

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

TSB-M-94 (3) C
Corporation Tax
August 23, 1994

State Tax Surcharge, Articles 9, 9-A, 13, 32 and 33

The Tax Law has been amended to phase out the 15% business tax surcharge over a three-year period. Special transitional rates apply during the phase-out period. The rates and periods to which they apply are set forth below.

For all taxpayers and tax periods, the surcharge is computed on the tax after the deduction of all credits.

Transportation and Transmission Corporations and Utilities

For taxes imposed under sections 183, 184, 186 and 186-a of Article 9 of the Tax Law, the surcharge rates and periods to which they apply are:

- 15% for taxable years ending on 12/31/93
- 12 1/2% for taxable years ending on 12/31/94
- 7 1/2% for taxable years ending on 12/31/95
- 2 1/2% for taxable years ending on 12/31/96.

The term taxable year includes a short taxable year, that is, a taxable year of fewer than twelve months.

(See TSB-M-90(6)C for additional details on the imposition of the tax surcharge on transportation and transmission corporations or utilities subject to tax under Article 9 of the Tax Law.)

Importers of Natural Gas

For the tax imposed under section 189 of the Tax Law, the surcharge rates and periods to which they apply are:

- 15% for taxable months beginning on or after 1/1/93 and ending on or before 12/31/93
- 10% for taxable months beginning on or after 1/1/94 and ending on or before 5/31/95
- 7 1/2% for taxable months beginning on or after 6/1/95 and ending on or before 5/31/96
- 2 1/2% for taxable months beginning on or after 6/1/96 and ending on or before 5/31/97.

(See TSB-M-91(5)C for additional details on the imposition of the tax surcharge on importers of natural gas.)

General Business Corporations, Banking Corporations, Insurance Corporations and Article 13 Taxpayers

For taxes imposed under Articles 9-A, 13, 32 and 33 of the Tax Law, the surcharge rates and periods to which they apply are:

15% for taxable years ending before July 1, 1994 (may not be imposed for more than 48 months)

12 1/2% for taxable years ending after 6/30/94 and before 7/1/95

7 1/2% for taxable years ending after 6/30/95 and before 7/1/96

2 1/2% for taxable years ending after 6/30/96 and before 7/1/97.

The term taxable year includes a short taxable year, that is, a taxable year of fewer than 12 months. (See TSB-M-90(5)C for additional details on the imposition of the surcharge on corporations taxable under Article 9-A or Article 13 of the Tax Law. See TSB-M-90(8)C for additional details on the tax surcharge imposed on banking corporations taxable under Article 32 of the Tax Law. See TSB-M-90(7)C for additional information on the tax surcharge imposed on insurance corporations taxable under Article 33 of the Tax law.)

S Corporations

To calculate their state tax surcharge, New York S corporations use the same rates as other general business corporations. However, the method they use for computing the surcharge has changed.

For taxable years ending before July 1, 1994, the base used to compute the surcharge is the tax on entire net income or the fixed dollar minimum tax, whichever is higher, before deducting the personal income tax equivalent. (This is the "old" method.)

For taxable years ending after June 30, 1996, and before July 1, 1997, the base used to compute the surcharge is the tax on entire net income or the fixed dollar minimum tax, whichever is higher, after deducting the personal income tax equivalent. (This is the "new" method.) However, except in the case of a short period return, the base will not be less than \$325.00. For a short period, the base will not be less than the prorated fixed dollar minimum tax.

(The personal income tax equivalent is the amount of tax on entire net income computed by substituting the highest personal income tax rate for the Article 9-A tax rate).

A transitional calculation method applies for taxable years ending after June 30, 1994, and before July 1, 1996. For those years, the amount of the surcharge equals 50 percent of the sum of the surcharge calculated using the old method and the surcharge calculated using the new method.

In general, S corporations are not eligible to deduct credits, since most credits pass through to the shareholders. However, for taxable years beginning after 1993, S corporations may deduct the credit for the special additional mortgage recording tax.

Estimated Tax

There are special provisions for declarations and payments of estimated tax. In general, no penalty will be imposed if any underpayment resulting from the 1994 amendments to the Tax Law concerning the surcharge is corrected with the first installment due after August 15, 1994.