



Instructions for Form CT-3

General Business Corporation Franchise Tax Return

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New for 2022

For a detailed list of what's new, including a summary of tax law changes, visit *New for 2022* or visit our website at www.tax.ny.gov (search: **2022**).

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

See Form CT-1 for general instructions that apply to all corporation tax forms.

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

Corporate tax filing requirements

All New York C corporations subject to tax under Tax Law Article 9-A must file using the following returns, as applicable:

- Form CT-3, *General Business Corporation Franchise Tax Return*
- Form CT-3-A, *General Business Corporation Combined Franchise Tax Return* (See Form CT-3-A-I, *Instructions for Form CT-3-A*, for information as to when a combined return is permitted or required.)
- Form CT-3-M, *General Business Corporation Metropolitan Transportation Authority Surcharge Return*

All business corporations that have elected to be treated as a New York S corporation by filing Form CT-6, *Election to be Treated as a New York S Corporation*, or are a *mandated New York S corporation*, must file Form CT-3-S, *New York S Corporation Franchise Tax Return*, instead of Form CT-3.

Important: Use the correct form for the correct tax year when you file (except as *described below*). If you use an incorrect form or form for the incorrect tax year:

- we will not process your return,
- your return will be considered late, and
- we may assess penalties and interest.

When to use the 2022 tax return

Use this tax return for:

- calendar year 2022,
- fiscal years that begin in 2022 and end in 2023, and
- tax years of less than 12 months that begin on or after January 1, 2022, but before January 1, 2023.

You can also use the 2022 return if:

- you have a tax year of less than 12 months that begins and ends in 2023, and
- the 2023 return is not yet available at the time you are required to file the return.

In this case you must show your 2023 tax year on the 2022 return and take into account any tax law changes that are effective for tax years beginning **after** December 31, 2022.

Voluntary dissolution and surrender of authority

For information on voluntary dissolution and surrender of authority, see Instructions for voluntary dissolution of a New York corporation and Instructions for surrender of authority by a foreign business corporation.

Taxpayers using a 52-53 week year

A taxpayer who reports on the basis of a 52-53 week accounting period for federal income tax purposes may report on the same basis for Article 9-A purposes. If a 52-53 week accounting period begins within seven days from the first day of any calendar month, the tax year is deemed to begin on the first day of that calendar month. If a 52-53 week accounting period ends within seven days from the last day of any calendar month, the tax period will be deemed to end on the last day of the calendar month.

Corporations subject to tax under Article 9-A

The definition of a corporation, as used in Article 9-A and in these instructions, includes:

- associations,
- limited liability companies,
- limited liability partnerships, and

- publicly traded partnerships that are taxed as corporations under the Internal Revenue Code (IRC).

For more information, see Definitions for Article 9-A corporations and § 208.1.

Exceptions

A business corporation subject to tax under Article 9-A includes all corporations **except the following**:

- insurance corporations (including for-profit HMOs required to obtain a certificate of authority under Public Health Law Article 44) [*Tax Law Article 33*];
- transportation and transmission corporations (other than aviation corporations, corporations principally engaged in transportation, transmission, or distribution of gas, electricity, or steam (TTD corporations), and nonelecting railroad and trucking corporations) [*Tax Law Article 9*];
- farmers, fruit growers, and similar agricultural cooperatives with, or without, capital stock [§ 209.12];
- nonstock, not-for-profit corporations, as long as no part of their net earnings benefits any officer, director, or member; or
- continuing § 186 taxpayers [*Article 9*].

Domestic corporations

A domestic corporation (incorporated in New York State) subject to tax under Article 9-A is generally liable for franchise taxes for each fiscal or calendar year (or partial year) during which it is incorporated until it is formally dissolved with the Department of State.

However, a domestic corporation that is no longer doing business, employing capital, owning or leasing property, or deriving receipts from activity, in New York State is exempt from the fixed dollar minimum tax after its final tax year and is not required to file a franchise tax return as long as it meets the requirements listed in § 209.8.

Foreign corporations

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes under Article 9-A during the period in which it is *doing business*, employing capital, owning or leasing property, maintaining an office, or *deriving receipts* from activity, in New York State.

A foreign corporation is **not** considered to be doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in this state, if their activity is limited to any or all of the following:

- the maintenance of cash balances with banks or trust companies in this state;
- the ownership of shares of stock or securities kept in this state if kept in a safe deposit box, safe, vault, or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or with brokers who are members of a recognized security exchange, in safekeeping or custody accounts;
- the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to the corporation;
- the maintenance of an office in this state by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in this state, and does not employ capital or own or lease property in this state; **or**
- the keeping of books or records of a corporation in this state if such books and records are not kept by employees of the corporation and the corporation does not otherwise do business, employ capital, own or lease property, or maintain an office in this state.

See § 209.2.

A corporation is *doing business* in this state if:

- it has issued credit cards (including bank, credit, travel, and entertainment cards) to 1,000 or more customers who have a mailing address in this state 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 this state 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.

See § 209.1(c).

Deriving receipts

A corporation is considered to be *deriving receipts* in this state if it has receipts within New York of \$1.138 million or more in a tax year. See § 209.1 and TSB-M-21(3)C, *2022 Deriving Receipts Thresholds*.

Receipts within this state means the receipts included in the numerator of the apportionment factor determined under § 210-A and reported in Part 6, line 55, column A.

A foreign corporation that is a partner in a partnership should see *Corporate partners*.

Qualified subchapter S subsidiary

The filing requirements for a qualified subchapter S subsidiary that is owned by a federal S corporation that is a New York C corporation or a nontaxpayer corporation depend on whether New York State follows federal qualified subchapter S subsidiary treatment in each situation.

In those instances where New York State follows federal qualified subchapter S subsidiary treatment:

- the qualified subchapter S subsidiary is not considered a subsidiary of the parent corporation;
- the qualified subchapter S subsidiary is ignored as a separate taxable entity, and the assets, liabilities, income, and deductions of the qualified subchapter S subsidiary are included with the assets, liabilities, income, and deductions of the parent for franchise tax purposes; and
- for other taxes, such as sales and excise taxes, the qualified subchapter S subsidiary continues to be recognized as a separate corporation.

In the situations outlined below where New York State follows the federal qualified subchapter S subsidiary treatment, you must apply the combined reporting rules to determine whether the parent files a Form CT-3 (with its qualified subchapter S subsidiary's activity included), or files as a member of a combined group on Form CT-3-A.

In the situations outlined below where the federal qualified subchapter S subsidiary treatment is **not** followed, you must still apply the combined reporting rules to determine if either the parent, the qualified subchapter S subsidiary, or both should file as distinct members of a combined group on Form CT-3-A.

Parent is a New York C corporation:

New York State **follows** the federal qualified subchapter S subsidiary treatment if:

- the qualified subchapter S subsidiary is a New York State taxpayer; or
- the qualified subchapter S subsidiary is not a New York State taxpayer, but the parent makes a qualified subchapter S subsidiary inclusion election.

In both cases, the parent files as a New York C corporation on Form CT-3 (**with** its qualified subchapter S subsidiary's activity included) or, if the combined filing requirements are met with one or more entities (other than the qualified subchapter S subsidiary), on Form CT-3-A.

New York State **does not follow** the federal qualified subchapter S subsidiary treatment when the qualified subchapter S subsidiary is **not** a New York State taxpayer and the parent does **not** make a qualified subchapter S subsidiary inclusion election.

In this case:

- the parent files as a New York C corporation on Form CT-3 (**without** its qualified subchapter S subsidiary's activity included) or, if the combined filing requirements are met with one or more other entities (one of which could be the qualified subchapter S subsidiary), on Form CT-3-A;
- both the parent and the qualified subchapter S subsidiary, as separate entities, are subject to the combined reporting rules; and
- if the parent and qualified subchapter S subsidiary are unitary, they both file as distinct members of a combined group on the same Form CT-3-A.

Nontaxpayer parent:

New York State **follows** the federal qualified subchapter S subsidiary treatment where the qualified subchapter S subsidiary is a New York State taxpayer but the parent is not, if the parent elects to be taxed as a New York S corporation by filing Form CT-6.

In this case, the parent and qualified subchapter S subsidiary are taxed as a single New York S corporation, and file Form CT-3-S.

New York State **does not** follow the federal qualified subchapter S subsidiary treatment if the parent does **not** elect to be a New York S corporation.

In this case:

- the qualified subchapter S subsidiary (**without** its parent's activity included) must file as a New York C corporation on Form CT-3 or, if the combined filing requirements are met with one or more other entities (one of which could be the parent), on Form CT-3-A;
- both the parent and the qualified subchapter S subsidiary, as separate entities, are subject to the combined reporting rules; and
- if the parent and qualified subchapter S subsidiary are unitary they both file as distinct members of a combined group on the same Form CT-3-A.

Exception:

Qualified subchapter S subsidiary treatment is **not** allowed in any case when the parent and qualified subchapter S subsidiary file under different Articles of the Tax Law (or would file under different Articles if both were subject to New York State franchise tax).

In this case, each corporation must file as a distinct entity under its applicable Article, subject to the Article 9-A or Article 33 combined reporting rules, as applicable.

Mandated New York S corporations

If the investment income of an eligible federal S corporation is more than 50% of its federal gross income for that year, shareholders that have not made the election to be treated as a New York S corporation for the current tax year will be deemed to have made that election and **must** file Form CT-3-S.

For purposes of the mandated New York State S election, investment income means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate, or trust, to the extent such items would be includable in the corporation's federal gross income for the tax year. To determine whether an eligible S corporation is deemed to have made this election, you must include the income of a qualified subchapter S subsidiary owned, directly or indirectly, by the eligible S corporation with the income of the eligible S corporation.

Corporate partners

- If a partnership is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, then a corporation that is a **general** partner in that partnership is subject to tax under Article 9-A. See § 209.1(f).
- If a partnership is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, then a corporation that is a **limited** partner of that partnership (other than a portfolio investment partnership) is subject to tax under Article 9-A if it is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities or affairs of the partnership.

A limited liability company or limited liability partnership that is treated as a partnership for federal income tax purposes is treated as a partnership for New York State tax purposes.

Determining economic nexus

For purposes of determining nexus, the \$1.138 million threshold for *deriving receipts* is determined by combining the **general** partner's receipts in New York with the partnership's receipts in New York. Also, when a **limited** partner is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities or affairs of the partnership, other than a portfolio investment partnership, for purposes of determining nexus, the \$1.138 million threshold for deriving receipts is determined by combining the limited partner's receipts in New York with the partnership's receipts in New York.

In instances where a limited liability company is treated as a partnership, other than a portfolio investment partnership:

- If the limited liability company's operating agreement does **not** limit a corporate member's participation in the management of the limited liability company, combine such member's receipts in New York with the receipts in New York of the limited liability company.
- If the limited liability company's operating agreement **does** limit a corporate member's participation in the management of the limited liability company but such member is engaged, directly or indirectly, in the participation in or domination or control of all or any portion of the business activities or affairs of the limited liability company, combine such member's receipts in New York with the receipts in New York of the limited liability company.

Example:

Partnership A has two general partners: Partner B who owns 60% of the partnership and Partner C who owns 40%. Partnership A has \$800,000 of receipts in New York.

Separately, Partner B has \$700,000 of receipts in New York and Partner C has \$600,000 of receipts in New York. For purposes of determining nexus only, both partners B and C would be treated as having \$800,000 from the partnership. Combined with their own receipts, both general partners exceed \$1.138 million in receipts in New York (\$1.5 million for Partner B and \$1.4 million for Partner C). Therefore, both general partners are subject to tax.

Alien corporations

An alien corporation (a corporation organized under the laws of a country, or any political subdivision thereof, other than the United States, or organized under the laws of a possession, territory or commonwealth of the United States) is **not** deemed to be doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in this state if its activities in this state are limited solely to:

- investing or trading in stocks and securities for its own account per IRC § 864(b)(2)(A)(ii);
- investing or trading in commodities for its own account per IRC § 864(b)(2)(B)(ii); **or**
- any combination of the above two activities.

An alien corporation that under any provision of the IRC is not treated as a domestic corporation as defined under IRC § 7701 and has no effectively connected income, gain, or loss, for the tax year is not subject to tax under Article 9-A for that tax year. See § 209.2-a.

Tax-exempt domestic international sales corporations

A corporation that qualifies as a domestic international sales corporation under IRC § 992(a) is exempt from tax under Article 9-A if during the year it received more than 5% of its:

- gross sales from the sale of inventory or other property purchased from its stockholders;
- gross rentals from the rental of property purchased or leased from its stockholders; or
- total receipts, other than sales or rentals, from its stockholders.

All corporate stockholders in tax-exempt domestic international sales corporations must adjust each item of its receipts, expenses, assets, and liabilities, as otherwise computed under Article 9-A, by adding thereto its attributable share of each such domestic international sales corporation's receipts, expenses, assets, and liabilities as reportable by each such domestic international sales corporation to the United States Treasury for its annual reporting period ending during the current tax year of such taxpayer. The tax-exempt domestic international sales corporation itself has no franchise tax filing requirement.

Taxable domestic international sales corporations

Domestic international sales corporations that do not meet the 5% test under *Tax-exempt domestic international sales corporations* are taxable domestic international sales corporations. Taxable domestic international sales corporations must file Form CT-3 on or before the 15th day of the ninth month after the end of the tax year. Such a domestic international sales corporation is subject to the tax on apportioned capital or the fixed dollar minimum, whichever is larger. Write **domestic international sales corporation** after the legal name of the corporation in the address section of the return.

Other forms you may need to file

Form CT-3.1, *Investment and Other Exempt Income and Investment Capital*, must be filed by a corporation that has:

- investment capital [§ 208.5];
- investment income [§ 208.6];
- other exempt income [§ 208.6-a];
- stock that generates (or could generate) other exempt income; or
- is required to make the addback for prior years' presumed investment capital items that failed to meet the holding period presumption.

Form CT-3.2, *Subtraction Modification for Qualified Banks*, must be filed to utilize the following:

- subtraction modification for qualified residential loan portfolios [§ 208.9(r)];
- the subtraction modification for community banks and small thrifts [§ 208.9(s)]; or
- the subtraction modification for community banks and small thrifts with a captive real estate investment trust [§ 208.9(t)].

Form CT-3.3, *Prior Net Operating Loss Conversion Subtraction*, must be filed to calculate and utilize the prior net operating loss conversion subtraction and carryforward. This form must be filed for **every** tax year for which you carry a balance of a prior net operating loss conversion subtraction, even if you are unable to utilize the subtraction in a given year. See § 210.1(a)(viii).

Form CT-3.4, *Net Operating Loss Deduction*, must be filed to calculate and utilize the net operating loss deduction and carryforward. This form must also be filed with the amended return when the carryback of a net operating loss for a tax year beginning on or after January 1, 2015, is claimed. This form is also used to elect to waive the carryback of a loss in the year a loss is incurred. See § 210.1(a)(ix).

Form CT-3-M, *General Business Corporation Metropolitan Transportation Authority Surcharge Return*, must be filed by any corporation taxable 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. The Metropolitan Commuter Transportation District includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. An exception applies to a *qualified entity of a New York State innovation hot spot* when the qualified entity is located solely within a hot spot.

Form CT-33-D, *Tax on Premiums Paid or Payable to an Unauthorized Insurer*, must be filed if you purchase or renew a taxable insurance contract directly from an insurer not authorized to transact business in New York State under a *Certificate of Authority* from the Superintendent of Financial Services; you may be liable for a tax of 3.6% (.036) of the premium.

Form CT-60, *Affiliated Entity Information Schedule*, must be filed if you are an Article 9-A taxpayer and you have included the activities of any of the following on your return:

- a qualified subchapter S subsidiary;
- a single member limited liability company; **or**
- a *tax-exempt domestic international sales corporation*.

You must also file Form CT-60 if:

- you are a federal S corporation but are filing as a New York C corporation,
- you are a partner in a partnership,
- you are a federal qualified subchapter S subsidiary where New York State does **not** follow federal qualified subchapter S subsidiary treatment; **or**
- you have affiliated entities.

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

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

Form CT-223, *Innovation Hot Spot Deduction*, must be filed if you are a corporation that is a qualified entity located both inside and outside a hot spot, or you are a corporate partner of a qualified entity, or both.

