



Instructions for Form CT-3M/4M General Business Corporation MTA Surcharge Return

CT-3M/4M-I

Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Up-to-date information affecting your tax return

Visit our Web site for tax law changes or forms corrections that occurred after the forms and instructions were printed (see *Need help?*).

Changes for 2008

Increase in the mandatory first installment of estimated tax — The Tax Law was amended to provide an increase in the mandatory first installment for taxpayers, other than life insurance corporations filing Forms CT-33 or CT-33-A, and continuing section 186 taxpayers filing Form CT-186, whose preceding year's tax, exclusive of the metropolitan transportation business tax (MTA surcharge), exceeded \$100,000. For tax years beginning on or after January 1, 2009, those taxpayers are required to pay a first installment equal to 30% of the preceding year's tax. Additionally, taxpayers who are required to pay their mandatory first installment at the 30% rate and are subject to the MTA surcharge are also required to calculate their estimated tax for the MTA surcharge at 30% of the preceding year's MTA surcharge. The remaining three estimated tax payments are to be adjusted so that the total payments do not exceed 100% of the estimated tax due. The mandatory first installment of estimated tax and estimated MTA surcharge remains at 25% of the preceding year's tax and tax surcharge, respectively, for those taxpayers whose preceding year's tax exceeded \$1,000, but was less than or equal to \$100,000.

Form CT-222, Underpayment of Estimated Tax by a Corporation, revised — Previously, Form CT-222 was used by a corporation to report to the Tax Department the amount of the underpayment of estimated tax penalty the corporation was subject to. Beginning with the 2008 Form CT-222, corporations will file Form CT-222 only to inform the Tax Department that the corporation meets one of the exceptions to the underpayment of estimated tax penalty. The Tax Department will compute the amount of any penalty and notify the corporation of any amount due.

General information

Who must file this form and pay this surcharge

A taxpayer filing Form CT-3, *General Business Corporation Franchise Tax Return*, Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*, or Form CT-4, *General Business Corporation Franchise Tax Return Short Form*, under Article 9-A that does business, employs capital, owns or leases property, or maintains an office in the Metropolitan Commuter Transportation District (MCTD), must also file Form CT-3M/4M and pay a metropolitan transportation business tax (MTA surcharge) on business done in the Metropolitan Transportation Authority region. The **MCTD includes** the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

Estimated MTA surcharge

Any corporation doing business in the MCTD that is required to make a declaration of estimated franchise tax must also make a declaration of estimated MTA surcharge and make quarterly installment payments on Form CT-400, *Estimated Tax for Corporations*. For more information, see the instructions for line 5b and Form CT-400-1, *Instructions for Forms CT-400 and CT-400-MN*.

MTA surcharge rate

The MTA surcharge rate is 17% for calendar year 2008 or for fiscal years beginning on or after January 1, 2008, and ending before December 31, 2009.

When and where to file

File this return and pay the amount of MTA surcharge due within 2½ months after the end of your reporting period. 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.

Mail Form CT-3M/4M separately or with your **Form CT-3 or CT-3-A**, as follows:

With payment	Without payment
NYS CORPORATION TAX PROCESSING UNIT PO BOX 1909 ALBANY NY 12201-1909	NYS CORPORATION TAX PROCESSING UNIT PO BOX 22095 ALBANY NY 12201-2095

Mail Form CT-3M/4M separately or with your **Form CT-4**, as follows:

With payment	Without payment
NYS CORPORATION TAX PROCESSING UNIT PO BOX 22093 ALBANY NY 12201-2093	NYS CORPORATION TAX PROCESSING UNIT PO BOX 22101 ALBANY NY 12201-2101

If you use a delivery service other than the U.S. Postal Service, see *Private delivery services*.

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. 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?* for information on obtaining 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, send the forms covered by these instructions to: State Processing Center, 431C Broadway, Albany NY 12204-4836.

