



# Instructions for Form CT-186-P

## Utility Services Tax Return — Gross Income

Tax Law — Article 9, Section 186-a

# CT-186-P-I

### Changes for 1998

The Tax Law was amended to reduce the tax rate applicable to section 186-a. The rate change is effective October 1, 1998.

For the period January 1, 1998, through September 30, 1998, the tax rate is 3.5%.

For the period October 1, 1998, through December 31, 1998, the tax rate is 3.25%.

However, the MTA surcharge must be computed as if the 3.5% tax rate is in effect for the entire year.

**Who Must File Form CT-186-P** — The following are required to file Form CT-186-P:

Every utility doing business in New York State that is subject to the supervision of the New York State Department of Public Service or Department of Transportation who sells or furnishes gas, electricity, steam, water, or refrigeration service by means of mains, pipes, or wires for ultimate consumption or use by the purchaser in this state must file this form. Utilities include persons, corporations, companies, associations, joint stock associations, co-partnerships, estates, assignees of rents, persons acting in a fiduciary capacity, and persons, their assignees, lessees, trustees, or receivers, appointed by any court, that are subject to the supervision of the New York State Department of Public Service. Utilities include, but are not limited to, street surface, rapid transit, subway and elevated railroads, gas, electric, steam, water, bridge, express, transfer, freight terminal companies and nonoperating railroads that lease their property to others. **Motor carriers or brokers are not required to file this return.**

A utility subject to section 186-a that has gross income of less than \$500 for the tax year ending December 31 is exempt from the payment of the tax under this section, but must still file a return.

**Exemption from Tax** — The following are exempt from taxation under section 186-a:

New York State, including its political and civil subdivisions; municipalities of New York State; public districts, not-for-profit corporations and associations organized and operated exclusively for religious, charitable or educational purposes; a corporation leasing from a city in New York State a water works system to supply water at cost to relieve water pollution in a river within that city; and limited dividend housing corporations organized under the Private Housing Finance Law.

**When and Where to File** — You must report gross income on a calendar-year basis to New York State, even if you maintain your records and report to the Internal Revenue Service (IRS) using a fiscal accounting period.

The annual return is due on March 15 following the close of each calendar year. If March 15 falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day. Mail your return to: **NYS Corporation Tax, Processing Unit, PO Box 22038, Albany NY 12201-2038.**

### Private Delivery Services

The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance, will be treated as a postmark, and that date will be considered to be the date of delivery in determining whether your return was filed on time. (Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need Help?* on page 4 of these instructions for information on ordering forms and publications.) If you use **any** private delivery service, address your return to: **State Processing Center, 431C Broadway, Menands NY 12204.**

**Extension of Time for Filing Tax Return** — If you cannot meet the filing deadline, you may request an extension of time by filing Form CT-5.9. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186-P.

### Other Forms You May Have to File

**Excise tax on telecommunication services** — If you are a telephone or telegraph company or other provider of telecommunication services, even if it is not your primary business, do not file this form; file Form CT-186-E or Form CT-186-EZ, whichever applies.

**Tax on importation of gas services** — Article 9, section 189, imposes a tax upon gas importers who import, or cause to be imported, gas services into New York State for their own use or consumption. For additional information, see TSB-M-91(5)C. Use Form CT-189, *Tax on Importation of Gas Services*, to remit the tax collected from the individual gas importer.

### Metropolitan Transportation Business Tax (MTA Surcharge)

Any corporation taxable under Article 9, section 186-a that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-P/M and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Corporations not doing business in the MCTD must disclaim liability for the MTA surcharge by answering *No* to the question on page 1 of Form CT-186-P. They are not required to file Form CT-186-P/M.

