



Instructions for Form CT-33-M

Insurance Corporation MTA Surcharge Return

Tax Law — Article 33, Section 1505-a

CT-33-M-1

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

Increase in the mandatory first installment (MFI) of estimated tax — The Tax Law was amended to provide an increase in the MFI for taxpayers, other than life insurance corporations filing Form CT-33, *Life Insurance Corporation Franchise Tax Return*, or CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return*, and continuing section 186 taxpayers filing Form CT-186, *Utility Corporation Franchise Tax Return*, 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, 2010, those taxpayers are required to pay a first installment equal to 40% of the preceding year's tax. Additionally, taxpayers who are required to pay their MFI at the 40% rate and are subject to the MTA surcharge are also required to calculate their estimated tax for the MTA surcharge at 40% 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 MFI 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.

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

Who must file

If you do business, employ capital, own or lease property, or maintain an office in the Metropolitan Commuter Transportation District (MCTD), you must pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

If you file Form CT-33-NL, *Non-Life Insurance Corporation Franchise Tax Return*, Form CT-33, *Life Insurance Corporation Franchise Tax Return*, or Form CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return*, use Form CT-33-M to report and pay the MTA surcharge.

Life insurance corporations filing on a combined basis are required to file only one return for the combined group. Use combined figures, as shown on your Form CT-33-A, to complete this form.

MTA surcharge for non-life insurance corporations

The MTA tax surcharge for non-life insurance corporations is equal to 17% of the franchise tax based solely on premiums under Tax Law section 1502-a, after the deduction of any tax credits allowed under Article 33, and as allocated to the MCTD as described in *MCTD allocation percentage for non-life insurance corporations*.

MCTD allocation percentage for non-life insurance corporations

The MCTD allocation percentage for non-life insurance corporations is calculated by dividing the direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in the MCTD by the direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in New York State.

MTA surcharge for life insurance corporations

The MTA surcharge for life insurance corporations is computed using the tax rates in effect immediately prior to tax years beginning on or after July 1, 2000. Therefore it may be necessary to recompute your tax for purposes of computing the MTA surcharge. The MTA surcharge rate is 17% and is applied to the tax, after the deduction of any tax credits, allowed under Article 33, and as allocated to the MCTD as described in *MCTD allocation percentage for life insurance corporations*. See instructions for line 10.

MCTD allocation percentage for life insurance corporations

The MCTD allocation percentage for life insurance corporations is calculated by adding the percentages of the taxpayer's premiums allocated to the MCTD (multiplied by nine) and payroll allocated to the MCTD and dividing the sum by ten.

Installment payments

A taxpayer whose franchise tax is more than \$1,000 must file a declaration of estimated MTA surcharge and make quarterly installment payments on Form CT-400, *Estimated Tax for Corporations*.

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, file your return on or before the next business day.

File with, but do not attach to, Form CT-33-NL, Form CT-33, or Form CT-33-A.

Mail your return to:

**NYS CORPORATION TAX
PROCESSING UNIT
PO BOX 22038
ALBANY NY 12201-2038**

See Form CT-33-NL-1, *Instructions for Form CT-33-NL*, Form CT-33-1, *Instructions for Form CT-33*, or Form CT-33-A-1, *Instructions for Forms CT-33-A, CT-33-A/ATT, and CT-33-A/B*, for an alternative address if you wish to use a private delivery service.

Also mail a copy to: **NYS INSURANCE DEPARTMENT,
ONE COMMERCE PLAZA, ALBANY NY 12257**

Extension of time for filing MTA surcharge return

You may request additional time to file Form CT-33-M. To do this, 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.

Specific instructions

Amended return

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

If you file an amended federal return, you must file an amended New York State return within 90 days (120 days if filing an amended combined return) thereafter.

For amended returns based on changes by the Internal Revenue Service (IRS) — If your federal taxable income (FTI) has been changed or corrected by a final determination of the Commissioner of Internal Revenue, you must file an amended return reflecting the federal changes within 90 days (120 days if filing an amended combined return) of the final federal determination. For a definition of final determination, see NYS Regulation section 6-1.3(b).

You must attach a copy of federal Form 4549, *Income Tax Examination Changes*, to your amended return.

If you filed as part of a consolidated group for federal tax purposes but on a separate basis for New York State tax purposes, you must submit a statement indicating the changes that would have been made if you had filed on a separate basis for federal tax purposes.

For credits or refunds based upon carryback of a net operating loss (NOL) or operations loss — To claim a credit or refund resulting from the carryback of an NOL, an operations loss, or alternative net operating loss (ANOL) to a prior year, file an amended return within 90 days (120 days if filing an amended combined return) from the date of the document indicating approval of the federal refund or credit.

You must attach the following to your amended return:

- federal claim Form 1139, *Corporation Application for Tentative Refund*, amended federal Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, or amended federal Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*;
- a copy of the New York State return for the loss year; and
- proof of federal refund approval, *Statement of Adjustment to Your Account*.

