



Instructions for Form CT-33

Insurance Corporation Franchise Tax Return

Law Changes

On January 1, 1998, captive insurance companies became subject to Article 33 of the New York State Tax Law and must file their taxes on new Form CT-33-C. Also on January 1, 1998, the tax rate on premiums applicable to life insurance companies decreased. The rate on gross direct premiums was reduced to .7%, while the tax rate applicable to the section 1505 limitation on tax decreased to 2.0%. Beginning in 1998, these life insurance corporations must also pay a first installment equal to 40% of the prior year's tax. A new credit was also created for investments in certified capital companies for all insurance corporations (section 1511(k)). Although this credit may not be deducted until 1999, it may be accrued in 1998. For further information see TSB-M-98(2)C.

Who Must File Form CT-33

- Domestic insurance corporations for the privilege of exercising a corporate franchise;
- Foreign and alien insurance corporations doing business, employing capital, owning or leasing property or maintaining an office in this state;
- Any life insurance company whose *Certificate of Authority* from the Superintendent of Insurance has expired or that ceases to transact new business in this state but has business remaining in force in this state;
- Risk retention groups as defined in subsection (o) of section 5902 of the Insurance Law;
- Savings banks authorized to transact insurance business by Article 6-a of the New York State Banking Law;
- Insurance corporations exempt from federal income tax but which conduct business in New York State; and
- The State Insurance Fund.

Exception: Insurance corporations specifically exempted by section 1512 of the Tax Law do not have to file Form CT-33. Captive insurance companies file Form CT-33-C.

Definition of Insurance Corporation — An *insurance corporation* as defined by section 1500 of Article 33 of the New York State Tax Law is any corporation, association, joint stock company or association, person, society, aggregation or partnership, doing an insurance business.

When and Where to File

Reporting Period

If you are a calendar-year filer, check the box in the upper right corner on the front of the form.

If you are a fiscal year filer, complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

File your return within 2½ months after the end of your reporting period. If you are reporting for the calendar year, file your return on or before March 15. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

If you cannot meet this filing deadline, you may ask for a six-month extension of time by filing Form CT-5, *Request for Six-Month Extension to File*.

Mail returns 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 6 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**.

You must also file a copy of your completed Form CT-33 with the New York State Insurance Department.

Change of Address

If your address has changed, enter your new address on the label and check the box under 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.

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 the enclosed Form DTF-95, *Change of Business Information*. If no form is enclosed call toll free 1 800 462-8100 to request one. From areas outside the U.S. and outside Canada, call (518) 485-6800.

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*.

Member of a New York State Combined Group

If you are a member of a New York State combined group, be sure to check the **Yes** box on page 1 and enter the parent's employer identification number.

Metropolitan Transportation Business Tax (MTA Surcharge) Section 1505-a

Any insurance corporation taxable under Article 33 that does business, employs capital, owns or leases property or maintains an office in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-33-M, *Insurance Corporation MTA Surcharge Return*, and pay the MTA surcharge imposed by section 1505-a. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. Corporations not doing business in the MCTD must disclaim liability for the tax surcharge by answering **No** to the question on page 1 and are not required to file Form CT-33-M.

Computerized Returns

Computer-produced corporation tax returns will be accepted if they meet our printing specifications. For information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

Amended Return

If you are filing an amended return, please write **Amended Return** across the top of page 1.

Signature

The return must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer or other officer authorized by the taxpayer.

If an outside individual or firm prepared the return, the signature of the person and the name of the firm must be included.

Line Instructions

Computation of Tax

Whole Dollar Amounts — Amounts may be shown 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**.

Complete pages 2 through 6 before computing the tax on Page 1.

Line 3 — To compute the alternative tax measured by income plus compensation:

- A Add the unallocated entire net income after adjustment from line 88 and the total salaries and compensation paid to the officers and stockholders from line 61. If line 88 is a loss, subtract it from line 61.
- B Deduct \$15,000 (or a proportionate part if the return is for a period of less than one year) from the amount computed at item A above.
- C Multiply the result of item B above by 30%.
- D Multiply the amount computed at item C above by the allocation percentage from line 45.
- E Enter the result of item D above next to line 3, and multiply the result by 9% (.09) to compute the tax.

