

1 Part 7 Payment of Tax, Declaration and Payment of Estimated Tax, and Collection

2 Subpart 7-1 Payment of Tax

3 Section 7-1.1 Time for payment of tax. [Tax Law, §§ 213(1), 1091]

4 (a) The tax imposed by article 9-A is payable to the New York State Department of Taxation
5 and Finance in full at the time the report is required to be filed. The time when the payment is required
6 to be made is determined without regard to any extension of time for filing such report.

7 (b) Where any payment of tax required to be made within a prescribed period or on or before a
8 prescribed date is mailed in accordance with the provisions of section 2399.2 of this Title, such
9 payment, if not dishonored upon presentment, will be deemed timely made.

10 (c) See section 2399.3 of this Title when the last day prescribed (including any extensions of
11 time) for making any payment falls on a Saturday, Sunday or a legal holiday in the State of New York.

12 Section 7-1.2 Extension of time for payment of tax. [Tax Law, [~~§ 213(2)~~] § 213 (3)]

13 The [~~Tax Commission~~] Commissioner may grant a reasonable extension of time for payment of
14 the tax upon receipt of a written request from the taxpayer giving complete information as to the
15 reasons for its inability to make payment of the tax on or before the prescribed due date. Interest must
16 be paid on any balance due from the original due date of the report, without regard to any extension, to
17 the date of payment.

18 Section 7-1.3 Properly estimated tax. [Tax Law, [~~§ 213(1)~~] § 213(2)]

19 (a) A taxpayer applying for an automatic six-month extension for filing its tax report must pay
20 on or before the date its report is required to be filed, without regard to any extension of time, its
21 properly estimated tax. The estimated tax paid, or balance thereof, will be deemed properly estimated if
22 the tax paid is either:

23 (1) not less than 90 percent of the tax as finally determined; or

24 (2) not less than the tax shown on the taxpayer's report for the immediately preceding taxable
25 year, if such preceding year was a taxable year of 12 months.

26 (b) For purposes of paragraph (2) of subdivision (a) of this section, the amount of the tax shown
27 on the taxpayer's report for the immediately preceding taxable year will be utilized, irrespective of the
28 amount of the tax, if any, shown on the taxpayer's report for the second preceding taxable year.

29 Section 7-1.4 Cessation tax. [Tax Law, § 213(1)]

30 Any taxpayer [~~which~~] that ceases to exercise its franchise or to be subject to the tax imposed by
31 article 9-A, must pay the tax, or balance thereof, at the time the report is required to be filed; see
32 section 6-4.3 of this Title.

33 Subpart 7-2 Declaration of Estimated Tax

34 Section 7-2.1 Requirement of declaration. [Tax Law, § 213-a(a)]

35 (a) Every taxpayer subject to the tax imposed by article 9-A must make a declaration of its
36 estimated tax for the current taxable year if such estimated tax can reasonably be expected to exceed
37 \$1,000 for the taxable year.

38 (b) The declaration required by this section must cover a calendar-year accounting period if the
39 taxpayer files its report on the basis of a calendar year, or a full fiscal year if the taxpayer files its report
40 on the basis of a fiscal year, unless a declaration for a short period is required by section 7-2.6 of this
41 Subpart. No declaration may be made for a period of more than 12 months.

42 (c) For purposes of this section, a taxable year of 52-53 weeks, in accordance with the
43 provisions of section 2-1.4 of this Title, will be deemed a period of 12 months. Such a taxable year of
44 52-53 weeks that has an accounting period that begins on or after December 26, 2014 and on or before
45 December 31, 2014 will be deemed to begin on January 1, 2015 and end on December 31, 2015.

46 Section 7-2.2 Definition of estimated tax. [Tax Law, § 213-a(b)]

47 The term “estimated tax” means the amount [~~which~~] that a taxpayer estimates to be the tax
48 imposed by article 9-A for the current taxable year, less the amount [~~which~~] that it estimates to be the
49 sum of any credits allowable against the tax.

50 Section 7-2.3 Time for filing declaration of estimated tax. [Tax Law, § 213-a(c) and (f)]

51 A declaration of estimated tax must be filed in accordance with the following schedule:

52 (a) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] at any time before the first
53 day of the sixth month of the current taxable year the taxpayer’s estimated tax can reasonably be
54 expected to exceed \$1,000 for such taxable year, then the declaration must be filed on or before the 15th
55 day of the sixth month of the current taxable year.