For credits or refunds of corporation tax paid — To claim any refund type that requires an amended return, other than an NOL or operations loss carryback (see above), file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually amended Form 1120-L or 1120-PC) and proof of federal refund approval, *Statement of Adjustment to Your Account*.

The amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. However, a claim for credit or refund based on a federal change must be filed within two years from the time the amended return reporting the change or correction was required to be filed (see above). For additional limitations on credits or refunds, see Tax Law section 1087.

Reporting period

Use this tax return for calendar year 2009 and fiscal years that begin in 2009 and end in 2010.

You can also use the 2009 return if:

- you have a tax year of less than 12 months that begins and ends in 2010, and
- the 2010 return is not yet available at the time you are required to file the return.

In this case you must show your 2010 tax year on the 2009 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2009.

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

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. If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

Whole dollar amounts

You may elect to show dollar 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).

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 MCTD allocation percentage

Non-life insurance corporations MCTD allocation percentage
Life insurance corporations skip lines 1a through 2.

Lines 1a through 2 — If all your direct premiums described as taxable premiums under section 1510 are written on risks located or resident in the 12 counties of the MCTD, skip lines 1a and 1b and enter **100** on line 2. Otherwise, compute your MCTD allocation percentage by completing lines 1a, 1b, and 2.

Line 1b — Enter your direct premiums described as taxable premiums under section 1510 that are written on risks located or resident in the MCTD. Also, include premiums written, procured, or received in the MCTD on business that cannot be specifically assigned as located or resident in an area outside the MCTD, or in another state(s). However, in the case of special risk premiums, include only those premiums written, procured, or received in the MCTD on property or risks located or resident in the MCTD.

Life insurance corporations MCTD allocation percentage

Non-life insurance corporations skip lines 3a through 9.

Lines 3a through 9 — If all of your New York State business is within the 12 counties of the MCTD, skip lines 3a through 8 and enter **100** on line 9. Otherwise, compute your MCTD allocation percentage by completing lines 3a through 9.

Life insurance corporations taxable under Article 33 that are filing on a combined basis must use a combined MCTD allocation percentage.

Line 3b — Determine MCTD premiums included on line 3a using the same principles set out in Tax Law sections 1504(a) and (b) to determine New York State premiums.

Line 6b — Determine MCTD wages included on line 6a using the same principles set out in Tax Law section 1504(a) to determine New York State wages, salaries, commissions, and other compensation.

Line 9 — If the MCTD premium factor is missing from line 4, the MCTD allocation percentage is the MCTD wage factor percentage on line 7. If the MCTD wage factor is missing from line 7, the MCTD allocation percentage is the MCTD premiums factor percentage on line 4. 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 this percentage is included in the computation of the MCTD allocation percentage.

Computation of MTA surcharge

Line 10 — Enter the amount from Form CT-33, line 13, or Form CT-33-A, line 17 **unless** you meet **all** of the following criteria:

- the tax on Form CT-33, line 11, or Form CT-33-A, line 15, is equal to the tax on Form CT-33, line 9c or Form CT-33-A, line 13; **and**
- the tax on Form CT-33 or CT-33-A, line 1 is larger than each of the taxes on line 2, line 3, and line 4 of that form; **and**
- the tax from Form CT-33, line 7, or CT-33-A, line 8, is larger than the floor limitation on tax on Form CT-33, line 8 or Form CT-33-A, line 9.

If you meet the criteria, complete *Worksheet*.

Worksheet

Recomputation of tax for insurance companies when franchise tax base is on entire net income and not the section 1505(b) floor limitation or the section 1505(a)(2) limitation on tax

A. Allocated entire net income (enter amount from Form CT-33, line 82, or CT-33-A, line 86)	A. _____
B. "As if" entire net income tax rate (9%)	B. <u> .09</u>
C. Recomputed tax on entire net income (multiply line A by line B)	C. _____
D. Allocated subsidiary capital tax (enter amount from line 5 of Form CT-33 or CT-33-A)	D. _____
E. Total tax on premiums (enter amount from Form CT-33, line 6, or CT-33-A, line 7)	E. <u> _____</u>
F. Tax before empire zone (EZ) and zone equivalent area (ZEA) tax credits (add lines C through E)	F. _____
G. EZ and ZEA tax credits claimed (enter amount from Form CT-33, line 9b, or CT-33-A, line 11a)	G. <u> _____</u>
H. Tax after EZ and ZEA tax credits (subtract line G from line F)	H. _____
I. Combined minimum tax for subsidiaries (Form CT-33 filers enter 0; Form CT-33-A filers enter the amount from line 12 of that form)	I. <u> _____</u>
J. Total tax after EZ and ZEA tax credits (add lines H and I)	J. _____
K. Section 1505(a)(2) limitation on tax (enter amount from Form CT-33, line 10, or CT-33-A, line 14)	K. _____
L. Recomputed New York State franchise tax (life insurance corporations enter amount from line J or K, whichever is less; unauthorized non-life insurance corporations enter amount from line J) ...	L. _____
M. Tax credits (enter amount from Form CT-33, line 12, or CT-33-A, line 16)	M. <u> _____</u>
N. Net recomputed New York State franchise tax (subtract line M from line L; enter here and on Form CT-33-M, line 10)	N. _____