Form CT-224, *Public Utility, Power Producer, and Pipeline Adjustments*, must be filed to make adjustments to federal taxable income. See §§ 208.9(c-2) and 208.9(c-3).

Form CT-225, *New York State Modifications*, must be filed if you are entering an amount on Form CT-3, Part 3, lines 2 and/or 4.

Form CT-227, *New York State Voluntary Contributions*, must be filed if you choose to make a voluntary contribution to any of the available funds.

Form CT-300, *Mandatory First Installment of Estimated Tax for Corporations*, must be filed to pay the mandatory first installment if your second preceding year's franchise tax after credits exceeds \$1,000.

Form CT-399, *Depreciation Adjustment Schedule*, must be filed to compute the allowable New York State depreciation deduction if you claim:

1. the federal accelerated cost recovery system depreciation or modified accelerated cost recovery system deduction for certain property placed in service after December 31, 1980; or
2. a federal special depreciation deduction for certain qualified property described in IRC § 168(k)(2) placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002.

This form also contains schedules for determining a New York State gain or loss on the disposition of accelerated cost recovery system property and modified accelerated cost recovery system property for which you claimed such federal special depreciation deduction.

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

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.

Form DTF-664, Tax Shelter Disclosure for Material Advisors, must be filed to assist material advisors in complying with New York State's disclosure requirements.

Form DTF-686, Tax Shelter Reportable Transactions Attachment to New York State Return, must be filed to assist taxpayers and persons in complying with New York State's disclosure requirements.

For more information about other taxes that may apply to you, see **Publication 20, Tax Guide for New Businesses**.

When to file

File your return within 3½ months after the end of your reporting period. If you are reporting for the calendar year, your return is due on or before April 15. 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. See Non business days - legal holidays.

How to request an extension of time to file

If you cannot meet the filing deadline, you may request a six-month extension of time by filing Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, Metropolitan Transportation Authority surcharge, or both)*, and paying your properly estimated franchise tax and metropolitan transportation business tax (Metropolitan Transportation Authority surcharge) on or before the original due date of the return.

Most corporations are required to request their extension electronically. You may use approved commercial software or request your extension using your Business Online Services account. See *File a corporation tax extension* for a list of forms you may Web File through your account.

You may request up to two additional extensions by filing Form CT-5.1, *Request for Additional Extension of Time to File (for franchise/business taxes, Metropolitan Transportation Authority surcharge, or both)*. File it on or before the expiration date of the original extension or previously filed additional extension. **Note:** Form CT-5.1 is **not** available in your Online Services account. Use corporation tax software to file electronically. If you are not mandated to file electronically, complete and mail Form CT-5.1.

How to file

Electronically

See Approved software developers for corporation tax e-file.

By mail

NEW YORK STATE CORPORATION TAX
PO BOX 15181
ALBANY NY 12212-5181

Private delivery services: See Publication 55, *Designated Private Delivery Services*.

Penalties and interest

If you pay after the due date

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

If you file and pay after the due date

Compute additional charges for late filing and late payment on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing).

1. If you do not file a return when due, or if the request for extension is invalid, add to the tax 5% per month up to 25% [§ 1085(a)(1)(A)].
2. If you do not file a return within 60 days of the due date, the additional charge in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax [§ 1085(a)(1)(B)].
3. If you do not pay the tax shown on a return when due, add to the tax ½% per month up to a total of 25% [§ 1085(a)(2)].
4. The total of the additional charges in items 1 and 3 may not exceed 5% for any one month, except as provided for in item 2 above [§ 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. See § 1085.

Note: You may calculate your penalty and interest online, or you may call and we will compute the penalty and interest for you.

If you understate your tax

If the tax you report is understated by 10% or \$5,000, whichever is greater, you must pay a penalty of 10% of the amount of understated tax. You can reduce the amount on which you pay penalty by subtracting any item for which:

1. there is or was substantial authority for the way you treated it; or
2. there is adequate disclosure on the return or in an attached statement.

See § 1085(k).

If you underpay your estimated tax

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

Other penalties

Civil and criminal penalties may be imposed for negligence or fraud.

Amended returns

If you are filing an amended return, mark an **X** in the *Amended return* box on page 1 of the return. If you file an amended federal return, you **must** file an amended New York State return within 90 days thereafter.

Important: Use the correct year's form for the tax year you are amending. If you file an amended return using a form for the wrong tax year:

- we may reject your amended return, and
- it may delay any tax benefits you are claiming.

For amended returns based on changes to federal taxable income

If your federal taxable income 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 change to federal taxable income within 90 days 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

To claim a credit or refund resulting from the carryback of a net operating loss to a prior year, file an amended return for the year to which the carryback is being applied within three years of the date the return was due (including extensions thereof) for the tax year of the loss.

However, see § 1087(d) for the last date to claim such credit or refund when:

- the last date for assessing tax for the tax year of the loss was extended by agreement [§ 1087(b)], or
- you were required to file an amended return due to notice of change or correction of federal taxable income for the tax year to which the loss is being carried back [§ 1087(c)].

You must attach Form CT-3.4 and a copy of the New York State return previously filed with New York State for the loss year to your amended return.

For credits or refunds of corporation tax paid

To claim any refund type that requires an amended return, other than a net operating loss carryback (see *For credits or refunds based upon carryback of a net operating loss*), 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*. You must 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.

You must file the amended return 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 For amended returns based on changes to federal taxable income).

For additional limitations on credits or refunds, see § 1087.

Filing your final return

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

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

Do not mark an **X** in the *Final return* box:

- if you are only changing the type of return that you file (for example, from Form CT-3 to CT-3-S); or
- in the case of a merger or consolidation.

Include the full profit from any installment sale made in your final tax year on your final return. Also include on your final return any remaining profit not yet received from a prior years' installment sale. Include such amounts in your federal taxable income before net operating loss and special deductions on Part 3, line 1.

For information on voluntary dissolution and surrender of authority, see Instructions for voluntary dissolution of a New York corporation (search: *dissolution*) and Instructions for surrender of authority by foreign business corporation (search: *surrender*).

New York S corporation termination year

When a New York S corporation terminates its federal or New York S election on a day other than the first day of a tax year, the tax year is divided into two tax periods (an S short year and a C short year). The corporation must file Form CT-3-S for the New York S short year and Form CT-3 for the New York C short year.

When an IRC § 338(h)(10) election is made for a target corporation that is a New York S corporation, the target corporation must file two short-period (less than 12 months) returns. When filing the second short-period return, the federal taxable income of the new target is the starting point for computing entire net income.

The total tax for the S short year and the C short year may not be less than the fixed dollar minimum tax determined as if the corporation were a C corporation for the entire tax year. For more information, see Form CT-3-S-I, *Instructions for Form CT-3-S*.

The due date of the New York S corporation short year return (Form CT-3-S) is the same as the New York C corporation short year, even though they are treated as separate short tax years.

Computing corporation franchise tax

Tax bases

Corporations subject to tax under Tax Law Article 9-A generally must compute three distinct taxes and pay the tax that results in the largest amount owed. The three taxes are:

- a tax on business income computed in Part 3,
- a tax on business capital computed in Part 4, and
- a fixed dollar minimum tax based on New York receipts computed in Part 6.

New York State innovation hot spot program

A qualified entity of a New York State innovation hot spot that is located solely within a hot spot is subject only to the fixed dollar minimum tax for five tax years beginning with the first tax year the qualified entity becomes a tenant in, or part of, an innovation hot spot.

A qualified entity must be certified by a New York State innovation hot spot.

A taxpayer who claims this benefit or who enters an amount on *Form CT-3, Part 3, line 4*, as a subtraction from federal taxable income for the income or gain attributable to the operations at, or as part of, the hot spot is no longer eligible for any other New York State exemption, deduction, credit, or refund under the Tax Law to the extent that such exemption, deduction, credit, or refund is attributable to the business operations of a tenant in, or as part of, the New York State innovation hot spot. Claiming these benefits represents an irrevocable election.

Computation of tax for corporate partners

A taxpayer that is a partner in a partnership (a corporate partner) computes its tax for its interest in the partnership using either the *aggregate method* or *entity method*, whichever applies. For an exception to these methods, see *Election by a foreign corporate limited partner*.

Aggregate method

Under the aggregate method, a corporate partner is viewed as having an undivided interest in the partnership's assets, liabilities, and items of receipts, income, gain, loss, and deduction. The partner is treated as participating in the partnership's transactions and activities.

Corporate partners required to file under the aggregate method

A corporate partner receiving a complete Form IT-204-CP, *New York Corporate Partner's Schedule K-1*, must file using the aggregate method. In addition, a corporate partner must file using the aggregate method if the corporate partner has access to the information necessary to compute its tax using the aggregate method. A corporate partner is presumed to have access to the information and therefore is required to file using the aggregate method if it meets **one or more** of the following conditions:

- it is conducting a unitary business with the partnership;
- it is a general partner of the partnership or is a managing member of a limited liability company that is treated as a partnership for federal income tax purposes;
- it has a 5% or more interest in the partnership;
- it has reported information from the partnership for a prior tax year using the aggregate method;
- its partnership interest constitutes more than 50% of its total assets;
- its basis in its interest in the partnership determined under IRC § 705 on the last day of the partnership year that ends within or with the taxpayer's tax year is more than \$5 million; or
- any member of its *affiliated group* has the information necessary to perform such computation.
 - *Affiliated group* has the same meaning as such term is defined in IRC § 1504 without regard to the exclusions provided for in § 1504(b). However, the term *common parent corporation* means any person as defined in IRC § 7701(a)(1).

Computation of tax under the aggregate method

Include the taxpayer's **distributive share** (IRC § 704) of each partnership item of receipts, income, gain, loss, and deduction, and the taxpayer's **proportionate part** of each partnership asset, liability, and partnership activity in the computation of the taxpayer's business income base, capital base, and the fixed dollar minimum.

These items have the same source and character in the hands of the partner for Article 9-A purposes that the items have for the partner for federal income tax purposes.

Entity method

Under the entity method, a partnership is treated as a separate entity and a corporate partner is treated as owning an interest in the partnership entity. The partner's interest is an intangible asset that is classified as business capital. To the extent a corporate partner's entire net income includes its distributive share of partnership items of income, gain, loss, or deduction, those items are treated as business income.

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

Computation of tax under the entity method

A corporate partner is treated as owning an interest in the partnership entity for purposes of determining the taxes measured by the business income base, capital base, and the fixed dollar minimum. The partner's interest is an intangible asset that is business capital.

Computation of tax for an electing foreign corporate limited partner: Separate accounting election

A foreign corporation that is a limited partner in, and that is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities of, one or more limited partnerships, where such partnership(s) are doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State is subject to tax under Article 9-A.

When this is the **sole** reason such foreign corporation is taxable under Article 9-A, and the corporation does not file on a combined basis for Article 9-A purposes, the corporation may elect to compute its tax by taking into account **only** its distributive share of each partnership item of receipts, income, gain, loss, and deduction (including any addition or subtraction modifications to federal taxable income) and its proportionate part of each asset, liability, and partnership activity of the limited partnership (the separate accounting election).

Exceptions

- A partnership may be required to file a New York State partnership return, but is **not** doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State (for example, when the partnership has a New York State partnership return filing requirement only because it has a New York State resident partner that is an individual, estate, or trust). In that case, having an interest in that partnership would not subject a foreign corporate limited partner to tax under Article 9-A, and the separate accounting election would **not** be applicable with respect to that partnership.
- If the limited partnership and *corporate group* are engaged in a unitary business, wherever conducted, the corporation may not make this election.

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

How to make the separate accounting election

For its tax years beginning on or after January 1, 2017, the foreign corporate limited partner must make the separate accounting election as follows:

1. Complete Form CT-60, *Affiliated Entity Information Schedule*, Schedule B, Part 3.
2. Sign the form.
3. File Form CT-60 with Form CT-3.

This election:

- **cannot** be revoked, and
- is binding with respect to that partnership interest for all future tax years.

How to complete Form CT-3 when the separate accounting election is made

When you compute your tax bases, report **only** your **distributive share** or **proportionate part** of receipts, income, gain, loss, deduction, assets, liabilities, and activities of such limited partnership.

Computing the business income and capital bases

When you compute the tax on the business income base, your starting point is federal taxable income as if your **only** activity was your interest in the partnership. The same is true for your starting point in computing the tax on the capital base. Make any required modifications and adjustments to the starting points as if your **only** activity was your interest in the partnership.

Apportion to New York State the business income and business capital amounts you computed using a business apportionment factor you compute in *Form CT-3, Part 6*. Use **only** your **distributive share** of such limited partnership's receipts, net income, net gains, and other items, that must be included in the numerator and denominator of the business apportionment fraction. See § 210-A and the applicable regulations.

Note: Include in the numerator and denominator of the business apportionment fraction **only** your share of the receipts, net income, net gains (not less than zero), and other applicable items described in § 210-A that are earned by the partnership in the regular course of business and included in your business income, determined without regard to the amount subtracted on *Form CT-3, Part 3, line 6*, (*subtraction modification for qualified banks*), and without regard to any amount from investment capital that is determined to exceed the 8% of entire net income limitation on gross investment income (see Form CT-3.1).

For the fixed dollar minimum tax, the amount computed for the numerator of the business apportionment factor, as described above, is the amount of New York receipts used to compute the fixed dollar minimum tax.

When the separate accounting election is in effect, do not take into account any gain or loss that is recognized from the sale of the interest in the limited partnership for which the election was made.

Special circumstances

The separate accounting election is in effect and you do not have access to all of the necessary information to properly complete Form CT-3

If you have made the separate accounting election with respect to a limited partnership, and you do not have the information necessary to compute your tax bases and business apportionment factor as discussed above, you must treat your distributive share of such partnership's items of income, gain, loss, and deduction as business income. In this case, you would show the starting point for the computation of the business income base as described above, but would make **no** modifications and/or adjustments to such amounts.

The starting point for the computation of business capital is the partnership interest, without adjustments. Apportion these business income and business capital amounts 100% to New York State. Report a business apportionment factor of 100% by reporting, on Form CT-3, *Part 6*, line 55, a New York State receipts amount (column A) **equal to** your distributive share of such limited partnership's Everywhere receipts (column B).

The separate accounting election is in effect for multiple limited partnership interests AND you have NO limited partnership interests for which the election has NOT been made

1. Complete the front page of Form CT-3.
2. Complete *Part 1*, making sure to mark an **X** in the box for *Section C*, line 6.
3. Compute the business income base (*Part 3*) and capital base (*Part 4*) per the following instructions.
 - A. Complete an individual pro forma Form CT-3 for each limited partnership for which the election was made. For each individual pro forma Form CT-3:
 1. Complete *Part 3*, lines 1 through 13, *Part 4*, lines 1 through 11, and *Part 6* using **only** your **distributive share** of the limited partnership's receipts, income, gain, loss, deduction, assets, liabilities, and activities.
 2. Multiply each partnership's pro forma business income base, and pro forma capital base, by the pro forma business apportionment factor computed for **that** limited partnership. Enter each result on the associated pro forma Form CT-3, *Part 3*, line 15 (for the business income base), and on the associated pro forma Form CT-3, *Part 4*, line 13 (for the capital base).
 3. For **each** pro forma business income base, complete the pro forma Form CT-3, *Part 3*, lines 16 through 19.
 - B. On the Form CT-3 **that will be filed with New York State**:
 1. Enter on *Part 3*, line 19, the **total** of **all** pro forma Forms CT-3, *Part 3*, line 19, counting negative amounts as zeros.
 2. Complete *Part 3*, line 20, and also enter this amount on *Part 2*, line 1a.
 3. Enter on *Part 4*, line 13, the **total** of **all** pro forma Forms CT-3, *Part 4*, line 13, counting negative amounts as zeros.
 4. Complete *Part 4*, line 15, and also enter this amount on *Part 2*, line 1b.
 5. Enter on *Part 2*, line 1c, the **total** of **all** pro forma Forms CT-3, *Part 6*, line 55, column A.
 6. Complete the remaining lines of *Part 2*.

Important: Make no entries on Part 6 of the Form CT-3 that will be filed with New York State.

Foreign airlines

Foreign airlines that have a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958 may exclude from entire net income all income from international operations effectively connected to the United States, foreign passive income, and income earned from overseas operations, provided the foreign country in which the airline is based has a similar exemption from tax with respect to United States airlines. See § 208.9(c-1).

