



# Instructions for Form CT-3-M

## General Business Corporation MTA Surcharge Return

**CT-3-M-1**

### Form CT-1, Supplement to Corporation Tax Instructions

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
- Are you claiming an overpayment?
- NAICS business code number and NYS principal business activity
- Limitation on tax credit eligibility
- Third-party designee
- Paid preparer identification numbers
- Is your return in processible form?
- Use of reproduced and computerized forms
- Electronic filing and electronic payment mandate
- Web File
- Form CT-200-V
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Reporting requirements for tax shelters
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

All citations are to New York State Tax Law sections unless specifically noted otherwise.

## General information

### Who must file this form and pay this surcharge

A taxpayer filing Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*, under Article 9-A that does business, employs capital, owns or leases property, maintains an office, or derives receipts from activity, in the Metropolitan Commuter Transportation District (MCTD), must also file Form CT-3-M and pay a metropolitan transportation business tax (MTA surcharge) on business done in the Metropolitan Transportation Authority region. The **MCTD includes** the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

A corporation is considered to be deriving receipts in the MCTD if it has receipts within the MCTD of \$1 million or more in a tax year (§209-B.1(b)). A corporation with less than \$1 million but at least \$10,000 of receipts within the MCTD in a tax year, that is part of a unitary group that meets the ownership test under §210-C, is deriving receipts from activity in the MCTD if the receipts within the MCTD of the members of the unitary group that have at least \$10,000 of receipts within the MCTD in the aggregate meet the \$1 million threshold (§209-B.1(d)(i)).

The term *receipts* means the receipts that are subject to the New York State apportionment rules set forth in §210-A, and the term

*receipts within the MCTD* means the receipts included in the numerator of the MCTD apportionment factor determined under §209-B.2. Also, receipts from processing credit card transactions for merchants include merchant discount fees received by the corporation.

A corporation is doing business in the MCTD if (§209-B.1(c)):

- it has issued credit cards (including bank, credit, travel, and entertainment cards) to 1,000 or more customers who have a mailing address in the MCTD as of the last day of its tax year;
- it has merchant customer contracts with merchants and the total number of locations covered by those contracts equals 1,000 or more locations in the MCTD to whom the corporation remitted payments for credit card transactions during the tax year; **or**
- the sum of the number of customers and the number of locations equals 1,000 or more.

A corporation that does **not** meet any of the thresholds above, but has at least 10 customers, or locations, or customers and locations, and is part of a unitary group that meets the ownership test under §210-C is doing business in the MCTD if the number of customers, locations, or customers and locations, within the MCTD of the members of the unitary group that have at least 10 customers, locations, or customers and locations, within the MCTD in the aggregate meets any of the thresholds above.

**Exception:** A qualified entity (QE) of a New York State innovation hot spot that operates solely within a hot spot is not subject to the MTA surcharge for five tax years, beginning with the first tax year during which it becomes a tenant in, or part of, a hot spot. This exception is only available to a QE that has irrevocably elected on its Form CT-3 to be subject to only the fixed dollar minimum tax base. This exception does not apply to taxpayers filing as part of a New York State combined group.

### Estimated MTA surcharge

Any corporation that is subject to the MTA surcharge that is required to make a declaration of estimated franchise tax must also make a declaration of estimated MTA surcharge and make quarterly installment payments on Form CT-400, *Estimated Tax for Corporations*. Most corporations are required to electronically file this form either using tax software or online, after setting up an online services account, through the department's website.

For more information, see the instructions for line 5b and Form CT-400-I, *Instructions for Form CT-400*.

### When and where to file

File this return and pay the amount of MTA surcharge due within 3½ months after the end of your reporting period. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

Mail Form CT-3-M separately or with your **Form CT-3** or **CT-3-A** to:

**NYS CORPORATION TAX**  
**PO BOX 15181**  
**ALBANY NY 12212-5181**

### Private delivery services

See Publication 55, *Designated Private Delivery Services*.

### Extension of time for filing MTA surcharge return

You may request additional time to file an MTA surcharge return. File Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*, or Form CT-5.3, *Request for Six-Month Extension to File (for combined franchise tax return, or combined MTA surcharge return, or both)*, on or

before the due date of the return for which you are requesting the extension, and pay the MTA surcharge you estimate to be due.

## Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box in the upper left corner of Form CT-3-M.

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 to federal taxable income (FTI)** – If your FTI has been changed or corrected by a final determination of the Commissioner of Internal Revenue or by a renegotiation of a contract or subcontract with the United States, you must file an amended return reflecting the changes to FTI within 90 days (120 days if filing an amended combined return) of the final federal determination (as final determination is described under the regulations of the Commissioner of Taxation and Finance).

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 based upon carryback of a net operating loss (NOL)** – To claim a credit or refund resulting from the carryback of an NOL to a prior year, file an amended return for the year to which the carryback is being applied within 90 days (120 days if filing an amended combined return) from the date of the document indicating approval of the federal refund or credit. Be sure to use the tax return for the year to which the carryback is being applied.

You must attach the following to your amended return:

- federal claim Form 1139, *Corporation Application for Tentative Refund*, or federal Form 1120X, *Amended U.S. Corporation Income Tax Return*;
- a copy of the New York State return for the loss year; and
- proof of federal refund approval, *Statement of Adjustment to Your Account*.
- Form CT-3.4 when carrying back loss incurred in a tax year that began on or after January 1, 2015.

NOLS from tax years that begin on or after January 1, 2015, cannot be carried back to tax years that began before January 1, 2015.

