



# Instructions for Form CT-33

## Insurance Corporation Franchise Tax Return

### Law changes

#### Depreciation uncoupling on out-of-state property

A corporation subject to tax under Article 33 is no longer required to compute a separate New York State depreciation deduction under Internal Revenue Code (IRC) section 167, for property placed in service outside New York State during tax years beginning after 1984, and before 1994. The corporation will be allowed to use the federal depreciation computed under IRC section 168, instead of computing a separate depreciation deduction under IRC section 167 on Form CT-399.

The taxpayer has two options. They are:

- continue using the IRC section 167 depreciation deduction, or
- switch to the IRC section 168 depreciation deduction.

The option chosen must be applied to **all** of the taxpayer's property described above. If the taxpayer chooses the second option, the taxpayer must use the IRC section 168 deduction for the year of that initial choice and for all subsequent tax years.

A taxpayer who chooses to continue using the IRC section 167 depreciation deduction will continue to compute the deduction on Form CT-399. Carry the modifications computed on Form CT-399 over to lines 70 and 81 of Form CT-33.

A taxpayer chooses to switch to the IRC section 168 deduction by not computing section 167 depreciation on Form CT-399 and by not making the modifications on lines 70 and 81 of Form CT-33. However, in the year of sale or disposition the taxpayer must complete Form CT-399 and make the applicable modifications on Form CT-33.

These options do not apply to property placed in service in tax years beginning before 1985. If the taxpayer has placed property in service either inside or outside New York after 1980 and in tax years beginning before 1985, the taxpayer still must compute depreciation modifications on Form CT-399 and include these modifications when computing the entire net income base. See TSB-M-99(1)C for further information.

#### CAPCO credit

A new credit was added to Article 33 in 1998, which may not be deducted until this year. This credit is equal to 100% of a taxpayer's investment of certified capital in certified capital companies (CAPCO), established under section 11 of the Tax Law. You may claim the credit over 10 years, with 10% allowed each year. See TSB-M-98(2)C for further information.

#### 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 that 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 must file Form CT-33-C.

**Definition of insurance corporation** — An *insurance corporation* as defined by section 1500 of Article 33 of the 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

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file your return. However, if, at a later date, you need to establish the date you filed your return, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently 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, whether it is a designated service or not, address your return to: **State Processing Center, 431C Broadway, Albany NY 12204-4836**.

You must also file a copy of your completed Form CT-33 with the New York State Insurance Department, Agency Building 1, Empire State Plaza, Albany NY 12257.

#### 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.

#### NAICS business code number

Enter the six-digit NAICS business activity code number from your federal return.

#### 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. They are not required to file Form CT-33-M.

### Computerized returns

We will accept computer-produced corporation tax returns 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.

### Specific instructions

**Whole dollar amounts** — You may elect to show amounts in whole dollars rather than in 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. Carry percentages out to four decimal places. For example:  $5,000/7,500 = .6666666 = 66.6667\%$ .

**Negative amounts** — Show any negative amounts in parentheses.

### Computation of tax and installment payments of estimated tax

**Line A** — Make your payment in United States funds. We will accept a foreign check or foreign money order only 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 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 tax 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 that 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*.
- i. CAPCO Credit. Section 1511(k) of the Tax Law provides for a credit equal to 100% of a taxpayer's investment of certified capital in certified capital companies (CAPCO) established under section 11 of the Tax Law. This credit may not reduce the tax below \$250. See Schedule L.

If you computed the lowest tax on line 11 under the limitation on tax on line 10, then the EDZ tax credits you 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 you did not file Form CT-5, 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 130.

**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** — Compute additional charges for late filing and late payments on the amount of tax less any payment made on or before the due date (**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: If you wish, we will compute the interest (line 19) and penalty (line 20) for you. Call the Business Tax Information Center at 1 800 972-1233.

**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 (IRS) or to 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. We will refund any amount over your debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to the IRS or to 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 when location of risks cannot be determined

Complete this schedule to allocate reinsurance premiums to New York State 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). You may obtain this percentage 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.

Compute the income allocation percentage 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* includes 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 State, plus ocean marine premiums written within New York State 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 State, and those premiums for annuity contracts and insurance for the elderly written, procured, or received in New York State 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** — You must report total premiums 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 State on risks located or resident in New York State.