56 (b) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] no declaration is required to
57 be filed pursuant to subdivision (a) of this section, and at any time after the last day of the fifth month
58 of the current taxable year and before the first day of the ninth month of the current taxable year the
59 taxpayer’s estimated tax can reasonably be expected to exceed \$1,000 for such taxable year, then the
60 declaration must be filed on or before the 15th day of the ninth month of the current taxable year.

61 (c) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] no declaration is required to
62 be filed pursuant to subdivision (a) or (b) of this section, and at any time after the last day of the eighth
63 month of the current taxable year and before the first day of the 12th month of the current taxable year
64 the taxpayer’s estimated tax can reasonably be expected to exceed \$1,000 for such taxable year, then the
65 declaration must be filed on or before the 15th day of the 12th month of the current taxable year.

66 Section 7-2.4 Amendments of declaration. [Tax Law, § 213-a(d)]

67 In making a declaration of estimated tax, the taxpayer is required to take into account the [~~then~~]
68 [~~existing~~] facts and circumstances existing at the time as well as those reasonably to be anticipated
69 [~~which~~] that relate to the prospective article 9-A tax. Amended or revised declarations may be made

70 [~~in any case in which~~] if the taxpayer finds that its estimated tax differs from the estimated tax reflected
71 in its most recent declarations of estimated tax. However, an amended declaration may only be made on
72 an installment date (see section 7-3.4 of this Part—Other installments of estimated tax) and no further
73 amendment may be made until a succeeding installment date. The amended declaration [~~should~~] must
74 be made on form CT-400 and marked "AMENDED". No refund will be issued as a result of the filing
75 of an amended declaration. Consideration will be given to a refund only in connection with a completed
76 report filed by a taxpayer for the taxable year covered by its declaration (and amended declaration).

77 Section 7-2.5 Report as declaration or amendment. [Tax Law, § 213-a(e) and (f)]

78 (a) If the taxpayer files its report for the calendar year on or before February 15th of the
79 succeeding calendar year (or if the taxpayer [~~is~~] files on a fiscal-year basis, on or before the 15th
80 day of the second month succeeding the taxable year) and pays [~~therewith~~] together with such
81 report the balance, if any, of the full amount of the tax shown to be due on the report:

82 (1) Such report will be considered to be its declaration if no declaration was required to be
83 filed on or before the 15th day of the ninth month of the calendar year or fiscal year for which
84 the tax was imposed, but a declaration was required to be filed on or before the 15th day of the
85 12th month of the calendar year or fiscal year pursuant to section 7-2.3 of this Subpart.

86 (2) Such report will be considered as the amendment permitted by section 7-2.4 of this
87 Subpart to be filed on or before the 15th day of the 12th month of the calendar year or fiscal
88 year if the tax shown on the report is greater than the estimate shown on the declaration
89 previously made.

90 *Example 1:* A taxpayer [~~which~~] that reports on the basis of a calendar year first meets the
91 requirement for making a declaration of estimated tax on September 5, [~~1981~~] 2016. The
92 taxpayer may satisfy the requirements for making a declaration of estimated tax by making

93 and filing its report for the 2016 taxable year [~~1981~~] on or before February 15, [~~1982~~] 2017,
94 and paying, at the time of filing, the balance, if any, of the full amount of tax shown to be
95 payable. The report will be treated as the declaration required to be filed on or before
96 December 15, [~~1981~~] 2016.

97 *Example 2:* The taxpayer makes and files, on or before September 15, [~~1981~~] 2016, a timely
98 declaration of estimated tax for such year, and on or before February 15, [~~1982~~] 2017 files
99 its [~~1981~~] 2016 tax report and pays the balance, if any, of the full amount of tax shown to be
100 payable. If the taxpayer's report shows the tax to be greater than the estimated tax shown on
101 the declaration, the report will be treated as the amended declaration permitted to be filed on
102 or before December 15, [~~1981~~] 2016.

103 (b) The filing of a declaration or amended declaration or the payment of the last installment of
104 estimated tax on December 15th, or the filing of a report by February 15th of the succeeding calendar
105 year (or if on a fiscal-year basis, on the 15th day of the 12th month of the current fiscal year and the
106 15th day of the second month of the succeeding fiscal year), will not relieve the taxpayer of the
107 additional charge for underpayment of installments, under section 1085(c) of the Tax Law, if it failed to
108 pay [~~its~~] the estimated tax [~~which~~] that was due earlier in its taxable year.

109 Section 7-2.6 Short periods. [Tax Law, § 213-a(g)]

110 If a taxpayer is required to make a declaration of estimated tax pursuant to section 7-2.1 of this
111 Subpart and a short taxable year is involved, a declaration for the fractional part of the year is required.
112 No declaration is required if the short taxable year is a period of five months or less.