Extension of time for filing MTA surcharge return

You may request additional time to file an MTA surcharge return. File Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*, or Form CT-5.3, *Request for Six-Month Extension to File (for combined franchise tax return, or combined MTA surcharge return, or both)*, on or before the due date of the return for which you are requesting the extension, and pay the MTA surcharge you estimate to be due.

Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box in the upper left corner of Form CT-3M/4M.

Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Enter your employer identification number and file number above your corporation tax 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 information when completing all forms.

Reporting period

Use this tax return for calendar year 2008 and fiscal years that begin in 2008 and end in 2009.

You can also use the 2008 return if:

- you have a tax year of less than 12 months that begins and ends in 2009, **and**
- the 2009 return is not yet available at the time you are required to file the return.

In this case you must show your 2009 tax year on the 2008 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2008.

All filers must complete the beginning and ending tax year boxes in the upper right corner on page 1 of the form.

Percentages

When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Round percentages to four decimal places.

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

Entering dates

Unless you are specifically directed to use a different format, enter dates in the *mm-dd-yy* format (using dashes and not slashes).

Third-party designee

If you want to authorize another person (third-party designee) to discuss this tax return with the New York State Tax Department, mark an **X** in the *Yes* box in the *Third-party designee* area of your return. Also **print** the designee's name, phone number, and any five-digit number the designee chooses as his or her personal identification number (PIN). If you want to authorize the paid preparer who signed your return to discuss the return with the Tax Department, **print** the preparer's name in the space for the designee's name and enter the preparer's phone number in the space for the designee's phone number. You do not have to provide the other information requested. If you do not want to authorize another person, mark an **X** in the *No* box.

If you mark the *Yes* box, you are authorizing the Tax Department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from your return;
- call the Tax Department for information about the processing of your return or the status of your refund or payment(s); and
- respond to certain Tax Department notices that you shared with the designee about math errors, offsets, and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to receive your refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file Form POA-1, *Power of Attorney*, making that designation with the Tax Department. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to your designee if you file Form POA-1.

You cannot change the PIN. The authorization will automatically end on the due date (without regard to extensions) for filing your next year's tax return.

Line instructions

Line A — Make your check or money order payable 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 MTA surcharge

Line 1 — For tax years beginning on or after January 1, 2007, the Tax Law requires that the MTA surcharge be recomputed using the tax rates and limitations in effect for tax years beginning on or after July 1, 1997, and before July 1, 1998, if the highest tax **before** the application of credits is the tax on the entire net income (ENI) base, the minimum taxable income (MTI) base, or the capital base. To determine the amount to enter on line 1, follow the instructions below.

If the fixed dollar minimum tax is the highest tax **before** credits, enter the tax due amount from Form CT-3, line 82; Form CT-4, line 32; or Form CT-3-A, line 84 on Form CT-3M/4M, line 1.

If the tax on the ENI base is the highest tax **before** credits, complete the *ENI base worksheet*.

ENI base worksheet

A. Enter ENI from Form CT-3, line 17; Form CT-4, line 11; or CT-3-A, line 17	A. _____
B. Enter ENI base from Form CT-3, line 24; CT-4, line 11; or Form CT-3-A, line 24	B. _____
C. Qualified small business taxpayers: If line A is \$290,000 or less and line B is \$200,000 or less, multiply line B by 8% (.08).....	C. _____
D. Qualified small business taxpayers: If line A is \$290,000 or less and line B is more than \$200,000 but not more than \$290,000, enter the line B amount below:	
Line B amount _____	
Subtract <u>200,000</u> multiply by .08 = (1) <u>16,000</u>	
Balance _____ multiply by .09 = (2) _____	
Subtract <u>50,000</u>	
Balance, if any _____ multiply by .05 = (3) _____	
Add lines (1), (2), and (3) and enter the result here ..	D. _____
E. If neither line C nor line D applies, multiply line B by 9% (.09)	E. _____
F. Enter the tax on subsidiary capital from Form CT-3, line 77, or Form CT-3-A, line 76	F. _____
G. Form CT-3-A filers only: Enter the sum of lines 83a and 83b from Form CT-3-A (fixed dollar minimum tax for subsidiaries).....	G. _____
H. Add lines C through G	H. _____
I. Enter tax credits from Form CT-3, line 79, or Form CT-3-A, line 78.....	I. _____
J. Subtract line I from line H; enter the result here and on Form CT-3M/4M, line 1	J. _____

If the tax on the MTI base is the highest tax **before** credits, complete the *MTI base worksheet*.

