



# Instructions for Form CT-186

## Utility Corporation Franchise Tax Return

# CT-186-1

For continuing section 186 taxpayers only (certain independent power producers)  
Tax Law – Article 9, Section 186

**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 2009

**More collection options for New York State** — If you owe unpaid debt to New York State, we are now able to collect your debt by taking money from, or offsetting, payments owed you by the federal government or by another state. Reciprocal offset agreements also allow the federal government, as well as other states, to collect delinquent non-tax debt by offsetting payments owed you by New York State.

**Credit or refund form is obsolete** — Effective January 1, 2009, and applicable to all open tax periods, Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*, can no longer be used. For further information, see Important Notice, N-09-2, *Form CT-8, Claim for Credit or Refund of Corporation Tax Paid, and Form CT-9, Claim for Tentative Refund Based Upon Carryback of Net Operating Loss, Are Obsolete*.

**Fee for payments returned by banks** — A new law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

### General information

For tax years ending after December 31, 1999, Article 9, section 186 has been repealed.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

**Voluntary Disclosure and Compliance Program** — A Voluntary Disclosure and Compliance Program has been established. The program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities.

**Electronic filing and electronic payment mandate** — Certain tax preparers using tax software to prepare tax documents, and certain taxpayers preparing their own tax documents using tax software, must, for the applicable calendar year and all succeeding calendar years, e-file all documents authorized by the Commissioner to be e-filed. Any tax liability or other amount due required to be paid with a tax document that must be e-filed must also be e-paid.

**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

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed 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 form, contact that private delivery service for instructions on how to obtain written proof of the date your form 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 tax return** — 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 page 1 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* 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, mark an **X** in the *Amended return* box on page 1 of the return.

An amended New York State return requesting a credit or refund must be filed within three years of the time the original return was filed or within two years of the time the tax was paid, whichever is later; or, if no return was filed, within two years of the time the tax was paid. For additional limitations on credits or refunds, see Tax Law section 1087.

### **Other forms you may have to file**

**Reporting requirements for tax shelters** — The Tax Law requires taxpayers to report information about transactions that present the potential for tax avoidance (tax shelters). There are separate reporting requirements for those who use tax shelters and for those who promote the use of tax shelters. For the most recent information on these reporting requirements visit our Web site.

### **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 doing business in New York State 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.

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 Forms TR-125, *Instructions for Voluntary Dissolution of New York State Business Corporations* and TR-199, *Surrender of Authority-Foreign Corporation*. To obtain these forms, see *Need help? Call the Dissolution Unit at (518) 485-2639* (in-state callers without free long distance call 1 800 327-9688) if you have questions concerning surrendering authority to do business in New York State.

**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.

**Business information** — Enter the corporation's business information at the top of the first page. Be sure to enter the corporation's mailing name if different from its legal name.

If you need to update your corporation tax address or phone information, you can do so online. Visit our Web site at [www.nystax.gov](http://www.nystax.gov) and look for the change my address option. Otherwise, enter your new address and/or phone number in the

appropriate area of your return and mark an **X** in the box under the address. Do not mark an **X** in this box if your address and/or phone number is new since your last filing but was already updated online, or for any change of business information other than your address and/or phone number. Once your corporation tax information is updated online, you do not need to indicate a change of address on any corporation tax forms submitted to the Tax Department (or for any forms for tax types you select to be updated in addition to corporation tax).

If you prefer to change this information by form, use Form DTF-96, *Report of Address Change for Business Tax Accounts*. You must report other changes (such as business name or ID number) on Form DTF-95, *Business Tax Account Update*. You can get these forms from our Web site, by fax, or by phone (see *Need help?*).

**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. 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).

## Specific 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**.

**Line 6** — Mark an **X** in the appropriate boxes and enter the total amount of tax credits claimed on the following forms; attach the form(s) to your return. If you are claiming a credit for which no specific box is provided, mark an **X** in the *Other credits* box and attach the appropriate form(s):

Form CT-40,	<i>Claim for Alternative Fuels Credit</i>
Form CT-41,	<i>Claim for Credit for Employment of Persons with Disabilities</i>
Form CT-43,	<i>Claim for Special Additional Mortgage Recording Tax Credit</i>
Form CT-243,	<i>Claim for Biofuel Production Credit</i>
Form CT-249,	<i>Claim for Long-Term Care Insurance Credit</i>
Form CT-631,	<i>Claim for Security Officer Training Tax Credit</i>
Form DTF-630,	<i>Claim for Green Building Credit</i>

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.

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

**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** — 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 reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law section 1085(d).

**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 and clicking on *Online Tax Center*, or you may call and we will compute the penalty and interest for you (see *Need help?*).

**Line 16 — 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.

The Tax Department is authorized to charge the taxpayer, as part of the taxpayer's tax debt, any cost or fee imposed or charged by the United States, or any state, for the payment or remittance of a taxpayer's overpayment to satisfy a New York State tax 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 (518) 457-5434 (in-state callers without free long distance call 1 800 835-3554) or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

**Line 20b** — If you are claiming a refund of unused tax credits, enter the refund amount and attach the appropriate tax credit form(s). Do not include the refund amount on line 6.

**Line 20c** — If you are applying an amount of unused tax credits as an overpayment to the next tax period, enter that amount and attach the appropriate tax credit form(s). Do not include the overpayment amount on line 6.

**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*.

**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.

**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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

**Need help?**

 **Internet access:** [www.nystax.gov](http://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.


**Corporation Tax Information Center:** (518) 485-6027

For in-state callers without free long distance: 1 888 698-2908

To order forms and publications: (518) 457-5431

For in-state callers without free long distance: 1 800 462-8100

**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, call the information center.