Lines 10a and 10b — Section 1505(a) limits taxes imposed by sections 1501 and 1510. Commencing with taxable years beginning on or after January 1, 1998, life insurance companies and nonlife insurance companies have different tax rates under section 1505. Life insurance companies determine their limitation by multiplying the premiums determined under section 1510 by 2.0%. Nonlife insurance companies determine their limitation by multiplying the premiums determined under section 1510 by 2.6%. A *life insurance company* is any insurance company which has the power to do either a life insurance business or an annuity business, or both, as specified in Insurance Law sections 1113(a)(1) and (2). Any insurance company which does not have the power to do either of those kinds of insurance businesses is a *nonlife insurance company*. The State Insurance Fund is a nonlife insurance company and is required by section 1502-a to compute its franchise tax under section 1505.

When computing the limitation, an insurance company that receives more than 95% of its premiums from annuity contracts, group insurance for the elderly, or ocean marine insurance must treat such premiums as taxable premiums (section 1505(b)).

Line 11 — The amount entered on this line should be the lower of the tax determined under section 1505(a) (line 10), or the taxes determined under sections 1501 and 1510 (line 9). A special rule applies to taxpayers claiming EDZ and ZEA credits. EDZ and ZEA credits claimed on line 12 may be subtracted from the amount reported on line 9. If the resulting amount is lower than the limitation on tax reported on line 10, enter the amount from line 9.

Line 12 — Check the box for each credit claimed and enter the total amount of the credits. If more than one credit is claimed, you must apply them in the following order:

- a. Economic development zone capital credit. Attach a copy of Form DTF-602, *Claim for EDZ Capital Corporation Tax Credit*.
- b. Economic development zone wage tax credit. Attach a copy of Form DTF-601, *Claim for EDZ Wage Tax Credit*.

- c. ZEA Wage Tax Credit. This is a economic development zone credit which is allowed to qualifying businesses in a zone equivalent area. Attach a copy of Form DTF-601.1, *Claim for ZEA Wage Tax Credit*.
- d. Eligible business facility tax credit. Attach a copy of Form CT-45, *Claim for Eligible Business Facility Tax Credit*.
- e. Credit for taxes on premiums for any insurance on loss or damage by fire under sections 9104 and 9105 of the Insurance Law or under the charters of the cities of Buffalo or New York. These taxes must have been paid or accrued during the tax year covered by this return. The credit is limited to the amount reported on line 11 less the credits mentioned above. The credit cannot be carried over to any other year. Attach the Report of Premiums, including Supplementary Schedules I and II, when claiming this credit.
- f. Retaliatory Tax Credit. Section 1511(c) of the Tax Law provides a credit to domestic insurers for retaliatory taxes paid to other states because of the taxes imposed by Article 33 of the Tax Law and the Insurance Law. In addition, section 1511(i) of the Tax Law provides a credit to domestic insurers for retaliatory taxes paid to other states because of the assessments imposed on insurers under section 2807-t of the Public Health Law. Complete Schedule I to claim these credits. Do not claim the MTA surcharge retaliatory tax credit on this form.
- g. Special additional mortgage recording tax credit. Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.
- h. Credit for employment of persons with disabilities. Attach Form CT-41, *Claim for Credit for Employment of Persons with Disabilities*.

If the lowest tax on line 11 was computed pursuant to the limitation on tax on line 10, the EDZ tax credits computed on Forms DTF-601, DTF-601.1 and DTF-602 may not be deducted on this line, but may be carried forward to the following year.

If you claim more than one type of credit, attach a separate sheet showing how credits are applied.

Line 14b — If the tax is more than \$1,000, and Form CT-5 was not filed, a mandatory first installment is required for the period following that covered by this return. Enter 40% of the tax shown on line 13 if you are a life insurance company. Enter 25% of the tax shown on line 13 if you are a nonlife insurance company.

Line 16 — The amount entered on this line should be the total of all prepayments of estimated tax from line 129.

Line 19 — If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment from the original due date to the date paid (line 13 minus line 16). Exclude from the interest computation any amount shown on line 14a or 14b, first installment of estimated tax for next period.