MTI base worksheet

A. Enter MTI base from Form CT-3, line 70; Form CT-3-A, line 70; or Form CT-4, line 26	A. _____
B. Rate	B. <u>.035</u>
C. Multiply line A by line B.....	C. _____
D. Enter the tax on subsidiary capital from Form CT-3, line 77, or Form CT-3-A, line 76.....	D. _____
E. Form CT-3-A filers only: Enter the sum of lines 83a and 83b from Form CT-3-A (fixed dollar minimum tax for subsidiaries).....	E. _____
F. Add lines C, D, and E.....	F. _____
G. Enter tax credits from Form CT-3, line 79, or Form CT-3-A, line 78.....	G. _____
H. Subtract line G from line F; enter the result here and on Form CT-3M/4M, line 1	H. _____

If the tax on the capital base is the highest tax **before** credits, complete the *Capital base worksheet*.

Cooperative housing corporations: If your capital base tax does not exceed \$350,000, enter your franchise tax from your franchise tax return on line 1. **Do not** complete the *Capital base worksheet*.

Capital base worksheet	
A. Enter the capital base from Form CT-3, line 39; Form CT-4, line 19; or Form CT-3-A, line 39.....	A. _____
B. Multiply line A by .00178. Cooperative housing corporations only: Multiply line A by .0004	B. _____
C. Enter the lesser of line B or \$350,000	C. _____
D. Enter the tax on subsidiary capital from Form CT-3, line 77 or CT-3-A, line 76.....	D. _____
E. Form CT-3-A filers only: Enter the sum of lines 83a and 83b from Form CT-3-A (fixed dollar minimum tax for subsidiaries).....	E. _____
F. Add lines C, D, and E.....	F. _____
G. Enter tax credits from Form CT-3, line 79 or Form CT-3-A, line 78.....	G. _____
H. Subtract line G from line F; enter the result here and on Form CT-3M/4M, line 1 (if less than zero, enter 0).....	H. _____

Line 2 — Complete the appropriate part of Schedule A and enter your MCTD allocation percentage from line 35, line 43, or line 45.

Line 5b — If your franchise tax on Form CT-3, CT-4, or CT-3-A is \$1,000, or less, enter 0. If your franchise tax on Form CT-3, CT-4, or CT-3-A is more than \$1,000, but not greater than \$100,000, multiply the line 4 amount by 25% (.25). If your franchise tax on Form CT-3, CT-4, or CT-3-A exceeds \$100,000, multiply the line 4 amount by 30% (.30).

Line 9 — Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to the underpayment of estimated tax penalty pursuant to Tax Law section 1085(d).

Line 13 — If you overpay your tax, you will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year, unless you request a refund on line 16 (see *Lines 14 through 16*).

Lines 14 through 16 — You may apply an overpayment as a credit to your next MTA surcharge return, or to your state franchise tax return for this period, or you may have it refunded. Indicate on these lines the amount of your overpayment you wish credited or refunded.

Collection of debts from your refund or overpayment — We will keep all or part of your refund or overpayment if you owe a past-due, legally enforceable debt to a New York State agency, or if you owe a New York City tax warrant judgment debt. We may also keep all or part of your refund or overpayment if you owe a past-due legally enforceable debt to another state, provided that state has entered into a reciprocal agreement with New York State. If we keep your refund or overpayment, we will notify you.

