



Instructions for Form CT-33

Life Insurance Corporation Franchise Tax Return

Summary of 2004 changes affecting Article 33 taxpayers

Up-to-date information affecting your 2004 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.

Long-term care insurance credit increased

For tax years beginning on or after January 1, 2004, the long-term care insurance credit has been increased to 20% of the premiums paid during the tax year for the purchase of qualifying long-term care insurance. For more information, see Form CT-249, *Claim for Long-Term Care Insurance Credit*.

Certified capital company (CAPCO) credits extended

Section 11 of the Tax Law was amended to provide for CAPCO program 4. This program provides \$60 million dollars of certified capital, which may be allocated and allowed as tax credits under sections 11 and 1511(k) of the Tax Law. Although investments in this program may begin in 2004, the credits may not be claimed until 2006. For more information, see Form CT-33.1, *Claim for CAPCO 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 page 3.

Life insurance corporations subject to a floor limitation on tax

Life insurance corporations remain subject to the franchise tax computed under section 1502 of the Tax Law, and the additional franchise tax computed under section 1510, as limited by section 1505(a)(2) of the Tax Law. In addition, effective for tax years beginning on or after January 1, 2003, life insurance corporations are subject to a floor limitation on tax under section 1505(b). The total franchise tax on life insurance corporations, computed prior to the application of any tax credits, cannot be less than 1.5% of the premiums (*the floor limitation on tax*) subject to tax under section 1510 of the Tax Law.

Deduction for certain reinsurance premiums

Effective for tax years beginning on or after January 1, 1990, section 1510(c) 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. For more information, see TSB-M-03(3)C, *New Deduction Under Article 33 of the Tax Law for Certain Reinsurance Premiums, and Limited Opportunity for Refund of Tax Paid on These Premiums*.

Who must file Form CT-33

- Domestic life insurance corporations for the privilege of exercising a corporate franchise;
- Foreign and alien life 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;

- Life insurance corporations exempt from federal income tax but that conduct business in New York State;
- An unauthorized life insurance corporation that is affiliated with an insurer licensed in New York State and is operating from an office within the state pursuant to sections 1101(b)(5) and 2117(i) of the New York State Insurance Law. See TSB-M-00(1)C for additional information.

Exceptions: Life 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, *Captive Insurance Company Franchise Tax Return*.

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.

Definition of life insurance corporation — A *life insurance corporation* is any insurance corporation that is authorized to transact the business of life insurance in New York State under a certificate of authority from the Superintendent of Insurance of the New York State Insurance Department.

When and where to file

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**

Also mail a copy to: **NYS 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 page 8 of these instructions for information on ordering forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. 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.

Specific instructions

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

Amended return

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

Reporting period

All filers must complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

Your tax year for New York State must be the same as your federal tax year. Use this tax return for both calendar and fiscal tax years beginning in 2004, and for short periods beginning in 2005 and ending before December 31, 2005.

Important identifying information

To process your corporation tax forms, we must have the necessary identifying information. Enter your employer identification number (EIN) and file number. 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 an **X** in this box for any change of business information other than for your address.

Change 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, or by fax or phone. See *Need help?* on page 8 for the phone number and Web address.

NAICS code and principal business activity

Enter the six-digit NAICS business activity code number and principal business activity.

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*.

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.

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: $5,000/7,500 = 0.6666666 = 66.6667\%$.

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

Line 1 — Multiply the ENI on this line by 7½% (.075).

Line 3 — To compute the alternative tax measured by entire net income plus compensation:

- A. Add the unallocated ENI from line 81 and the total salaries and compensation paid to the officers and stockholders from line 61. If line 81 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% (.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 in the first box on line 3, and multiply the result by 9% (.09) to compute the tax.

Line 7 — Add the amount from line 1, 2, 3, or 4, whichever is the largest, plus the subsidiary capital base tax on line 5, and the premiums tax on line 6, and enter the result on this line.

Line 9b — Enter the amount of Empire Zone (EZ) and Zone Equivalent Area (ZEA) tax credits being claimed on line 102. These credits **must** be subtracted from the tax on line 9a and **not** from the tax on line 11.

Line 9c — Subtract line 9b from line 9a and enter the result on this line. The amount after EZ and ZEA tax credits claimed may not reduce the tax due on line 9c below the minimum tax of \$250. If you have a net recapture of the EZ capital tax credit, add this amount to the total tax on line 9c.

Line 11 — Enter the tax determined under section 1505(a)(2) (line 10), or the tax determined under sections 1501 and 1510 (line 9c), whichever is less.

Line 12 — Enter the total amount of tax credits claimed from line 103. A special rule applies to taxpayers claiming EZ and ZEA tax credits. These credits may **not** be subtracted from the tax calculated under section 1505(a)(2).

