



Instructions for Form CT-189-WR

CT-189-WR-I

(8/04)

Claim for Refund of Section 189 Tax and Tax Surcharges

Tax Law — Article 9, Section 189

General information

Use Form CT-189-WR to claim a refund of tax paid under Tax Law section 189. Form CT-189-WR may be used by either (a) a gas importer whose section 189 tax paid to a regulated public utility at the average annual gas price is in excess of the amount of tax that would have been paid if the tax was computed on actual consideration, (b) a gas importer who imports gas from a wholly owned out-of-state gas well, (c) a purchaser of nonimported gas who was charged section 189 tax and tax surcharge by a regulated public utility, (d) a co-generator who does not have a Form AU-260, *Direct Pay Permit*, or (e) any other gas importer who believes they are entitled to a refund of section 189 tax or tax surcharges. If the claim for refund is based upon (a) above, use Schedule A. If the claim is based upon (b) or (c), use Schedule B. If the claim is based upon (d), use Schedule C. If the claim is based upon (e), use Schedule D.

If you are claiming a refund for an overpayment of tax based on a rate reduction, complete Schedule D and the certification and attach this form to your Form CT-189.

Both a gas importer who imports from a wholly owned gas well and a nonimporter of gas who was charged section 189 tax and tax surcharge by a regulated public utility are entitled to a full refund of section 189 tax and tax surcharge in Schedule B.

Co-generators who did not obtain Form AU-260 and who import gas using a regulated public utility may claim a refund in Schedule C based upon overpayment to the utility, the exemption for co-generation facilities, or both.

To avoid delays in processing of your claim for refund

Without the proper attachments, we will not process this claim for refund. Please attach copies of your public utility transportation bills for the months for which you are requesting the refund and copies of the purchase invoices showing the actual consideration paid, or contracted to be paid, for gas services.

A nonimporter of gas must include substantiation of the transactions showing that the gas was purchased outside the state. If natural gas is imported from other than a wholly owned gas well, such as a well owned in partnership form, it is presumed that the imported gas was purchased from the entity owning the out-of-state well. However, you may apply for a refund by attaching an explanation and substantiation of the transactions to show that the gas was not purchased by the importer, but was owned directly by the importer.

Schedule A — Refund of tax based on price differential

Part I — Refund of tax and tax surcharge collected by a regulated public utility (sections 189 and 189-b)

Line 1 — Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Line 2 — The *actual consideration* is the price of gas services, not including any reasonable transportation charges, that are separately stated. Substantiate the information by including copies of the purchase invoices showing the actual consideration paid, or contracted to be paid, for gas services.

Line 3 — Section 189 imposes tax at different rates. Use the following chart to determine the applicable tax rate.

Tax month	Tax rate
All tax months ending in 2000	2.1%
All tax months ending in 2001	2.0%
All tax months ending in 2002	1.9%
All tax months ending in 2003	.85%
All tax months ending in 2004	.4%
All tax months ending after 12/31/04	Tax is repealed

Line 5 — The tax surcharge under section 189-b expired after tax periods ending May 31, 1997. If you are still owed a section 189-b refund, check the applicable rates. If you are not sure of the applicable surcharge rate, call toll free 1 800 972-1233. From areas outside the U.S. and outside Canada, call (518) 485-6800.

Part II — Refund of metropolitan transportation business tax (MTA surcharge) collected by a regulated public utility (section 189-a)

Complete **only** if gas service is imported for use in the Metropolitan Commuter Transportation District (MCTD).

The MTA surcharge is imposed on gas service imported by and delivered to a gas importer for use in the MCTD. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

Line 8 — Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Line 9 — The *actual consideration* is the price of gas services, not including any reasonable transportation charges that are separately stated. Substantiate the information by including copies of the purchase invoices showing the actual consideration paid, or contracted to be paid, for gas services.

Line 10 — Use the following chart to determine the applicable tax rate.

