



# Instructions for Form CT-32-S

## New York Bank S Corporation Franchise Tax Return

Tax Law — Articles 32 and 22

# CT-32-S-I

### General Information

Article 32 of the New York Tax Law has been amended to conform with the amendments to the federal Small Business Job Protection Act of 1996 (JPA) allowing federal S corporations that are banks to elect New York S corporation treatment.

In order to be eligible to elect federal subchapter S corporation status, the bank must not use the reserve method of accounting for bad debts, either because it is a large bank and is required under Internal Revenue Code (IRC) section 585 to use the direct charge-off method, or because the bank is a small bank and has elected to use the direct charge-off method. The bank must also meet all federal subchapter S corporation eligibility requirements (for example, it must be a domestic corporation and have 75 or fewer shareholders, all of whom are individuals, estates, or certain trusts).

The Tax Law was also amended to conform to the federal treatment of *qualified subchapter S subsidiaries* (QSSS). For more information see *Filing Requirements* below.

### Overview of Tax Computation

Article 32 provides that a New York bank S corporation must pay the higher of (1) the tax on entire net income reduced by the Article 22 tax equivalent, or (2) the fixed dollar minimum tax of \$250.

To compute entire net income on Form CT-32-S, you must begin by completing the following schedules on Form CT-32, *Banking Corporation Franchise Tax Return*:

Schedule B, lines 22 through 58 (To complete Schedule B, you may also have to complete Schedules E, F, and G on Form CT-32.)

Schedule H, lines 108 through 123 and lines 125 through 128

In addition, refer to Form CT-32-I, *Instructions for Form CT-32*, for information regarding the completion of header information, computation of interest and penalties, refund, and computation of the issuer's allocation percentage. Attach all applicable schedules to Form CT-32-S.

### Filing Requirements

Form CT-32-S must be filed by any federal S corporation taxable in New York State under Article 32 of the Tax Law, whose shareholders filed Form CT-6 electing to be a New York S corporation.

Each New York S corporation must attach to Form CT-32-S:

- Form CT-34-SH to report information for all individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the tax year.

### Qualified Subchapter S Subsidiary (QSSS)

The filing requirements for a QSSS that is owned by a New York S corporation or a nontaxpayer corporation are outlined below. Where New York follows federal QSSS treatment, the parent and QSSS will file a single franchise tax return. The QSSS will be ignored as a separate taxable entity, and the assets, liabilities, income, and deductions of the QSSS will be included on the parent's franchise tax return. However, for other taxes, such as sales and excise taxes and the license and maintenance fees imposed under Article 9, the QSSS will continue to be recognized as a separate corporation.

- Parent is a New York S Corporation** – New York will follow the federal QSSS treatment. The parent and QSSS will be taxed as a single New York S corporation and file Form CT-32-S.
- Nontaxpayer Parent** – New York will follow the federal QSSS treatment where the QSSS is a New York taxpayer but the parent is not, if the parent elects to be taxed as a New York S corporation by filing Form CT-6. The parent and QSSS will be taxed as a single New York S corporation and file Form CT-32-S on a joint basis. If the parent does not elect to be a New York S corporation, the QSSS must file as a New York C corporation on a stand-alone basis on Form CT-32.
- Exception: Excluded Corporation** – Notwithstanding the above rules, QSSS treatment will not be allowed unless both parent and QSSS are banking corporations. That is, the corporations will have to file on a stand-alone basis if one is an Article 32 taxpayer but the other is an Article 9, 9-A, or 33 taxpayer, or is a corporation which would be subject to such taxes if taxable in New York.

Where New York follows federal QSSS treatment, the QSSS will not be considered a subsidiary of the parent corporation.

**To notify the department that a QSSS is included in your return, check the box on page 3 of Form CT-32-S and attach Form CT-60-QSSS, Qualified Subchapter S Subsidiary Information Schedule.**

### Definitions

*New York S corporation* means a corporation taxable under Article 32 of the Tax Law, for which a New York S election has been made by the filing of Form CT-6.

*New York C corporation* means a corporation taxable under Article 32 of the Tax Law that is not a New York S corporation.

QSSS means a corporation that is a qualified subchapter S subsidiary under IRC section 1361(b)(3)(B).

### When and Where to File

File this return within 2½ months after the end of your reporting period. If you are reporting for the 1998 calendar year, file your return on or before March 15, 1999. Mail returns to: New York State Corporation Tax, Processing Unit, PO Box 22038, Albany NY 12201-2038.

If you cannot meet the filing deadline, you may request a six-month extension by filing Form CT-5.4 and paying any tax due on or before the original due date of the return. No additional extension of time beyond six months will be granted to file Form CT-32-S.