### Maintenance Fee for Foreign Corporations

— A corporation organized outside of New York State (*a foreign corporation*) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay the annual maintenance fee or its equivalent in New York State taxes (including MTA surcharges) under Article 9 (or Article 9-A or 32) will result in annulment of the authorization to do business in New York State. Payments of such taxes (but not a license fee reported on Form CT-240) are counted as payments toward the \$300 annual maintenance fee. If the total of such taxes paid for the tax year is more than \$300, the corporation has satisfied the requirement to pay the \$300 annual maintenance fee. If the total of such taxes paid for the tax year is less than \$300 and you are filing Form CT-183, enter \$300 on line 6 of Form CT-183 and make a payment with that form. In addition, if you are filing Form CT-186, enter \$300 on line 7 of Form CT-186 and make a payment with that form. In addition, on any other Article 9 returns that you are required to file, indicate that a total tax and maintenance fee of \$300 was paid with Form CT-183 or CT-186, and make no remittance of tax with the other returns. Article 9 returns include CT-183, CT-183-M, CT-184, CT-184-M, CT-184-R, CT-186, CT-186-M, CT-186-A, CT-186-A/M, CT-186-E, CT-186-EZ, CT-186-P, CT-186-P/M, and CT-189.

**Foreign Corporations - License Fee** — Foreign corporations must also file Form CT-240, *Foreign Corporation License Fee Return*, whether or not they are authorized to do business in New York State. Form CT-240 is required to be filed with the corporation's first franchise tax return, or if the capital stock employed in New York State has increased since the last license fee return was filed.

**Change of Business Information** — If there have been any changes in your business name, identification number, mailing address, business address, telephone number, or owner/officer information and you have not previously notified us, complete Form DTF-95, *Change of Business Information*. For information about ordering forms, refer to *Need Help?* on page 4.

**Change of Address** — If your address has changed, enter your new address on the label and check the box next to the name and address block at the top of your corporation tax return. Do not check this box for any change of business information other than address. You must still attach the preprinted label with the old address to enable us to update your account.

### Employer Identification Number, File Number, and Other Identifying Information

— To assist us in processing your corporation tax forms as quickly and efficiently as possible, it is important that we have the necessary identifying information from your preprinted label. **Keep a record of the label information for future use.** Please be certain to include your employer identification number and file number on each corporation tax form mailed. This will facilitate processing your return to the correct account. Without this information, we may not be able to process your return.

If you use a paid preparer or accounting firm, make sure they use the mailing label or label information when completing all forms prepared for you.

### Business Activity Code Number

Enter the business activity code number from your federal return. Please check the appropriate box for the type of code you are using. Check the box marked *NAICS* if you use the North American Industry Classification System. If you have entered a Principal Industrial Activity (PIA) or Standard Industrial Classification (SIC) code, check the box marked *Other*.

**Amended Return** — If you are filing an amended return, please write **Amended Return** across the top of the front page.

### Specific Instructions

**Whole Dollar Amounts** - You may elect to show amounts in whole dollars rather than dollars and cents. Round an amount from 50 cents through 99 cents to the next higher dollar, and round any amount less than 50 cents to the next lower dollar.

**Percentages** - When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Percentages should be carried out to four decimal places. For example:  $5,000/7,500 = .6666666 = 66.6667\%$ .

**Negative amounts, if any, should be shown in parentheses.**

**Line A** — Make your payment in United States funds. A foreign check or foreign money order will only be accepted if payable through a United States bank or if marked **Payable in U.S. Funds**.

**Line 2** — A Power for Jobs tax credit is available to qualified electric corporations during calendar years 1997 through 2003. In order to claim the Power for Jobs tax credit, a taxpayer must attach to Form CT-186-P a certificate from the Department of Public Service verifying the correctness of the calculation of the tax credit shown on this return. The Power for Jobs tax credit does not apply to the Metropolitan Transportation Business Tax Surcharge (Form CT-186-P/M). For information on certification, call Empire State Development at (518) 473-6929.

**Line 4b First Installment for the next period** — If the tax amount shown on line 3 is more than \$1,000 and you did not file Form CT-5.9, you must pay a mandatory first installment of estimated tax for the period following that covered by this return. Enter 25% of the total tax amount shown on line 3.

**Additional Installments of Estimated Tax (Form CT-400)** — If you expect your tax for the next period to exceed \$1,000, you must file a Form CT-400 and pay the additional installments of estimated tax due on June 15, September 15, and December 15.

**Line 8** — If you underpaid your estimated tax for 1998, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, check the box and enter the amount of penalty on line 8. If no penalty is due, enter "0" on line 8.