Line 20 — Additional charges for late filing and late payments 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 (line 13 minus line 16). Exclude from the penalty computation any amount shown on line 14a or 14b, first installment of estimated tax for 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 above 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 $\frac{1}{2}\%$ per month up to 25% (section 1085(a)(2)).

D The total of the additional charges in items A and C above 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 reasonable cause for the delay in filing or payment (section 1085).

NOTE: You may have the interest (line 19) and penalty (line 20) computed for you by calling the Business Tax Information Center at the number listed in the *Need Help?* section on page 6.

Lines 26 and 27 — 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.

Schedule A — Allocation of Reinsurance Premiums

Complete this schedule to allocate reinsurance premiums to New York when the location or residence of the property or risks covered by the reinsurance cannot be determined.

Column C — Enter the percentage each ceding corporation's New York premiums bear to its total premiums for the preceding tax year (reinsurance allocation percentage). This percentage may be obtained from tax service publications or by applying, in duplicate, to the address shown on page 6. If the ceding corporation did not do business in New York State during the preceding year and therefore did not file a New York State tax return, the percentage is zero.

Schedule B — Computation of Allocation Percentage

A taxpayer doing business both inside and outside New York State may allocate its business and investment capital, entire net income, and entire net income plus compensation.

The income allocation percentage is computed by adding the percentages of the taxpayer's premiums allocated to New York State (multiplied by nine) and payroll allocated to New York State and dividing the total by ten. For both the numerator and denominator of the premium allocation percentage, the term *premium* shall include all amounts received as consideration for insurance, reinsurance and annuity contracts including premium deposits, assessments, policy fees, membership fees and all other compensation for such contracts.

If the premiums factor is missing from line 39, the income allocation percentage is the payroll factor percentage on line 43. If the payroll factor is missing from line 43, the income allocation percentage is the premium factor percentage on line 39. A factor is missing if both its numerator and denominator are zero. If the numerator is zero and the denominator has a positive figure, the factor has an allocation value of 0% and is included in the computation of the allocation percentage.

Line 31 — Enter the total New York taxable premiums received from life insurance and nonlife insurance from Schedule H, column A, lines 93, 94, or 95, plus any additional premiums on these types of policies that were written, procured, or received in New York on business that cannot be specifically assigned as located or resident in any other state or states that were not included on line 93, 94, or 95 (attach schedules for such additional premiums). Do not include in this amount any separate costs assessed by the insurance corporation upon its policyholders. See section 1504(b)(2)(A) of the Tax Law.

Line 32 — Enter the total ocean marine premiums written, procured, or received on property or risks located or resident in New York plus ocean marine premiums written within New York on property or risks that cannot be specifically assigned as located or resident in any other state or country. See section 1504(b)(2)(C) of the Tax Law.

Line 33 — Enter the total of premiums for annuity contracts and insurance for the elderly that are written, procured, or received on risks located or resident in New York, and those premiums for annuity contracts and insurance for the elderly written, procured, or received in New York on business that cannot be specifically assigned as located or resident in any other state or states. Include annuity and other fund deposits as reported on Schedule T of the Annual Statement.

Line 34 — Enter the total New York premiums on reinsurance assumed from authorized companies. Include premiums allocated to New York State where the location of the risk cannot be determined (Schedule A, line 30) and premiums from risks located in New York State.

Line 36 — Enter the total amount of New York premiums included on line 35 that were ceded to other insurance companies.

Attach a separate schedule showing the computation of New York premiums included in lines 31 through 36.

Line 38 — Total premiums are to be reported on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Insurance.

First, determine total gross premiums, deposit premiums and assessments, less returns thereon, on **all** policies, annuity contracts, certificates, renewals, policies subsequently canceled, and insurance and reinsurance executed, issued or delivered on property or risks, including premiums for reinsurance assumed. Include **only** those special risk premiums written, procured, or received in New York on risks located or resident in New York.

From the total amount determined, deduct dividends on total premiums and premiums on reinsurance ceded. When computing the dividend deduction, include unused or unabsorbed portions of premium deposits paid or credited to policyholders, but not deferred dividends paid in cash to policyholders on maturing policies or cash surrender values.

Line 41 — Enter total wages, salaries, personal service compensation, and commissions for the tax year of employees, agents, and representatives regularly connected with or working out of an office or place of business maintained within New York. It does not matter where the services were performed.

