



# Instructions for Form CT-33-NL

## Non-Life Insurance Corporation Franchise Tax Return

# CT-33-NL-1

### Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

- Changes for the current tax year (general and by Tax Law Article)
- Business information (how to enter and update)
- Entry formats
  - Dates
  - Negative amounts
  - Percentages
  - Whole dollar amounts
- Third-party designee
- Paid preparer identification numbers
- Is your return in processible form?
- Use of reproduced and computerized forms
- Electronic filing and electronic payment mandate
- Web File
- Form CT-200-V
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Reporting requirements for tax shelters
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

### Who must file Form CT-33-NL

- Domestic non-life insurance corporations that are authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Financial Services for the privilege of exercising a corporate franchise.
- Foreign and alien non-life insurance corporations that are authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Financial Services and are doing business, employing capital, owning or leasing property, or maintaining an office in this state.
- Non-life insurance corporations exempt from federal income tax but conducting business in New York State.
- An unauthorized non-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 New York State Insurance Law sections 1101(b)(5) and 2117(j). See TSB-M-00(1)C, *Amended Definition of Insurance Corporation (Article 33)*, for additional information.
- Risk retention groups as defined in subsection (n) of Insurance Law section 5902.
- For-profit health maintenance organizations (HMOs) required to obtain a certificate of authority under Article 44 of the Public Health Law.

**Exceptions:** Insurance corporations specifically exempted by Tax Law, Article 33, section 1512 do not have to file Form CT-33-NL. Captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70 must file Form CT-33-C, *Captive Insurance Company Franchise Tax Return*. However, overcapitalized captive insurance companies as defined in Tax Law, Article 1, section 2.11, no longer meet the definition of an insurance corporation under Tax Law, Article 33, section 1500(a) and must file on a combined return under Article 9-A or 32 with their closest controlling stockholder, as applicable.

An **unauthorized** non-life insurance corporation is not subject to the premiums tax under Tax Law, Article 33, section 1502-a or required to pay the additional tax on premiums under Tax Law, Article 33, section 1510(a) and must file Form CT-33, *Life Insurance Corporation Franchise Tax Return*.

**Definition of insurance corporation** — An *insurance corporation* as defined by Tax Law, Article 33, section 1500 is any corporation, association, joint stock company or association, person, society, aggregation, or partnership doing an insurance business. The term insurance corporation also includes an HMO required to obtain a certificate of authority under Article 44 of the Public Health Law. It does not include an overcapitalized captive insurance company.

**Definition of non-life insurance corporation** — A *non-life insurance corporation* is any insurance corporation other than a life insurance corporation.

**Non-life insurance corporations subject to a franchise tax based solely on premiums** — Non-life insurance corporations that are authorized to transact business in New York State under a Certificate of Authority from the Superintendent of Financial Services are subject to a franchise tax based solely on premiums under Tax Law section 1502-a.

The franchise tax is calculated in the same manner as the additional franchise tax based on premiums under Tax Law section 1510(a), except that the tax rate is:

- 1.75% for accident and health premiums; and
- 2.00% for all other premiums.

The tax imposed under section 1502-a, before the application of tax credits, cannot be less than \$250.

### 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 request a six-month extension of time by filing Form CT-5, *Request for Six-Month Extension to File*.

Mail your returns and attachments to:

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

Also mail a copy to:

**NYS INSURANCE DEPARTMENT  
ONE COMMERCE 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 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. You must also mail a copy to the NYS Insurance Department address listed above.

### 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-NL.

If you file an amended federal return, you must file an amended New York State return within 90 days thereafter.

**For credits or refunds of corporation tax paid** — To claim any refund type that requires an amended return, 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 Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*) 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, Article 27, section 1087.

**Erroneously paid or illegally or unconstitutionally imposed retaliatory taxes or other charges** — If after exhaustion of all further judicial review, there is a final determination by competent authority that a refund or credit is due for retaliatory taxes or other charges imposed or assessed by another state, and a credit against New York State tax was allowed under Tax Law, Article 33, section 1511(c) for such taxes or charges, then the final determination, along with the amount to be refunded or credited, must be reported within 90 days of its issuance.

### Reporting period

Use this tax return for calendar year 2011 and fiscal years that begin in 2011 and end in 2012.

You can also use the 2011 return if:

- you have a tax year of less than 12 months that begins and ends in 2012, **and**
- the 2012 return is not yet available at the time you are required to file the return.

In this case you must show your 2012 tax year on the 2011 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2011.