When computing the tax on capital, foreign airlines may also exclude from business capital those assets used to generate the income that was excluded based on the previous paragraph (to the extent the assets were employed in generating that income). See § 208.7(b).

However, if the country in which the foreign airline is based does not provide a similar exemption from tax with respect to United States airlines, the foreign airline is not entitled to the exclusions from income and capital described above.

How to fill out your corporation tax return

Important identifying information

When preparing your corporation tax return, be sure to accurately complete the corporation's identifying information (employer identification number (EIN) and file number) including your current address. Keep a record of your identifying information for future use.

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

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

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.

Tax rates schedule

Business income base	Tax rates
Qualified New York manufacturers	.00
Qualified emerging technology companies	.04875
General business taxpayers with a business income base of more than \$5,000,000	.0725
All other general business taxpayers	.065
Capital base	Tax rates
Qualified New York manufacturers, qualified emerging technology companies, cooperative housing corporations, and small business taxpayers	.00
All other general business taxpayers	.001875
Fixed dollar minimum tax	
For a corporation with New York receipts of:	The fixed dollar minimum is:
Not more than \$100,000:	\$25
More than \$100,000 but not over \$250,000:	\$75
More than \$250,000 but not over \$500,000:	\$175
More than \$500,000 but not over \$1,000,000:	\$500
More than \$1,000,000 but not over \$5,000,000:	\$1,500
More than \$5,000,000 but not over \$25,000,000:	\$3,500
More than \$25,000,000 but not over \$50,000,000:	\$5,000
More than \$50,000,000 but not over \$100,000,000:	\$10,000
More than \$100,000,000 but not over \$250,000,000:	\$20,000
More than \$250,000,000 but not over \$500,000,000:	\$50,000
More than \$500,000,000 but not over \$1,000,000,000:	\$100,000
Over \$1,000,000,000:	\$200,000
Fixed dollar minimum tax for qualified New York manufacturers and qualified emerging technology companies	
For a corporation with New York receipts of:	The fixed dollar minimum is:
Not more than \$100,000:	\$19
More than \$100,000 but not over \$250,000:	\$56
More than \$250,000 but not over \$500,000:	\$131
More than \$500,000 but not over \$1,000,000:	\$375
More than \$1,000,000 but not over \$5,000,000:	\$1,125
More than \$5,000,000 but not over \$25,000,000:	\$2,625
Over \$25,000,000:	\$3,750

Fixed dollar minimum tax for non-captive real estate investment trusts and non-captive regulated investment companies	
For a corporation with New York receipts of:	The fixed dollar minimum is:
Not more than \$100,000:	\$25
More than \$100,000 but not over \$250,000:	\$75
More than \$250,000 but not over \$500,000:	\$175
Over \$500,000:	\$500

Line instructions

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

Line B: If during the tax year you do business, employ capital, own or lease property, maintain an office, or derive receipts from activity, in the Metropolitan Commuter Transportation District, you are subject to the Metropolitan Transportation Authority surcharge. The Metropolitan Commuter Transportation District includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. For more information, see Form CT-3-M-I.

Mark an **X** in the appropriate box and if yes is marked, file Form CT-3-M.

Line C: Pursuant to Public Law 86-272, a foreign corporation is not subject to the tax imposed by Article 9-A if its activities are limited to those described in that law. If you are disclaiming tax liability in New York State based on Public Law 86-272, but still want to file a New York State franchise tax return, mark an **X** in the box. You must also complete Form CT-3 in its entirety **and** enter **0** on *Part 2*, line 4.

Part 1: General corporate information

Section A: Qualification for preferential tax rates

If you fail to mark a box that pertains to you, the processing of your return may be delayed and you may lose your claimed tax benefit.

Generally, you will only mark one box in Section A, indicating which preferential tax status you are actually using to realize the tax benefits of that status. However, a qualified New York manufacturer can mark the boxes on both lines 2 and 3 if it meets the principally engaged test for *line 2* and the different principally engaged test for *line 3*.

If you are a *small business taxpayer* utilizing small business tax benefits, mark the box on *line 6* and enter your total capital contributions on *line 6a*.

Line 1:

If you are a qualified emerging technology company eligible for the lower business income base tax rate, the 0% capital base tax rate, and the lower fixed dollar minimum tax amounts, you must mark an **X** in the box. For qualifying criteria, see New York State Public Authorities Law section 3102-e(1)(c), without regard to the \$10 million limitation. For more information, see TSB-M-12(9)C, *Clarification of Qualifications for Qualified Emerging Technology Company Tax Credits*.

Line 2:

If you are a *qualified New York manufacturer* based on the principally engaged test and you are eligible for the 0% business income base tax rate and also the lower fixed dollar minimum tax amounts, you must mark an **X** in the box.

The principally engaged test:

A *qualified New York manufacturer* is a manufacturer that has property in New York State that they principally use in the production of goods by:

- manufacturing,
- processing,
- assembling,
- refining,
- mining,
- extracting,
- farming,
- agriculture,
- horticulture,
- floriculture,

- viticulture, or
- commercial fishing,

and either:

- the New York adjusted basis of the property is at least \$1 million at the close of the tax year; or
- all of its real and personal property is located in New York State.

A taxpayer is *principally engaged* in the above listed activities if during the tax year more than 50% of its gross receipts are derived from receipts for the sale of goods produced by these activities.

Property that does **not** qualify as property used in the production of goods, includes property principally used in the production or distribution of:

- electricity,
- natural gas after extraction from wells,
- steam, or
- water delivered through pipes and mains.

For purposes of the 0% business income base tax rate and the lower fixed dollar minimum tax amounts the following are **not** considered qualifying activities for purposes of the principally engaged test:

- the generation and distribution of electricity,
- the distribution of natural gas, and
- the production of steam associated with the generation of electricity.

Any amount of global intangible low-taxed income included in federal taxable income is disregarded for purposes of the principally engaged test used to determine a taxpayer's eligibility for preferential rates and amounts available to manufacturers.

For more information, see TSB-M-15(3)C, *Real Property Tax Credit and Reduction of Tax Rates for Qualified New York Manufacturers*, TSB-M-15(3.1)C, *Revised Information on the Real Property Tax Credit and Reduction of the Capital Base Tax Rate for Qualified New York Manufacturers*, and TSB-M-19(5)C (6)I, *New York State Adjusted Basis for Qualified New York Manufacturers*.

Line 3:

If you are a qualified New York manufacturer based on the *principally engaged test* eligible for the 0% capital base tax rate, you must mark an **X** in the box.

Line 4:

If you are a qualified New York manufacturer based on the *significant employment and property test* and eligible for the 0% business income base tax rate, the 0% capital base tax rate, and the lower fixed dollar minimum tax amounts, you must mark an **X** in the box.

The significant employment and property test

This test is met if you employ (during the tax year) at least 2,500 employees in manufacturing in New York and you have property in the state used in manufacturing, the adjusted basis of which for New York State tax purposes at the close of the tax year is at least \$100 million.

For purposes of the 0% business income base tax rate and the lower fixed dollar minimum tax amounts, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are **not** considered qualifying activities for purposes of determining if employees are employed in manufacturing, or if property is used in manufacturing.

For more information, see TSB-M-15(3)C, TSB-M-15(3.1)C, and TSB-M-19(5)C, (6)I.

Line 5:

If you are a cooperative housing corporation eligible for the 0% capital base tax rate, you must mark an **X** in the box.

A corporation that has only one class of stock that entitles the shareholder to live in a house or an apartment building owned or leased by the corporation may be a cooperative housing corporation. For complete definition, see IRC § 216(b).

Note: All cooperative housing corporations must file Form TP-588, *Cooperative Housing Corporation Information Return*, twice a year. For more information, see the instructions on Form TP-588.

Line 6:

If you are a small business taxpayer eligible for the 0% capital base tax rate, you must mark an **X** in the box.

A corporation qualifies as a small business taxpayer if:

1. its entire net income reported in Part 3, line 7 is not more than **\$390,000**,
2. the total amount of money and other property it received for stock, as a contribution to capital and as paid-in surplus, is not more than \$1 million as of the last day of its tax year,
3. the average number of individuals (excluding *general executive officers*) *employed full time* in New York State during the tax year is 100 or fewer, **and**
4. the corporation is not part of an affiliated group, as defined in IRC § 1504, unless the group itself would have met the above criteria if it had filed a combined return.

Determine the average number of individuals employed full time in the state by averaging the sum of such individuals employed on March 31, June 30, September 30, and December 31 of the tax year.

An individual *employed full time* means:

- an employee in a job consisting of at least 35 hours per week, or
- two or more employees who are in jobs that together constitute the equivalent of a job of at least 35 hours per week (full-time equivalent).

A full-time equivalent employee in New York State includes any employee regularly connected with or working out of an office or place of business of the taxpayer in New York State.

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.

You must report your New York State employee information on *Part 1, Section B, line 1*.

Short periods

A corporation that files Form CT-3 for a tax year of less than 12 months must annualize entire net income from Form CT-3, *Part 3*, line 7, to determine if it qualifies as a *small business taxpayer*. For a period of less than 12 months, annualize the entire net income by multiplying the entire net income by 12 and dividing the result by the number of months in the short period.

Line 6a:

If you mark the box on *line 6*, you must provide the information requested on this line. The amount taken into account with respect to any property other than money is the amount equal to the adjusted basis to the taxpayer of such property for determining gain, reduced by any liability to which the property was subject or was assumed by the taxpayer. Use the worksheet below to determine the total capital contributions to enter on this line.

	No. of shares	Amount
Par value stock		
No-par value stock		
Contributions to capital and paid-in surplus		
Total capital contributions; enter on line 6a		

Line 7:

For information as to how to qualify as an entity of a New York State innovation hot spot, see TSB-M-14(1)C, *New York State Business Incubator and Innovation Hot Spot Support Act*.

Part 1 Section B: New York State information**Line 1:**

Enter the number of full-time employees at the end of the tax year. For more information, see *Section A, line 6* instructions.

Line 2:

Enter the total amount of all wages and compensation of employees (except general executive officers) that work out of an office or location in New York State.

Line 3:

A *business establishment* is a single physical location where business is conducted, or where services or industrial operations are performed.

Line 5:

A taxpayer that is not included in a combined return with a related member must add back royalty payments directly or indirectly paid, accrued, or incurred in connection with one or more direct or indirect transactions with one or more related members during the tax year. The taxpayer must add back these royalty payments to the extent deductible in calculating federal taxable income. This addback applies unless the taxpayer meets one of the following four exceptions:

1. The addback will not apply to the portion of the royalty payment for which the taxpayer establishes by clear and convincing evidence of the type and in the form specified by the Commissioner of Taxation and Finance that:
 - A. the related member was subject to tax in New York or another state or possession of the United States, a foreign nation, or a combination of these on a tax base that included the royalty payment paid, accrued, or incurred by the taxpayer;
 - B. the related member during the same tax year directly or indirectly paid, accrued, or incurred the portion of the royalty payment to a person that is not a related member; and
 - C. the transaction giving rise to the royalty payment between the taxpayer and the related member was undertaken for a valid business purpose.
2. The addback will not apply if the taxpayer establishes by clear and convincing evidence of the type and in the form specified by the commissioner that:
 - A. the related member was subject to tax on, or measured by, its net income in New York, another state or possession of the United States, or a combination of these;
 - B. the tax base for the tax included the royalty payment paid, accrued, or incurred by the taxpayer; and
 - C. the aggregate effective rate of tax applied to the related member in those jurisdictions is not less than 80% of the statutory rate of tax that applied to the taxpayer under § 210 for the tax year.
3. The addback will not apply if the taxpayer establishes by clear and convincing evidence of the type and in the form specified by the commissioner that:
 - A. the royalty payment was paid, accrued, or incurred to a related member organized under the laws of a country other than the United States;
 - B. the related member's income from the transaction was subject to a comprehensive income tax treaty between that country and the United States;
 - C. the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued, or incurred by the taxpayer;
 - D. the related member's income from the transaction was taxed in that country at an effective rate of tax at least equal to that imposed by New York; and
 - E. the royalty payment was paid, accrued, or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's-length relationship.
4. The addback will not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in their discretion, agree to the application or use of alternative adjustments or computations if they conclude that the income of the taxpayer would not be properly reflected in the absence of such an agreement.

If you are claiming one of these exceptions, mark an **X** in the box and see the instructions for line 5a.

Line 5a:

Enter the number of the applicable exception (see above) and the amount of royalty payments excluded from entire net income. Attach a statement to your return explaining how you meet each requirement for the exception.

Line 6:

A corporation is *deriving receipts* from activity in this state if it has receipts within this state of \$1.138 million or more in the tax year. If you are not protected by Public Law 86-272 and are subject to tax **solely** as a result of deriving receipts in New York, mark an **X** in the box. See § 209.1.

Part 1 Section C: Filing information

To avoid an erroneous assessment or delayed refund, all filers **must** complete the applicable lines in this section.

Part 2: Computation of balance due or overpayment

Line 1b: Tax on capital base

The tax on the capital base does not apply to certain filers. Enter **0** here and on Part 4, line 15, if you are a:

- real estate investment trust as defined in IRC § 856 that is subject to tax under IRC § 857, or
- regulated investment company as defined in IRC § 851 that is subject to tax under IRC § 852.

In addition, you **must** mark an **X** in the 1120-REIT or 1120-RIC box in *Part 1, Section C*, line 1, to avoid an erroneous assessment or delayed refund.

Line 1c: Fixed Dollar Minimum Tax

The fixed dollar minimum tax is determined by the corporation's New York receipts. Enter your New York receipts in the first box. If you do not have New York receipts, enter **0**. **To avoid an erroneous assessment or a delay in your refund, you must enter an amount on this line.**

New York receipts equal the amount reported in Column A, line 55 of *Part 6, Computation of business apportionment factor*.

For a short period, compute New York receipts by dividing the amount of New York receipts for the tax year by the number of months in the tax year and multiplying the result by 12.

See *Tax rates schedule* to determine the applicable fixed dollar minimum tax to enter on line 1c. The fixed dollar minimum tax may be reduced for short periods.

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

A homeowners association, as such term is defined in IRC § 528(c), without regard to § 528(c)(1)(E), with no federal taxable income, as the term is defined in § 528(d), is not subject to the fixed dollar minimum tax and must enter **0** on line 1c. In addition, you must mark an **X** in the 1120-H box on *Part 1, Section C*, line 1, to avoid an erroneous assessment or delayed refund.

Line 2: Tax due

- **Qualified entity of a New York State innovation hot spot:** If located **solely** within a hot spot and electing to be subject only to the fixed dollar minimum tax, enter only the amount from line 1c. To indicate that you are making this election, mark an **X** in the box on *Part 1, Section A, line 7*.
- **Taxable domestic international sales corporations:** Enter the larger of line 1b or 1c.

Line 3: Tax credits used

Complete *Part 7* and enter the total amount of the tax credits you are claiming to reduce your tax due. If you are claiming more than one tax credit, see Form CT-600-I *Instructions for Form CT-600*, for the order of application under Article 9-A.

- **Attach** copies of all forms and schedules used. If you claim a tax credit without filing the appropriate tax credit claim form, the tax credit will be disallowed.

- There are limited instances in which the use of a tax credit can reduce your tax below the fixed dollar minimum tax shown on line 1c. The manufacturer's real property tax credit may reduce your tax to \$25. The QEZE tax reduction credit (if you have a 100% zone allocation), the tax-free New York area excise tax on telecommunications credit (if you have a 100% area allocation), and the tax-free New York area tax elimination credit (if you have a 100% area allocation) may reduce your tax to \$0.

Line 5: Estimated tax penalty

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. See § 1085(d).

Lines 6 and 7:

If you are not filing this return on time, you must pay interest and additional charges. See *Penalties and interest*.

Line 11:

Determine the amount to enter by completing the *Worksheet for Part 2, line 11* below.

