



Instructions for Form CT-33-C

Captive Insurance Company Franchise Tax Return

Up-to-date information affecting your 2003 tax return

Visit the *Corporation Tax Up-to-Date Information* page on our Web site at www.nystax.gov for Tax Law changes or forms corrections that occurred after the forms and instructions were printed.

Tax Law change

Effective for tax years beginning on or after January 1, 1990, section 1510(c) of Article 33 of the Tax Law has been amended to allow a deduction from gross direct premiums for certain reinsurance premiums received from insurers not authorized by the Superintendent of Insurance to transact business in this state. To qualify for the deduction, the reinsurance premiums must relate to transactions authorized under section 2105 of the Insurance Law and be subject to the premiums tax on excess-lines brokers under section 2118 of the Insurance Law. Any tax paid on these premiums under Article 33, section 1502-b, in excess of the tax on New York State reinsurance premiums may be claimed as a refund by filing Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*. For additional information, see TSB-M-03(3)C and TSB-M-03(3.1)C.

General information

A premiums tax is imposed under section 1502-b of the Tax Law on captive insurance companies licensed by the Superintendent of Insurance under Article 70 of the Insurance Law. Captive insurance companies are not subject to the taxes imposed by sections 1501, 1502-a, or 1510 of the Tax Law or to the metropolitan transportation business tax surcharge imposed by section 1505-a of the Tax Law.

The tax on captive insurance companies is based on gross direct premiums and assumed reinsurance premiums. However, in no event shall the tax be less than the minimum tax of \$5,000. Tax credits are not allowed against the tax imposed on captive insurance companies. Captive insurance companies are not permitted to file a combined return, and must compute their tax separately on Form CT-33-C.

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.**

You **must** also send a **copy** of Form CT-33-C to: **The New York State Insurance Department, Agency Building 1, Empire State Plaza, Albany NY 12257.**

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 back of Form CT-33-C 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.**

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*.

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 this and all other tax types. You can get these forms by fax, phone, or from our Web site. See *Need help?* on back of Form CT-33-C for the phone number and Web address.

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.

Amended return

If you are filing an amended return, please check the *Amended return* box on the top of Form CT-33-C.

NAICS business code number

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

Signature

The company's president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the taxpayer must certify the return.

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

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.

Line 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**.

Computation of tax and installment payments of estimated tax

Unless the captive insurance company can prove otherwise, we will assume that all its premiums on lines 1 through 8 are allocated to New York State and its issuer's allocation percentage is 100%. For a captive company to prove that less than 100% of its premiums are allocated to New York State and its issuer's allocation percentage is less than 100%, it must demonstrate that the premiums were taxed by another state.

Tax on New York State gross direct premiums

Lines 1 through 4 — Four tax rates apply to gross direct premiums, as shown on lines 1 through 4 of this form.

Gross direct premiums are defined in section 1510(c) of Article 33 of the Tax Law. These premiums include total gross premiums, deposit premiums, and assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State. Gross direct

premiums also include premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums, or that have not been used as a measure of tax of any other state or states. For special risk premiums, only include premiums written, procured, or received in New York State on risks located or resident in New York State. Do not include premiums on annuity contracts, ocean marine insurance, policies issued under section 4236 of the Insurance Law, and federal long-term care insurance policies issued under Chapter 90, Title 5, of the United States Code. Also exempt from this tax are premiums on risks located outside the United States that were written, procured, or received in New York State.

The term *premiums*, as used in the previous paragraph, includes all amounts received as consideration for insurance or reinsurance contracts (other than for annuity contracts), and includes premium deposits, assessments, policy fees, membership fees, and separate costs assessed upon the captive insurance company's policyholders, and every other compensation for such contract. In addition, *premiums* include any amount received by a captive insurance company as consideration for insurance provided to its parents and affiliated companies, in the case of a pure captive insurance company, and to the industrial insureds that comprise the industrial insured group, in the case of a group captive insurance company. The terms *pure captive insurance company*, *group captive insurance company*, *industrial insureds*, and *industrial insured group* are defined in section 7002 of the Insurance Law.

Deductions from gross direct premiums include:

A. Reinsurance premiums — When computing gross direct premiums, deduct (1) reinsurance premiums that have been received by way of reinsurance from corporations or other insurers authorized to transact business in New York State and (2) reinsurance premiums that relate to transactions authorized under section 2105 of the Insurance Law and that are subject to the premiums tax on excess-lines brokers under section 2118 of the Insurance Law.

B. Dividends paid or credited — 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 nor cash surrender values.

Tax on New York State reinsurance premiums

Lines 5 through 8 — Section 7010 of the Insurance Law explains the reinsurance business that may be performed by a captive insurance company. A captive insurance company may assume reinsurance on risks ceded by any other insurer when the risks ceded are solely those of the industrial insured or members of the industrial insured group owning the captive insurance company. Also, when it has the permission of the Superintendent of Insurance, a captive insurance company may assume risks of any insurer, provided the reinsurance premiums assumed do not exceed 50% of the gross premiums written by the captive insurance company in the calendar year.

Four rates apply to reinsurance premiums. Any reinsurance premiums deducted from gross direct premiums on lines 1 through 4 should be included and subjected to tax on lines 5 through 8.

Line 10 — Section 1502-b of the Tax Law imposes a minimum tax of \$5,000.

Line 12b — If you did not file Form CT-5, a mandatory first installment is required for the period following that covered by this return. If line 11 does not exceed \$100,000, enter 25% of the tax shown on line 11. If line 11 exceeds \$100,000, enter 30% of the tax shown on line 11.

Line 14 — Enter the total of all prepayments of estimated tax from line 27.

Line 17 — 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 you paid (line 11 minus line 14). Exclude from the interest computation any amount shown on line 12a or 12b, first installment of estimated tax for next period.

Line 18 — Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deducting any payment made on or before the due date, **with** regard to any extension of time for filing (line 11 minus line 14). Exclude from the penalty computation any amount shown on line 12a or 12b, 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 ½% 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)(4)).

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, or both (section 1085).

Note: If you wish, you may compute the interest and penalty by accessing our Web site at www3.tax.state.ny.us/PAIC/PAICHomeServlet or you may call 1 800 972-1233, and we will compute the interest and penalty for you.

Line 22 — Collection of debts from your refund — We will keep all or part of your refund if you owe past-due support or 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.

Line 27 — Composition of prepayments on line 14 — If you need additional space, enter **see attached** under line 27 and attach all additional prepayment information. Include additional amounts in the total on line 27 and on line 14.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes 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 Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.