



Instructions for Form CT-186

Utility Corporation Franchise Tax Return

CT-186-I

For Continuing Section 186 Taxpayers Only (Certain Independent Power Producers)
Tax Law – Article 9, Section 186

Visit the *Corporation Tax Up-to-Date Information* page on our Web site at www.tax.state.ny.us for tax law changes or forms corrections that occurred after the forms and instructions were printed.

For tax years ending after December 31, 1999, Article 9, section 186 has been repealed. Most utility corporations that were subject to tax under Article 9, section 186, and required to file Form CT-186, are now subject to tax under Article 9-A and required to file Form CT-3 or Form CT-3-S.

A corporation that was subject to section 186 on December 31, 1999, may **elect** to remain subject to section 186 as a continuing 186 taxpayer if:

- the corporation is primarily engaged in the business of co-generation for a tax year ending on December 31, 1999; **and**
- was subject to tax under section 186 of the Tax Law, but not section 186-a of the Tax Law, for the tax year ending on December 31, 1999; **and**
- as of January 1, 2000, was a party to a total output contract.

However, a continuing section 186 taxpayer may make an irrevocable election not to be taxed as a section 186 taxpayer, and instead be taxed as an Article 9-A taxpayer. The irrevocable election is made by filing Form CT-3 or CT-3-S.

For additional information see Chapter 63, Laws of 2000.

Who must file — A corporation described above that elects to remain taxable under Article 9, section 186, must file Form CT-186. A *corporation* includes corporations, joint-stock companies, associations taxable as corporations, or publicly traded partnerships taxable as corporations formed for or principally engaged in the business of supplying electricity, water, steam, or gas when delivered through mains or pipes. The tax is computed on gross earnings received from the employment of capital, plus a tax on dividends paid for the tax year January 1 to December 31. You must report income for the calendar year even if you maintain your records and report to the Internal Revenue Service (IRS) using a fiscal accounting period.

If you import (or cause to be imported) natural gas to be used or consumed in New York State, you may also have to file Form CT-189. For more information, refer to the instructions for Form CT-189 or 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.

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

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file your return and pay tax. However, if, at a later date, you need to establish the date you filed your return or paid your tax, 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 Form CT-186 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.**

If you cannot meet the filing deadline, ask for a three-month extension of time by filing Form CT-5.9 and paying any tax due on or before March 15, or the next business day thereafter if March 15 falls on a Saturday, Sunday, or legal holiday. 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.

Final return — Check the *Final return* box on the front of the return, under the form number, only if filing a final tax return for one of the following reasons:

- Voluntary dissolution of a New York State corporation (New York Business Corporation Law section 1003).
- Surrender of authority by a foreign corporation (New York Business Corporation Law section 1310).
- Merger or consolidation (New York Business Corporation Law sections 904, 905, and 907).
- Disposition of assets of a New York State corporation (New York Business Corporation Law section 909(d)).

- Termination of existence of a foreign corporation (New York Business Corporation Law section 1311).
- Liquidation under Internal Revenue Code (IRC sections 332, 333, 334, and 337).

See *Voluntary dissolution and surrender of authority and liability for taxes and fees* below, and also Publication 110, *Information and Instructions for Termination of Business Corporations*, for the proper procedures to follow in terminating your business.

In the case of a merger or consolidation, the *Final return* check box would be used only by the non-surviving corporation.

The return will be treated as a final return if your business is terminated with the Department of State and the return covers the tax period from the last return filed to the date of the termination.

Foreign authorized corporations: If you are disclaiming tax liability but want to continue to be authorized to do business in New York State, refer to Form CT-245.

Do not check the *Final return* box if you are only changing the type of return that you file (for example, from CT-186 to CT-3 or CT-3-S).

Amended return — If you are filing an amended return, please check the *Amended return* box on the front of the return.

Independently procured insurance tax – Article 33-A —

If you purchase or renew a taxable insurance contract from an insurer not authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Insurance, you will be liable for a tax of 3.6% of the premium (see Form CT-33-D or TSB-M-90(9)C for more information).

Foreign corporations – maintenance fee — If you are a *foreign corporation* (a corporation organized outside of New York State) authorized to do business in New York State under Article 13 or 15-A of the Business Corporation Law, you must pay an annual maintenance fee of \$300. If you do not pay this fee or its equivalent in New York State corporation taxes and MTA surcharges, your authorization to do business in New York State may be annulled. Payments of New York State corporation taxes (including the MTA surcharge) under Articles 9, 9-A, and 32 are counted as payments toward the \$300 annual maintenance fee. However, the license fee reported on Form CT-240 is not considered corporation tax and cannot be considered as a payment toward the maintenance fee.

If the total of corporation taxes you paid in the current tax year is less than \$300, enter “\$300” on Form CT-186, line 7, and make a payment of \$300 with that form. In addition, on any other Article 9 returns, indicate that you paid a total tax and maintenance fee of \$300 with Form CT-186, and make no remittance with any other returns.