Worksheet for Part 2, line 11

From the Form CT-300 used to report the mandatory first installment for the tax period for which **this** return is being filed (**Note:** For calendar-year 2022 filers, such Form CT-300 was due March 15, 2022):

- | | |
|--|----------|
| 1. Enter the portion of line A (<i>Payment enclosed</i>) that represents New York State mandatory first installment paid: generally, the amount on line 6, column A of such Form CT-300. | 1. _____ |
| 2. Enter the portion of line 5, column A actually applied toward satisfying the amount on line 2, column A: generally, the lesser of the amount on line 5, column A or the amount on line 2, column A of such Form CT-300. This is your <i>2021 anticipated overpayment applied</i> . | 2. _____ |
| 3. Add the amounts on lines 1 and 2, and enter the total here and on Form CT-3, Part 2, line 11. | 3. _____ |

Line 16: Overpayment credited from prior years

Enter the sum of the amounts reported on lines 21 and 26 of the Form CT-3 that you filed for the tax period **immediately prior** to the tax period for which this return is being filed.

Composition of prepayments on Part 2, line 18: 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 line 18.

Payment due, or overpayment to be credited or refunded

- If line 10 is **less than** line 18, skip lines 19a through 19c and proceed to *line 20a*.
- If line 10 is **greater than or equal to** line 18, proceed to *line 19a*.

Line 19a: Underpayment

Subtract line 18 from line 10 and enter the result here.

Line 19b: Additional amount for 2023 mandatory first installment

To complete line 19b, refer to line 5, column A of the Form CT-300 used to report the mandatory first installment for **next** franchise tax period (the tax period immediately **following** the tax period for which this return is being filed).

- If you did **not** apply an anticipated overpayment amount of New York State **franchise** tax from this return to your mandatory first installment for the **next** franchise tax period, enter **0** and proceed to line 19c. **Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, 2023.
- If you **did** apply an anticipated overpayment amount of New York State **franchise** tax from this return to your mandatory first installment for the **next** franchise tax period, enter the amount from line 5, column A of that Form CT-300 that you **actually** applied toward satisfying the amount on line 2, column A for the next franchise tax period. Generally, this is the lesser of the amount on line 5, column A or the amount on line 2, column A.

Line 19c: Balance due

Add lines 19a and 19b. Enter the result here, and enter the **payment amount** on page 1, *line A*. Skip lines 20a through 20c.

Line 20a: Excess prepayments

Subtract line 10 from line 18 and enter the result here.

Line 20b: Amount previously credited to 2023 mandatory first installment

To complete line 20b, refer to line 5, column A of the Form CT-300 used to report the mandatory first installment for **next** franchise tax period (the tax period immediately **following** the tax period for which this return is being filed).

- If you did **not** apply an anticipated overpayment amount of New York State **franchise** tax from this return to your mandatory first installment for the **next** franchise tax period, enter **0** and proceed to line 20c. **Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, **2023**.
- If you **did** apply an anticipated overpayment amount of New York State **franchise** tax from this return to your mandatory first installment for the **next** franchise tax period, enter the amount from line 5, column A of that Form CT-300 that you **actually** applied toward satisfying the amount on line 2, column A for the next franchise tax period. Generally, this is the lesser of the amount on line 5, column A or the amount on line 2, column A.

If line 20b is **less than** or **equal to** line 20a, proceed to *line 20c*.

If line 20b is **greater than** line 20a, subtract line 20a from line 20b and enter the result on *line 19c*. This is the amount due. Enter the **payment** amount on Form CT-3, page 1, *line A*. Skip line 20c.

Line 20c: Overpayment

Subtract line 20b from line 20a. This is your overpayment amount. Proceed to line 21.

Unrequested refunds to be credited forward

If the corporation overpays its tax, it will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year unless you request a refund on line 24. We will notify you that the overpayment has been credited and explain how to request a refund of the credited amount. If you choose to request a refund of such credited amount, you must claim a refund of such overpayment prior to the original due date of the following year's return.

Lines 21 through 24: Overpayments

You may apply an overpayment to your next state franchise tax period, or to your Metropolitan Transportation Authority surcharge for this period, or you may have it refunded. Indicate on these lines the amount of overpayment you want credited or refunded.

Lines 25 and 26: Unused tax credits

If you request a refund of unused tax credits, enter the total amount on line 25. If you request tax credits to be credited as an overpayment to next year's return, enter the total amount on line 26. **Do not include** these amounts in the total credits claimed on *Part 2, line 3*; or *Part 7, line 2* or *3*. Attach the appropriate tax credit forms.

Part 3: Computation of tax on business income base

Note: All amounts entered on lines 2, 4, 6, 8, 10, 12, 16, and 18 must be entered as a positive number.

- *Business income* is entire net income minus investment income and other exempt income.
- Entire net income—**plus or minus** certain New York State modifications—is:
 - federal taxable income for non-alien corporations; **or**
 - income, gain, or loss, effectively connected with the conduct of a trade or business within the United States, as determined under IRC § 882, for an alien corporation that under any provision of the IRC is not treated as a *domestic corporation* as defined in IRC § 7701; **or**
 - federal taxable income that would have been reported to the IRS in the case of a corporation which is exempt from federal income tax (other than tax on unrelated business income imposed under IRC § 511), but is taxable under Article 9-A.

If you have federal capital gains or losses included in your federal taxable income that flow from items that qualify as New York investment capital, you **must** adjust federal taxable income on line 1 by recomputing the amount of your federal net capital gain income. In this recomputation:

- You must net your federal capital gains and losses by the **type** of New York capital (business or investment) that generated the federal capital gain or loss, **rather** than netting business and investment capital gains and losses against each other.
- Business capital loss(es) are **only** allowed to be netted against business capital gain(s) to the extent that there are business capital gain(s) to absorb the business capital loss(es). Likewise, investment capital loss(es) are only allowed to be netted against investment capital gain(s) to the extent that there are investment capital gain(s) to absorb the investment capital loss(es). When completing Form CT-3.1 the adjustment made for purposes of line 1 **must** be taken into consideration when reporting capital gains in excess of capital losses from investment capital.
- The **sum** of investment income and other exempt income must **not** exceed entire net income.

Line 1: Federal taxable income

Generally, the amount to enter is your federal taxable income, before net operating loss and special deductions, as required to be reported to the U.S. Treasury Department. In addition, see below for instructions specific to different federal Forms 1120.

- **If you file federal Form 1120:**

- use the amount from line 28.

Note: Any IRC § 250(a)(1)(A) amount deducted (as reduced by IRC § 250(a)(2)) and any IRC § 250(a)(1)(B)(i) amount deducted (as reduced by IRC § 250(a)(2)) when computing federal taxable income must be added back to federal taxable income. However, as the amount reported on line 1 is **before** the special deductions amount reported on federal Form 1120, no addition modification is required. See §§ 208.9(b)(24) and 208.9(b)(25).

- **If you file Form 1120-REIT:**

- use real estate investment trust taxable income (as defined in IRC § 857(b)(2), but **before** the net operating loss deduction, total deduction for dividends paid, and the IRC § 857(b)(2)(E) deduction), as modified by IRC § 858.

Note: If you were required to include in your calculation of real estate investment trust taxable income an IRC § 965(a) inclusion amount, such inclusion, as well as the corresponding IRC § 965(c) amount, is already reflected in the real estate investment trust taxable income amount. Any IRC § 965(c) amount deducted when computing real estate investment trust taxable income must be added back to real estate investment trust taxable income. The add back of the IRC § 965(c) deduction amount is reported on Form CT-225. See § 208.9(b)(23).

- **If you file Form 1120-RIC, use the sum of:**

- investment company taxable income (as defined in IRC § 852(b)(2), modified for IRC § 855, but **before** the deduction for dividends paid and the deductions for tax imposed under IRC §§ 851(d)(2) and 851(i)) **plus**
- the amount taxable under IRC § 852(b)(3).

- **If you file federal Form 1120-H:**

- use the amount from line 19.

- **If you file federal Form 1120-POL:**

- use the amount from line 19.

- **If you file federal Form 1120-C:**

- use the amount from line 25c.

Note: Any IRC § 250(a)(1)(A) amount deducted (as reduced by IRC § 250(a)(2)) and any IRC § 250(a)(1)(B)(i) amount deducted (as reduced by IRC § 250(a)(2)) when computing federal taxable income must be added back to federal taxable income. However, as the amount reported on line 1 is **before** the special deductions amount reported on federal Form 1120-C, no addition modification to federal taxable income for any IRC § 250(a)(1)(A) or § 250(a)(1)(B)(i) deduction is required. See Tax Law §§ 208.9(b)(24) and 208.9(b)(25).

- **If you file Form 1120-F:**

- use the amount from Section II, line 29.

- **If you are a member of a federal affiliated group that files a consolidated return:**

- complete a pro forma 1120 reporting the federal taxable income you would have been required to report on a separate federal tax return, and attach a copy of the federal consolidating workpaper indicating your separate taxable income before any elimination of intercorporate transactions included in the federal consolidated return.

- **If you are a federal S corporation filing federal Form 1120S but you have not made an election to be treated as a New York S corporation:**

- you must determine the amount you would have had to report as federal taxable income, before net operating loss and special deductions, were you not a federal S corporation. Attach a separate sheet showing how you determined this amount. In general, the items on Form 1120 affected are:
 - dividends
 - interest
 - gross rents
 - gross royalties
 - capital gain net income
 - charitable contributions

- **If you are exempt from federal income tax but subject to New York State franchise tax:**
 - you must determine the amount you would have had to report as federal taxable income, before net operating loss and special deductions, as if you were not exempt.
 - Attach a separate sheet showing how you determined the amount.
- **If you have an amount of excess inclusion as a result of having a residual interest in a real estate mortgage investment conduit:**
 - you must properly reflect this income in federal taxable income.
- **If you are a corporate stockholder in a *tax-exempt domestic international sales corporation*:**
 - all transactions between you and each such domestic international sales corporation must be eliminated from your receipts, expenses, assets, and liabilities. Your entire net income must not include the amount of the deemed distribution of current income, if any, that was included in your federal taxable income. The tax-exempt domestic international sales corporation itself has no franchise tax filing requirement.
- **If you are a partner in a partnership:**
 - you must account for New York adjustments due to decoupling from the IRC by properly adjusting your federal taxable income. New York State Tax Law Article 22 is decoupled from any amendments made to the IRC of 1986 after March 1, 2020, which impacts partnership tax years beginning before January 1, 2022. These amounts are reported on lines 1 and 2 of Form IT-204-CP, Partner's share of New York adjustments due to decoupling from the IRC. If your partnership does not provide you with the necessary information to make the adjustment, you are responsible for obtaining the information from the partnership.

Line 6: Qualified thrifts and banks

Enter the amount from Form CT-3.2, Schedule A, line 1.

Line 8:

The amount entered on this line must **not** exceed your entire net income (line 7).

Line 12:

An addback to business income is required when the presumptive holding period for qualification as investment capital is not met. See Form CT-3.1.

Line 19:

When this line is reporting a loss, Form CT-3.4 must be filed to report such loss, and to make the irrevocable election to waive the carryback of such loss, if applicable.

Line 20:

If line 19 is more than \$5 million, multiply line 19 by 7.25% (.0725). If line 19 is \$5 million or less, multiply line 19 by 6.5% (.065).

Qualified emerging technology companies and qualified New York manufacturers (for applicable definitions, see *Part 1, Section A*):

Compute your tax for this line as follows:

- **Qualified emerging technology companies:** Multiply line 19 by 4.875% (.04875).
- **Qualified New York manufacturers:** Enter **0** on this line.

All corporations: Enter the result on this line and on *Part 2*, line 1a.

Part 4: Computation of tax on capital base

The tax on the capital base is computed on the portion of the total *business capital* that is apportioned to New York State. Total business capital is the sum of business capital and the addback of capital previously reported as investment capital that subsequently does not meet the holding period requirement.

Business capital is defined as all assets, other than investment capital and stock issued by the taxpayer, minus liabilities not deducted from investment capital. It includes:

- only those assets the income, loss, or expense of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of entire net income for the tax year, and
- stock that generates, or could generate, other exempt income.

See § 208.7(a).

Lines 1 through 15

To determine the value of your assets for the capital base computations, you must include real property and marketable securities at *fair market value*. You must include all other property at the value shown on your books in accordance with generally accepted accounting principles.

Use lines 2 through 5 to adjust the value of the real property and marketable securities you reported on your federal return. If you are not required to complete the balance sheet on your federal tax return, use the amount that would have been reported on the federal return. If you are an alien corporation, only report the amounts that are effectively connected with your United States trade or business.

On lines 1 through 6:

1. Enter the values at the beginning of the year in column A.
2. Enter the values at the end of the year in column B.
3. Enter the *average value* in column C.

Average value is generally computed **quarterly** if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly, or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if it does not distort the average value.

Fair market value is the price (without deduction of an encumbrance whether or not the taxpayer is personally liable) at which a willing seller will sell and a willing purchaser will buy. You can generally find the fair market value of marketable securities from price quotes in financial newspapers. For determination of fair market value of real property, see TSB-M-85(18.1)C, *Valuation of Real Property*.

Short periods: If a tax return is for a period of less than 12 months, determine the amount of business capital by multiplying the average value by the number of months covered by the return and dividing by 12. See Tax Law § 210.2.

Line 4:

Enter the *fair market value* of real property and marketable securities included on line 2.

Line 6:

Enter the amount of all liabilities attributable to assets you entered on line 1, both long and short term. Use the same method of averaging you used to determine average value of assets.

Line 10:

An addback to business capital is required when the presumptive holding period for qualifications of investment capital is not met. See Form CT-3.1 and § 208.5(d).

Line 15:

Multiply line 13 by the tax rate of 0.1875% (.001875).

Do **not** enter more than \$5 million.

Qualified emerging technology companies, qualified New York manufacturers, cooperative housing corporations, and small business taxpayers:

Enter **0** on this line. (For applicable definitions, see *Part 1, Section A*.)

All corporations:

Enter the result on this line and on *Part 2, line 1b*.

Part 5: Computation of investment capital for the current tax year

This part computes the amount of investment capital that is excluded from, or added back to, the tax on the capital base and is reported on *Part 4*, lines 8 and 10.

Note: You **must** file Form CT-3.1 and identify investment capital items or the subtraction will be disallowed.

Part 6: Computation of business apportionment factor

To review how receipts, net income, net gains, and other items are sourced, and determine the amounts allowed in the apportionment factor, see § 210-A.

Include only the receipts, net income, net gains, and other items described in § 210-A that are earned in the regular course of business and included in your business income, determined without regard to the amount you subtracted on *Part 3, line 6 (Subtraction modification for qualified banks)*, and without regard to any amount from investment capital that exceeds the 8% of entire net income limitation on gross investment income.

Note: Generally, you should report receipts from services on *line 53 (Receipts from other services/activities not specified)*.

Columns A and B

In this section, we provide specific directions for Column A (New York State column) and Column B (Everywhere column) as follows:

- **New York State column:** Refer to the specific line instructions to determine *New York State* amounts and enter those amounts in Column A for each line.
- **Everywhere column:** Enter 100% of the amount of the item you report on a line in Column B, unless otherwise specified.

If only one line of *Part 6* applies to your business, you must still complete **both** columns for that line. Skip a line only if **both** the numerator (column A) and the denominator (column B) are zero.

If you have no receipts required to be included in the denominator of the apportionment factor, you must mark the box at the beginning of Form CT-3, *Part 6, Computation of business apportionment factor*.

Examples include:

- owning property in New York State but not having federal taxable income, effectively connected income, or receipts from the rental, sale or lease of such property amounts, or
- the only income is dividends and net gains from the sales of stock or sales of partnership interests when the fixed percentage election is **not** made.

If you have any other everywhere receipts, this box does not apply. If you mark the box, you must attach a statement explaining why you have no receipts required to be included in the business apportionment factor.

If you fail to properly complete *Part 6*, we may impose a 100% business apportionment factor.

Section 210-A.2: Sales of tangible personal property, electricity and net gains from real property

Line 1:

New York State column: Include receipts from the sale of tangible personal property in the New York State column when shipments are made to points in the state, or the destination of the property is a point in the state. Receipts from sales of tangible personal property and electricity that are traded as commodities, as defined in IRC § 475, are included on *line 27*.

Line 2:

New York State column: Include receipts from the sale of electricity in the New York State column when they are delivered to points in the state. Include receipts from sales of tangible personal property and electricity that are traded as commodities (as defined in IRC § 475), on *line 27*.

Line 3:

New York State column: Net the gains from the sales of real property located within the state against the losses from the sales of real property located within the state and enter the result (but not less than zero).

Everywhere column: Net the gains from the sales of real property located everywhere against the losses from the sales of real property located everywhere and enter the result (but not less than zero).

