



# Instructions for Form CT-186-A

## Utility Services Tax Return — Gross Operating Income

### Tax Law — Article 9, Section 186-a

# CT-186-A-I

### General information

You must report gross operating income on a calendar-year basis even if you maintain your records and report to the Internal Revenue Service (IRS) using a fiscal accounting period.

### Tax rate

The tax rate on gross operating income has been changed as follows:

Tax period	Rate
January 1, 2001, through December 31, 2001	2.0%
January 1, 2002, through December 31, 2002	1.9%
January 1, 2003, through December 31, 2003	.85%
January 1, 2004, through December 31, 2004	.4%
January 1, 2005, and thereafter	0%

### Who must file Form CT-186-A

A utility, person, corporation, company, association, or joint-stock association **not** subject to the supervision of the New York State Department of Public Service that engages in the sale or furnishing of gas, electricity, steam, water, or refrigeration service through the use of mains, pipes, or wires for ultimate consumption or use by the purchaser in New York State, must file this return whether or not a tax is due. Those who **are** subject to the supervision of the Department of Public Service must file Form CT-186-P.

**Excise tax on telecommunication services** — If you are a provider of telecommunication services that also sells electricity, steam, gas, water, or refrigeration service, do **not** file this form; file Form CT-186-E to report the tax imposed by sections 186-a and 186-e.

Examples of taxpayers required to file Form CT-186-A include:

- A. Owners of apartment buildings, office buildings, hotels, and similar establishments within New York State who purchase gas, electricity, steam, water, or refrigeration, and resell or furnish any part or all of the commodity to a guest or tenant at identifiable, flat, or metered rates. See *Special rules for landlords* on the back page for additional information.
- B. All persons including owners of cogeneration facilities or manufacturing plants who sell gas, electricity, steam, water, or refrigeration to a purchaser through the use of mains, pipes, or wires. See *Special rules for landlords* on the back page for additional information.

The following taxpayers must file Form CT-186-A if they sell gas or electricity, or gas or electric service:

- C. Municipalities, political and civil subdivisions, and public districts that sell or furnish gas, electricity, or gas or electric service (including the sale of the transportation, transmission, or distribution of gas or electricity), which do not qualify for the exemption in paragraph (2) under *Exemption from tax* below.
- D. Municipalities engaged in the retail sale of electricity or the transportation, transmission, or distribution of electricity, which do not qualify for the exemption in paragraph (3) under *Exemption from tax* below.

Taxpayers described in C and D above must include receipts from the sale of gas or electricity, or gas or electric service, on line 15, and include receipts from the transportation, transmission, or distribution of gas or electricity by means of conduits, mains, wires, lines, and the like on line 16. These taxpayers should not include on lines 15 or 16 any receipts from the sale or furnishing of steam, water, or refrigeration, or any receipts from the transportation, transmission, or distribution of steam, water, or refrigeration by means of conduits, mains, wires, lines, and the like.

If gross operating income does not exceed \$500 for the year, you are exempt from the payment of tax. However, you must still file this annual return.

### Exemption from tax

The following are exempt from taxation under section 186-a and do not have to file Form CT-186-A:

- (1) New York State, municipalities, political and civil subdivisions of New York State, or municipality and public districts, **but only** when selling or furnishing steam, water, or refrigeration service.
- (2) Municipalities, political and civil subdivisions, and public districts that sell or furnish gas, electricity, and gas or electric service (including the sale of the transportation, transmission, or distribution of gas or electricity), **but only** if they own and operate facilities used to generate electricity or to distribute electricity or gas, and sell and distribute such electricity or gas solely at retail and solely within their jurisdiction.
- (3) Municipalities engaged in the retail sale of electricity or the sale of transportation, transmission, or distribution of electricity, where all such electricity has been generated solely by and purchased solely from

New York State or a public authority of New York State (New York State Power Authority).

- (4) Not-for-profit corporations and associations described in section 1116(a)(4) of the Tax Law, organized and operated exclusively for religious, charitable, or educational purposes, only when the organization resells gas or electricity, or gas or electric service, as landlord to its tenants in buildings owned by the organization.
- (5) A corporation leasing from a city in New York State a water works system to supply water at cost to relieve water pollution in a river within that city.
- (6) Limited dividend housing corporations organized under the Private Housing Finance Law.

### Other surcharges, taxes, and fees that may apply

#### Metropolitan transportation business tax (MTA surcharge)

— All corporations that file Form CT-186-A must answer the question above line A. Any business taxable under Article 9, section 186-a of the Tax Law that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-A/M and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. If you are not doing business in the MCTD, you must disclaim liability for the MTA surcharge by answering *No*; you are not required to file Form CT-186-A/M.

#### Foreign corporations – maintenance fee

— A corporation organized outside of New York State (a *foreign corporation*) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay the annual maintenance fee or its equivalent in New York State taxes (including the MTA surcharge) will result in annulment of the corporation's authorization to do business in New York State, under Articles 9, 9-A, or 32. Payment of corporation taxes are counted as payment toward the \$300 annual maintenance fee (but not the license fee reported on Form CT-240). If the total of your corporation taxes is greater than \$300, you have satisfied the requirement to pay the annual maintenance fee. If the total of your corporation taxes is less than \$300, and you are filing Form CT-183 or Form CT-186, pay the \$300 with that form. Indicate that you paid a total corporation tax and maintenance fee of \$300 with Form CT-183 or CT-186, and make no remittance of tax with the other returns.

