pay with a paper check or money order. Form CT-200-V is for use only for returns or extensions that were e-filed and should never accompany a paper-filed return.

**Paid preparer identification numbers** — New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. For 2010, the paid preparer section on corporation tax forms has been updated accordingly. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site (see *Need help?*.) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number (SSN). (PTIN information is available at [www.irs.gov](http://www.irs.gov).)

## Legislative changes

### Articles 9, 9-A, 13, 32, and 33

#### Chapter 242, Laws of 2010

**Amended definition of tax return preparer under Tax Law, Article 1, section 32** — Enrolled agents, employees of enrolled agents, and those preparing returns under the supervision of enrolled agents are no longer included in the definition of *tax return preparer*.

### Article 9

#### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Biofuel tax credit cap** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

### Article 9-A

#### Chapter 24, Laws of 2010

**Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended** — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

#### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Biofuel tax credit cap** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

**Qualified emerging technology company (QETC) facilities, operations, and training tax credit** — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit limit imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$250,000.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

**Empire State film production tax credit** — Numerous amendments impacting the credit were made. For more information concerning the amendments, visit the Governor's Office for Motion Picture and Television Development Web site at [www.nylovesfilm.com](http://www.nylovesfilm.com).

**Empire State film post-production tax credit** — Effective August 11, 2010, a new tax credit is available for the film and television post-production industry. The amount of credit allowed is allocated by the Governor's Office for Motion Picture and Television Development. For more information, refer to Form CT-261, *Claim for Empire State Film Post-Production Credit*, and its instructions.

**Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent** — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

**Updated definition of captive REIT** — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

**Clarifying New York source income** — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

## Chapter 59, Laws of 2010

**Excelsior Jobs Program tax credit** — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit that must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at [www.empire.state.ny.us](http://www.empire.state.ny.us) and select *Business Programs*.

## Chapter 297, Laws of 2010

**Farmers' school property tax credit** — For tax years beginning on or after January 1, 2011, the farmers' school property tax credit was amended to maintain eligibility for the credit when farmers receive payments for the sale of their development rights under the state's Farmland Protection Program. This change will allow payments from the Farmland Protection Program to be treated as excess gross income from farming.

## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## Article 32

### Chapter 24, Laws of 2010

**Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended** — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Elimination of bad debt modifications when computing entire net income** — For tax years beginning on or after January 1, 2010, Article 32 was amended to eliminate the bad debt adjustments previously required by the Business Tax Reform and Rate Reduction Act of 1987 (see TSB-M-87(17)C, *Business Tax Reform and Rate Reduction Act of 1987 Article 32 - Franchise Tax on Banking Corporations*), and as amended by Chapter 411 of the Laws of 1996 (see TSB-M-96(1)C, *Important Notice: Summary of 1996 Corporation Tax Law Changes*).

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

**Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent** — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

**Updated definition of captive REIT** — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

**Clarifying New York source income** — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

## Chapter 59, Laws of 2010

**Excelsior Jobs Program tax credit** — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit which must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at [www.empire.state.ny.us](http://www.empire.state.ny.us) and select *Business Programs*.

## Chapter 67, Laws of 2010

**Bank tax extender** — For tax years beginning before January 1, 2011, certain provisions of the franchise tax on banking corporations have been extended.

## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## Article 33

### Chapter 57, Laws of 2010

**Deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

**Empire Zones Program** — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

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### Chapter 59, Laws of 2010

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## Chapter 472, Laws of 2010

**Tax credit for rehabilitation of historic properties** — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

## 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 (see *Need help?*) 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 your address 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?*).

### Entry formats

**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).

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

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

**Example:**  $5,000/7,500 = 0.6666666 = 6.6667\%$ .

**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.

### 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, 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.

**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.

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

## General information

### 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 or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

### Fee for payments returned by banks

The 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.

### Tax shelter penalties

The Tax Law provides 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*.

## Voluntary Disclosure and Compliance Program

The Voluntary Disclosure and Compliance Program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities. For more information, see TSB-M-08(11)C, *Voluntary Disclosure and Compliance Program*.

## 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 obtain Publication 131, *Your Rights and Obligations Under the Tax Law*, by visiting our Web site or by calling (see *Need help?*).

### Need help?



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



**Telephone assistance** is available from 8:30 A.M. to 4:30 P.M. (eastern time), Monday through Friday.

**Corporation Tax Information Center:** (518) 485-6027

To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. 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.