Section 210-A.3: Rentals of real and tangible personal property, royalties, and rights for certain closed-circuit and cable TV transmissions

Line 4:

New York State column: Include receipts from rentals of real and tangible personal property located within the state.

Line 5:

New York State column: Include receipts of royalties from the use of patents, copyrights, trademarks, and similar intangible personal property within the state.

Line 6:

New York State column: Include receipts from the sales of rights for closed-circuit and cable television transmissions of an event (other than events occurring on a regularly scheduled basis) taking place within the state as a result of the rendition of services by employees of the corporation, as athletes, entertainers, or performing artists, to the extent that those receipts are attributable to those transmissions received or exhibited within the state.

Section 210-A.4: Receipts from sale of, license to use, or granting of remote access to digital products

Line 7:

Digital products

For Article 9-A apportionment purposes, the term *digital product* generally means any property or service, or combination thereof, of whatever nature delivered to the purchaser through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media, or any combination of these. It does **not** include legal, medical, accounting, architectural, research, analytical, engineering or consulting services.

If the receipt for a digital product is comprised of a combination of digital property and services, it cannot be divided into separate components and is considered to be one receipt sourced under the appropriate method below, regardless of whether it is separately stated for billing purposes.

New York State column: Apply the following methods in the order presented below to determine the amount of receipts to enter:

1. the customer's primary use location of the digital product;
2. the location where the digital product is received by the customer or is received by a person designated for receipt by the customer;
3. the apportionment fraction for the preceding tax year for such digital product; and
4. the apportionment fraction in the current tax year for those digital products that can be sourced using the methods in items 1 and 2.

Note: Item 3 does not apply to your first tax period you are subject to Article 9-A.

You must exercise due diligence under each method to obtain the information necessary to source these receipts under a method before rejecting it and proceeding to the next method. The determination must be based on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry.

Section 210-A.5(a)1: Qualified financial instruments, the 8% fixed percentage method

Line 8:

A *qualified financial instrument* means a financial instrument of the following types that is marked to market in the tax year by the taxpayer under IRC § 475 or § 1256:

- type A instruments under clause (A) (loans): reported on lines 11 and 12
- type B instruments under clause (B) (federal, state, and municipal debt): reported on lines 13 through 18
- type C instruments under clause (C) (asset-backed securities and other government agency debt): reported on lines 19 through 21
- type D instruments under clause (D) (corporate bonds): reported on lines 22 through 24
- type I instruments under clause (I) (physical commodities): reported on line 27
- type H, instruments under clause (H) (other financial instruments): reported on lines 29 and 30
- type G, instruments under clause (G) (stock or partnership interests): also reported on line 30

If the **only** loans that are marked to market under IRC § 475 or § 1256 are loans secured by real property, then **no** loans are qualified financial instruments. Stock that is investment capital shall **not** be a qualified financial instrument. A stock that generates other exempt income as defined in § 208.6-a, and that is not, **itself**, marked to market under IRC § 475 or § 1256, is **not** a qualified financial instrument with respect to such other exempt income only, even if other stocks are marked to market in the tax year.

Exception: Non-captive real estate investment trusts and non-captive regulated investment companies may also elect to use the 8% fixed percentage method to apportion business receipts from qualified financial instruments even though they do not mark to market assets under IRC § 475 or § 1256. For these entities, all assets in types A, B, C, D, G, H and I are considered qualified financial instruments.

Types A, B, C, D, and I

If the taxpayer has in the tax year marked to market a financial instrument within types A, B, C, D, and I, then **any** financial instrument **within that same type** that has **not** been marked to market by the taxpayer under IRC § 475 or § 1256 **is also** a qualified financial instrument in the tax year.

Types G and H

When a financial instrument within either types H or G is marked to market, **not** all financial instruments within type H or G, respectively, are *qualified financial instruments*, as explained further below.

When reporting interest from other financial instruments on line 29, and net gains and other income from other financial instruments on line 30, marking to market one other financial instrument does **not** necessarily cause all other financial instruments to be qualified financial instruments. You must determine separately for each instrument whether other financial instruments are of the same type. Thus, you may report more than one **type** of other financial instruments on either of lines 29 and 30, and some types may be qualified financial instruments while other types may not be qualified financial instruments.

You may use line 30 to report financial instruments under clause (G), clause (H), or both, of § 210-A.5(a)(2).

Use line 30 to report financial instruments under clause (G) **only** when the financial instrument is a qualified financial instrument **and** the 8% fixed percentage method has been elected.

Determining whether a type G financial instrument is a qualified financial instrument

When **any** stock that is business capital has been marked to market, **all** stock that is business capital is a qualified financial instrument.

When **any** partnership interest in a widely held or publicly traded partnership has been marked to market, **all** partnership interests in a widely held or publicly traded partnership are qualified financial instruments.

Marking to market a financial instrument of the type under clause (G) does **not** cause financial instruments of the type under clause (H) to be qualified financial instruments. The same is true in regard to clause (H) in respect to clause (G). Therefore:

- Marking to market stock that is business capital does **not** cause partnership interests in a widely held or publicly traded partnership that are **not** marked to market to be qualified financial instruments.
- Marking to market partnership interests in a widely held or publicly traded partnership in respect to stock that is business capital does **not** cause stock that is business capital that is **not** marked to market to be a qualified financial instrument.

Determining whether a type H financial instrument is a qualified financial instrument

When a financial instrument type that falls under clause (H) has been marked to market, it does **not** necessarily cause all financial instruments under clause (H) to be qualified financial instruments. It is an instrument by instrument determination as to when instruments under clause (H) are of the same **type**. Thus, you may have more than one type of other financial instruments under clause (H) to report on line 30.

Electing the 8% fixed percentage method

Taxpayers may elect to use the *8% fixed percentage method* to apportion business receipts from qualified financial instruments. This election is irrevocable, applies to **all** qualified financial instruments, and must be made on an annual basis on the original timely filed return (determined with regard to valid extensions of time for filing) by marking an **X** in the box on line 8. If you do not mark the box but still apportion qualified financial instrument receipts by 8%, you will be considered to have made the election and to have marked the box.

Whether or not the 8% fixed percentage method is elected, when **any** financial instrument has been marked to market that is described on:

1. **either** line 11 or 12, mark the boxes on **both** lines 11 and 12, and all financial instruments reported on such lines are qualified financial instruments (Type A financial instruments);
2. **any** of lines 13 through 18, mark the box above line 13, and all financial instruments reported on such lines are qualified financial instruments (Type B financial instruments);
3. **any** of lines 19 through 21, mark the box above line 19, and all financial instruments reported on such lines are qualified financial instruments (Type C financial instruments);
4. **any** of lines 22 through 24, mark the box above line 22, and all financial instruments reported on such lines are qualified financial instruments (Type D financial instruments);
5. line 27, mark the box above line 27, and all financial instruments reported on line 27 are qualified financial instruments (Type I financial instruments);
6. line 28, mark the box above line 28;
7. line 29, mark the box above line 29;
8. line 30, due to clause (H), mark the § 210-A.5(a)(2)(H) box above line 30; and
9. line 30, due to clause (G), mark the § 210-A.5(a)(2)(G) box above line 30.

A marked qualified financial instrument box does **not** indicate which method of sourcing (8% fixed percentage method or customer-based sourcing rule) is being used to apportion such instruments. Also, because you may report more than one **type** of financial instrument on lines 28, 29, and 30, when the qualified financial instrument box above line 28 is marked, or one of the boxes above lines 29 and 30 is marked:

- in the case of line 28, it does **not** indicate that all financial instruments being reported on line 28 are qualified financial instruments, and
- in the case of lines 29 and 30 it does **not** indicate that all financial instruments being reported on lines 29 and 30 are qualified financial instruments.

General lines 9 through 53 instructions

For all financial instruments that do **not** meet the definition of a qualified financial instrument, or for instruments that meet the definition of a qualified financial instrument where the 8% fixed percentage method election is **not** in effect, use the customer-based sourcing rules as detailed in the specific line instructions for lines 9 through 27, 29, and 30.

Whether or not the 8% fixed percentage method election is in effect, Worksheets A, B, and C of these instructions compute certain amounts for lines 10, 12, 21, 24, 28, and 30 of Part 6.

For purposes of these apportionment instructions, an individual is deemed to be located in New York State if the billing address is in the state. A business entity is deemed to be located in New York State if its *commercial domicile* is located in the state.

Use the following methods in order to determine the *commercial domicile* of a business entity, based on known information, or information that **would be** known upon reasonable inquiry:

1. The seat of management and control of the business entity
2. The billing address of the business entity in the taxpayer's records

You must exercise due diligence before rejecting the first method and proceeding to the second method.

For purposes of these apportionment instructions, *registered securities broker or dealer* means a broker or dealer registered as such by the Securities and Exchange Commission or a broker or dealer registered as such by the Commodities Futures Trading Commission, and shall include an over-the-counter derivatives dealer as defined under regulations of the securities and stock exchange (17 CFR 240.3b-12).

Section 210-A.5(a)(2)(A): Loans

A loan is secured by real property if 50% or more of the value of the collateral used to secure the loan (when valued at fair market value as of the time the loan was originated) consists of real property.

Line 9:

New York State column: Include interest from loans secured by real property located within the state.

Everywhere column: Include interest from loans secured by real property located anywhere.

Line 10:

New York State column: Multiply the amount of **net** gains (not less than zero) from sales of loans secured by real property by a fraction, the numerator of which is the amount of gross proceeds from sales of loans secured by real property located within the state, and the denominator of which is the amount of gross proceeds from sales of such loans everywhere.

Everywhere column: Include the amount of net gains (not less than zero) from sales of loans secured by real property both within and outside New York State. Use *Worksheet A* at the end of these instructions.

Line 11:

When the 8% fixed percentage method **is** elected (the box on Part 6, line 8, is marked), **and** the qualified financial instrument box on line 11 **is** marked, use that method for **all** financial instruments to be reported on this line.

Otherwise, use the customer-based sourcing rule below for **all** financial instruments to be reported on this line.

New York State column: Include interest from loans **not** secured by real property if the borrower is located in New York State.

Everywhere column: Include interest from all loans **not** secured by real property.

Line 12:

New York State column: Multiply net gains (not less than zero) from sales of loans **not** secured by real property by a fraction, the numerator of which is the amount of gross proceeds from sales of loans not secured by real property to purchasers located within the state, and the denominator of which is the amount of gross proceeds from sales of such loans to purchasers located within and outside the state.

Everywhere column: Include the amount of net gains (not less than zero) from sales of loans **not** secured by real property within and outside the state.

Use *Worksheet A*.

Section 210-A.5(a)(2)(B): Federal, state, and municipal debt

Lines 13 through 18:

New York State column: Do **not** include receipts in column A **unless** you have made the election to apportion qualified financial instrument receipts using the 8% fixed percentage method.

Everywhere column:

- For lines 13, 15, and 16, enter 100% of the applicable receipts regardless of if the 8% fixed percentage method election was made.
- For lines 17 and 18, if the 8% fixed percentage method election was made, and the qualified financial instrument box above line 13 is marked, enter 100% of the receipts constituting interest and net gains from sales of debt instruments issued by other states or their political subdivisions.
- Otherwise, enter 50% for lines 17 and 18.

Line 16:

When netting gains against losses, only net the gains from federal, NYS, and NYS political subdivisions debt against the losses from federal, NYS, and NYS political subdivisions debt. Do not enter less than zero.

Line 18:

When netting gains against losses, only net the gains from other states and their political subdivisions debt against the losses from other states and their political subdivisions debt. Do not enter less than zero.

Section 210-A.5(a)(2)(C): Asset-backed securities and other government agency debt

Line 19:

Everywhere column: Enter 100% of the interest income from **all**:

- asset-backed securities issued by government agencies;
- other securities issued by government agencies, including but not limited to securities issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Small Business Administration; and
- asset-backed securities issued by other entities.

New York State column: Enter 8% of the amount in the *Everywhere* column.

Line 20:

Everywhere column: Enter the result (but not less than zero) of netting the gains and losses from **all**:

- sales of asset-backed securities or other securities issued by government agencies, including but not limited to securities issued by Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Small Business Administration; and
- sales of other asset-backed securities that are sold through a registered securities broker or dealer, or through a licensed exchange.

New York State column: Enter 8% of the amount in the *Everywhere* column.

Line 21:

New York State column: Multiply net gains (not less than zero) from sales of other asset-backed securities **not** reported on line 20 by a fraction, the numerator of which is the amount of gross proceeds from such sales to purchasers located in the state, and the denominator of which is the amount of gross proceeds from such sales to purchasers located within and outside the state.

Everywhere column: Enter 100% of the amount of net gains (not less than zero) from sales of other asset-backed securities not reported on line 20.

Use *Worksheet A*.

Section 210-A.5(a)(2)(D): Corporate bonds

Line 22:

New York State column: Enter interest from corporate bonds when the commercial domicile of the issuing corporation is in the state.

If you marked the box on line 8 to elect the 8% fixed percentage method, **and** you marked the qualified financial instrument box above line 22, enter 8% of the applicable receipts in the New York State column.

Line 23:

Everywhere column: Enter the result (but not less than zero) of netting the gains and losses from the sales of all corporate bonds sold through a registered securities broker or dealer, or through a licensed exchange.

New York State column: Enter 8% of the amount in the Everywhere column.

Line 24:

New York State column: Multiply net gains (not less than zero) from those sales of corporate bonds **not** reported on line 23 by a fraction, the numerator of which is the amount of gross proceeds from such sales to purchasers located within the state, and the denominator of which is the amount of gross proceeds from such sales to purchasers located within and outside the state.

Everywhere column: Enter the amount of net gains (not less than zero) from sales of corporate bonds to purchasers within and outside the state.

Use *Worksheet A*.

Section 210-A.5(a)(2)(E): Interest income from reverse repurchase and securities borrowing agreements

Line 25:

New York State column: Enter 8% of *net interest income* (not less than zero) from reverse repurchase agreements and securities borrowing agreements.

For this calculation, *net interest income* is determined after the deduction of the amount of interest expense from the taxpayer's repurchase agreements and securities lending transactions, but cannot be less than zero.

The amount of such interest expense is:

- the interest expense associated with the sum of the value of the taxpayer's repurchase agreements where the taxpayer is the seller or borrower, **plus**
- the value of the taxpayer's securities lending agreements where the taxpayer is the securities lender, provided:
 - such sum is limited to the sum of the value of the taxpayer's reverse repurchase agreements where the taxpayer is the purchaser or lender, **plus**
 - the value of the taxpayer's securities lending agreements where the taxpayer is the securities borrower.

Section 210-A.5(a)(2)(F): Interest income from federal funds

Line 26:

Everywhere column: Enter 100% of the net interest from federal funds. In determining net interest from federal funds, deduct interest expense that is from federal funds. The resulting net interest cannot be less than zero.

New York State column: Enter 8% of the amount in the *Everywhere* column.

Section 210-A.5(a)(2)(I): Net income from sales of physical commodities

Line 27:

New York State column: Multiply the net income from sales of physical commodities by a fraction:

- the **numerator** of which is:
 - the amount of receipts from sales of physical commodities actually delivered to points within the state, or,
 - if there is no actual delivery of the physical commodity, the amount sold to purchasers located in the state, and
- the **denominator** of which is:
 - the amount of receipts from all sales of physical commodities actually delivered to points within and outside the state, or,

- if there is no actual delivery of the physical commodity, the amount sold to purchasers located both within and outside the state.

Determine net income (not less than zero) from sales of physical commodities after you deduct the cost to acquire or produce the physical commodities.

If you marked the box on line 8 to elect the 8% fixed percentage method, **and** you marked the qualified financial instrument box above line 27, enter 8% of the applicable receipts in the New York State column.

Everywhere column: Enter 100% of the net income (not less than zero) from sales of physical commodities.

Section 210-A.5(a)(2)(J): Marked to market net gains

Line 28:

Report **all** *marked to market* net gains on this line for **all** financial instruments.

For the purposes of computing marked to market net gains for this line, *marked to market* means that a financial instrument is **treated** by the taxpayer as sold for its fair market value on the last business day of the taxpayer's tax year, despite no actual sale having taken place, under IRC § 475 or § 1256.