#### Foreign corporations – license fee

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

### When to file

The annual return is due on March 15, following the close of each calendar year. If March 15 falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day.

### Where to file

Mail your return 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. Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. (See *Need help?* below 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.**

### Extension of time for filing

You must file a request for an extension of time to file a tax return on Form CT-5.9 on or before March 15. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186-A.

## Specific instructions

### Changes in business information

You must report any changes in your business name, ID number, mailing address, physical address, telephone number, or owner/officer information on Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*, to correct your address for other tax types. You can get these forms by fax, phone, or from our Web site. See *Need help?* below for the phone number and Web address.

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

### Employer identification number, file number, and other identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. You will find your employer identification number and file number just above your corporation name and address on the forms mailed to you. Keep a record of that information and include it on each corporation tax form mailed.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

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

## Line instructions

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

**Percentages** — When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Percentages should be carried out to four decimal places. For example:  $5,000/7,500 = 0.6666666 = 66.6667\%$ .

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

**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**.

## Computation of tax

**Line 2b First installment of tax for the next period** — If you did not file Form CT-5.9 and the amount on line 1 is more than \$1,000, you must pay a mandatory 25% first installment of estimated tax for the next period.

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

**Line 6 Estimated tax penalties** — If you underpaid your estimated tax, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, check the box, and enter the amount of penalty on line 6. If no Form CT-222 penalty is due, enter "0" on line 6.

**Line 7 Interest on late payments** — If you do not pay the tax in full on or before the original due date (**without** regard to any extension of time for filing) you must pay interest on the unpaid amount from the original due date until you pay it. Exclude from the interest computation any amount shown on line 2a or 2b, first installment of estimated tax for the next period.

**Line 8 Late filing and late payment penalties** — Compute additional charges for late filing and late payment on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing). Exclude from the penalty computation any amount shown on line 2a or 2b, first installment of estimated tax for the next period.

- If you do not file a return when due, or if your request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- 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)).
- If you do not pay the tax shown on a return when due, add to the tax  $\frac{1}{2}\%$  per month up to 25% (section 1085(a)(2)).
- The total of the additional charges in items A and C may not exceed 5% for any one month, except as provided for in item B above (section 1085(a)).

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

Note: If you wish, we will compute the interest (line 7) and penalty (line 8) for you. Call the Business Tax Information Center at 1 800 972-1233.

**Line 14 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 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.

## Computation of gross operating income (other than telephone and telegraph)

Use lines 15 through 20 to compute the tax on gross operating income for the period January 1, 2001, through December 31, 2001, at the tax rate of 2.0%.

**Line 15** — Enter the total receipts from the sale or furnishing of each commodity made for ultimate consumption or use within New York State. See *Special rules for landlords* below.

In determining gross operating income, *receipts* include cash, credits, and property of any kind or nature, without any deductions for the cost of property sold, the cost of materials used, labor, services, or other costs, interest or discount paid, or any other expense, except as stated in the instructions for line 18.

## Special rules for landlords

**Sales to landlords** — *Gross operating income also includes* receipts from utility services to a landlord for resale to a tenant for consumption or use by the tenant as incidental to the landlord's renting of premises to the tenant, even though such sales are not for ultimate consumption by the landlord. *Utility services* means the furnishing of gas, electricity, steam, water, or refrigeration, and services directly connected to the furnishing of gas, electricity, steam, water, or refrigeration. Include these receipts with all other utility service receipts on lines 15 and 16.

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

If **any** utility services were purchased by a landlord for resale to tenants that **did not include** the section 186-a tax, then complete Form CT-186-A as follows:

- Receipts derived by a landlord from the resale of utility services to a tenant are deemed to be equal to the landlord's cost of the same service (including any associated transportation cost). Include these amounts on lines 15 and 16; do not include the markup billed to the tenants.
- If the tax under section 186-a was included on the purchase of a utility service by the landlord, then the landlord may deduct the cost of the same service (including any associated transportation cost) on line 18. If the tax under section 186-a was not included on the purchase by the landlord, then do not deduct this cost on line 18.

**Line 16** — Enter all receipts from the transportation, transmission, or distribution of gas or electricity, and receipts from services rendered for ultimate use within New York State that are directly connected with the sale or furnishing of the commodity. Receipts also include installation charges, service charges (other than installation) that are connected with the sale or furnishing of the commodity, and rentals within the state that in fact constitute service charges. See *Special rules for landlords* above.

**Line 18** — Deductions allowed from gross operating income are uncollectible accounts and taxes imposed by New York State, its municipalities, or the federal government, for which the taxpayer is merely a collecting agency for the taxing authority. In addition, where a utility has passed on its section 186-a tax to you and you resell that commodity or service, you may deduct your cost of that commodity or service resold by you. Enter all deductions listed above that are included as receipts on lines 15 and 16.

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

## Need help?

 Business Tax information: 1 800 972-1233  
Forms and publications: 1 800 462-8100

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

Fax-on-demand forms: 1 800 748-3676

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

 **Internet access:** [www.tax.state.ny.us](http://www.tax.state.ny.us)