Line 42 — Enter total wages, salaries, personal service compensation, and commissions for the tax year of all employees, agents, and representatives.

Attach a separate schedule indicating how the amounts shown on lines 41 and 42 were computed and where these amounts are shown on the federal return.

Schedules C and D — Computation and Allocation of Subsidiary Capital and Business and Investment Capital

Subsidiary Capital. A subsidiary is a corporation of which over 50% of the voting stock is owned by the taxpayer. The term subsidiary capital means all investments in the capital stock of subsidiary corporations plus all indebtedness from subsidiary corporations (other than accounts receivable acquired in the ordinary course of trade or business for services rendered or for sales of property held primarily for sale to customers). When computing the amount of indebtedness owed to the taxpayer by its subsidiaries, each subsidiary should be considered separately. Loans and advances from the parent to the subsidiary may be offset by loans and

advances from the same subsidiary to the parent, but may not be reduced to less than zero. Loans and advances from a subsidiary to the parent may not offset the parent's investment in the stock of the subsidiary or offset loans and advances from the parent to any other subsidiary.

The indebtedness may or may not be evidenced by bonds or other written instruments, as long as interest is not claimed and deducted by the subsidiary for the purposes of taxation under any article of the New York State Tax Law. Each item of subsidiary capital must be reduced by any liabilities of the taxpayer (parent) payable by their terms on demand or not more than one year from the date incurred. These liabilities do not include loans or advances outstanding for more than a year, as of any date during the year covered by the return.

Definition of Capital. *Total capital* is the average fair market value of all the corporation's assets less its average current liabilities. It does not include assets that are held to maintain reserves of an insurance corporation as required under sections 1303, 1304, and 1305 of the New York State Insurance Law.

Valuation of Capital. Business and investment capital is total capital less subsidiary capital. In computing business and investment capital under Schedule D, you are normally required to value assets at fair market value. But in valuing real and tangible personal property, you may elect to substitute book values for these assets, i.e., the value established and regularly kept on the books of the company. If you make this election you must so indicate on each return. Once you have made the election, it is binding for all subsequent tax years and cannot be changed without prior permission. Stocks, bonds and other securities must be valued at fair market value.

Average Fair Market Value. The *fair market value* of an asset is the price (without deduction of any encumbrance) at which a willing seller will sell and a willing buyer will buy. The fair market value, on any date, of stocks, bonds, and other securities regularly traded on an exchange or in the over-the-counter market is the mean between the highest and lowest selling prices on that date. Average value is generally computed quarterly if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average fair market value results.

Current Liabilities. Include **only** liabilities maturing in one year or less from the date originally incurred. Do not include loans or advances outstanding for more than a year as of any date during the year covered by this return, notes payable that are renewed from year to year, or the current portion of a long-term liability. Do not include reserves required under New York State Insurance Law sections 1303, 1304, and 1305. Use the same method of averaging used to determine average fair market value of assets.

Issuer's Allocation Percentage. For Schedule C, Column F, enter the percentage of the entire capital or the issued capital stock or the gross direct premiums or net income of each issuing corporation allocable to New York State as determined on the corporation's New York tax return for the preceding tax year. This percentage may be obtained from tax services publications or by applying, with duplicate lists, to the address shown on page 6. If the issuing corporation did not do business in New York State during the preceding year and therefore did not file a New York tax return, the percentage is zero.

Line 50 — Attach copies of your Analysis of Assets Schedule reflecting admitted and non-admitted assets for both the previous tax year and the current tax year.

Schedule E — Computation of Adjustment for Gains or Losses on Disposition of Property Acquired Before January 1, 1974

Section 1503(b)(5) of the NYS Tax Law details the adjustments required to be made when reporting the gain or loss from sale or exchange of property acquired before January 1, 1974.

Columns B, D, and F — Enter the amounts used in computing federal taxable income.

Column C — The fair market price or value is the price at which a willing seller will sell and a willing buyer will buy.