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 State. 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 you computed the amounts shown on lines 41 and 42 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, consider each subsidiary 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 minus 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 minus 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, that is, 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. You must value stocks, bonds, and other securities 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 State tax return for the preceding tax year. You may obtain this percentage from tax services publications, or by written request, 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 State tax return, the percentage is zero. Issuer's allocation percentages are also available from many on-line services, printed tax services, or on the Department's Web site (<http://www.tax.state.ny.us>).

**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 Tax Law details the adjustments you must make 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 parentheses) 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 (including, 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 must 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, minus 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** — Use this line if:

- your federal depreciation deduction this year includes a deduction for property placed in service after 1980 in a taxable year beginning before 1985, or
- your federal depreciation deduction this year includes a deduction for property placed in service outside New York State in taxable years beginning after 1984 and before 1994, and you choose to continue New York depreciation uncoupling this year by using IRC section 167 depreciation as your New York depreciation deduction (see TSB-M-99(1)C), or
- you disposed of property this year that was placed in service after 1980, and the New York depreciation deduction on the property was at any time uncoupled from the federal depreciation deduction.

If this line applies, complete Form CT-399. Include from Form CT-399, line 8, the amount of your federal deduction that must be added back to federal taxable income, or, if you disposed of property this year, use the amount from CT-399, line 16, column A.

**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, then **you must** add to federal taxable income 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** — Use this line if:

- your federal depreciation deduction this year includes a deduction for property placed in service after 1980 in a taxable year beginning before 1985, or
- your federal depreciation deduction this year includes a deduction for property placed in service outside New York State in taxable years beginning after 1984 and before 1994, and you choose to continue New York depreciation uncoupling this year by using IRC section 167 depreciation as your New York depreciation deduction (see TSB-M-99(1)C), or
- you disposed of property this year that was placed in service after 1980, and the New York depreciation deduction on the property was at any time uncoupled from the federal depreciation deduction.

If this line applies, complete Form CT-399. Include from Form CT-399, line 9, the amount of your federal deduction that must be added back to federal taxable income, or, if you disposed of property this year, use the amount from CT-399, line 16, column B.

In place of the disallowed ACRS and MACRS deduction entered on line 70, a depreciation deduction based on IRC section 167 (as it would have applied to property placed in service on December 31, 1980) is 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 held for more than 36 months and rolled over into the purchase of a QETI within 365 days. You must purchase replacement QETI 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. You must add back the gain deferred 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 under 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).

- d. Victims or targets of Nazi persecution: Include the amount received (including accumulated interest) from an eligible settlement fund, or from an eligible grantor trust established for the benefit of these victims or targets, if included in your federal taxable income. Do not include amounts received from assets acquired with such assets or with the proceeds from the sale of such assets (section 13 of the Tax Law).

**Schedule H — Computation of premiums**

Any corporation subject to Article 33 of the Tax Law is 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. Report direct premiums 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 minus 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 State 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 under 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 State, **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, minus 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 1 — 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. You may claim credit 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. Claim credit 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 120 and 121).

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 2 — Section 1511(i)

Domestic insurers must complete Part 2 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. Claim credit 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 under 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 120 and 121).

### Schedule J — Computation of issuer's allocation percentage

Complete this schedule by entering New York business premiums on line 122 and total business premiums on line 123 as reported in your 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.

We will supply reinsurance allocation percentages upon written request to the NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227. You may also call the Business Tax Information Center at the number listed under *Need help?* below.

### Schedule L — Computation of CAPCO credit allowed and credit carryover

Compute the amount of CAPCO credit allowed in a particular tax year and the carry forward of the CAPCO credit on lines 131 through 136.

#### 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 uses 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 subject you to civil or criminal penalties, or both, under the Tax Law.

This information is 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, call the New York State Business Tax Information Center: 1 800 972-1233

For general information: 1 800 225-5829

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800



**Fax-on-demand forms:** Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



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



**Hotline for the hearing and speech impaired:** 1 800 634-2110 from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. If you do not own a telecommunications device for the deaf (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 1 800 225-5829.



**If you need to write,** address your letter to:  
 NYS TAX DEPARTMENT  
 TAXPAYER ASSISTANCE BUREAU  
 TAXPAYER CORRESPONDENCE  
 W A HARRIMAN CAMPUS  
 ALBANY NY 12227