Line 13 — Insurance corporations organized or domiciled in New York State may claim a credit on this line for 90% (.9) of retaliatory taxes paid to other states for the privilege of doing business in those states, resulting from the imposition of the MTA surcharge for the 2009 tax year. Enter the smaller of 90% of retaliatory taxes paid in 2009 attributable to the 2009 MTA surcharge or the amount of MTA surcharge shown on line 12. Attach computation. Enter 0 if you are not claiming a retaliatory tax credit. To claim a refund for retaliatory taxes paid in 2009 as a result of the imposition of the MTA surcharge for previous periods, see lines 29 through 38.

Line 15b — If you did not file Form CT-5 or Form CT-5.3, and your franchise tax on line 7 of Form CT-33-NL, line 13 of Form CT-33, or line 17 of Form CT-33-A exceeds \$1,000, then you must pay a mandatory first installment on line 15b.

Life insurance corporations: Enter 40% (.4) of the MTA surcharge shown on line 14 of Form CT-33-M.

Non-life insurance corporations: If your franchise tax on line 7 of Form CT-33-NL exceeds \$1,000, but does not exceed \$100,000, enter 25% (.25) of the MTA surcharge shown on line 14 of Form CT-33-M. If your franchise tax on line 7 of Form CT-33-NL exceeds \$100,000, enter 40% (.4) of the MTA surcharge shown on line 14 of Form CT-33-M.

Unauthorized non-life insurance corporations: If line 13 of Form CT-33 is more than \$1,000, but less than or equal to \$100,000, enter 25% (.25) of the tax shown on line 14. If line 13 of Form CT-33 is more than \$100,000, enter 40% (.4) of the tax shown on line 14.

Line 19 — 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 20 — If you do not pay the MTA surcharge on or before the original due date (**without** regard to any extension of time), 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 15a or 15b, first installment of estimated tax for next period.

Line 21 — Compute additional charges for late filing and late payment on the amount of MTA surcharge required to be shown on the return after deduction of 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 15a or 15b, first installment of estimated tax for next period.

- A. If you do not file a return when due or if your request for extension is invalid, add to the MTA surcharge 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 the MTA surcharge in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as the MTA surcharge (section 1085(a)(1)(B)).
- C. If you do not pay the MTA surcharge shown on a return, add to the MTA surcharge 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 the delay in filing, payment, or both (section 1085).

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?*).

Lines 23 through 26 — You may apply all or part of your overpayment to your New York State franchise tax, next year's MTA surcharge, or request a refund. Indicate the amount to be credited to New York State franchise tax on line 24, the amount to be credited to next year's MTA surcharge on line 25, and the amount to be refunded on line 26.

Line 28 — Collection of debts from your refund or overpayment
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.

Claim for refund of MTA surcharge retaliatory tax credit

Insurance corporations organized or domiciled in New York State must use lines 29 through 38 to claim a refund for retaliatory taxes paid to other states as a result of the imposition of the metropolitan transportation business tax (MTA surcharge). The surcharge credit available for a given year may not exceed the MTA surcharge payable for that year as computed under Tax Law section 1505-a. The credit is claimed in the year paid, but is attributed to the year in which the retaliatory taxes were imposed or assessed.

Attach a separate sheet to the refund claim, identifying the recipients of the retaliatory tax and the amount paid to each recipient, broken down to reflect the year to which the taxes are attributable.

For tax years beginning on or after January 1, 2003, the four million dollar limitation on the total amount of the surcharge retaliatory tax credit claimed in any *surcharge taxable year* has been repealed. Also, there is no longer a limitation date for the surcharge retaliatory tax credit, and this credit may now be claimed for taxes paid to other states regardless of the *limitation date* for a *surcharge taxable year*.

Line 29 — Enter MTA surcharge payable for each year for which you are claiming a credit.

Line 30 — Enter retaliatory tax credits allowed in prior years that are attributable to the MTA surcharge. Include all credits claimed on Form CT-33-M.

Lines 32 through 36 — Do not include on these lines any amounts attributable to retaliatory taxes that were previously claimed on Form CT-33-M for any year.

Line 37 — Enter in the appropriate column, for the correct year, the total MTA surcharge retaliatory tax credits allowed to date. Include any credits previously allowed on Form CT-33-M as well as amounts claimed in Columns A through E on lines 32 through 36.

Lines 39 through 45 — Composition of prepayments claimed on line 17

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 17.

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
(for information, forms, and publications)



Fax-on-demand forms: Forms are
available 24 hours a day,
7 days a week. 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
In-state callers without free long distance: 1 888 698-2908
To order forms and publications: (518) 457-5431
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): If you have
access to a TTY, contact us at 1 800 634-2110.
If you do not own a TTY, check with independent
living centers or community action programs to find
out where machines are available for public use.



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.