

**New for 2023**

For a detailed list of what's new, including a summary of tax law changes, visit our website at www.tax.ny.gov (search: 2023).

Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

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

General information

A premiums tax is imposed under Tax Law, Article 33, section 1502-b on captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70.

The tax is based on gross direct premiums and assumed reinsurance premiums but cannot be less than the minimum tax of \$5,000. Captive insurance companies cannot claim credits against this tax and are not permitted to file a combined return, but must use Form CT-33-C to compute their tax separately.

Exceptions: The Metropolitan Transportation Authority (MTA), the power authority of New York or any statutory subsidiary of it, and a public benefit corporation or not-for-profit corporation formed by a city with a population of 1 million or more pursuant to Insurance Law section 7005(a), are expressly exempt from the payment of fees, taxes, or assessments whether state or local.

Combinable captive insurance companies, as defined in Tax Law, Article 1, section 2.11, are required to file a combined return under Article 9-A with their closest controlling stockholder.

Captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70 are not subject to the taxes imposed by Tax Law, Article 33, section 1501, 1502-a,

or 1510, or to the metropolitan transportation business tax (MTA surcharge) imposed by Tax Law, Article 33, section 1505-a.

When and where to file

File your return within 3½ months after the end of your reporting period. If you are reporting for the calendar year, file your return 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.

If you cannot meet this filing deadline, you may request a six-month extension of time to file by filing Form CT-5, *Request for Six-Month Extension to File*.

Mail returns to: **NYS CORPORATION TAX**
PO BOX 15181
ALBANY NY 12212-5181

Private delivery services

See Publication 55, *Designated Private Delivery Services*.

You **must** also send a copy of Form CT-33-C to:

NYS DEPARTMENT OF FINANCIAL SERVICES
OFFICE OF FINANCIAL MANAGEMENT
ONE COMMERCE PLAZA
ALBANY NY 12257

Specific instructions

Reporting period – Use this tax return for calendar year 2023 and fiscal years that begin in 2023 and end in 2024.

You can also use the 2023 return if:

- you have a tax year of less than 12 months that begins and ends in 2024, **and**
- the 2024 return is not yet available at the time you are required to file the return.

In this case you must show your 2024 tax year on the 2023 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2023.

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

Amended return – If you are filing an amended return, mark an **X** in the *Amended return* box on the top of Form CT-33-C.

When filing an amended return for a credit or refund, the amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. For additional limitations on credits or refunds, see Tax Law, Article 27, section 1087.

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.

Line instructions

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

Computation of tax

Unless the captive insurance company can prove otherwise, we will assume that all its premiums on lines 1 through 8 are allocated to New York State and its issuer's allocation percentage is 100%. For a captive company to prove that less than 100% of its premiums are allocated to New York State and its issuer's allocation percentage is less than 100%, it must demonstrate that the premiums were taxed by another state.

Tax on New York State gross direct premiums

Lines 1 through 4 – Four tax rates apply to gross direct premiums, as shown on lines 1 through 4 of this form.

Gross direct premiums are defined in Tax Law section 1510(c). These premiums include total gross premiums, deposit premiums, and assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State. *Gross direct premiums* also include premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums, or that have not been used as a measure of a tax on business of any other state or states. For special risk premiums, only include premiums written, procured, or received in New York State on risks located or resident in New York State. Do not include premiums on annuity contracts, ocean marine insurance, or policies issued under Insurance Law section 4236. Also exempt from this tax are premiums on risks located outside the United States that were written, procured, or received in New York State.

Note: Gross direct premiums do not include any premiums that New York State cannot tax according to federal law (including premiums received for a long-term care insurance policy under United States Code, Title 5, Chapter 90, and any premiums for federal group life insurance under United States Code, Title 5, Chapter 87).

The term *premiums*, as used in the previous paragraph, includes all amounts received as consideration for insurance or reinsurance contracts, or contracts with health maintenance organizations for health services (other than for annuity contracts), and includes premium deposits, assessments, policy fees, membership fees, and separate costs assessed upon the captive insurance company's policyholders, and every other compensation for such contract. In addition, *premiums* include any amount received by a captive insurance company as consideration for insurance provided to its parents and affiliated companies, in the case of a pure captive insurance company, and to the industrial insureds that comprise the industrial insured group, in the case of a group captive insurance company. The terms *pure captive insurance company*, *group captive insurance company*, *industrial insureds*, and *industrial insured group* are defined in Insurance Law section 7002.