113 Section 7-2.7 Time for filing declaration of estimated tax for short taxable year. [Tax Law, §
114 213-a(g)]

115 In the case of a short taxable year of more than five months, the declaration of estimated tax

116 must be filed in accordance with the following schedule:

117 (a) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] at any time before the first
118 day of the sixth month of the current taxable year the taxpayer's estimated tax can reasonably be
119 expected to exceed \$1,000 for such taxable year, then the declaration must be filed on or before the 15th
120 day of the sixth month of the current taxable year.

121 (b) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] no declaration is required to
122 be filed pursuant to subdivision (a) of this section, and at any time after the last day of the fifth month of
123 the current taxable year but before the first day of the ninth month of the current taxable year the
124 taxpayer's estimated tax can reasonably be expected to exceed \$1,000 for such taxable year, then the
125 declaration must be filed on or before the 15th day of the ninth month or the 15th day of the last month
126 of the current taxable year, whichever comes first.

127 (c) If [~~the requirement of section 7-2.1 of this Subpart is first met~~] no declaration is required to
128 be filed pursuant to subdivision (a) or (b) of this section, and at any time after the last day of the eighth
129 month of the current taxable year the taxpayer's estimated tax can reasonably be expected to exceed
130 \$1,000 for such taxable year, the declaration must be filed on or before the 15th day of the last month of
131 the current taxable year.

132 Section 7-2.8 Extension of time for filing declaration of estimated tax. [Tax Law, § 213-a(h)]

133 The [~~Tax Commission~~] Commissioner may grant a reasonable extension of time, not to exceed
134 three months, for the filing of any declaration of estimated tax upon receipt of a written request from
135 the taxpayer giving complete information as to the reasons for its inability to file the declaration on or
136 before the prescribed due date.

137 Subpart 7-3 Payments of Estimated Tax

138 Section 7-3.1 General.

139 The amount of estimated tax due as shown on a declaration of estimated tax may be paid in
140 installments or, at the election of the taxpayer, may be paid in full at the time of filing the declaration.
141 If the estimated tax is paid in installments, [~~the first payment~~] one installment, following any mandatory
142 first installment paid pursuant to section 7-3.3 of this Subpart, must accompany the declaration.

143 Section 7-3.2 [~~Definition of preceding year's tax~~] Definitions. [Tax Law, § 213-b(f)]

144 (a) The term “preceding year’s tax” as used in this Subpart means the tax imposed by article 9-A
145 for the immediately preceding calendar or fiscal year. It also means, for purposes of computing the first
146 installment of estimated tax when an application has been filed for extension of the time for filing the
147 report required to be filed for the immediately preceding calendar or fiscal year, the amount properly
148 estimated (see section 7-1.3—Properly estimated tax) as the tax imposed upon the taxpayer for such
149 preceding calendar or fiscal year.

150 (b) The term “second preceding year’s tax” as used in this Subpart means the tax imposed by
151 article 9-A for the calendar or fiscal year preceding the calendar or fiscal year described in the first
152 sentence of subdivision (a) of this section.

153 (c) For purposes of determining the calendar or fiscal year used pursuant to subdivisions (a) and
154 (b) of this section, short taxable years will be considered.

155 Section 7-3.3 First installment of estimated tax for certain taxpayers. [Tax Law, § 213-b(a)]

156 [~~For any 12 month taxable year ending after December 31, 1969, every taxpayer~~] (a) New York S
157 Corporations. Every New York S corporation subject to the tax imposed by article 9-A must pay with its
158 report required for the immediately preceding taxable year, or with an application for extension of the
159 time for filing such report, [~~an amount~~] a mandatory first installment of estimated tax equal to (1) 25
160 percent of [the] such preceding year's tax, if such tax exceeded \$1,000 but was equal to or less than
161 \$100,000, or (2) 40 percent of such preceding year’s tax, if such tax exceeded \$100,000.

162 (b) New York C corporations. Every New York C corporation subject to the tax imposed by
163 article 9-A must pay, together with form CT-300, a mandatory first installment of estimated tax equal to
164 (1) 25 percent of the second preceding year's tax, if such tax exceeded \$1,000 but was equal to or less
165 than \$100,000, or (2) 40 percent of the second preceding year's tax, if such tax exceeded \$100,000.

166 (c) The mandatory first installment required to be paid pursuant to this section must be paid for a
167 taxable year of any length, including short taxable years.

