



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.nystax.gov for Tax Law changes or forms corrections that occurred after the forms and instructions were printed.

New for 2004

Extension of the claim for alternative fuels credit - The existing provisions relating to alternative fuels credits are clarified and extended for one year to property placed in service in tax years beginning on or before December 31, 2004. For more information, see TSB-M-04(2.1)C, *Amendments to the Alternative Fuels Credits and Exemptions*, and Form CT-40, *Claim for Alternative Fuels Credit*.

Your refund may be applied to a city of New York tax warrant judgment debt - Due to a recent law change, your refund may be reduced by amounts owed for a city of New York tax warrant judgment debt. For additional information concerning these changes, see *Collection of debts from your refund* on the back page.

For tax years ending after December 31, 1999, Article, section 186 has been repealed.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, *General Business Corporation Franchise Tax Return*, or Form CT-3-S, *New York S Corporation Franchise Tax Return*.

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 **all** of the following apply:

- The corporation was primarily engaged in the business of co-generation for a tax year ending on December 31, 1999; **and**
- The corporation was subject to tax under Tax Law section 186, but not section 186-a, for the tax year ending on December 31, 1999; **and**
- As of January 1, 2000, the corporation 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 Laws of 2000, Chapter 63.

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.

When and where to file — This return is due on March 15, following the close of the calendar 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 — You may use a private delivery service, instead of the U.S. Postal Service, to file your return and pay tax (see Publication 55, *Designated Private Delivery Services*). 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, request a three-month extension of time by filing Form CT-5.9, *Request for Three-Month Extension to File*, 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 — Mark an **X** in 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* box would be used only by the nonsurviving 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, Maintenance Fee and Activities Return For a Foreign Corporation Disclaiming Tax Liability*.

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

Amended return — If you are filing an amended return, please mark an **X** in 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% (.036) of the premium (see Form CT-33-D, *Tax on Premiums Paid or Payable To an Unauthorized Insurer*, or TSB-M-90(9)C, *1990 Legislation - Direct Writings Tax*, 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 Business Corporation Law Article 13 or 15-A, 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 metropolitan transportation business taxes (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, *Foreign Corporation License Fee Return*, 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 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 these circumstances, the corporation would usually be liable for franchise taxes for each tax 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 the time 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.

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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. To obtain this publication, see *Need help?* section on Form CT-186.

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. 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 mark an **X** in the box below the address so that we can update your address for this tax type. Do not mark 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 from our Web site, by phone, or by fax (see *Need help?* on the back of Form CT-186).

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, *Utility Corporation MTA Surcharge Return*, and pay an MTA surcharge on business done in the Metropolitan Transportation Authority region. 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 with a minus (-) sign.

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.

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, mark an **X** in the appropriate box(es) and enter the total amount of tax credit(s) claimed on the following form(s); 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 Building 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 (net franchise tax) is more than \$1,000, you must pay a mandatory 25% (.25) first installment of estimated tax for the period following the period covered by the return.

Use Form CT-400, *Estimated Tax for Corporations*, 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 2004, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, mark an **X** in the box, and enter the amount of penalty 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.

- If you do not file a return when due or if the application for extension is invalid, add to the tax 5% (.05) per month up to 25% (.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, add to the tax ½% (.005) per month up to 25% (.25) (section 1085(a)(2)).
- The total of the additional charges in items A and C may not exceed 5% (.05) 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.

Note: You may compute your penalty and interest by accessing our Web site at www.nystax.gov and clicking on *Electronic Services*, or you may call 1 800 972-1233, and we will compute the penalty and interest for you.

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 Internal Revenue Service (IRS) or to a New York State agency, or if you owe a city of New York tax warrant judgment debt. A *New York State agency* 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, or whether you owe a city of New York tax warrant judgment debt, contact the IRS, the state agency, or the New York City Department of Finance.

For New York State tax liabilities only, call 1 800 835-3554 (from areas 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.

For New York City liabilities only, call (212) 232-3550.

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.

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

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. Tax Law section 1085 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. For more information about computation of the tax on dividends, see TSB-M-82(8)C, *Tax on Dividends for Section 186 of Article 9*.