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 or apply as an overpayment any amount over your debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to a state agency, or to another state, or whether you owe a New York City tax warrant judgment debt, contact the state agency, the other state, 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, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

Schedule A — Computation of MCTD allocation percentage

If you do all of your New York State business within the MCTD, enter **100** on line 2. **Do not** complete Schedule A.

Air freight forwarders acting as principal and like indirect air carriers — Taxpayers principally engaged as air freight forwarders acting as principal and like indirect air carriers, use Part 1 to compute a MCTD allocation percentage.

Qualified foreign air carriers — Taxpayers which are qualified foreign air carriers (see *Foreign airlines* on page 7 of Form CT-3/4-I) use Part 1 to compute a MCTD allocation percentage. Foreign airlines should consult TSB-M-94(2)C, *Important Notice: Summary of 1994 Corporation Tax Law Changes*, before completing these schedules.

Aviation corporations — Taxpayers principally engaged in the conduct of aviation (except air freight forwarders acting as principal and like indirect air carriers and qualified foreign air carriers), use Part 2 to compute a MCTD allocation percentage.

Railroad and trucking corporations — Taxpayers principally engaged in the conduct of a railroad or trucking business, use Part 3 to compute a MCTD allocation percentage.

All other Article 9-A taxpayers — Taxpayers not required to use either Part 2 or Part 3 use Part 1 to compute a MCTD allocation percentage.

Schedule A, Part 1 — MCTD allocation

Determine the MCTD allocation percentage by adding a single-weighted property factor, a single-weighted receipts factor, and a single-weighted payroll factor and dividing the result by three or the number of factors.

Lines 17 through 32 — Enter the MCTD amounts in column A and the New York State amounts in column B.

Line 17 — Enter the average value of real property you owned. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

Line 18 — Enter the average value of rented real property. The value of rented real property is generally eight times the gross rent payable during the year covered by this return. *Gross rent* includes any amount payable as rent or in lieu of rent (such as taxes or repairs), and amortization of leasehold improvements that revert to the lessor at the end of the lease.

Line 20 — Enter the average value of tangible personal property you owned, such as machinery, tools, and implements. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of credit.

Line 21 — Enter the average value of tangible personal property you rented. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

Lines 24 and 25 — Enter receipts from the sale of tangible personal property. Receipts from the sale of tangible personal property are allocable to the MCTD if:

- shipments are made to points in the MCTD; or
- the receipts are otherwise earned within the MCTD.

Receipts from the sale of tangible personal property are allocated to the MCTD if:

- The property is shipped via common carrier, contract carrier, or via the taxpayer's vehicle or other means of transportation, to a point in the MCTD. If the property is shipped to a point in the MCTD, it is presumed that the destination of the property is a point in the MCTD, unless the taxpayer has evidence that shows the property was shipped to a point outside the MCTD. It does not matter who arranges for the shipment of the property.
- The possession of the property is transferred to a purchaser or purchaser's designee at a point in the MCTD. If possession of the property is transferred in the MCTD, it is presumed that the destination of the property is a point in the MCTD, unless the taxpayer has evidence that shows that the destination of the property is a point outside the MCTD.
- The possession of the property is transferred to a purchaser or purchaser's designee at a point outside the MCTD, but the destination of the property is a point in the MCTD. If possession of the property is transferred outside the MCTD, it is presumed that the destination of the property is a point outside the MCTD unless the taxpayer has evidence that shows the destination of the property is a point in the MCTD.

See Reg Sec. 4-4.2(d) for examples of types of evidence that will be sufficient to demonstrate the destination of property.

Line 26 — Enter receipts for services performed, based on where they are performed.

For allocation of receipts for services to regulated investment companies see TSB-M-88(9)C, *Allocation of Receipts from services provided to a Regulated Investment Company (Mutual Fund) and Similar Investment Companies*.

For allocation of receipts by a registered securities or commodities broker or dealer see TSB-M-00(5)C, *Summary of Corporation Tax Legislative Changes Taking Effect in 2001 and After*, and TSB-M-02(5)C, *Summary of Corporation Tax Legislative Changes Enacted in 2002*.