**Line 9** — If you do not pay the tax on or before the original due date (determined **without** regard to any extension of time for filing) you must pay interest on the amount of the underpayment from the original due date to the date paid. Exclude from the interest computation any amount shown on line 4a or 4b, first installment of estimated tax for the next period. You may call the Business Tax Information Center for the current interest rate or to have the interest computed for you. See *Need Help?* on page 4.

**Line 10** — Additional charges for late filing and late payment are computed on the amount of tax less any payment made on or before

the due date (determined **with** regard to any extension of time for filing). Exclude from the penalty computation any amount shown on line 4a or 4b, first installment of estimated tax for the next period.

- 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 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 item A and C may not exceed 5% for any one month, except as provided for in item B above (section 1085(a)).

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

**Note:** You may have the interest (line 9) and penalty (line 10) computed for you by calling the Business Tax Information Center at the number listed under *Need Help?* on page 4.

**Line 16 — Collection of debts from your refund** — We will keep all or part of your refund if you owe a past-due legally enforceable debt to the Internal Revenue Service or a New York State agency. This includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district. Any amount over your debt will be refunded.

If you have any questions about whether you owe a past-due legally enforceable debt to the Internal Revenue Service or a state agency, contact the IRS or that particular state agency.

For New York State tax liabilities **only** call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800) or write to NYS TAX DEPARTMENT, TAX COMPLIANCE DIVISION, W A HARRIMAN CAMPUS, ALBANY NY 12227.

**Definition of Gross Income** — *Gross income* includes receipts from transactions within New York State that are derived from the utility's principal business, and profits from transactions within New York State that **are not** derived from the utility's principal business.

Receipts that are included in gross income include the following:

- receipts from the sale of gas, electricity, steam, water, or refrigeration when sold through mains, pipes, or wires for ultimate consumption or use within New York State;
- receipts from services rendered within New York State that are performed in the conduct of the utility's principal business;
- receipts from sale of merchandise within New York State that are part of the utility's stock in trade;
- other receipts from sales made or services rendered within New York State that are derived from the conduct of the utility's principal business; and
- receipts from interest, dividends, and royalties from sources within New York State.

In determining gross income receipts, include cash, credits, and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services, or other costs, interest or discount paid, or any other expenses, except those deductions provided for with respect to lines 25 and 35 of Schedule A.

Profits which are included in gross income include the following:

- profits from the sale of securities that are held, managed, or controlled within New York State;
- profits from the sale of real property within New York State;
- profits from the sale of personal property within New York State that are not part of the utility's stock in trade; and
- profits from any transaction (except sales for resale and rentals) within New York State.

Do not deduct gross income received from a financial resource asset unless you attach to Form CT-186-P a certificate issued by the New York State Department of Public Service, verifying this deduction.

Article 2-I of the general city law provides for certain rebates of charges for energy in revitalization areas of New York City. However, nothing contained in Article 2-I shall be construed as reducing the amount of the gross income subject to tax pursuant to section 186-a of the Tax Law.

### Special Rules for Landlords

**Sales to landlords** – *Gross income also includes* receipts from utility services to a landlord for resale to a tenant for consumption or use by such tenant as incident to the landlord's renting of premises to such tenant, even though such sales are not for ultimate consumption by the landlord. *Utility services* means the furnishing of gas, electricity, steam, water, or refrigeration, and services directly connected to the furnishing of gas, electricity, steam, water, or refrigeration. Include these receipts with all other utility service receipts on lines 17 through 23.

**Sales to tenants by landlords** – If all utility services purchased by a landlord for resale included the section 186-a tax, then the landlord is not required to complete Form CT-186-P.

If any utility services purchased by a landlord for resale to tenants **did not include** the section 186-a tax, then Schedule A, lines 17 through 23 must be completed as follows:

- Receipts derived by a landlord from the resale of utility services to a tenant are deemed to be equal to the landlord's cost of the same service (including any associated transportation cost). Include these amounts on lines 17 through 23; do not include the markup billed to the tenants.
- If the tax under section 186-a was included on the purchase of utility services by the landlord, then the landlord may deduct the cost of the same service (including any associated transportation cost) on line 25. If the tax under section 186-a was not included on the purchase by the landlord, then do not deduct this cost on line 25.