Deductions from gross direct premiums include:

A. Reinsurance premiums – When computing gross direct premiums, deduct (1) reinsurance premiums that have been received by way of reinsurance from corporations or other insurers authorized to transact business in New York State and (2) reinsurance premiums that relate to transactions authorized under Insurance Law section 2105 and that are subject to the premiums tax on excess-lines brokers under Insurance Law section 2118.

B. Dividends paid or credited – Deduct dividends on direct premiums and unused or unabsorbed portions of premium deposits paid or credited to policyholders. This deduction does not include

deferred dividends paid in cash to policyholders on maturing policies nor cash surrender values.

Tax on New York State reinsurance premiums

Lines 5 through 8 – Insurance Law section 7010 explains the reinsurance business that may be performed by a captive insurance company. A captive insurance company may assume reinsurance on risks ceded by any other insurer when the risks ceded are solely those of the industrial insured or members of the industrial insured group owning the captive insurance company. Also, when it has the permission of the Superintendent of Financial Services, a captive insurance company may assume risks of any insurer, provided the reinsurance premiums assumed do not exceed 50% of the gross premiums written by the captive insurance company in the calendar year.

Four rates apply to reinsurance premiums. Any reinsurance premiums deducted from gross direct premiums on lines 1 through 4 should be included and subjected to tax on lines 5 through 8.

Computation of tax

Line 15a – If line 11 is **less than** line 14, skip lines 15a through 15c.

If line 11 is **greater than or equal to** line 14, subtract line 14 from line 11, and enter the result.

Line 15b – If on line 5, column A of the Form CT-300 used to report the MFI for the tax period immediately **following** the tax period for which this return is being filed (the **next** franchise tax period) you did **not** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter **0** and proceed to line 15c. **Note:** For calendar-year 2024 filers, that Form CT-300 was due March 15, **2024**.

If on line 5, column A of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI 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 of that Form CT-300: generally, the lesser of the amount on line 5, column A or the amount on line 2, column A.

Line 15c – Add lines 15a and 15b, enter the result, and complete lines 16 through 19. Skip lines 20a through 20c.

Line 16 – Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law, Article 27, section 1085(d).

Line 17 – If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment (line 11 minus line 14) from the original due date to the date you paid.

Line 18 – Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deducting any payment made (line 11 minus line 14) on or before the due date (**with** regard to any extension of time for filing).

- A. If you do not file a return when due, or if the request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (section 1085(a)(1)(B)).
- C. If you do not pay the tax shown on a return, add to the tax ½% per month up to 25% (section 1085(a)(2)).

D. The total of the additional charges in items A and C above may not exceed 5% for any one month, except as provided for in item B above (section 1085(a)(4)).

If you think you are not liable for these additional charges, attach a statement to your return explaining reasonable cause for the delay in filing or payment, or both (section 1085).

Note: You may compute your penalty and interest by accessing our website, or you may call and we will compute the penalty and interest for you (see *Need help?* in Form CT-1).

Line 20b – If on line 5, column A of the Form CT-300 used to report the MFI for the tax period immediately **following** the tax period for which this return is being filed (the **next** franchise tax period) you did **not** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI for the **next** franchise tax period, enter **0** and proceed to line 20c. **Note:** For calendar-year 2024 filers, that Form CT-300 was due March 15, **2024**.

If on line 5, column A of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **franchise** tax from the tax period for which this return is being filed to your MFI 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 of that Form CT-300: generally, 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, enter the result on line **15c**, and complete lines 16 through 19. Skip line 20c.

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

Composition of prepayments on line 14

If you need additional space, enter **see attached** under line 27 and attach all additional prepayment information. Include additional amounts in the total on line 27 and on line 14.

Line 23 – Determine the amount to enter by completing the *Worksheet for line 23* below.

Worksheet for line 23

From the Form CT-300 used to report the MFI for the tax period for which **this** return is being filed (**Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, **2023**):

1. Enter the portion of line A
(*Payment enclosed*) that represents
New York State MFI paid: generally,
the amount on line 6, column A of
that 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
that Form CT-300. This is your
2022 anticipated overpayment
applied. 2. _____
3. **Add the amounts on lines 1 and 2,
and enter the total here and on
Form CT-33-C, line 23** 3. _____

Line 26 – Enter the amount reported on line 21 of the Form CT-33-C that you filed for the tax period **immediately prior** to the tax period for which this return is being filed.