For allocation of receipts for services performed by an air freight forwarder acting as principal and like indirect air carriers see TSB-M-89(10)C, *Taxability of Aviation Corporations under Article 9-A*.

For allocation of receipts from services performed for transporting or transmitting gas through pipes see TSB-M-00(2)C, *Summary of 2000 Corporation Tax Legislative Changes Taking Effect in 2000*.

Line 27 — Enter receipts from all property that was rented to others. Receipts from rentals of real and tangible personal property situated in the MCTD are allocated to the MCTD. Rental receipts include all amounts received for the use of or occupation of property, whether or not such property is owned by the taxpayer. Gross receipts from real and tangible personal property that is subleased must be included in the receipts factor.

Line 28 — Enter receipts of royalties. Receipts of royalties from the use in the MCTD of patents and copyrights are allocated to the MCTD. Royalties include all amounts received by the taxpayer for the use of patents or copyrights, whether or not such patents or copyrights were issued to or are owned by the taxpayer. A patent or copyright is used in the MCTD to the extent that the activities thereunder occur in the MCTD.

Line 29 — Enter all other business receipts, allocated where earned.

Line 32 — Enter the total amount of all wages and compensation of employees other than general executive officers. Employees within the MCTD include all employees regularly connected with or working out of an office or other place of business you maintained within the MCTD, no matter where the services of the employees were performed.

General executive officers include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either in or outside New York State is not a general executive officer.

Line 35 — If a factor is missing, add the remaining factors and divide by the total number of factors present. If all factors but one are missing, the remaining factor is the MCTD allocation percentage. A factor is missing only if both the numerator (column A) and denominator (column B) are zero.

Example:

Computation of MCTD allocation percentage:

	Corp. A	Corp. B	Corp. C
Property factor	60%	60%	60%
Receipts factor	30%	30%	30%
Payroll factor	30%	0%*	None*
Total	120%	90%	90%
Divided by	3	3	2
MCTD allocation percentage	40%	30%	45%

* In this example, Corporation C has no payroll factor since it has no employees in the MCTD and no employees in New York State. Corporation B has no employees in the MCTD but has employees in New York State.

Schedule A, Part 2 — Computation of MCTD allocation percentage for aviation corporations

Determine the MCTD allocation by averaging the percentage of the aviation corporation's revenue aircraft arrivals and departures, revenue tons handled, and originating revenue that apply to the MCTD. You must compute the MCTD allocation percentage without regard to the 40% reduction of the revenue aircraft arrivals and departures, revenue tons handled, and originating revenue attributable to New York State. With the exception of the 40% reduction, use the same instructions used in Form CT-3/4-I, Schedule A, Part 1, or CT-3-A-I, lines 118a through 128. When reading the instructions, substitute *New York State* for *Everywhere* and *MCTD* for *New York State*.

If you claimed a business allocation percentage on Form CT-3 or CT-3-A, enter the New York State amounts, before the 40% reduction, from Form CT-3, lines 112a, 114a, and 116a; or Form CT-3-A, column E, lines 118a, 121a, and 124a on the corresponding lines in column B of Form CT-3M/4M.

Schedule A, Part 3 — Computation of MCTD allocation percentage for trucking and railroad corporations

Determine the MCTD allocation by dividing the trucking or railroad corporation's total revenue miles within the MCTD by the total revenue miles within New York State (excluding nonrevenue miles, such as deadheading miles).

If you claimed a business allocation percentage on Form CT-3 or CT-3-A, enter the New York State amount from Form CT-3, line 120, column A, or Form CT-3-A, line 161, on Form CT-3M/4M, line 44, column B.

Lines 46 through 52 — Composition of prepayments claimed on line 7 — 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 7.

Need help?

 **Internet access:** www.nystax.gov
(for information, forms, and publications)

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

 **Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Corporation Tax Information Center: 1 888 698-2908

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

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): 1 800 634-2110

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

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 5-a, 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.