A New York S corporation is not subject to the MTA surcharge.

### 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 back page 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.**

### Federal Changes and Amended Returns

A New York S corporation whose income, loss, or deductions are changed as a result of a final federal determination, or that files an amended return with the Internal Revenue Service, must file an amended return by using Form CT-32-S and writing the words **Amended Return** across the top. Additionally, every shareholder of the electing New York S corporation must file an amended return on a designated New York State individual, estate, or trust tax return.

### 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*.

### Instructions

#### Schedule A, line 1

Use Form CT-32, Schedule B, lines 22 through 58, to compute the entire net income of the New York S corporation.

Enter on Form CT-32, Schedule B, line 22, the amount of federal taxable income that you would have reported on federal Form 1120, line 28, had the election under Subchapter S of Chapter One of the IRC not been made. Attach a statement (or a pro forma federal Form 1120,) showing the computation of federal taxable income

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required to be shown on federal Form 1120, line 28. The statement (or pro forma federal Form 1120) must include the following items not reported on federal Form 1120S:

- dividend income from federal Form 1120, line 4
- interest income from federal Form 1120, line 5
- gross rental income from federal Form 1120, line 6
- gross royalty income from federal Form 1120, line 7
- capital gain net income from federal Form 1120, line 8
- charitable contribution deductions from federal Form 1120, line 19

Where a parent corporation and QSSS file a joint return on Form CT-32-S, compute the entire net income of the New York S corporation on Form CT-32, Schedule B, lines 22 through 58, as if:

- the assets, liabilities, income, and deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS shall be deemed to be those of the parent corporation;
- the stocks, bonds, and other securities issued by, and any indebtedness from, the QSSS shall not be subsidiary capital of the parent corporation;
- transactions between the parent corporation and the QSSS, including the payment of interest and dividends, shall not be taken into account; and
- general executive officers of the QSSS shall be deemed to be general executive officers of the parent corporation.

**Schedule A, line 2**

Use Form CT-32, Schedule H, lines 108 through 123 and lines 125 through 128 and enter the appropriate results below to compute the entire net income allocation percentage.

|   |         |
|---|---------|
| A Payroll factor – enter the percentage from Form CT-32, Schedule H, Part I, line 110. . . . .  | _____ % |
| B Receipts factor – enter the percentage from Form CT-32, Schedule H, Part I, line 123. . . . .   | _____ % |
| C Deposits factor – enter the percentage from Form CT-32, Schedule H, Part I, line 128 . . . . .  | _____ % |
| D Total of New York percentages (add lines A, B, and C) . . . . .   | _____ % |
| E Entire net income allocation percentage (divide line D by three or by the number of percentages; enter on Schedule A, line 2) . . . . . | _____ % |

**Attach Form CT-34-SH, Shareholder Information Schedule.**

**Penalty for Failure to Provide Shareholder Information** — If you don't file Form CT-32-S on time, providing the shareholder information requested (all items of income, loss, deduction and other pertinent information), you will have to pay a penalty (section 685(h)(2)). The penalty is \$50 per shareholder per month or fraction of a month up to a total of \$250 per shareholder. You will also have to pay a penalty of \$50 for each shareholder whose social security number you do not show (section 685(k)). All shareholders of the S corporation during any part of the tax year must be counted. The penalty may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

**Termination Year** — The New York S election can terminate on a day other than the first day of the taxable year, whether or not the federal S election terminates at the same time. In either case, the tax year is divided into two tax periods (an S short year and a C short year). The corporation must file Form CT-32-S for the S short year and Form CT-32 for the C short year. The due date of the S short year return is the same as the New York C short year return.

If the federal and New York S elections terminate at the same time, entire net income assigned to the Form CT-32-S for the S short year and to the Form CT-32 for the C short year is determined using the same method of accounting as used for federal income tax purposes (that is, daily pro rata allocation under section 1362(e)(2) of the IRC or normal tax accounting rules under section 1362(e)(3) of the IRC).

If the federal S election continues but the New York S election terminates, use the normal tax accounting rules under section 1362(e)(3) of the IRC if:

- all persons who are shareholders in the corporation at any time during the New York S short year and all persons who are shareholders in the corporation on the first day of the New York C short year consent to such election, or
- there is a sale or exchange of 50% or more of the stock in the corporation during the year.

Otherwise, use the daily pro rata allocation method under section 1362(e)(2) of the IRC.

Check the box on Form CT-32-S, page 3, that indicates which method of accounting the New York S corporation elected for the New York S short year and subsequent New York C short year.

In no event will the total tax for the New York S short year and New York C short year be less than the fixed dollar minimum tax determined as if the corporation were a C corporation for the entire year.

**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.

**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.