Column E —

- If the amount entered in column B or C is more than the amount entered in column D, no New York gain is realized. Enter "0" in column E.
- If the amount entered in column B or C is less than the amount entered in column D, no New York loss is sustained. Enter "0" in column E.
- If both the amounts entered in columns B and C are less than the amount entered in column D, a New York gain is realized. Enter in column E the difference between column D and the higher of column B or C.
- If both the amounts entered in columns B and C are more than the amount entered in column D, a New York loss is sustained. Enter in column E (in parenthesis) the difference between column D and the lower of column B or C.

Schedule G — Computation and Allocation of Entire Net Income

Line 62 — Enter the amount of life insurance company taxable income (LICTI) or taxable income as reported to the U.S. Treasury Department for the tax year which includes, in the case of a stock life insurance company, distributions to shareholders from an existing policyholder's surplus account. Taxpayers who file federal Form 1120-L must enter on this line the total of LICTI per Schedule A, plus the Operations Loss deduction included in LICTI. Taxpayers filing federal Form 1120-PC must enter the total of taxable income per Schedule A, plus any net operating loss included in taxable income. Corporations exempt from federal income tax but subject to tax under Article 33 should enter the taxable income which would have been required to be reported to the U.S. Treasury Department.

Line 64 — Enter all interest and dividend income, received or accrued, which was exempt from federal income tax and not included in line 62, less interest expense, bond premium amortization, and other ordinary and necessary expenses, paid or incurred, attributable to this income.

Line 65 — Enter interest paid or accrued on indebtedness directly or indirectly owed to any stockholder (including subsidiaries of a corporate stockholder) or members of his or her immediate family that own more than 5% of the issued capital stock of the taxpayer. *Immediate family* includes brothers and sisters of whole or half blood, spouse, ancestors, and descendants. If no such interest was paid or accrued, enter "0."

Line 67 — Enter all capital losses from sales and exchanges of subsidiary capital, all other losses and bad debts, interest expense (direct or indirect), foreign taxes, and any carrying charge attributable to subsidiary capital deducted in computing federal taxable income.

Line 68 — Enter the amount deducted on your federal return for New York State franchise taxes imposed by Article 33.

Line 69a — Enter any amount claimed as a deduction in computing federal taxable income solely as a result of an election made under the provision of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 69b — Enter any amount you would have been required to include in the computation of federal taxable income had you not made the election permitted by the provisions of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 70 — Enter federal ACRS (accelerated cost recovery system) deductions or MACRS deductions used in computing federal taxable income. However, no adback is required for property placed in service in New York State in tax years beginning after December 31, 1984, and subject to section 168 of the IRC, or for property acquired after June 18, 1984, and depreciated under IRC section 280-F (such as luxury cars). For additional information see the instructions for Form CT-399.

Line 72 — Enter the amount of unearned premiums on outstanding business at the end of the preceding tax year excluded from premiums earned as a result of IRC sections 832(b)(4)(B), 832(b)(7)(B)(i), and 832(b)(8)(A)(i).

Line 73 — Enter the difference between the amount of discounted unpaid losses at the end of the preceding tax year used in the computation of losses incurred as a result of IRC section 832(b)(5)(A) and the amount of unpaid losses at the end of the preceding tax year that would have been used in such computation if such losses were not discounted for federal income tax purposes. Provide a copy of the loss reserves discount summary schedule used to compute discounted unpaid losses from federal Form 1120-PC.

Line 74 — Other additions:

- a. The portion of the special additional mortgage recording tax claimed as a credit that was claimed as a deduction in arriving at federal taxable income. The gain or loss on the sale of real property on which the special additional mortgage recording tax credit was claimed must be increased in the case of a gain, or decreased in the case of a loss, when any portion of the credit was also used in the basis for computing the federal gain.
- b. **Qualified Emerging Technology Investments (QETI)** — If you elected to defer the gain from the sale of QETI, **you must** then make an addition to your federal taxable income. Add the amount previously deferred when the reinvestment in the New York qualified emerging technology company which qualified you for that deferral is sold. See subtraction c on line 86.

Line 76 — Enter interest and dividend income from subsidiary capital and capital gains from sales and exchanges of subsidiary capital. This deduction **cannot** exceed the amount used to compute federal taxable income.

Line 77 — Enter 50% of dividend income from corporations that are not subsidiaries. A life insurance company may enter only 50% of the company's share (IRC section 812(a)(1)) of such dividend income.