Tax month	Tax rate
All tax months ending in 2000	.357%
All tax months ending in 2001	.34%
All tax months ending in 2002	.323%
All tax months ending in 2003	.1445%
All tax months ending in 2004	.068%
All tax months ending after 12/31/04	Tax is repealed

Schedule B — Refund of the full amount of section 189, 189-a, and 189-b tax and tax surcharges collected by a regulated public utility

Line 15 — Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Line 17 — Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Schedule C — Refund of tax and tax surcharges to a co-generation facility that does not have a section 189 direct pay permit

Part I — Refund of tax and tax surcharge collected by a regulated public utility based on price differential (sections 189 and 189-b)

Line 19 — Enter the amount of tax (section 189) and tax surcharge (section 189-b) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Line 20 — The *actual consideration* is the price of gas services, not including any reasonable transportation charges that are separately stated. Substantiate the information by including copies of the purchase invoices showing the actual consideration paid, or contracted to be paid, for gas services.

Line 21 — Section 189 imposes tax at different rates. The tax rates for all tax periods are the same as shown on the front of these instructions, line 3.

Line 23 — The tax surcharge under section 189-b expired after tax periods ending May 31, 1997. If you are still owed a section 189-b refund, check the applicable rates. If you are not sure of the applicable surcharge rate, call toll free 1 800 972-1233. From areas outside the U.S. and outside Canada, call (518) 485-6800.

Part II — Refund of MTA surcharge based on price differential collected by a regulated public utility (section 189-a)

Complete **only** if gas service is imported for use in the MCTD.

The MTA surcharge is imposed on gas service imported by and delivered to a gas importer for use in the MCTD.

Line 26 — Enter the amount of MTA surcharge (section 189-a) paid to the regulated public utility. Substantiate this information by including copies of your public utility transportation bills and canceled checks for the months for which you are requesting the refund.

Line 27 — The *actual consideration* is the price of gas services, not including any reasonable transportation charges that are separately stated. Substantiate the information by including copies of the purchase invoices showing the actual consideration paid, or contracted to be paid, for gas services.

Line 28 — For all tax periods, the applicable tax rates are the same as shown on the front of these instructions, line 10.

Part III — Refund for co-generation facilities exemption (sections 189 and 189-b)

A co-generation facility defined in Public Service Law, section 2.2-a, or a qualifying facility that is a co-generation facility as defined by Public Utility Regulatory Policies Act of 1978 section 201 (Public Law 95-617), and that has not been issued a direct payment permit, may compute this refund.

A refund is allowed when gas service imported by a qualifying co-generation facility is used to generate electricity or steam that is supplied and used by a thermal energy host located at or near the project site.

To determine this refund, multiply the total consideration for natural gas used by the facility during the period by the ratio of the BTU value of steam and electricity supplied to and used by the host to the total BTU value of all useful steam and electricity produced by the facility during the same period.

$$\frac{\text{BTUs of steam and electricity supplied to thermal host}}{\text{Total useful BTUs produced}} = \text{Exemption percentage}$$

BTU equivalent values of steam and electricity are those used by the New York State Energy Office:

- 1 kilowatt-hour = 3,412 BTUs
- 1 pound of low pressure steam = 1,000 BTUs

Note: For additional steam BTU value equivalents, use ASME or NBS/NRC steam tables.

Total useful steam and electricity produced by a facility includes that produced for the host, for any electric utility, and for any other useful purpose.

Line 34 — Enter the section 189 tax and section 189-b tax surcharge paid to the regulated public utility for the refund period, minus any refund claimed on line 25. Substantiate this information by including copies of your public utility bills and copies of canceled checks for the months for which you are requesting a refund.

Part IV — Refund for co-generation facilities exemption (MCTD) (section 189-a)

Only a co-generation facility that qualified for the refund in Part III may qualify for this refund in Part IV. The same formula applies as described in Part III, except BTUs of steam and electricity supplied to the thermal host and total useful BTUs are limited to the MCTD. Apply the resulting exemption percentage only against the computation of the MTA surcharge, since the statewide exemption computed in Part III has already been applied against the computation of the tax and section 189-b tax surcharge.

Line 39 — Enter the section 189-a MTA surcharge paid to the regulated public utility for the refund period, minus any refund claimed on line 30. Substantiate this information by including copies of your public utility bills and copies of canceled checks for the months for which you are requesting a refund.

Schedule D — Refund of tax for any other reason

If you are claiming a refund based on the retroactive tax reduction for the period October 1, 1998, through May 31, 2000, please attach a completed Form CT-189-WR, with Schedule D completed, to your Form CT-189 tax return when you are requesting the refund.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.