Line 14b — If the tax is more than \$1,000, and you did not file Form CT-5, *Request for Six-Month Extension to File*, you must pay a mandatory first installment for the period following that covered by this return. Enter 40% of the tax shown on line 13; otherwise, enter **0**.

Line 16 — The amount entered on this line is the total of all prepayments of estimated tax from line 101.

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 (line 13 minus line 16) from the original due date to the date paid. 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 minus 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 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)).

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, payment, or both (section 1085).

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 27a — Include the amount of retaliatory tax credits from Form CT-33-R, *Claim for Retaliatory Tax Credits*, line 20, the amount of QEZE credit for real property taxes from Form CT-604, line 35, and the amount of ITC for the financial services industry (if a qualified new business) from Form CT-44, line 36, that are being requested as a refund.

Line 27b — Include the amount of retaliatory tax credits from Form CT-33-R, line 19, the amount of QEZE credit for real property taxes from Form CT-604, line 36, and the amount of ITC for the financial services industry (if a qualified new business) from Form CT-44, line 36, that are being requested as an overpayment to next year's return.

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 New York City tax warrant judgement 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 New York City tax warrant judgement debt, contact the IRS or that particular state agency or New York City.

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.

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

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. This schedule must be completed for premiums assumed from authorized companies.

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 8. 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, ENI, and ENI 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.

Line 31 — Enter the total New York taxable premiums received from life insurance from Schedule H, column A, line 86, 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 86 (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. Include any New York premiums for long-term care insurance policies under Chapter 90, Title 5, of the United States Code, and any New York premiums for federal group life insurance policies under Chapter 87, Title 5, of the United States Code, when computing the premium percentage.

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.

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. Also include reinsurance premiums assumed from unauthorized companies 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.

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 on 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.

Attach a separate schedule showing the computation of total premiums included on line 38.

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.

Lines 41 and 42 — 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 on line 41. It does not matter where the services were performed.

Enter total wages, salaries, personal service compensation, and commissions for the tax year of all employees, agents, and representatives on line 42.

Include on both lines any commissions or personal service compensation derived from policies for a long-term care insurance policy under Chapter 90, Title 5, of the United States Code, and from policies for federal group life insurance under Chapter 87, Title 5, of the United States Code, when computing the payroll percentage.

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.

Line 45 — 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.

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.

This indebtedness, whether or not evidenced by bonds or other written instruments, qualifies as subsidiary capital as long as the subsidiary does not claim and deduct the interest for the purpose of taxation under any Article of the 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, 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. 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. You may obtain up to three issuer's allocation percentages by calling toll free 1 800 972-1233. From areas outside the U.S. and outside Canada, call (518) 485-6800. You may obtain more than three only by written request. Mail the written request to the address shown under *Need help?* on page 8. Issuer's allocation percentages are also available from many online services, printed tax services, or on the department's Web site: www.nystax.gov.

Line 50 — Attach copies of your *Assets Schedule* of the *Annual Statement* reflecting admitted and nonadmitted assets for both the previous tax year and the current tax year.

Lines 52 and 56 — Attach copies of your *Liabilities, Surplus and Other Funds Schedule* of the *Annual Statement*.

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 (FTI).

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 **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 (use a minus (-) sign) the difference between column D and the lower of column B or C.
- If only one of the amounts 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 only one of the amounts 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.

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). Life insurance companies 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. Life insurance companies filing federal Form 1120-PC must enter the total of taxable income per Schedule A, plus any net operating loss (NOL) 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.

Additions

Line 64 — Enter all interest and dividend income, received or accrued, that 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, a 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 FTI.

Line 68 — Enter the amount of New York State franchise taxes, including the MTA surcharge, imposed by Article 33 and deducted on your federal return.

Line 69a — Enter any amount claimed as a deduction in computing FTI 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 FTI 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:

- the corporation claims the federal ACRS/MACRS deduction for property placed in service either **in or outside** New York State after 1980, in tax periods beginning before 1985; or
- the corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984, and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation modification for the property (see TSB-M-99(1)(C)); or
- the corporation claims the 30%/50% federal special depreciation under IRC section 168(k) for property (excluding qualified resurgence zone property described in section 208.9(q) of Article 9-A of the Tax Law or qualified New York liberty zone property described in IRC section 1400L(b)(2)) placed in service after June 1, 2003, in tax years beginning after December 31, 2002; or
- the corporation disposes of ACRS/MACRS property, or property for which you claimed the 30%/50% federal special depreciation this year and the New York depreciation modifications applied in prior years.

If this line applies, complete Form CT-399. Include from Form CT-399, Part I, line 3, column E, the amount of your federal deduction that must be added back to FTI, or, if you disposed of property this year, use the amount from CT-399, Part III, line 10, column A.

