

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

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Corporation Tax
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Tax on Dividends for Section 186 of Article 9

Inquiries have been made concerning the computation of the tax on dividends imposed by Section 186 of Article 9 of the Tax Law.

Section 186 provides, in pertinent part: (Emphasis added)

"Every corporation, joint-stock company or association, formed for or principally engaged in the business of supplying water, steam or gas, when delivered through mains or pipes, or electricity or principally engaged in two or more such businesses shall pay for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity in this state a tax which shall be . . . four and one-half per centum upon the amount of dividends paid during each year . . . in excess of four per centum upon the actual amount of paid-in capital employed in this state by such corporation, joint-stock company or association. . . ."

In addition, this section also provides, in pertinent part:

". . . the amount of capital employed in this state shall be found by dividing the gross receipts from all sales made in this state by the gross receipts from all sales wherever made and multiplying the aggregate paid in capital stock by the percentage so found."

The "actual amount of paid-in capital" is that part of the equity that was invested in the business enterprise by shareholders. It is computed as of the date the dividends were declared if dividends are paid only once during the year.

(See Example 1)

Example 1

Taxable Period:	1/1/80-12/31/80
Allocation Percentage	80%
Total Paid in Capital for the taxable period	\$500,000
Amount of Paid in Capital on which Dividends were paid as of the date of declaration	300,000
Dividends Paid	60,000
Dividends Paid	60,000
Exemption (4% x 300,000)	<u>12,000</u>
Net Dividends	48,000
Allocated Net Dividends (80% x 48,000)*	38,400
Tax Due (4.5% x 38,400)	1,728

*Rather than apply the allocation percentage to the paid-in capital and also apply the percentage to the dividend, the percentage may be applied directly to the net dividends to obtain the same result.

If the dividends are paid more than once a year, then the 4% exclusion is computed on the average value of paid in capital. To determine the average value of the paid in capital on which dividends were paid during the taxable period, the value of paid in capital on the declaration dates must be added together and divided by the number of times the dividends were paid during the taxable period. (See Example 2, 3, and 4)

Example 2

Taxable Period: 1/1/80-12/31/80
Allocation Percentage 75%

<u>Dividends</u>			<u>Paid in Capital on which dividends were paid as of the Declaration Date</u>
<u>Declaration Date</u>	<u>Payment Date</u>	<u>Amounts</u>	
12/1/79	2/5/80	5,000	50,000
3/11/80	4/12/80	10,000	55,000
12/1/80	12/15/80	<u>3,000</u>	<u>60,000</u>
	TOTAL	<u>18,000</u>	TOTAL <u>165,000</u>
Total Dividends Paid			18,000
Average Paid in Capital on which dividends were paid (165,000 divided by 3) = 55,000			
Exemption (55,000 x 4%)			<u>2,200</u>
Net Dividends			15,800
Allocated Net Dividends (15,800 x 75%)*			11,850
Tax Due (11,850 x 4.5%)			533

Example 3

Same facts as in Example 2, except the \$5,000 dividend was paid on 12/15/79.

Total Dividend Paid <u>during the taxable period</u>	13,000
Average Paid in Capital on which dividends were paid (55,000 + 60,000) divided by 2 = 57,500	
Exemption (57,500 x 4%)	<u>2,300</u>
Net Dividends 10,700	
Allocated Net Dividends (10,700 x 75%)*	8,025
Tax Due (8,025 x 4.5%)	361

*Rather than apply the allocation percentage to the paid-in capital and also apply the percentage to the dividend, the percentage may be applied directly to the net dividends to obtain the same result.

Example 4

Same facts as Example 2 except the 3,000 dividend was paid on 2/1/81.

Total Dividend Paid <u>during the taxable period</u>	15,000
Average Paid in Capital on which dividends were paid $(50,000 + 55,000)$ divided by 2 = 52,500	
Exemption $(52,500 \times 4\%)$	<u>2,100</u>
Net Dividends	12,900
Allocated Net Dividends $(12,900 \times 75\%)*$	9,675
Tax Due $(9,675 \times 4.5\%)$	435

*Rather than apply the allocation percentage to the paid-in capital and also apply the percentage to the dividend, the percentage may be applied directly to the net dividends to obtain the same result.