168 (d) Examples.

169 Example 1: Corporation A, a New York C corporation, is a calendar-year filer. Its tax for the
170 2015 taxable year is \$200,000 and its tax for the 2016 taxable year is \$50,000. Since the
171 mandatory first installment of estimated tax for C corporations is based on the second
172 preceding year's tax, Corporation A must pay a mandatory first installment of estimated tax
173 for the 2017 taxable year equal to \$80,000 (40% of \$200,000). The installment must be made
174 on form CT-300, on or before March 15, 2017.

175 Example 2: Corporation B, a New York S corporation, is a calendar-year filer. Its tax for the
176 2017 taxable year is \$3,000. Since the mandatory first installment for S corporations is based
177 on the preceding year's tax, Corporation B must pay a mandatory first installment of estimated
178 tax for the 2018 taxable year equal to \$750 (25% of \$3,000). The installment must be made
179 with its report required for the 2017 taxable year (or with its application for extension) due on
180 or before March 15, 2018.

181 Example 3: Corporation C, a New York C corporation, has two short periods for the 2017
182 taxable year. Its tax for the first 2017 short period, January 1, 2017 through August 31, 2017,
183 is \$710,000 and its tax for the second 2017 short period, September 1, 2017 through December
184 31, 2017, is \$340,000. Corporation C must pay a mandatory first installment of estimated tax

185 for the 2018 taxable year equal to \$284,000 (40% of \$710,000) on form CT-300, on or before
186 March 15, 2018.

187 Example 4: Corporation D, a New York C corporation, is a calendar-year filer. Its tax for the
188 2015 taxable year is \$10,000,000 and its tax for the 2016 taxable year is \$16,000,000.
189 Corporation D knows that a short period report will be required pursuant to section 6-1.2 of
190 this Title for the period January 1, 2017 through March 31, 2017. It must still pay a mandatory
191 first installment of estimated tax for the 2017 taxable year equal to \$4,000,000 (40% of
192 \$10,000,000) on form CT-300, on or before March 15, 2017.

193 Example 5: Corporation E, a New York C corporation, first becomes subject to tax under
194 article 9-A on June 1, 2016. Its first New York taxable year runs June 1, 2016 through
195 December 31, 2016. Corporation E is not required to pay a mandatory first installment of
196 estimated tax for the 2017 taxable year because it was not required to file a report for the
197 second preceding taxable year of 2015.

198 Section 7-3.4 Other installments of estimated tax. [Tax Law, § 213-b(b) and (h)]

199 (a) In the case of a declaration of estimated tax for a 12-month taxable year [~~ending after~~
200 ~~December 31, 1969~~], the other dates for filing the declaration and for installment payments are:

201 Dates for filing the declaration	Dates for installment payments
202 (1) On or before the 15 th day of 203 the six month:	204 The estimated tax must be paid in three equal 205 installments (after deducting the amount of <u>mandatory first</u> 206 <u>installment paid</u> , if any [paid with the report for the preceding taxable year]). One payment must be made at 207 time of filing the declaration, one on or before the 15th day of the ninth month and one on or before the 15th day of the

208 12th month of the current taxable year.

209 (2) On or before the 15th day of The estimated tax must be paid in two equal

210 the ninth month: installments (after deducting the amount of mandatory first

211 installment paid, if any~~[, paid with the report for the~~

212 ~~preceding taxable year]~~). One payment must be made at the

213 time of filing the declaration and one on or before the 15th

214 day of the 12th month of the current taxable year.

215 (3) On or before the 15th day of The estimated tax must be paid in full at the time of

216 the 12th month of the current filing the declaration (after deducting the amount

217 taxable year: of mandatory first installment paid, if any~~[, paid with the~~

218 ~~report for the preceding taxable year]~~).

219 [(4)] (b) If a declaration is filed after the time prescribed in section 7-2.3 of this Part, or after the

220 expiration of any extension of time, then the provisions of paragraphs (1) - (3) of [~~this~~] subdivision (a)

221 of this section do not apply, and the taxpayer must pay at the time of filing the declaration all

222 installments of estimated tax [~~which~~] that would have been payable at or before such time if the

223 declaration had been filed at the time prescribed in section 7-2.3 of this Part. The remaining

224 installments must be paid at the time and in the amounts [~~in which~~] that they would have been payable

225 if the declaration had been filed at the time prescribed in section 7-2.3 of this Part.