Line 78 — Enter any income or gain from installment sales of real or personal property made before January 1, 1974, that was used to compute federal taxable income.

Line 79 — Enter New York State net operating losses or operations losses carried forward from prior years. Attach a separate schedule providing details of both federal and New York State losses claimed. This should not include any loss incurred in a tax year in which the taxpayer was not subject to tax under Article 33 of the Tax Law.

Line 80a — Enter any amount included in federal income solely as a result of an election made under the provisions of IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984).

Line 80b — Enter any amount that you could have deducted from federal taxable income had you not made an election under IRC section 168(f)(8) (safe harbor lease, as it was in effect for agreements entered into before January 1, 1984). For additional information on safe harbor leases, see TSB-M-82(15)C.

Line 81 — In place of the deduction disallowed on property on line 70, a depreciation deduction based on IRC section 167 (as it was in effect on December 31, 1980) will be allowed (Article 33, section 1503(b)(10)). For additional information see the instructions for Form CT-399, *Depreciation Adjustment Schedule*.

Line 82 — Enter the amount included in federal gross income as a result of sections 847(5) and 847(6) of the IRC.

Line 83 — Enter the amount of unearned premiums on outstanding business at the end of the tax year included in premiums earned as a result of IRC sections 832(b)(4)(B), 832(b)(7)(B)(i) and 832(b)(8)(A)(i).

Line 84 — Enter the difference between the amount of discounted unpaid losses at the end of the tax year used in the computation of losses incurred as a result of IRC section 832(b)(5)(A), and the amount of unpaid losses at the end of the tax year that would have been used in such computation if such losses were not discounted for federal income tax purposes. Provide a copy of the loss reserves discount summary schedule used to compute discounted unpaid losses from federal Form 1120-PC.

Line 85 — Enter the amount by which losses incurred were reduced as a result of IRC section 832(b)(5)(B).

Line 86 — Other subtractions:

- a. The amount of wages that were disallowed in computing your federal taxable income for the targeted jobs tax credit (IRC section 280C). Attach a copy of federal Form 5884.
- b. Interest deductions under section 1503(b)(3) to the extent not deducted on line 64.
- c. You may defer the gain on the sale of qualified emerging technology investments (QETI) that are (1) held for more than 36 months and (2) rolled over into the purchase of a QETI within 365 days. Replacement QETI must be purchased within the 365 day period beginning on the date of sale. Gain is not deferred and must be recognized to the extent that the amount realized on the sale of the original QETI exceeds the cost of a replacement QETI. The gain deferral applies to any QETI sold on or after March 12, 1998, that meets the holding-period criteria. The gain deferred must be added back in the year the replacement QETI is sold.

If you elect the gain deferral, deduct from federal taxable income the amount of the gain deferral (to the extent the gain is included in federal taxable income). If purchase of the replacement QETI within the 365 day period occurs in the same taxable year as the sale of the original QETI, or in the following taxable year and before the date the corporation's franchise tax return is filed, take the deduction on that return. If purchase of the replacement QETI within the 365 day period occurs in the following taxable year and on or after the date the corporation's franchise tax return is filed, you must file an amended return to claim the deduction.

A QETI is an investment in the stock of a corporation or an ownership interest in a partnership or limited liability company (LLC) that is a qualified emerging technology company. A QETI is also an investment in a partnership or an LLC to the extent that such partnership or LLC invests in qualified emerging technology companies. The investment must be acquired by the taxpayer as provided in IRC section 1202(c)(1)(B), or from a person who acquired it pursuant to this section. IRC section 1202(c)(1)(B) requires the acquisition to be original issue from the company, either directly or through an underwriter, and in exchange for cash, services, or property (but not stock).

A *qualified emerging technology company* is a company located in New York State that has total annual product sales of \$10 million or less and that meets either of the following criteria: (1) its primary products or services are classified as emerging technologies; or (2) it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation in the most recently published results from its survey of Industry Research and Development, or a comparable successor survey as determined by the department).

Schedule H — Computation of Taxable Premiums and Premiums Used to Compute the Limitation on Tax

Any corporation subject to Article 33 of the Tax Law will be subject to the additional premiums tax under section 1510 or the limitation on tax under section 1505.