## Schedule A — Computation of Gross Income

### Part I — Computation of receipts from utility services

**Columns A and B** — Use Column A for transactions occurring from January 1, 1998, through September 30, 1998, and use Column B for transactions occurring from October 1, 1998, through December 31, 1998.

**Lines 17 through 20** — Taxpayers who sell gas, electricity, steam, water, or refrigeration that is delivered through mains, pipes, or wires, for ultimate consumption or use within New York State are required to complete lines 17 through 20. Enter for each type of commodity sold for ultimate consumption or use within New York State the receipts from such sales without any deductions. See *Special Rules for Landlords* above.

**Line 21** — Enter all receipts (without any deductions) from services rendered within New York State that are directly connected with the sale of gas, electricity, steam, water, or refrigeration for ultimate consumption or use within New York State. Receipts include but are not limited to the following:

- receipts from installation charges;
- receipts from service charges (other than installation) that are performed in the conduct of the utility's principal business; and
- receipts from "rentals" within New York State that in fact constitute service charges (e.g., receipts received from equipment necessary to enable the customer to use the commodity). See *Special Rules for Landlords* above.

**Line 22** — Enter receipts (without any deduction) from sales of merchandise (conditional or otherwise) within New York State that are directly connected with the sale of gas, electricity, water or refrigeration for ultimate consumption or use within New York State. Sales of merchandise include materials and supplies that constitute

stock in trade of the utility and are included in merchandise inventory. Receipts include but are not limited to the following:

- receipts from the sale of merchandise to utility's customers;
- receipts from the sale of merchandise to other utilities; and
- receipts from the sale of merchandise to employees (except work supplies - i.e., clothing, shoes, helmets, etc.).

Do not include receipts from the sale of merchandise that does not constitute stock in trade and are not included in merchandise inventory (i.e., items of fixed assets such as fixtures, furniture, or machines).

**Line 23** — Enter any other receipts (without any deduction) from sales made or services rendered within New York State that are derived from the conduct of the utility's principal business. Receipts include but are not limited to the following:

- receipts from the sale of residuals and by-products that are consumed or used in New York State; and
- receipts from transportation or transmission agreements, such as contract carriage and lease operating agreements, where the utility uses its mains, pipes, or wires within New York State to transport or transmit a commodity owned by the purchaser which is not a utility. See *Special Rules for Landlords* above.

**Line 25** — Deductions allowed from receipts on lines 17 through 23 are the following:

- receipts from sales for resale (if your utility has passed on its section 186-a tax to you and you resell the service you may deduct your cost of the service resold by you.);
- cash discounts taken by the customer;
- uncollectible accounts; and
- taxes imposed by New York State or its municipalities or the federal government where the taxpayer is merely a collection agency for the taxing authority (e.g., state and local sales taxes and federal excise taxes).

Enter all deductions listed above that are included as receipts on lines 17 through 23. Attach a statement listing all deductions. See *Special Rules for Landlords* above.

### Part II — Receipts from interest and dividends allocated to New York State

**Line 27** — Enter receipts from interest and dividends from sources within New York State, without any deduction for any expense incurred in connection with the receipt. Do not include interest and dividends received from any of the following:

- a corporation, the majority of whose voting stock is owned by the taxpaying utility;
- obligations of the United States, any state, territory or possession of the United States, or the District of Columbia;
- obligations of a foreign country; and
- any obligation from any political subdivision or governmental instrumentality of any of the foregoing.

For each period shown in Columns A and B, compute receipts from interest and dividends from sources within New York State that are received from corporate and noncorporate entities. Enter in column 1 the name of the entity that paid the interest or dividend. Enter in column 2 the type of security (i.e., stock, bond, interest bearing cash account, etc.). Enter in column 3 the amount of interest or dividends received. Enter in column 4 the issuer's allocation percentage of the corporation that issued the security (always enter the issuer's allocation percentage from the year immediately preceding the current tax year). The issuer's allocation percentage is used to compute the amount of interest and dividends allocated to New York State.

In the event the entity that issued the security was not a corporate entity, the amount of interest or dividends allocated to New York State is determined by the percentage of capital employed in New York State by the payer of the stock, bonds, interest bearing cash account, etc., for the year immediately preceding the current tax year. Attach a statement showing the computation of the payer's capital employed in New York State, as compared to total capital employed everywhere.