Line 71 — Other additions:

- A-1** The portion of the special additional mortgage recording tax claimed as a credit that was claimed as a deduction in arriving at FTI. 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.
- A-2** Qualified Emerging Technology Investments (QETI) – If you elected to defer the gain from the sale of QETI, then **you must add** to FTI 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 S-3 on line 79.
- A-3** Enter the amount deducted from federal gross income on Form 1120-PC as a result of IRC section 847(1).
- A-4** 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).
- A-5** 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 and a copy of *Schedule P, Analysis of Losses and Loss Expenses, Part 1 Summary*, from the prior year's *Annual Statement*.
- A-6** Amount of related member royalty expense required to be added back pursuant to Tax Law section 1503(b)(14).

Subtractions

Line 73 — 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 FTI.

Line 74 — 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 75 — Enter any income or gain from installment sales of real or personal property made before January 1, 1974, that was used to compute FTI.

Line 76 — Enter New York State operations losses or net operating losses (NOLs). Attach a separate schedule showing the details of the application of the federal and New York State losses.

In determining the operations loss or net operating loss (NOL) of any given year, the following rules apply:

- Federal operations losses (IRC section 810) or NOLs (IRC section 172) must be adjusted in accordance with Article 33, section 1503(b).
- The operations losses incurred may be carried back three years and carried forward 15 years for all periods.
- For NOLs incurred in tax years beginning **on or before** August 5, 1997, the NOL may be carried back three years and carried forward 15 years.
- For NOLs incurred in tax years beginning **after** August 5, 1997, the NOL may be carried back two years and carried forward 20 years, except for certain NOLs incurred in 2001 and 2002.

- For certain NOLs incurred in tax years ending in 2001 and 2002, the NOL may be carried back five years, unless the taxpayer elects for federal tax purposes to disregard the five-year carryback.
- If you have elected for federal purposes to relinquish the carry back of an operations loss or NOL, you may not carry back an operations loss or NOL for state purposes, and you must submit a copy of your federal election.
- The New York State operations loss deduction or NOL deduction for any particular year is limited to the federal operations loss deduction (IRC section 810) or NOL deduction (IRC section 172) for that year.
- No deduction is allowed for an operations loss or NOL sustained during any year in which the corporation was not subject to tax under Article 33.

Line 77a — 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 77b — Enter any amount that you could have deducted from FTI 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 78 — In place of the disallowed deduction entered on line 70, a New York State depreciation deduction is allowed under Article 33, sections 1503(b)(10), 1503(b)(14), 1503(b)(15), and 1503(b)(16). For additional information, see the instructions for Form CT-399, *Depreciation Adjustment Schedule*.

Use this line if:

- the corporation claims the federal ACRS/MACRS deduction for property placed in service either **in or outside** New York State after 1980, in tax periods beginning before 1985; or
- the corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984, and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation modification for the property (see TSB-M-99(1)(C)); or
- the corporation claims the 30%/50% federal special depreciation under IRC section 168(k) for property (excluding qualified resurgence zone property described in section 208.9(q) of Article 9-A of the Tax Law or qualified New York liberty zone property described in IRC section 1400L(b)(2)) placed in service after June 1, 2003, in tax years beginning after December 31, 2002; or
- the corporation disposes of ACRS/MACRS property, or property for which you claimed the 30%/50% federal special depreciation this year and the New York depreciation modifications applied in prior years.

If this line applies, complete Form CT-399. Include the amount from Form CT-399, Part I, line 3, column I, or, if you disposed of property this year, use the amount from CT-399, Part III, line 10, column B.

Line 79 — Other subtractions:

- S-1** Include the amount of wages disallowed under IRC section 280C in the computation of your FTI because you claimed a federal credit. Attach a copy of the appropriate federal credit form.
- S-2** Interest deductions under section 1503(b)(3) to the extent not deducted on line 64.
- S-3** 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 FTI the amount of the gain deferral (to the extent the gain is included in FTI). 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. For more information, see TSB-M-98(7)C, *1998 Summary of Corporation Tax Legislative Changes*, pages 5 and 6.

- S-4** 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 FTI. 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).
- S-5** Enter the amount included in federal gross income as a result of IRC sections 847(5) and 847(6).
- S-6** 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).
- S-7** 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, and a copy of *Schedule P, Analysis of Losses and Loss Adjustment Expenses, Part 1, Summary*, from the current year's *Annual Statement*.
- S-8** Enter the amount by which losses incurred were reduced as a result of IRC section 832(b)(5)(B).
- S-9** Amount of related member royalty income required to be subtracted pursuant to Tax Law section 1503(b)(14).