226 *Example:* Corporation X, a New York C corporation, was required to file a declaration of

227 estimated tax on or before June 15, [~~1984~~] 2016, but filed its declaration for calendar year

228 [~~1984~~] 2016 on November 18, [~~1984~~] 2016. At the time of filing its declaration, Corporation

229 X [~~corporation~~] had failed to pay two installments of its estimated tax for the 2016 taxable

230 year [~~1984~~] (i.e., the installments due on June 15, 2016 and September 15, 2016). Upon filing

231 the declaration on November 18, ~~[1984]~~ 2016, it must pay the two installments of estimated
232 tax ~~[for which]~~ that it previously failed to pay.

233 Section 7-3.5 ~~[Amendments]~~ Impact of amendments of declaration on estimated payments.
234 [Tax Law, § 213-b(c) and (h)]

235 If any amendment of a declaration is filed, the remaining installments, if any, must be ratably
236 increased or decreased (as the case may be) to reflect any increase or decrease in the estimated tax by
237 reason of such amendment. If an amendment is made after the 15th day of the ninth month of the
238 current taxable year, any increase in the estimated tax must be paid at the time of making such
239 amendment.

240 *Example:* On June 15, ~~[1984]~~ 2016 ~~[a taxpayer]~~ Corporation Y files a declaration of
241 estimated tax of \$14,000 for ~~[\$12,000]~~ the 2016 taxable year. Corporation Y has already paid a
242 mandatory first installment of \$2,000 on March 15, 2016 and divides the \$12,000 of remaining
243 estimated tax by three to compute the \$4,000 installment amount to be paid on June 15, on
244 September 15, and on December 15. Corporation Y paid the required \$4,000 installment on
245 June 15, 2016 ~~[and pays the first installment of \$4,000]~~. On September 15, ~~[1984]~~ 2016 it
246 files an amended declaration showing an estimated tax of ~~[\$14,000]~~ \$20,000 for the 2016
247 taxable year. The balance of ~~[\$10,000]~~ \$14,000 (\$20,000 minus \$2,000 mandatory first
248 installment and \$4,000 June estimated payment) must be paid in two remaining
249 installments: ~~[\$5,000]~~ \$7,000 on September 15, ~~[1984]~~ 2016 and ~~[\$5,000]~~ \$7,000 on
250 December 15, ~~[1984]~~ 2016.

251 Section 7-3.6 Application of installments based on preceding and second preceding year's
252 tax. [Tax Law, ~~[§ 213-b(d)]~~ § 213-b(a) and (d)]

253 Any amount of mandatory first installment paid pursuant to section 7-3.3 of this Subpart

254 must first be applied as payment of the first installment against the estimated tax for the current taxable
255 year shown on the declaration required to be filed pursuant to section 7-2.1 of this Part, and any amount
256 remaining must be considered as a payment on account of the tax shown on the report required to be
257 filed by the taxpayer for the current taxable year. If no declaration of estimated tax is required to be
258 filed by the taxpayer pursuant to section 7-2.1 of this Part, any amount of mandatory first installment
259 paid pursuant to section 7-3.3 of this Subpart will be considered as a payment on account of the tax
260 shown on the report required to be filed by the taxpayer for the current taxable year.

261 Section 7-3.7 Interest on certain installments based on preceding and second preceding year's
262 tax. [Tax Law, [~~§ 213-b(e)~~] § 213-b(a) and (e)]

263 If the amount of the mandatory first installment paid pursuant to section 213-b(a) of the Tax Law
264 exceeds the tax shown on the report required to be filed by the taxpayer for the taxable year for which
265 the amount was paid, interest will be allowed and paid on the amount by which the amount paid
266 exceeds the tax. Interest will be paid at the overpayment rate or rates set by the Commissioner of
267 Taxation and Finance pursuant to section 1096(e) of the Tax Law (see Part 2393 of this Title) or, if no
268 rate is set, at the rate specified in section 213-b(e) of the Tax Law from the date of payment of the
269 amount to the 15th day of the third month of the succeeding taxable year. However, no interest will be
270 allowed or paid if the excess is less than one dollar or if the interest becomes payable solely because of
271 the carry-back of a net operating loss from a subsequent taxable year.

272 *Example:* Corporation X [~~corporation~~], a calendar-year C corporation, [~~files its report for the~~
273 ~~calendar year 1980 on March 15, 1981 and shows a tax due of \$4,000. The taxpayer pays~~
274 ~~\$1,000, representing 25 percent of the preceding year's tax, as]~~ pays its mandatory first
275 installment of \$1,000 for the [current taxable year's estimated tax] 2017 calendar year on
276 March 15, 2017. On [March 15, 1982] April 17, 2018, Corporation X [corporation] files its

277 report for the calendar year ~~[1981]~~ 2017 and shows a tax due of \$600. Interest will be paid
278 on the difference of \$400 from March 15, ~~[1981]~~ 2017 to March 15, ~~[1982]~~ 2018.