Issuer's allocation percentages for corporate entities can be obtained from tax services publications, from the Department website, or by written request (in duplicate) to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227. Call toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

**Line 28** — Enter receipts from royalties from sources within New York State without any deductions incurred in connection with the receipt. Royalties include all amounts received by the utility for the use of patents or copyrights, whether or not such patents or copyrights were issued to or are owned by the utility. A patent or copyright is used in New York State to the extent that the activities under the patent or copyright are carried on in New York State.

### Part III — Computation of profits

**Line 30** — Enter profits (i.e., gross selling price minus the basis without any further deductions) from the sale of securities which are held, managed, or controlled within New York State.

Securities include shares of stock in any corporation, certificates of stock or interest in any corporation, securities issued by governmental bodies, securities issued by corporations of a like nature as stock and bonds that are sold in the open market or on a recognized exchange, designed as a means of investment, and issued for the purpose of financing corporate enterprises and providing a distribution of rights in, or obligations of, such enterprises.

Include profits from the sale of any tax exempt securities such as those of:

- the United States, any state, territory, or possession of the United States;
- the District of Columbia;
- any foreign country; and
- any political subdivision or instrumentality of any of the foregoing.

Include profits from the sale of securities of an affiliated company and profits from the sale of reacquired stock (treasury stock).

Except for a block transaction, losses from sales of securities may **not** be applied against profits from the sale of securities. A block transaction is a single sale where sales of the same security are made in several lots (e.g., a utility carries a block of 10,000 shares of the same securities of a corporation in its portfolio and orders its broker to sell the entire block; the fact that the broker executes the order by disposing of the block in several lots does not change the essential nature of the transaction and make it more than one sale).

**Line 31** — Enter profits (i.e., gross selling price minus the basis without any further deductions) from the sale of real property within New York State in which the utility owns or has an ownership interest.

**Line 32** — Enter profits (i.e., gross selling price minus the basis without any further deductions) from the sale of personal property within New York State that does not constitute stock in trade of the utility and is not included in merchandise inventory. Profits include but

are not limited to the following: profits from the sale of fixed assets such as fixtures, furniture, machinery, equipment, etc.

Do not include profits from the sale of merchandise (i.e., materials and supplies) that constitute stock in trade of the utility and are included in merchandise inventory.

**Line 33** — Enter profits (i.e., gross selling price minus the basis without any further deductions, or, in the case of the sale of a service, the gross selling price of the service minus the cost of the service provided) from any transactions within New York State that are not performed in the conduct of the utility's principal business. Do not include profits from sales for resale or profits from rentals. Profits include but are not limited to the following:

- profits from the sale of merchandise (i.e., materials and supplies) that do not constitute stock in trade of the utility and are not included in merchandise inventory;
- profits from labor not performed in the conduct of the utility's principal business; and
- profits from transportation or transmission agreements where the utility uses its mains, pipes, or wires within New York State to transport or transmit a commodity owned by another utility.

**Line 35** — Deductions allowed from profits on lines 30 through 33 are the following:

- brokerage fees, legal fees, advertising fees, and other selling expenses incurred due to the sale of securities, real property, and personal property;
- cash discounts taken by the customer;
- uncollectible accounts; and
- taxes imposed by New York State or its municipalities or the federal government where the taxpayer is merely a collecting agency for the taxing authority (e.g., state and local sales taxes and federal excise taxes).

Enter all deductions listed above that are included as receipts on lines 30 through 33. Attach a statement listing all deductions.

### Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 9, 9-A, 13, 19, 27, 32, 33, and 33-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer corporate tax liabilities under the Tax Law, for certain tax refund offsets, and for any other purpose authorized by law.

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

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.

### Need Help?

**Telephone Assistance** is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. **For business tax information and forms**, call the Business Tax Information Center at 1 800 972-1233. **For general information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and outside Canada**, call (518) 485-6800.

**Fax-on-Demand Forms Ordering System** - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

**Internet Access** - <http://www.tax.state.ny.us>

Access our website for forms, publications, and information.

**Hotline for the Hearing and Speech Impaired** - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m. (eastern time), Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

**Persons with Disabilities** - In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information numbers listed above.

**Mailing Address** - If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.