The term *marked to market gain or loss* means the gain or loss recognized by the taxpayer under IRC § 475 or § 1256 because the financial instrument is **treated** as sold for its fair market value on the last business day of the tax year.

Report **all** marked to market net gains on this line.

If you **did** elect the 8% fixed percentage method:

- use that method to source marked to market net gains for all financial instruments **that are qualified financial instruments**.
- use the customer-based sourcing rule below to source the marked to market net gains for those financial instruments that are **not** qualified financial instruments

If you **did not** elect the 8% fixed percentage method:

- use the customer-based sourcing rule below to source **all** marked to market net gains for **all** financial instruments

New York State column: To determine the amount of marked to market net gains to include on line 28 for financial instruments **described** on any specific line of Form CT-3, *Part 6*, multiply the gains by a fraction as follows:

- **numerator**—the amount included in the numerator of the apportionment fraction for the net gains from **actual** sales of financial instruments reported on that **same** specific line of Form CT-3, *Part 6*.
- **denominator**—the amount included in the denominator of the apportionment fraction for the net gains from **actual** sales of the financial instruments reported on that **same** specific line of Form CT-3, *Part 6*.

Everywhere column: Enter 100% of the marked to market net gains from financial instruments for which the amount to be included in the New York State column is determined in the New York State column section above.

New York State column: If financial instruments that are **described** on any certain line of Form CT-3, *Part 6*, have marked to market net gains, but there are **no actual** sales of financial instruments reported on that **same** certain line of Form CT-3, *Part 6*, **or** if there are **actual** sales of financial instruments reported on that **same** certain line of Form CT-3, *Part 6*, but those **actual** sales resulted in a net **loss**, determine the amount of the marked to market net gains to include on line 28 for those same financial instruments by multiplying such marked to market net gains by a fraction as follows:

- **numerator**—the **sum** of the amounts entered in the New York State column for *Part 6*, lines 9 through 30
- **denominator**—the **sum** of the amounts entered in the *Everywhere* column of *Part 6*, lines 9 through 30

Everywhere column: Enter 100% of the marked to market net gains from financial instruments for which the amount to be included in the New York State column is determined in the New York State column section above.

Use *Worksheet C*.

However, when sourcing the marked to market net gain from loans secured by real property, always use customer-based sourcing (even when the 8% fixed percentage method election was made). If using customer-based sourcing to source such marked to market net gains, when § 210-A.5(a)(2)(j)(iii) applies, never include any amounts sourced under the 8% fixed percentage method election in computing the New York State aggregate marked to market factor in *Part 2 of Worksheet C*.

Section 210-A.5(a)(2)(H): Income from other financial instruments

Line 29:

When the 8% fixed percentage method **is** elected:

- use such method for all financial instruments to be reported on this line **that are qualified financial instruments**.

- use the customer-based sourcing rule below for those financial instruments to be reported on this line that are **not** qualified financial instruments.

Also, use the customer-based sourcing rule below for all financial instruments to be reported on this line when the 8% fixed percentage method **is not** elected.

Interest income from other financial instruments includes, but is not limited to, interest income on:

- deposit accounts;
- money market accounts; and
- debt issued by a country, or political subdivision thereof, other than the United States.

New York State column: Enter interest from other financial instruments when the payor is located in New York State.

Line 30:

You may report more than one type of financial instrument on this line. Report financial instrument types under clause (G) or clause (H) of § 210-A.5(a)(2).

Include clause (G) financial instruments **only** when the 8% fixed percentage method is elected. Include the following clause (G) instruments:

- dividends and net gains from stock that is business capital if you have, in the tax year, marked to market any stock under IRC § 475 or § 1256; provided dividends that qualify as other exempt income should **not** be included; and
- net gains from the sale of partnership interests in widely held or publicly traded partnerships if you have, in the tax year, marked to market any partnership interest in a widely held or publicly traded partnership under IRC § 475 or § 1256.

Customer-based sourcing rules for clause (H) instruments included on line 30

Gains from other financial instruments

Everywhere column: For gains from other financial instruments, net the gains from all sales of a type of other financial instrument against the losses from all sales of the **same** type of other financial instrument.

New York State column: For the **same** type of other financial instrument being reported in the *Everywhere* column, net the gains from all sales of such **same** type of other financial instrument, where the purchaser or payor is located in New York State, against the losses from all sales of such **same** type of other financial instrument, where the purchaser or payor is located in New York State.

However, if the purchaser or payor is a registered securities broker or dealer, or the transaction is made through a licensed exchange, then include 8% of the Everywhere amount in the New York State column.

Other income from other financial instruments

Everywhere column: Compute the other income (but not less than zero) from a type of other financial instrument.

New York State column: For the **same** type of other financial instrument being reported in the *Everywhere* column, compute the other income (but not less than zero) from such **same** type of other financial instrument, where the purchaser or payor is located in New York State.

However, if the purchaser or payor is a registered securities broker or dealer, or the transaction is made through a licensed exchange, then include 8% of the Everywhere amount in the New York State column.

Use *Worksheet B*.

Section 210-A.5(b): Other receipts from broker or dealer activities

For the purposes of lines 31 through 37, *securities* has the same meaning as in IRC § 475(c)(2), and *commodities* has the same meaning as in IRC § 475(e)(2). If the taxpayer receives any of the receipts reported on lines 31 through 35 as a result of a securities correspondent relationship that the taxpayer has with another broker or dealer (with the taxpayer acting in this relationship as the introducing or clearing firm), those receipts are deemed generated within the state using the rules for lines 31 through 37, provided the amount of those receipts excludes the amount the taxpayer is required to pay to the correspondent firm for the correspondent relationship, as applicable.

If the taxpayer is unable to determine the mailing address of the customer from its records, include 8% of the receipts in the numerator of the apportionment fraction.

Line 31:

New York State column: Enter brokerage commissions derived from the execution of securities or commodities purchase or sales orders for the accounts of customers if in the records of the taxpayer, the mailing address of the customer responsible for paying the commissions is in the state.

Line 32:

New York State column: Enter margin interest earned on behalf of brokerage accounts if in the records of the taxpayer, the mailing address of the customer responsible for paying such margin interest is in the state.

Line 33:

New York State column: Enter the amount of fees for advisory services to a customer in connection with the underwriting of securities for the entity that is contemplating issuing or is issuing securities, or fees for managing an underwriting, if in the records of the taxpayer, the mailing address of the customer responsible for paying such fees is in the state.

Line 34:

New York State column: Enter the receipts constituting the primary spread of selling concession from underwritten securities if the customer is located in the state. The term primary spread means the difference between the price paid by the taxpayer to the issuer of the securities being marketed and the price received from the subsequent sale of the underwritten securities at the initial public offering price, less any selling concession and any fees paid to the taxpayer for advisory services or any manager's fees, if those fees are not paid by the customer to the taxpayer separately. The term public offering price means the price agreed upon by the taxpayer and the issuer at which the securities are to be offered to the public. The term selling concession means the amount paid to the taxpayer for participating in the underwriting of a security where the taxpayer is not the lead underwriter.

Line 35:

New York State column: Enter account maintenance fees if in the records of the taxpayer, the mailing address of the customer responsible for paying such account maintenance fees is in the state.

Line 36:

New York State column: Enter fees for management or advisory services, including fees for advisory services in relation to merger or acquisition activities, if in the records of the taxpayer, the mailing address of the customer responsible for paying such fees is in the state. Exclude fees paid for services reported on line 43.

Line 37:

Interest earned on loans and advances made by the taxpayer to a corporation affiliated with the taxpayer, but with which the taxpayer is not included in a combined return under Article 9-A is deemed to arise from services performed at the principal place of business of the affiliated corporation. If such principal place of business is in New York State, include the interest in the New York State column.

Section 210-A.5(c): Receipts from credit card and similar activities**Lines 38 through 42:**

These lines are used by corporations that issue or process credit cards and not by businesses that accept credit cards as payment for goods or services.

Line 38:

New York State column: Enter interest, fees, and penalties in the nature of interest from bank, credit, travel, and entertainment card receivables if in the records of the taxpayer, the mailing address of the card holder is in the state.

Line 39:

New York State column: Enter service charges and fees from such cards, if in the records of the taxpayer, the mailing address of the card holder is in the state.

Line 40:

New York State column: Enter receipts from merchant discounts when the merchant is located within the state. If the merchant has locations both within and outside of New York State, **only** receipts from merchant discounts attributable to sales made from locations within New York State are entered in the New York State column. The location of the merchant is presumed to be the address of the merchant shown on the invoice submitted to the taxpayer by the merchant.

Line 41:

New York State column: Enter receipts from credit card authorization processing, and clearing and settlement processing, received by credit card processors if the location where the customer of the credit card processor accesses the credit card processor's network is located within the state.

Line 42:

New York State column: Multiply the total amount of all other receipts received by credit card processors not reported on lines 1 through 41, lines 43 through 52, or line 54 by the average of 8% and the percent of its New York access points. The *percent of New York access points* is the number of locations within the state from which the credit card processor's customers access the credit card processor's network, divided by the total number of locations in the United States where the credit card processor's customers access the credit card processor's network.

Section 210-A.5(d): Receipts from certain services to investment companies

Line 43:

New York State column: Multiply the receipts received from an investment company arising from the sale of management, administration, or distribution services to such investment company by a fraction, the numerator of which is the sum of the monthly percentages determined for each month of the investment company's federal tax year that ends within the tax year of the taxpayer (but excluding any month during which the investment company had no outstanding shares), and the denominator of which is the number of those monthly percentages.

To determine the monthly percentage for each month, divide the number of shares in the investment company that are owned on the last day of the month by shareholders that are located in New York State by the total number of shares in the investment company outstanding on that date.

Everywhere column: Enter 100% of the receipts received from an investment company arising from the sale of management, administration, or distribution services to the investment company.

For purposes of these receipts, the following apply:

- An individual, estate or trust is deemed located in the state if their mailing address in the records of the investment company is in the state. A business entity is deemed located in the state if its commercial domicile is located in the state.
- *Investment company* means a regulated investment company, as defined in IRC § 851, and a partnership to which IRC § 7704(a) applies (by virtue of § 7704(c)(3)) and that meets the requirements of IRC § 851(b). This is applied to the tax year, for federal income tax purposes, of the business entity that is asserted to constitute an investment company that ends within the tax year of the taxpayer.
- *Receipts from an investment company* includes amounts received directly from an investment company as well as amounts received from the shareholders in the investment company, in their capacity as such.
- *Management services* means the rendering of investment advice to an investment company, making determinations as to when sales and purchases of securities are to be made on behalf of an investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed pursuant to a contract with the investment company entered into according to the federal Investment Company Act of 1940, § 15(a), as amended.
- *Distribution services* means the services of advertising, servicing investor accounts (including redemptions), marketing shares or selling shares of an investment company; but in the case of advertising, servicing investor accounts (including redemptions) or marketing shares, **only** where such service is performed by a person who is (or was, in the case of a closed end company) also engaged in the service of selling such shares. In the case of an open-end company, the service of selling shares must be performed pursuant to a contract entered into pursuant to the federal Investment Company Act of 1940, § 15(b), as amended.
- *Administration services* includes clerical, accounting, bookkeeping, data processing, internal auditing, legal, and tax services performed for an investment company, but only if the provider of such service or services during the tax year in which such service or services are sold also sells management or distribution services (as defined above), to such investment company.

Section 210-A.5-a: Global intangible low-taxed income

Line 44:

Enter 100% of the global intangible low-taxed income that is included in New York State business income in the *Everywhere* column. Generally, the amount of global intangible low-taxed income included in New York State business income will be 5% of the amount of global intangible low-taxed income included in federal taxable income per IRC § 951A(a).

Section 210-A.6: Receipts from railroad and trucking businesses

Line 45:

New York State column: Multiply receipts from the conduct of a railroad business or a trucking business (including surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car business) by a fraction, the numerator of which is the revenue miles in such business within the state during the period covered by this return, and the denominator of which is the revenue miles in such business both within and outside the state during such period.

Section 210-A.6-a: Receipts from operation of vessels

Line 46:

New York State column: Multiply receipts from the operation of vessels by a fraction, the numerator of which is the aggregate number of working days of the vessels owned or leased by the taxpayer in territorial waters of the state during the period covered by this return, and the denominator of which is the aggregate number of working days of all vessels owned or leased by the taxpayer during such period.

Section 210-A.7: Receipts from aviation services

Line 47:

New York State column: Enter the receipts from the activity of air freight forwarding acting as principal and like indirect air carrier receipts arising from that activity as follows:

- 100% of such receipts if both the pickup and delivery associated with those receipts are made in the state; and
- 50% of such receipts if either the pickup or delivery associated with those receipts is made in this state.

Everywhere column: Enter the receipts from all such activity.

Line 48:

For the *New York* and *Everywhere* columns, complete *Worksheet for Part 6, line 48* to determine the portion of receipts from aviation services, other than services described in line 47 (but including the receipts of a *qualified air freight forwarder*, as described below) to enter on line 48.

Aircraft arrivals and departures means the number of landings and takeoffs in the tax year, **plus** the number of air pickups and deliveries by such aircraft.

Include: Arrivals and departures of flights transporting officers and employees receiving air transportation without regard to remuneration (see Exceptions, below).

Do not include:

- arrivals and departures solely for maintenance, repair, or refueling (where no debarkation or embarkation of traffic occurs)
- arrivals and departures of ferry and personnel training flights, or in the event of emergency situations

Exceptions

The Commissioner of Taxation and Finance may exempt from the calculation arrivals and departures of all non-revenue flights including flights involving the transportation of officers and employees receiving air transportation to perform maintenance or repair services, or where such officers or employees are transported in conjunction with an emergency situation or the investigation of an air disaster (other than on a scheduled flight).

Revenue tons handled by the taxpayer at airports means the weight, in tons, of revenue passengers (at 200 pounds per passenger) and revenue cargo first received, either as originating or connecting traffic or finally discharged at an airport.

Originating revenue means revenue to the taxpayer from the transportation of revenue passengers and revenue property first received by the taxpayer as originating or connecting traffic at airports.

A corporation is a *qualified air freight forwarder* with respect to another corporation if:

- it owns or controls, either directly or indirectly, all of the capital stock of such other corporation; or if all of its capital stock is owned or controlled, either directly or indirectly, by such other corporation; or if all of the capital stock of both corporations is owned or controlled, either directly or indirectly, by the same interests;
- it is principally engaged in the business of air freight forwarding; and
- its air freight forwarding business is carried on principally with the airline or airlines operated by such other corporation.

Worksheet for Part 6, line 48

	A Within New York State		B Column A X 60% (.60)		C Everywhere		D New York State percentage (round to three decimal places)	
1. Aircraft arrivals and departures during the period of this return	1							
2. Divide line 1, column B, by line 1, column C	2							
3. Revenue tons handled at airports during the period of this return	3							
4. Divide line 3, column B, by line 3, column C	4							
5. Originating revenue during the period of this return	5							
6. Divide line 5, column B, by line 5, column C						6		
7. Add all percentage amounts in column D, lines 2, 4, and 6; then divide by 3						7		
8. Enter 100% of receipts from other aviation services; also enter on line 48, in column B						8		
9. Multiply line 7 by line 8; also enter on line 48, in column A						9		

Section 210-A.8: Advertising: newspapers/periodicals, TV/radio, and other means

Line 49:

New York State column: Multiply receipts from sales of advertising in newspapers or periodicals by a fraction, the numerator of which is the number of newspapers and periodicals delivered to points within the state, and the denominator of which is the number of newspapers and periodicals delivered to points both within and outside the state.

Line 50:

New York State column: Multiply receipts from sales of advertising on television or radio by a fraction, the numerator of which is the number of viewers or listeners within the state, and the denominator of which is the number of viewers or listeners both within and outside the state.

Line 51:

New York State column: Multiply receipts from sales of advertising **not** reported on either line 49 or 50 that is furnished, provided, or delivered to or accessed by the viewer or listener through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media, or any combination of these by a fraction, the numerator of which is the number of viewers or listeners within the state, and the denominator of which is the number of viewers or listeners both within and outside the state.

Section 210-A.9: Receipts from the transportation or transmission of gas through pipes

Line 52:

New York State column: Multiply receipts from the transportation or transmission of gas through pipes by a fraction, the numerator of which is the taxpayer's transportation units within the state, and the denominator of which is the taxpayer's transportation units both within and outside the state. A *transportation unit* is the transportation of one cubic foot of gas over a distance of one mile.