279 Section 7-3.8 Short taxable years. [Tax Law, § 213-b(g)]

280 In the case of a short taxable year of a taxpayer for which a declaration of estimated tax is
281 required to be made and filed, the estimated tax, after deducting the amount, if any, paid ~~[with the~~
282 ~~report for the preceding taxable year]~~ as a mandatory first installment for such period, [should] must be
283 paid in equal installments, one at the time of filing the declaration, one on the 15th day of the ninth
284 month of the current taxable year (unless the short taxable year closed prior to such ninth month, in
285 which case the installment will be eliminated), and one on the 15th day of the last month of the current
286 taxable year.

287 *Example:* ~~[In the case of]~~ Corporation A has a short taxable year of 10 months, from January
288 1, ~~[1981]~~ 2017 to October 31, ~~[1981]~~ 2017. If there is a reasonable expectation before
289 June 1, 2017 that Corporation A's estimated tax will exceed \$1,000 for such short
290 taxable year, the declaration is required to be made and filed on or before June 15, ~~[1981]~~
291 2017. The estimated tax (after deducting the amount of mandatory first installment paid, if
292 any) is payable in three equal installments; one on the date of filing the declaration and one
293 each on September 15, ~~[1981]~~ 2017 and October 15, ~~[1981]~~. If the declaration is required to
294 be filed after June 15, 1981, but on or before September 15, 1981, the] 2017.

295 If, instead, there is a reasonable expectation on or after June 1, 2017 but before
296 September 1, 2017 that Corporation A's estimated tax will exceed \$1,000, the
297 declaration is required to be made and filed on or before September 15, 2017. The
298 estimated tax (after deducting the amount of mandatory first installment paid, if any) is
299 payable in two equal installments: one on the date of filing the declaration and one on

300 October 15, ~~[1981]~~ 2017.

301 If there is a reasonable expectation on or after September 1, 2017, but not before
302 such date, that Corporation A's estimated tax will exceed \$1,000, the declaration is
303 required to be made and filed on or before October 15, 2017. The estimated tax (after
304 deducting the amount of mandatory first installment paid, if any) is payable in full on the date
305 of filing the declaration.

306 Section 7-3.9 Extension of time. [Tax Law, § 213-b(i)]

307 The ~~[Tax Commission]~~ Commissioner may grant a reasonable extension of time, not to exceed
308 six months, for payment of any installment of estimated tax upon receipt of a written request from the
309 taxpayer giving complete information as to the reasons for its inability to pay the installment on or
310 before the prescribed due date. As a condition for granting an extension of time, the ~~[Tax Commission]~~
311 Commissioner may require the taxpayer to furnish a bond or other security in an amount not to exceed
312 twice the amount of the installment. Interest must be paid from the original due date of the installment,
313 without regard to any extension, to the date of payment.

314 Section 7-3.10 Payments of installments in advance. [Tax Law, § 213-b(j)]

315 At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date
316 prescribed for its payment. No interest will be allowed or paid on such prepayment.

317 Subpart 7-4 Collection

318 Section 7-4.1 Action to collect tax. [Tax Law, § 1092(h)]

319 An action may be brought at any time by the Attorney General in the name of the State of New
320 York, at the ~~[instance]~~ request of the ~~[Tax Commission]~~ Commissioner, to recover the amount of any
321 unpaid taxes, additions to tax, penalties and interest due ~~[which]~~ that have been assessed under article
322 9-A or 27 within six years prior to the date the action is commenced.

323 Section 7-4.2 Lien of tax. [Tax Law, § 1092(j)(1) and (3)]

324 (a) The tax (including additions to tax, penalties and interest) imposed by article 9-A becomes a
325 lien from the date on which the report is required to be filed (without regard to any extension of time
326 for filing such report), except that the tax becomes a lien no later than the date the taxpayer ceases to be
327 subject to the tax imposed by article 9-A or the date the taxpayer ceases to exercise its franchise, or do
328 business ~~[or]~~, employ capital, ~~[or]~~ own or lease property ~~[in this State]~~ in a corporate or organized
329 capacity, ~~[or]~~ maintain an office, or derive receipts from activity in this State.