Use Schedule H to compute premiums due under section 1510 and 1505, and transfer them to the appropriate lines on page 1. Direct premiums are to be reported on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Insurance. For purposes of computing Schedule H, the term premium includes all amounts received as consideration for insurance or reinsurance contracts (except annuity contracts), including premium deposits, assessments, policy fees, membership fees, any separate costs by carriers assessed upon their policyholders and all other consideration for such contracts.

Taxable Premiums include gross direct premiums less return premiums, reinsurance premiums and dividends paid or credited.

- a. **Gross Direct Premiums.** Include total gross premiums, deposit premiums and assessments, less returns thereon, on all policies, certificates, renewals subsequently canceled, insurance and reinsurance executed, issued or delivered on property or risks located or resident in this state and premiums written, procured or received in this state on business that cannot be specifically allocated or apportioned and reported as taxable premiums or

which have not been used as a measure of a tax on business of any other state or states. Also include special risk premiums written, procured or received in New York on risks located or resident in New York State. When computing taxable premiums in **Column A** do not include premiums on annuity contracts, ocean marine insurance and policies issued pursuant to section 4236 of the Insurance Law. Also exempt from the tax on premiums are premiums on risks located outside the United States which were written, procured or received in New York, **except** for insurance written by foreign and alien title insurance corporations and accident and health insurance.

Insurance corporations receiving more than 95% of their gross direct premiums from annuity contracts (including annuity and other fund deposits), ocean marine insurance and policies issued under section 4236 of the Insurance Law **must** include these premiums in the tax limitation computation.

b. Deductions from Gross Direct Premiums

1. **Reinsurance Premiums** — When computing gross direct premiums, you may deduct reinsurance premiums, less return premiums, that have been received by way of reinsurance from corporations or other insurers authorized to transact business in this state.
2. **Dividends Paid or Credited** — You may deduct dividends on direct premiums and unused or unabsorbed portions of premium deposits paid or credited to policyholders. This deduction does not include deferred dividends paid in cash to policyholders on maturing policies or cash surrender values.

Schedule I — Computation of Retaliatory Tax Credit

Do **not** claim the MTA surcharge retaliatory tax credit on this return. Use Form CT-33-M to claim the MTA surcharge retaliatory tax credit.

Part I — (Section 1511(c))

Insurance corporations organized or domiciled in this state should complete Schedule I to claim credit for 90% of retaliatory taxes paid to other states for the privilege of doing business in those states.

- a. Credit may be claimed only for retaliatory taxes paid on business after December 31, 1973.
- b. Credit may not exceed the tax payable under Article 33 (before adding the tax surcharge) for the tax year for which the retaliatory taxes were imposed or assessed.
- c. Credit should be claimed on the return for the tax year during which the retaliatory taxes were paid. If the credit exceeds the tax payable on the return on which the credit is claimed, you may elect to have the excess credited to the next tax period or refunded without interest (lines 119 and 120).

Any reduction in the amount of retaliatory taxes paid to another state on which a credit for such taxes was allowed by New York State must be reported to the Tax Department within 90 days of final determination.

Part II — (Section 1511(i))

Domestic insurers should complete Part II of Schedule I to claim a credit for up to 90% of the retaliatory taxes paid to other states because of the assessment imposed by section 2807-t of the Public Health Law. Credit should be claimed on the return for the year during which the retaliatory taxes were paid. The amount of the credit claimed may not exceed the lower of the amount of the assessment paid pursuant to section 2807-t or the tax payable under Article 33 for the tax year for which the retaliatory taxes were imposed or assessed. If the credit claimed exceeds the tax payable on the return on which the credit is claimed, you may elect to have the excess credited to the next tax period or refunded without interest (lines 119 and 120).

Schedule J — Computation of Issuer's Allocation Percentage

Complete this schedule by entering New York business on line 121 and total business on line 122 as reported in the annual statement filed with the Superintendent of Insurance for the tax year.

Section 1085(a) of the Tax Law provides for a penalty of \$500 for failure to provide information needed to compute your Issuer's Allocation Percentage.

Reinsurance allocation percentages will be supplied upon written request (in duplicate) to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227, or by calling the Business Tax Information Center which can be reached at the number listed under *Need Help?* below.

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.