Section 210-A.10: Receipts from other services/activities not specified

Line 53:

New York State column: Enter receipts from services and other business receipts not reported on lines 1 through 52 or line 54, if the location of the customer is within the state.

Apply the following methods in the order presented below to determine the amount of receipts included in the New York State column:

- the location where the benefit is received;
- delivery destination;
- the apportionment fraction for such receipts within the state determined according to § 210-A.10 for the preceding tax year; and
- the apportionment fraction for the current tax year determined according to § 210-A.10 for those receipts that can be sourced using the sourcing method in item 1 or 2.

Note: Item 3 does not apply to your first tax period for which you are subject to Article 9-A.

You must exercise due diligence under each method to obtain the information necessary to source these receipts under a method before rejecting it and proceeding to the next method. The determination must be based on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry.

Section 210-A.11: Discretionary adjustments

Line 54:

If it appears that the apportionment fraction determined according to § 210-A does not result in a proper reflection of the taxpayer's business income or capital within the state, the Commissioner of Taxation and Finance is authorized in their discretion to adjust it, or the taxpayer may request that the commissioner adjust it. This is done by:

1. excluding one or more items in such determination,
2. including one or more other items in such determination, or
3. any other similar or different method calculated to fairly and properly apportion the business income and capital reasonably attributed to the state.

The party seeking the adjustment bears the burden of proof to demonstrate that the apportionment fraction determined according to § 210-A does not result in a proper reflection of the taxpayer's business income or capital within the state and that the proposed adjustment is appropriate.

Where you have received approval from the commissioner to make such adjustment, use line 54 to report it. Do **not** use line 54 to report an adjustment **unless** you have received the approval of the commissioner. If you have received the approval of the commissioner, you must attach a copy of such approval to your return. If you have not received the approval of the commissioner before filing this return, you must file using the statutory rules for apportionment. You may file an amended return after you have received approval.

Calculation of business apportionment factor

Line 56:

The business apportionment factor should be shown as a decimal, not a percent. When computing the business apportionment factor, round to 6 decimal places. For example, $5,000/7,500 = 0.666666 = 0.666667$. **Note:** If all your receipts are New York State receipts, enter decimal as 1.000000.

Worksheet A: Gross proceeds factors and net gains for lines 10, 12, 21, and 24

Line 10	§ 210-A.5(a)(2)(A)(iii) – Gross proceeds from sales of loans secured by real property (see instructions)		
	10a	New York State	
	10b	Everywhere	
	10c	New York State gross proceeds factor	
	§ 210-A.5(a)(2)(A)(iii) – Net gains from sales of loans secured by real property (see instructions)		
	10d	Everywhere	
	10e	New York State	
Line 12	§ 210-A.5(a)(2)(A)(iv) – Gross proceeds from sales of loans not secured by real property (see instructions)		
	12a	New York State	
	12b	Everywhere	
	12c	New York State gross proceeds factor	
	§ 210-A.5(a)(2)(A)(iv) – Net gains from sales of loans not secured by real property (see instructions)		
	12d	Everywhere	
	12e	New York State	
Line 21	§ 210-A.5(a)(2)(C) – Gross proceeds from all other asset backed securities not reported on line 20 (see instructions)		
	21a	New York State	
	21b	Everywhere	
	21c	New York State gross proceeds factor	
	§ 210-A.5(a)(2)(C) – Net gains from all other asset backed securities not reported on line 20 (see instructions)		
	21d	Everywhere	
	21e	New York State	
Line 24	§ 210-A.5(a)(2)(D) – Gross proceeds from other sales of corporate bonds not reported on line 23 (see instructions)		
	24a	New York State	
	24b	Everywhere	
	24c	New York State gross proceeds factor	
	§ 210-A.5(a)(2)(D) – Net gains from other sales of corporate bonds not reported on line 23 (see instructions)		
	24d	Everywhere	
	24e	New York State	

Worksheet A: Gross proceeds factors and net gains: Form CT-3, Part 6, lines 10, 12, 21, and 24

General information

This worksheet computes the amounts for Form CT-3, Part 6, lines 10, 12, 21, and 24. See the corresponding Form CT-3-I, Part 6 line instructions and also the specific instructions below. In the instructions below, **all lines** refers to lines 10, 12, 21, and 24, and specific rows (a, b, c, d, or e) are indicated to clarify which rows of these lines the specific instruction applies to.

Line instructions for Worksheet A

Use the instructions for Condition 1 or Condition 2 below, whichever applies; however:

- for **line 10**, use the specific instructions under Condition 1 below and skip Condition 2.
- for **lines 12, 21, and 24**, when the receipts for a certain line are **not** from qualified financial instruments (the qualified financial instrument box pertaining to that specific line is **not** marked), use the specific instructions under Condition 1 below.

Condition 1: If the fixed percentage method for qualified financial instruments is **not** in effect (use when Form CT-3, Part 6, line 8 box is **not** marked)

1.1. For all lines, rows a and b respectively, enter the total New York State and Everywhere gross proceeds amount for that line's category of receipts; do not enter an amount less than zero. In determining such total gross amounts for each line, deduct any cost incurred to acquire the securities. When this results in a negative proceed amount for an individual security reported on a line, such negative amount is not limited to zero, and is netted against any positive proceed amounts for securities also reported on the **same** line.

1.2. For all lines, row c, divide the amount in row a by the amount in row b, and enter the result rounded to four decimal places; however, if either the amount in row a or the amount in row b is equal to zero, enter **0**. This is the New York State gross proceeds factor for each respective line. It is used to compute the row e (*New York State*) amount for all lines.

1.3. For all lines, row d, enter the *Everywhere* receipts for that line's category of receipts, but if the result is less than zero, enter **0**.

1.4. For all lines, row e, multiply the factor in that line's row c (the New York State gross proceeds factor) by the amount in that line's row d, and enter the result. If the result is zero, enter **0**.

Condition 2: If the fixed percentage method for qualified financial instruments **is** in effect (use for a specific line when Form CT-3, Part 6, line 8 box is marked **and** the qualified financial instrument box pertaining to **that** specific line is also marked)

2.1. Leave rows a through c blank, for such specific line(s).

2.2. For such specific lines, row d, enter the *Everywhere* receipts for that line's category of receipts, but if the result is less than zero, enter **0**.

2.3. In **row e**, for such specific line(s), multiply row d by 8% (.08) and enter the result; however, if the result is an amount equal to zero, enter **0** in row e.

Where are the amounts calculated on Worksheet A entered?

The amounts entered or calculated in rows a, b, and c, for all lines, are only used for Worksheet A calculations and do not get transferred to any other form or worksheet. The amounts entered or calculated in rows d and e need to be entered on Form CT-3, as follows:

Amount from Worksheet A	Amount is entered on
Line 10d (Everywhere)	CT-3, Part 6, line 10 Everywhere (column B)
Line 10e (New York State)	CT-3, Part 6, line 10 New York State (column A)
Line 12d (Everywhere)	CT-3, Part 6, line 12 Everywhere (column B)
Line 12e (New York State)	CT-3, Part 6, line 12 New York State (column A)
Line 21d (Everywhere)	CT-3, Part 6, line 21 Everywhere (column B)
Line 21e (New York State)	CT-3, Part 6, line 21 New York State (column A)
Line 24d (Everywhere)	CT-3, Part 6, line 24 Everywhere (column B)
Line 24e (New York State)	CT-3, Part 6, line 24 New York State (column A)

Worksheet B: Net gains and other income for line 30

Part 1			
§ 210-A.5(a)(2)(H) – Net gains from all other financial instruments of one type (see instructions)			
30.1a	Everywhere		
30.1b	New York State		
§ 210-A.5(a)(2)(H) – Net gains from all other financial instruments of a second type (see instructions)			
30.1a	Everywhere		
30.1b	New York State		
§ 210-A.5(a)(2)(H) – Net gains from all other financial instruments of a third type (see instructions)			
30.1a	Everywhere		
30.1b	New York State		
§ 210-A.5(a)(2)(H) – Other income from all other financial instruments of one type (see instructions)			
30.2a	Everywhere		
30.2b	New York State		

§ 210-A.5(a)(2)(H) – Other income from all other financial instruments of a second type (see instructions)			
30.2a	Everywhere		
30.2b	New York State		
§ 210-A.5(a)(2)(H) – Other income from all other financial instruments of a third type (see instructions)			
30.2a	Everywhere		
30.2b	New York State		
Part 2 (see instructions)			
§ 210-A.5(a)(2)(G) – Dividends from stock (see instructions)			
30.3a	Everywhere		
30.3b	New York State		
§ 210-A.5(a)(2)(G) – Net gains from sales of stock (see instructions)			
30.4a	Everywhere		
30.4b	New York State		
§ 210-A.5(a)(2)(G) – Net gains from sales of partnership interests (see instructions)			
30.5a	Everywhere		
30.5b	New York State		
Totals of Parts 1 and 2			
§ 210-A.5(a)(2)(H) and (G) – Net gains and other income from other financial instruments (see instructions)			
30a	Total Everywhere		
30b	Total New York State		

Worksheet B: Net gains and other income: Form CT-3, Part 6, line 30

General information

This worksheet computes certain amounts for Form CT-3, Part 6, line 30. See the *line 30* instructions in Part 6 and also the specific instructions below. In the instructions below, **all lines** refers to all lines 30.1 and 30.2, and lines 30.3, 30.4, 30.5, and 30, and specific rows (a or b) are indicated to clarify which rows of these lines the specific instruction applies to. **Note:** Lines 30.1 through 30.5 are specific to this worksheet only. Since Form CT-3, Part 6, line 30 is comprised of different types of receipts that have to be netted separately, these receipts amounts are shown separately on lines 30.1 through 30.5.

Line instructions for Worksheet B

Part 1

Report only clause (H) receipts in Part 1.

Step 1: Lines 30.1 and 30.2, row a

Regardless of whether or not the fixed percentage method is in effect for **lines 30.1 and 30.2**, for **row a** (Everywhere), follow the applicable Form CT-3-I, Part 6, line 30 instructions to determine the amount of everywhere receipts, except that if the amount is less than zero, enter **0**.

When you have **net gains** from sales of more than one type of other financial instruments, use separate lines 30.1 to report sales of all other financial instruments of each such type. The same is true for lines 30.2 when reporting **other income** from other financial instruments.

If you have receipts reportable on lines 30.1 or 30.2 from **more** than three separate types of other financial instruments, use an additional line 30.1 or line 30.2 for **each** additional separate type of other financial instrument for which you have net gains (line 30.1) or other income (line 30.2); include the amounts from these additional lines in the same manner as you would for the three lines 30.1 and 30.2 provided on the worksheet, as you complete the steps below, as applicable.

Step 2: Lines 30.1 and 30.2, row b

Complete **lines 30.1 and 30.2, row b** (New York State), using the instructions for Condition 1 or Condition 2, or both, as applicable.

Condition 1: If the fixed percentage method for qualified financial instruments is **not** in effect (Form CT-3, Part 6, line 8 box is **not** marked); **or** if the receipts from line 30.1 or 30.2 do **not** represent receipts from qualified financial instruments (see instructions for *Form CT-3, Part 6, line 8*):

1.1. For such **lines 30.1 and 30.2, row b**, follow the applicable line 30 instructions to determine the amount of New York State receipts, except that if the amount is less than zero, enter **0**. Use a separate line 30.1 for **net gains** from sales of all other financial instruments of each certain type, and use a separate line 30.2 for **other income** from all other financial instruments of each certain type.

Condition 2: If the fixed percentage method for qualified financial instruments **is** in effect (Form CT-3, Part 6, line 8 box is marked) **and**:

2.1. the clause (H) qualified financial instrument box is **not** marked on Form CT-3, Part 6, above line 29, then lines 30.1 and 30.2, row **b**, are completed in the same manner as if the fixed percentage method is **not** in effect (see above instructions).

2.2. the clause (H) qualified financial instrument box **is** marked on Form CT-3, Part 6, above line 29, **and** the receipts to be reported on a line 30.1 or 30.2 represent receipts from qualified financial instruments (see instructions for *Form CT-3, Part 6, line 8*), then for such lines 30.1 or 30.2, row **b**, multiply row **a**, for each respective line, by 8% (.08) and enter the result; however, if the result is an amount equal to zero, enter **0** in row **b**. Use a separate line 30.1 for **net gains** from sales of all other financial instruments of **each** certain type, and use a separate line 30.2 for **other income** from all other financial instruments of **each** certain type.

Part 2

Only clause (G) receipts are reported in Part 2.

Part 2 of Worksheet B must **only** be completed **if** the fixed percentage method for qualified financial instruments **is** in effect. If Form CT-3, Part 6, line 8 box is **not** marked, leave lines 30.3, 30.4, and 30.5 blank and continue with *Totals of Parts 1 and 2* instructions below; otherwise continue with Step 1 below.

Step 1: Lines 30.3 and 30.4, rows a (Everywhere) and b (New York State)

If the fixed percentage method for qualified financial instruments **is** in effect and you have marked to market **any** stock that is business capital under IRC § 475 or § 1256 in the tax year, complete substep 1.1 below; otherwise leave lines 30.3 and 30.4 blank and continue with Step 2 below.

1.1. Enter on **line 30.3, row a**, 100% of dividends from stock that is business capital, provided that dividends that qualify as other exempt income should **not** be included. Enter on **line 30.4, row a**, 100% of net gains from sales of stock that is business capital; if the amount is less than zero, enter **0**.

1.1.1. For **lines 30.3 and 30.4, row b**, multiply row **a**, for each respective line, by 8% (.08) and enter the result; however, if the result is an amount equal to zero, enter **0** in row **b**.

Step 2: Line 30.5, rows a (Everywhere) and b (New York State)

If the fixed percentage method for qualified financial instruments **is** in effect, and you have marked to market **any** partnership interest in a widely held or publicly traded partnership under IRC § 475 or § 1256 in the tax year, complete substep 2.1, below; otherwise leave line 30.5 blank and continue with *Totals of Parts 1 and 2* below.

2.1. Enter on **line 30.5, row a**, 100% of net gains from sales of partnership interests in widely held or publicly traded partnerships; if the amount is less than zero, enter **0**.

2.1.1. In **line 30.5, row b**, multiply row **a**, for each respective line, by 8% (.08) and enter the result; however, if the result is an amount equal to zero, enter **0** in row **b**.

Totals of Parts 1 and 2

Step 1: Line 30, rows a and b

2.1. For line 30, row **a**, enter the sum of the amounts in row **a**, lines 30.1 through 30.5.

2.2. For line 30, row **b**, enter the sum of the amounts in row **b**, lines 30.1 through 30.5.

Where are the amounts calculated on Worksheet B entered?