330 (b) Each such tax is a lien and binding on the real and personal property of the taxpayer, or of a
331 transferee liable to pay the tax, until the tax is paid in full, or until the expiration of 20 years from
332 the date such taxes became due and payable, whichever occurs first, subject to the following
333 exceptions:

334 (1) The lien of such taxes after the expiration of 10 years from the date they became due
335 and payable is no longer a lien as to the following:

336 (i) owners of real estate who would be purchasers in good faith but for such taxes,
337 additions to tax, penalties or interest; and

338 (ii) mortgagees of real estate who would be holders in good faith but for such taxes,
339 additions to tax, penalties or interest.

340 These limitations do not apply to any transfer from a corporation subject to tax to a
341 person or corporation subject to tax with intent to avoid payment of any taxes, or where with
342 like intent the transfer is made to a grantee corporation subject to tax, or any subsequent
343 grantee corporation subject to tax, controlled by such grantor or ~~[which]~~ that has any
344 community of interest with it, either through stock ownership or otherwise.

345 (2) The lien of each such tax is subject to the lien of any mortgage indebtedness existing

346 against real property prior to the time when the tax became a lien, where such mortgage
347 indebtedness was incurred in good faith and was not given, directly or indirectly, to any officer
348 or stockholder of the corporation subject to tax owning such real property, whether as a
349 purchase money mortgage or otherwise, and is also subject to the lien of local taxes and
350 assessments, without regard to when the lien for such taxes and assessments has accrued.

351 (3) If the report is filed and the tax shown on the report to be due is paid on or before the
352 date on which the report is required to be filed, without regard to any extension of time for
353 filing such report, the lien is not enforceable against the interest of any purchaser or mortgagee
354 in property [~~which~~] that is thereafter, but prior to the issuance to the taxpayer of a notice of
355 deficiency under section 1081 of the Tax Law, transferred to a bona fide purchaser for value, or
356 mortgaged where the mortgage indebtedness is incurred in good faith and the mortgage is not
357 given directly or indirectly to any officer or stockholder of the corporation subject to tax.

358 (4) In any action to foreclose any mortgage where the mortgage indebtedness is incurred
359 in good faith, or to foreclose the lien of local taxes or assessments, to which the people of the
360 State of New York are made a party defendant by reason of the existence of a lien for any such
361 tax, or if no such tax was due or a lien at the time of the commencement of such action and the
362 filing of a notice of pendency thereof but such a tax becomes due or becomes a lien subsequent
363 to the time of the commencement of such action and the filing of a notice of pendency thereof,
364 such real property is to be sold and conveyed in such action free from any such tax lien, and any
365 such tax lien becomes a lien on any surplus moneys [~~which~~] that may result from such sale, to
366 be determined in the proceedings for the distribution of such surplus moneys.

367 (5) Where title to mortgaged real property passes from an individual, or from another
368 corporation owing no franchise tax, to a corporation [~~which~~] that is in default for such tax, the

369 lien of any such tax is not enforceable except as to the equity, if any, after the prior mortgage or
370 purchase money mortgage encumbrance.

371 (6) Where an additional tax is assessed in accordance with the provisions of article 27,
372 no lien for such additional tax is enforceable against property [~~which~~] that prior to the issuance
373 to the taxpayer of a notice of deficiency under section 1081 of the Tax Law, had been
374 transferred in good faith to a bona fide transferee for value.

375 Section 7-4.3 Release of lien. [Tax Law, § 1092(j)(2)]

376 The [~~Tax Commission~~] Commissioner may, upon application made [~~to it on form TC 13 and~~
377 ~~the~~] pursuant to procedures and on a form prescribed by the Commissioner [~~payment of a of \$50 by~~
378 ~~certified check~~], release any real property from the lien of any tax due or to become due under article 9-
379 A, provided that:

380 (a) such application includes an accurate description of the property to be released, together with
381 such other information as the Commissioner may require; and

382 (b) payment of the statutory fee is made together with such application, as the Commissioner may
383 prescribe; and

384 (c) payment is made to the [~~Tax Commission~~] Commissioner of [such] a sum that he or she [as-
385 it] deems to be adequate as consideration for [such] release of the lien, or a security deposit [~~be~~] is made
386 [~~of such security~~] or [such] a bond [~~to be~~] filed [~~as~~] that the [~~Tax Commission~~] Commissioner deems
387 [~~proper~~] to be sufficient to secure payment of [such] the tax due. [~~The application for such release must~~
388 ~~be accompanied by two copies of an accurate description of the property to be released, together with~~
389 ~~such other information as the [~~Tax Commission~~] Commissioner may require.~~]

390 The release of a lien pursuant to this section may be recorded in the same office [~~in which~~]
391 where conveyances of real estate are entitled to be recorded.