Schedule H — Computation of premiums

Any life insurance corporation subject to Article 33 of the Tax Law is subject to the additional premiums tax under section 1510, the limitation on tax under section 1505(a)(2) and the floor limitation on tax under section 1505(b). For more information on the floor limitation on tax, see TSB-M-03(9)C, *Summary of Insurance Corporation Tax Legislative Changes Enacted in 2003*.

Use Schedule H to compute premiums due under sections 1510, 1505(a)(2), and 1505(b) and transfer them to the appropriate boxes on page 2. 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. Exclude premiums for federal long-term care insurance policies under Chapter 90, Title 5, of the United States Code, and any premium under Chapter 87, Title 5, of the United States Code.

Taxable premiums include gross direct premiums minus return premiums, reinsurance premiums, and dividends paid or credited.

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 New York State, and premiums written, procured, or received in New York 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, ocean marine insurance, and policies issued under section 4236 of the Insurance Law **must** include these premiums in the tax limitation computation under section 1505(a)(2). Enter amounts on lines 87 through 89, if applicable.

Deductions from gross direct premiums

- **Reinsurance premiums** — When computing gross direct premiums, you may deduct (1) 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, and (2) reinsurance premiums assumed from unauthorized companies 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.
- **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 issuer's allocation percentage

Complete this schedule by entering New York gross direct premiums on line 91 and total gross direct premiums on line 92 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.

Schedule J — Composition of prepayments

Lines 94 through 101 — If you need more space, write **see attached** in this section and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to line 16.

Line 99 — Include overpayment credited from prior years. You may also include from last year's return any amount of refundable tax credits you chose to be credited as an overpayment.

Summary of tax credits claimed against current year's franchise tax

Summary of tax credits claimed against current year's franchise tax; see instructions for lines 9b and 12.

Ordering of credits — Tax credits under Article 33 must be applied in the following order:

1. EZ capital tax credit.
2. EZ and ZEA wage tax credits.
3. Noncarryover credits that are not refundable.
4. Carryover credits that are of limited duration.
5. Carryover credits that are of unlimited duration.
6. Refundable credits.

Line 102 — Enter the total EZ capital tax credit and EZ and ZEA wage tax credits claimed that were used to reduce the tax due. The amount of these credits may not reduce the tax to less than the minimum tax of \$250. Enter in the appropriate boxes the total amount of the EZ and ZEA tax credits claimed.

Empire zone wage tax credit — Attach a copy of Form CT-601, *Claim for EZ Wage Tax Credit*.

ZEA wage tax credit — Attach a copy of Form CT-601.1, *Claim for ZEA Wage Tax Credit*.

Empire zone capital tax credit — Attach a copy of Form CT-602, *Claim for EZ Capital Tax Credit*.

Line 103 — Enter the total tax credits claimed, **excluding** the EZ and ZEA tax credits claimed on line 102, that were used to reduce the tax due. Generally, these credits may not reduce the tax below the \$250 minimum tax. However, the retaliatory tax credits and the fire insurance premiums tax credit may further reduce the tax due to zero. Enter in the appropriate boxes the total amount of each tax credit claimed.

Fire insurance premiums tax credit — 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 fire insurance premiums tax credit is limited to the amount reported on line 11 less the EZ capital tax credit, EZ or ZEA wage tax credits, and any non carryover credits that are not refundable that are being claimed before this credit. 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.

Retaliatory tax credits — Attach Form CT-33-R, *Claim for Retaliatory Tax Credits*, to claim these credits. Do not claim the MTA surcharge retaliatory tax credit on this form.

CAPCO credit — Attach Form CT-33.1, *Claim for CAPCO Credit*.

Credit for employment of persons with disabilities — Attach Form CT-41, *Claim for Credit for Employment of Persons with Disabilities*.

Special additional mortgage recording tax credit — Attach Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

Investment tax credit for the financial services industry — Attach Form CT-44, *Claim for Investment Tax Credit for the Financial Services Industry*.

Long-term care insurance credit — Attach Form CT-249, *Claim for Long-Term Care Insurance Credit*.

Defibrillator credit — Attach Form CT-250, *Credit for Purchase of an Automated External Defibrillator*.

QEZE credit for real property taxes — Attach Form CT-604, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit*.

QEZE tax reduction credit — Attach Form CT-604, *Claim for QEZE Credit for Real Property Taxes and QEZE Tax Reduction Credit*.

Low-income housing credit — Attach Form DTF-624, *Claim for Low-Income Housing Credit*.

Green building credit — Attach Form DTF-630, *Claim for Green Building Credit*.

Enter in the *Other credits* box any credits being claimed on line 12 that are not specifically listed above and attach the appropriate form(s).

Line 104 — Enter the total amount of refund eligible tax credits claimed on line 103. The retaliatory tax credits, QEZE real property tax credit, and the ITC for the financial services industry (if a qualified new business) are the only refund eligible credits.

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.

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Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



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