The amounts entered or calculated on lines 30.1 through 30.5 are used to compute the line 30 totals and do not get transferred to any other form or worksheet; the line 30 totals need to be entered on Form CT-3 as follows:

Amount from Worksheet B	Amount is entered on
Line 30b (Total New York State)	Form CT-3, Part 6, line 30 New York State (column A)
Line 30a (Total Everywhere)	Form CT-3, Part 6, line 30 Everywhere (column B)

Worksheet C: Marked to market net gains for line 28

Line 10	Marked to market net gains from loans secured by real property				
	10a	Everywhere			
	10b	New York State		J(ii)	J(iii)
Line 12	Marked to market net gains from loans not secured by real property				
	12a	Everywhere			
	12b	New York State	8%	J(ii)	J(iii)
Line 14					
Line 16	Marked to market net gains from federal, New York State, and New York State political subdivisions debt				
	16a	Everywhere			
	16b	New York State	8%	J(ii)	J(iii)
Line 18	Marked to market net gains from other states and their political subdivisions debt				
	18a	Everywhere			
	18b	New York State	8%	J(ii)	J(iii)
Line 20	Marked to market net gains from government agency debt or asset-backed securities sold through an exchange				
	20a	Everywhere			
	20b	New York State	8%	J(ii)	J(iii)
Line 21	Marked to market net gains from loans secured by real property				
	21a	Everywhere			
	21b	New York State	8%	J(ii)	J(iii)
Line 23	Marked to market net gains from corporate bonds sold through broker/dealer or licensed exchange				
	23a	Everywhere			
	23b	New York State	8%	J(ii)	J(iii)
Line 24	Marked to market net gains from other corporate bonds				
	24a	Everywhere			
	24b	New York State	8%	J(ii)	J(iii)
Line 27	Marked to market net gains from physical commodities				
	27a	Everywhere			
	27b	New York State	8%	J(ii)	J(iii)
Line 30	Marked to market net gains from all other financial instruments of one type				
	30a	Everywhere			
	30b	New York State	8%	J(ii)	J(iii)
Line 30	Marked to market net gains from all other financial instruments of a second type				
	30a	Everywhere			
	30b	New York State	8%	J(ii)	J(iii)
Line 30	Marked to market net gains from all other financial instruments of a third type				
	30a	Everywhere			
	30b	New York State	8%	J(ii)	J(iii)
Line 30-Stock	Marked to market net gains from stock				
	30a Stock	Everywhere			
	30b Stock	New York State	8%		
Line 30-Partnership	Marked to market net gains from partnership interests				
	30a Partnership	Everywhere			
	30b Partnership	New York State	8%		

J(ii) Totals (see instructions)			
J(ii) Total Everywhere			
J(ii) Total New York State			
Line 28	Total Marked to market net gains under §210-A.5(a)(2)(J)		
	28a	Everywhere	
	28b	New York State	
Part 2 – New York State aggregate Marked to market factor, based on net gains from actual sales, plus J(ii) Marked to market net gains (see instructions)			
A	New York State		
B	Everywhere		
C	New York State aggregate Marked to market factor		

Worksheet C: Marked to market net gains: Form CT-3, Part 6, line 28

General information

Note: You must first complete Worksheets A and B, and lines 9 through 27, 29, and 30 of Form CT-3, Part 6; then, follow the steps below, in order, to complete Worksheet C.

This worksheet computes the amounts for Form CT-3, Part 6, line 28. See the *Form CT-3, Part 6, line 28* instructions and also the specific instructions below. For purposes of Worksheet C, § 210-A.5(a)(2)(J)(ii) is referred to as J(ii), and § 210-A.5(a)(2)(J)(iii) as J(iii). J(ii) sources marked to market net gains based on the sourcing of net gains from **actual** sales of financial instruments of the **same** type. J(iii) is used when there are **no** actual sales of a type, or the actual sales of a type resulted in a net **loss** for that type.

Part 1 of the worksheet computes marked to market net gains for those financial instruments that are described on Form CT-3, Part 6, lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and 30, **and that have been marked to market**. Row b is broken out into subcolumns for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30. For each such line, only **one** of the subcolumns will apply for that line, depending on the sourcing rule that applies for that line; the subcolumns that do **not** apply should be left **blank**.

Part 2 of the worksheet is generally only applicable if the 8% fixed percentage method for qualified financial instruments is **not** in effect. **However**, if the fixed percentage method for qualified financial instruments **is** in effect, and you have marked to market net gains reportable on line 10 of the worksheet, you **may** have to complete Part 2 of the worksheet, as instructed further below. Part 2 computes the New York State aggregate marked to market factor. This factor is used to determine New York State marked to market net gains under J(iii) in Part 1, as per the specific line instructions under *Customer-based sourcing* below.

Line instructions for Worksheet C

If the fixed percentage method for qualified financial instruments **is** in effect (Form CT-3, Part 6, line 8 box **is** marked), you **must** complete the steps under the *8% fixed percentage method elected* instructions below to complete *Worksheet C*. Do **not** complete the steps under the *Customer-based sourcing* instructions, **unless** specifically instructed to do so for a certain line.

If the fixed percentage method for qualified financial instruments is **not** in effect (Form CT-3, Part 6, line 8 box is **not** marked), you **must** complete the steps under the *Customer-based sourcing* instructions below to complete *Worksheet C*. Do **not** complete the steps under the *8% fixed percentage method elected* instructions.

Regardless of whether or not the fixed percentage method for qualified financial instruments is in effect, use a **separate** line 30 for marked to market net gains from all other financial instruments of one **same** certain type. If you need more than three lines 30, use an additional line 30 for each separate type of other financial instrument for which you have marked to market net gains; include the amounts from these additional lines in the same manner as you would for the three lines 30 provided on the worksheet, as you complete the steps below, as applicable.

8% fixed percentage method elected

When the 8% fixed percentage method for qualified financial instruments **is** in effect, follow the instructions for Condition 1 or Condition 2 below, whichever applies.

When Condition 1 applies, only complete Part 1 of Worksheet C. Leave the **Part 1, J(ii) Totals** section blank.

When Condition 2 applies, you may need to complete Part 2 of the worksheet and the **Part 1, J(ii) Totals** section.

Condition 1: If you do **not** have marked to market net gains reportable on line 10 of this worksheet, complete **steps 1** and **2** below (under these *8% fixed percentage method elected* instructions) and do **not** complete any of the steps under the *Customer-based sourcing* instructions.

Condition 2: If you have marked to market net gains reportable on line 10 of this worksheet, you must determine the amounts to enter on line 10 by completing the applicable steps under *Customer-based sourcing for line 10 only*. When Condition 2 applies:

1. **For line 10 only**, complete **steps 1.1** through **4.1.2** under *Customer-based sourcing* (do **not** complete step 5).
2. Complete **all of steps 1 and 2 below** (under these *8% fixed percentage method elected* instructions) for all remaining lines (including lines 30-Stock and 30-Partnership, if applicable).

Step 1: Part 1, rows a and b

1.1. In **row a** (Everywhere), lines 12, 16, 18, 20, 21, 23, 24, 27, all lines 30, 30-Stock, and 30-Partnership, enter **100%** of your marked to market net gains for those financial instruments **described** on each such line (and described further in the lines corresponding line instructions in Form CT-3, Part 6), except that if the net amount is less than or equal to zero, enter **0**.

Note:

- Use **line 30** for marked to market net gains from other financial instruments. [§ 210-A.5(a)(2)(H)].
- If in the tax year you have marked to market **any** stock under IRC § 475 or 1256, use **line 30-Stock** for marked to market net gains from sales of stock that is business capital; otherwise leave line 30-Stock blank. [§ 210-A.5(a)(2)(G)].
- If in the tax year you have marked to market **any** partnership interest in a widely held or publicly traded partnership under IRC § 475 or 1256, use **line 30-Partnership** for marked to market net gains from sales of partnership interests in widely held or publicly traded partnerships; otherwise, leave line 30-Partnership blank. [§ 210-A.5(a)(2)(G)].

1.2. In **row b** (New York State), **subcolumn 8%**, lines 12, 16, 18, 20, 21, 23, 24, 27, all lines 30, 30-Stock, and 30-Partnership, multiply **row a**, for each respective line, by 8% (.08) and enter the result; if the result is equal to zero, enter **0**. You must leave **row b, subcolumn J(ii)** and **row b, subcolumn J(iii)** blank for all such lines as they are **not** applicable when the 8% fixed percentage method sourcing **is** in effect for qualified financial instruments.

Step 2: Part 1, line 28, rows a and b

2.1. For worksheet line 28, **row a**, enter the **sum** of the amounts from row a for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, all lines 30, 30-Stock, and 30-Partnership.

2.2. For worksheet line 28, **row b**, enter the **sum** of all amounts from all applicable subcolumns in row b for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, all lines 30, 30-Stock, and 30-Partnership.

Customer-based sourcing

You must complete Parts 1 and 2 of Worksheet C when the 8% fixed percentage method for qualified financial instruments is **not** in effect.

To complete *Worksheet C* in this instance, follow Steps 1 through 5 below, in that order.

Note: Lines 30-Stock and 30-Partnership should **not** be completed as these lines are not applicable when customer-based sourcing is used. See § 210-A.5(a)(2)(G).

If the fixed percentage method for qualified financial instruments **is** in effect **and** you have marked to market net gains reportable on worksheet line 10, then you must use customer-based sourcing for the marked to market net gains **for line 10 only**. In this instance follow the instructions for **Condition 2** under the *8% fixed percentage method elected* instructions, above.

Step 1: Part 1, row a, and row b, subcolumn J(ii)

1.1. In **row a**, lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30, enter **100%** of your **marked to market** net gains for those financial instruments **described** on each such line (and described further in the corresponding line instructions for *Part 6*), except that if the net amount is less than or equal to zero, enter **0**.

1.2. Row b, subcolumn J(ii) - Subcolumn J(ii), lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30, is used to compute **New York State marked to market** net gains, for those financial instruments **described** on each such line, under the sourcing rules of J(ii). Follow the steps below to compute the subcolumn J(ii) amounts. Complete substeps 1.2.1 through 1.2.4 for each line (10, 12, 16, 18, 20, 21, 23, 24,27, and all lines 30).

1.2.1. If the step 1.1 amount is equal to zero, for any line, enter **0** in row b, subcolumns J(ii) and J(iii), for **that** line.

1.2.2. For **each** line for which row **a** is **not** equal to zero, determine if you have **actual** everywhere sales that generated a **net gain** during the tax year, for **that** type of financial instrument. You had **actual** everywhere sales that generated a **net gain** during the tax year for a specific type of financial instrument if there is an amount greater than zero reported on **that** type of financial instrument's corresponding line of Form CT-3, Part 6, column **B** (Everywhere). However, for line 30, you had **actual** everywhere sales that generated a **net gain** during the tax year for a type of financial instrument described in § 210-A.5(a)(2)(H) if there is an amount greater than zero reported on Worksheet **B**, on line 30.1 (used to report the **same** specific type of financial instruments), row **a**.

1.2.3. For **each** line for which Worksheet C, row **a**, is **not** equal to zero, if you **did** have **actual** everywhere sales that generated a **net gain** for the **same** specific type of financial instrument described on such line (as determined in substep 1.2.2 above), enter in row b, subcolumn J(ii), for such line, the **product** of: the amount in row **a** for such line, and a fraction, the numerator and the denominator of which are determined as follows:

- For all such lines (except line 30): the **numerator** of the fraction for such line (except line 30) is the amount from Form CT-3, Part 6, column A (New York State) of the corresponding line; and the **denominator** of the fraction for such line (except line 30) is the amount from Form CT-3, Part 6, column B (Everywhere) of the corresponding line. However, if the numerator so determined is equal to zero, enter **0**. For line 30, see the specific line 30 instruction below.
- **Line 30:** The **numerator** of the fraction for any **specific** line 30 is the amount from Worksheet B, line 30.1 (used to report the **same** specific type of financial instrument), row b (New York State). The **denominator** of the fraction for any **specific** line 30 is the amount from Worksheet B, line 30.1 (used to report the **same** specific type of financial instrument), row a (Everywhere). However, if the numerator so determined is zero, enter **0**.

1.2.4. For **each** line for which row **a** is **not** equal to zero, if you did **not** have **actual** everywhere sales that generated a **net gain** for the **same** specific type of financial instrument described in **that** line (as determined in substep 1.2.2 above), leave row b, subcolumn J(ii) **blank** for **that** line.

Step 2: Part 1, J(ii) Total Everywhere, and J(ii) Total New York State

When you have completed Part 1, row a, and row b subcolumn J(ii), for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30, you must next complete the **J(ii) Total** lines for Everywhere and New York State, which are below line 30-Partnership. The J(ii) totals are needed to calculate the New York State aggregate marked to market factor in Part 2 of this worksheet, when applicable.

2.1. Enter in the **J(ii) Total Everywhere** line, the **sum** of the row **a** amounts for all lines that have an amount entered in row **b**, subcolumn J(ii) even if the amount entered is zero.

2.2. Enter in the **J(ii) Total New York State** line, the **sum** of the row **b**, subcolumn J(ii) amounts for all lines that have an amount entered in row **b**, subcolumn J(ii).

Step 3: Part 2

Part 2 of the worksheet computes your New York State aggregate marked to market factor which you will need to complete Part 1, row b, subcolumn J(iii), when applicable.

Never include any amounts sourced under the 8% fixed percentage method election when determining the amounts to include in the sums described in these step 3 instructions.

3.1. Line A: Enter the **sum** of: the **J(ii) Total New York State** amount from Part 1 of this worksheet plus the amounts from Form CT-3, Part 6, column A (New York State), lines 9 through 27, 29, and 30.

3.2. Line B: Enter the **sum** of: the **J(ii) Total Everywhere** amount from Part 1 of this worksheet plus the amounts from Form CT-3, Part 6, column B (Everywhere), lines 9 through 27, 29, and 30.

3.3. Line C: Divide the line A amount by the line B amount and enter the result, rounded to four decimal places.

Step 4: Part 1, row b, subcolumn J(iii)

4.1. Row b, subcolumn J(iii) - Subcolumn J(iii), lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30, is used to compute **New York State marked to market** net gains, for those financial instruments **described** on each such line, under the sourcing rules of J(iii). Follow the steps below to compute the subcolumn J(iii) amounts. Complete substeps 4.1.1 and 4.1.2 for each line (10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30):

4.1.1. For **each** line, if there is an amount greater than or equal to zero entered in row b, subcolumn J(ii), then leave row b, subcolumn J(iii) **blank** for **that** line. **Note:** When you had **actual** everywhere sales that generated a **net gain** for **that type** of financial instrument during the tax year, subcolumn J(ii) should have an amount entered, and subcolumn J(iii) should be left **blank**.

4.1.2. For **each** line, if you did **not** have **actual** everywhere sales that generated a **net gain** for **the specific type** of financial instrument **described** on **that** line (row **b**, subcolumn **J(ii)** was left blank per substep 1.2.4), enter in row b, subcolumn J(iii), for **that** line, the **product** of: the amount in row a (Everywhere) for **that** line, and the factor in Part 2, line C.

Step 5: Part 1, line 28, rows a and b

5.1. For line 28, **row a** (Everywhere), enter the **sum** of the amounts from row **a** (Everywhere) for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30.

5.2. For line 28, **row b** (New York State), enter the **sum** of all amounts from row **b** (New York State), subcolumns J(ii) **and** J(iii) for lines 10, 12, 16, 18, 20, 21, 23, 24, 27, and all lines 30.

Where to enter the amounts calculated on Worksheet C

The amounts entered or calculated on Part 1, lines 10, 12, 16, 18, 20, 21, 23, 24, 27, 30, 30-Stock, and 30-Partnership and Part 2, lines A, B, and C are only used to compute the **line 28** marked to market totals in Part 1. Do **not** transfer these amounts to any other form or worksheet.

Enter the **line 28 totals** from Part 1 on Form CT-3 as follows:

Amount from Worksheet A	Amount is entered on
Line 10d (Everywhere)	CT-3, Part 6, line 10 Everywhere (column B)
Line 10e (New York State)	CT-3, Part 6, line 10 New York State (column A)
Line 12d (Everywhere)	CT-3, Part 6, line 12 Everywhere (column B)
Line 12e (New York State)	CT-3, Part 6, line 12 New York State (column A)
Line 21d (Everywhere)	CT-3, Part 6, line 21 Everywhere (column B)
Line 21e (New York State)	CT-3, Part 6, line 21 New York State (column A)
Line 24d (Everywhere)	CT-3, Part 6, line 24 Everywhere (column B)
Line 24e (New York State)	CT-3, Part 6, line 24 New York State (column A)

Part 7: Summary of tax credits claimed

Enter in the appropriate box the amount of each tax credit that is being used to reduce the *Part 2, line 2* tax due amount. Attach the corresponding properly completed credit form(s) to the return.

Line 2:

Enter the total amount of any tax credits that you are claiming against your current year's franchise tax here and on *Part 2, line 3*. For other credits not specified, enter the amount of credits being claimed in the Other credits box and include this amount in the total. Generally, use the *Other credits* box only when a credit claim form for a newly-enacted tax credit was not developed in time to appear on Form CT-3.

Do **not** include any amount of tax credit requested as a refund on *Part 2, line 25*, or requested as a tax credit to be credited as an overpayment to next year's return on *Part 2, line 26*.

If you are required to recapture a tax credit that was allowed in a previous reporting period and the result is a negative credit amount on your credit claim form, enter this negative amount using a minus sign (-) in the applicable box.

Line 3:

Enter the amount of those tax credits being claimed on *Part 2, line 3*, against your current year's franchise tax that are **refund eligible**. Do **not** include any amount of credits actually requested as a refund on *Part 2, line 25*, or requested as an overpayment credited to next year's tax on *Part 2, line 26*. Refer to the individual credit forms and Form CT-600-I for refund eligibility.