Foreign corporations – license fee — Foreign corporations must also file Form CT-240, *Foreign Corporation License Fee Report*, 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.

Voluntary dissolution and surrender of authority and

liability for taxes and fees — A domestic corporation (incorporated in New York State) is generally liable for corporate franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, regardless of whether it carries on any activity. For example, a person who intends to go into business organizes a new corporation under the New York Business Corporation Law for the purpose of operating the new business as a corporation. However, the business is never started and the corporation never conducts any business. Under such circumstances, the corporation would usually be liable for franchise taxes for each taxable year until it is formally dissolved with the Department of State.

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it does business, employs capital, owns or leases property, or maintains an office within New York State. In addition, a foreign corporation that is authorized to do business in New York State is also liable for payments of its annual maintenance fee until such time as it surrenders with the Department of State its authority to do business, regardless of whether it does business, employs capital, owns or leases property, or maintains an office in the state. The maintenance fee may be taken as a credit against the franchise tax.

The procedure for obtaining a voluntary dissolution and surrender of authority and the required forms that must be filed with this department are set forth in Publication 110. You can request this publication by calling the Business Tax Information Center at the telephone number listed under *Who must file* above, or by visiting our Web site.

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 printed corporation name and address. 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.

Change of address — If your address has changed, please enter your new address in the appropriate area and check the box below the address so that we can update your address for this tax type. Do not check this box for any change of business information other than for your address.

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 this and all other tax types. You can get these forms by fax, phone, or from our Web site. See *Need help?* on the back of Form CT-186 for the phone number and Web address.

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

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

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

Negative amounts — Show any negative amounts in parentheses.

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

Specific instructions

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**.

Line 6 — Enter in the *Other credits* box the total amount of any credit(s) being claimed for which no specific box is provided. Otherwise, check the appropriate box(es) and enter the total amount of tax credits claimed on the following forms (attach the form(s) to your return):

- Form CT-40, *Claim for Alternative Fuels Credit*
- Form CT-41, *Claim for Credit for Employment of Persons with Disabilities*
- Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*
- Form CT-249, *Claim for Long-term Care Insurance Credit*
- Form DTF-630, *Claim for Green Buildings Credit*

These credits may not reduce your tax below the minimum tax. If you are an authorized foreign corporation, these credits may not reduce your total tax and MTA surcharge below the \$300 maintenance fee.

The long-term care insurance credit must first be deducted from the taxes imposed by sections 183, 185, or 186. Any remaining long-term care insurance credit is then deducted from the taxes imposed by section 184.

If more than one of these credits applies, you may use them in any order you choose.

Note: Gas or electric corporations subject to the supervision of the Department of Public Service are not eligible for the alternative fuels credit for **electric** vehicles.

Line 8b — If you did not file Form CT-5.9 and the amount on line 7 (franchise tax) is more than \$1,000, you must pay a mandatory 25% first installment of estimated tax for the period following that covered by the return.

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

Line 12 — If you underpaid your estimated franchise tax for 2002, 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 12. If no penalty is due, enter "0" on line 12.

Line 13 — If you do not pay the franchise tax on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of the underpayment from the original due date to the date paid. Exclude from the interest computation any amount shown on line 8a or 8b.

Line 14 — Compute additional charges for late filing and late payments on the amount of franchise 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 8a or 8b.

- A. If you do not file a return when due or if the application 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 ½% per month up to 25% (section 1085(a)(2)).
- D. 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 13) and penalty (line 14) for you. Call the Business Tax Information Center at 1 800 972-1233.

Line 20 – 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.

Schedule A — Computation of gross earnings tax and allocation percentage/issuer's allocation percentage

On lines 21 through 24, enter gross earnings attributable to New York State in column A and total gross earnings everywhere in column B.

Gross earnings are all receipts from the employment of capital, without any deductions.

Do not take a deduction relating to a financial resource asset unless you attach to Form CT-186 a certificate issued by the New York State Department of Public Service verifying this deduction.

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

Your **issuer's allocation percentage** is used by corporate shareholders to compute their corporate franchise tax. It represents the amount of New York State gross earnings compared to gross earnings everywhere.

The Tax Law requires most corporations doing business in New York State to provide the information needed to compute their issuer's allocation percentages. Section 1085 of the Tax Law provides for a \$500 penalty for failure to provide this information.

Taxpayers paying the minimum tax must also complete this schedule and compute their issuer's allocation percentages.

Schedule B — Computation of allocated dividend tax

Line 30 — The actual amount of paid-in capital is that part of the equity that was invested in the business enterprise by shareholders.

Line 31 — If dividends are paid once a year, include the value of the paid-in capital on the declaration date. If dividends are declared and paid more than once a year, average the value of paid-in capital on which these dividends were paid by computing the value of paid-in capital on each declaration date, and dividing by the number of dividend dates.

See TSB-M-82(8)C for additional information on the computation of the tax on dividends.