If you are a federal S corporation that files as a New York C corporation, file an amended New York State return for the prior year and attach a copy of federal Form 1120S, *U.S. Income Tax Return for an S Corporation*, for the loss year. File the amended return within 15 months from the end of the loss year.

**For credits or refunds of corporation tax paid** – To claim any refund type that requires an amended return, other than an NOL carryback (see above), file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually Form 1120X) and proof of federal refund approval, *Statement of Adjustment to Your Account*. Be sure to use the tax return for the year being amended.

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.

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, Article 27, section 1087.

## Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Enter your employer identification number and file number above your corporation tax name and address. 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 information when completing all forms.

## Reporting period

Use this tax return for calendar year 2016, fiscal years that begin in 2016 and end in 2017, and tax years of less than 12 months that begin on or after January 1, 2016, but before January 1, 2017.

You can also use the 2016 return if:

- you have a tax year of less than 12 months that begins and ends in 2017, **and**
- the 2017 return is not yet available at the time you are required to file the return.

In this case you must show your 2017 tax year on the 2016 return and take into account any tax law changes and any change in the tax surcharge rate in effect for tax years beginning **after** December 31, 2016.

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

## Line instructions

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

## Computation of MTA surcharge

§209-B.1(a) requires that the rate of MTA surcharge applies only to that portion of the tax imposed under §209, before the deduction of any credits, that is attributable to the taxpayer's business activity carried on within the MCTD. In addition, the MTA surcharge computed on a combined return includes a surcharge on the fixed dollar minimum tax for each member of the combined group subject to the MTA surcharge.

**Line 1** – If you file Form CT-3, enter the amount from Form CT-3, Part 2, line 2. If you file Form CT-3-A, enter the amount from Form CT-3-A, Part 2, line 2, **plus** the fixed dollar minimum tax of each member of the combined group that is subject to the MTA surcharge that is included on Form CT-3-A, Part 2, line 4b.

**Lines 5a, 5b, and 6 – mandatory first installment (MFI) removed** – For information concerning MFI's, see Form CT-300, *Mandatory First Installment (MFI) of Estimated Tax for Corporations*, and its instructions.

**Line 9** – 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 overpay your tax, you will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year, unless you request a refund on line 16 (see *Lines 14, 15, and 16*).

**Lines 14, 15, and 16** – You may apply an overpayment as a credit to your next MTA surcharge return, or to your state franchise tax return for this period, or you may have it refunded. Indicate on these lines the amount of your overpayment you want credited or refunded.

## Schedule A – Computation of MCTD apportionment percentage

Enter the MCTD amounts in column A and the New York State amounts in column B.

Determine the MCTD apportionment percentage by adding a single-weighted property factor, a single-weighted receipts factor, and a single-weighted payroll factor and dividing the result by three or the number of factors.

### Average value of property

The *average value of a taxpayer's real and tangible personal property* means the adjusted basis of such property for federal income tax purposes provided, however, that the taxpayer may make a one-time, revocable election to use fair market value as the value of all its real and tangible personal property. In the instance of a combined return, each taxpayer included on the return must have made an election that is in effect for that tax year. Report tangible personal property **owned** on line 20 and tangible personal property **rented** on line 21.

**Line 17** – 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 18** – Enter the average value of rented real property. 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 20** – 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 21** – Enter the average value of tangible personal property you rented. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

### Receipts from:

**Lines 24 through 76** – The percentage of a taxpayer's receipts within the MCTD is ascertained pursuant to the apportionment rules described in §210-A, with the following exceptions:

- The numerator of the apportionment fraction under §210-A is the denominator for purposes of the MCTD receipts factor.
- The numerator of the MCTD receipts factor is determined by applying the rules of §210-A as if those rules referenced the MCTD rather than New York State.
- If a provision in §210-A provides that 8% of the receipts specified in that provision should be included in the numerator of the New York State apportionment fraction, 90% of such 8% amount should be included in column A, and 100% of such 8% amount should be included in column B. The election to use the 8% method on Form CT-3 or CT-3-A carries over to Form CT-3-M.
- If a provision in §210-A provides that the receipts specified in that provision are **not** included in the numerator of the apportionment fraction under such section, such receipts are not included in determining the portion of the taxpayer's business activity carried on within the MCTD.

For specific instructions on how to complete lines 24 through 76, see Form CT-3-I, *Instructions for Form CT-3*, or Form CT-3-A-I, *Instructions for Form CT-3-A*, Part 6.

## Payroll

**Line 79** – Enter the total amount of all wages and compensation of employees other than general executive officers. Employees within the MCTD include all employees regularly connected with or working out of an office or other place of business you maintained within the MCTD, no matter where the services of the employees were performed.

*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 in or outside New York State is not a general executive officer.

**Line 82** – 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 MCTD apportionment percentage. A factor is missing only if both the numerator (column A) and denominator (column B) are zero.

### Example:

*Computation of MCTD apportionment percentage:*

	Corp. A	Corp. B	Corp. C
Property factor	60%	60%	60%
Receipts factor	30%	30%	30%
Payroll factor	30%	0%*	None*
Total	120%	90%	90%
Divided by	3	3	2
MCTD apportionment percentage	40%	30%	45%

\* In this example, Corporation C has no payroll factor since it has no employees in the MCTD and no employees in New York State. Corporation B has no employees in the MCTD but has employees in New York State.

## Composition of prepayments claimed on line 7

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

## 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 (see *Paid preparer identification numbers* in Form CT-1). Failure to sign the return will delay the processing of any refunds and may result in penalties.