392 Section 7-4.4 Liability of transferees. [Tax Law, § 1093(a)]

393 The liability, at law or in equity, of a transferee of property of a taxpayer for any tax, additions
394 to tax, penalty or interest due the ~~[Tax Commission]~~ Commissioner under article 9-A or 27, is to be
395 assessed, paid and collected in the same manner and subject to the same provisions and limitations as in
396 the case of the tax to which the liability relates, except that the period of limitations for assessment
397 against the transferee will be extended by one year for each successive transfer, in order, from the
398 original taxpayer to the transferee involved, but not by more than three years in the aggregate. The term
399 “transferee” includes, in case of successive transfers, donee, heir, legatee, devisee, distributee, and
400 successor by merger, consolidation or other reorganization.

401 Section 7-4.5

402 Section 7-4.6 Service of process. [Tax Law, § 216]

403 Every foreign corporation subject to the provisions of article 9-A, except a corporation having a
404 certificate of authority under section 212 of the General Corporation Law or having authority to do
405 business by virtue of section 1305 of the Business Corporation Law, is required to file in the
406 Department of State a certificate of designation in its corporate name, signed and acknowledged by its
407 president or a vice-president or its secretary or treasurer, under its corporate seal, designating the
408 Secretary of State as its agent upon whom process in any action provided for by article 9-A may be
409 served within this State, and setting forth an address to which the Secretary of State shall mail a copy of
410 any such process against the corporation [~~which~~] that may be served upon him. In case any such
411 corporation fails to file such certificate of designation, it is deemed to have designated the Secretary of
412 State as its agent upon whom such process against it may be served; and until a certificate of
413 designation is filed the corporation is deemed to have directed the Secretary of State to mail copies of
414 process served upon him to the corporation at its last known office address within or without the State.

415 When a certificate of designation has been filed by such corporation the Secretary of State must mail
416 copies of process thereafter served upon him to the address set forth in such certificate. Any such
417 corporation, from time to time, may change the address to which the Secretary of State is directed to
418 mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like
419 manner as a certificate of designation as provided in this section. Service of process upon any such
420 corporation or upon any corporation having a certificate of authority under section 212 of the General
421 Corporation Law or having authority to do business by virtue of section 1305 of the Business
422 Corporation Law, in any action commenced at any time pursuant to the provisions of article 9-A, may
423 be made by either:

424 (a) personally delivering to and leaving with the Secretary of State, a deputy Secretary of State
425 or with any person authorized by the Secretary of State to receive such service, duplicate copies thereof
426 at the office of the Department of State in the City of Albany, in which event the Secretary of State
427 must [~~forthwith~~] immediately send by registered mail, return receipt requested, one of such copies to the
428 corporation at the address designated by it or at its last known office address within or without the
429 State; or

430 (b) personally delivering to and leaving with the Secretary of State, a deputy Secretary of State
431 or with any person authorized by the Secretary of State to receive such service, a copy thereof at the
432 office of the Department of State in the City of Albany and by delivering a copy thereof to, and leaving
433 such copy with the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer
434 or cashier of such corporation, or the officer performing corresponding functions under another name,
435 or a director or managing agent of such corporation, personally outside the State. Proof of such
436 personal service outside the State must be filed with the clerk of the court in which the action is pending
437 within 30 days after such service, and such service shall be complete 10 days after proof thereof is

438 filed.

439 Section 7-4.7 Limitation of time. [Tax Law, § 219]

440 The provisions of the Civil Practice Law and Rules relative to the limitation of time of enforcing
441 a civil remedy do not apply to any proceeding or action taken to levy, appraise, assess, determine or
442 enforce the collection of any tax or penalty prescribed by article 9-A.

443 Section 7-4.8 Closing agreements. [Tax Law, § 171(18)]

444 The [~~Tax Commission~~] Commissioner is authorized to enter into a written agreement with any taxpayer,
445 relative to the liability of such taxpayer in respect of any tax imposed by article 9-A, which agreement
446 is final and conclusive, and except upon a showing of fraud, malfeasance or misrepresentation of a
447 material fact:

448 (a) the case may not be reopened as to the matters agreed upon nor may the agreement be
449 modified, by any officer, employee or agent of the State of New York; and

450 (b) in any suit, action or proceeding, such agreement, or any determination, assessment,
451 collection, payment, cancellation, refund or credit made in accordance therewith, shall not be annulled,
452 modified, set aside or disregarded.