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

When preparing your corporation tax return, be sure to accurately complete the corporation's identifying information (employer identification number (EIN) and file number) including your current address. Keep a record of your identifying information for future use.

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

### Metropolitan transportation business tax (MTA surcharge) Article 33 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-NL. They are not required to file Form CT-33-M.

### Signature

The return must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the taxpayer corporation.

The return of an association, publicly traded partnership, or business conducted by a trustee or trustees must be signed by a person authorized to act for the association, publicly traded partnership, or business.

If an outside individual or firm prepared the return, all applicable entries in the paid preparer section must be completed, including identification numbers (see *Paid preparer identification numbers* in Form CT-1). Failure to sign the return will delay the processing of any refunds and may result in penalties.

### 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 tax and installment payments of estimated tax

**Line 1** — Enter the amount of accident and health premiums from line 34 in the first box. Multiply accident and health premiums by the tax rate of 1.75% (.0175) and enter the result here.

**Line 2** — Enter the amount of other non-life insurance premiums from line 35 in the first box. Multiply other non-life insurance premiums by the tax rate of 2.0% (.02) and enter the result here.

### Line 6

**Temporary deferral of certain tax credits** — For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

**Line 8b** — If your tax on line 7 exceeds \$1,000 and you did not file Form CT-5 you must pay a mandatory first installment for the period following the one that is covered by this return. If your tax exceeds \$1,000, but does not exceed \$100,000, enter 25% (.25) of the tax shown on line 7. If your tax exceeds \$100,000, enter 40% (.4) of the tax shown on line 7.

**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, Article 27, section 1085(d).

**Line 13** — 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 7 minus line 10) from the original due date to the date paid. Exclude from the interest computation any amount shown on line 8a or 8b, *First installment of estimated tax for next period*.

**Line 14** — Compute additional charges for late filing and late payments on the amount of tax minus any payment made (line 7 minus line 10) 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, *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, or you may call and we will compute the penalty and interest for you (see *Need help?*).

**Lines 21a and 21b** — If you request a refund of unused tax credits, enter the total amount on line 21a. If you request tax credits to be credited as an overpayment to next year's tax, enter the total amount on line 21b. Attach the appropriate tax credit forms.

### **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 calling the Corporation Tax Information Center (see *Need help?*). 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 reinsurance allocation percentage**

For both the numerator and denominator of the reinsurance 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 25** — Enter the total New York taxable premiums from lines 34 and 35, 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 lines 34 and 35 (attach schedules for such additional premiums). Do not include in this amount any separate costs assessed by the insurance corporation upon its policyholders. See Tax Law, Article 33, section 1504(b)(2)(A). Include any New York premiums for long-term care insurance policies under United States Code Title 5, Chapter 90, and any New York premiums for federal group life insurance policies under United States Code Title 5, Chapter 87, when computing the premium percentage.

**Line 26** — 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 Tax Law section 1504(b)(2)(C).

**Line 27** — 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 28** — Enter the total New York premiums on reinsurance assumed from authorized companies. Include reinsurance premiums from unauthorized companies that relate to transactions authorized under Insurance Law section 2105 and that are subject to the premiums tax on excess-lines brokers under Insurance Law section 2118. Also, include premiums allocated to New York State where the location of the risk cannot be determined and premiums from risks located in New York State.

**Line 30** — Enter the total amount of New York premiums included on line 29 that were ceded to other insurance companies.

**Attach a separate schedule showing the computation of New York premiums included in lines 25 through 31.**

**Line 32** — 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 Financial Services.

**Attach a separate schedule showing the computation of total premiums included on line 32.**

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.

### **Schedule C — Computation of taxable premiums**

Use Schedule C to compute premiums taxable under section 1502-a and transfer them to the appropriate boxes on lines 1 and 2 of Form CT-33-NL.

Report direct premiums on a written or paid-for basis, consistent with the basis required by the annual statement filed with the Superintendent of Financial Services. For purposes of computing taxable premiums, the term *premium* includes all amounts received as consideration for insurance or reinsurance contracts, or contracts with HMOs for health services (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.

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

— **Gross direct premiums** — Include total gross premiums, fair plan 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. Do not deduct reinsurance ceded. When computing taxable premiums, do not include premiums on annuity contracts, ocean marine insurance, and policies issued under Insurance Law section 4236. Also exempt from the tax on premiums are premiums on risks located outside the United States that 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.

**Note:** Gross direct premiums do not include any premiums that New York State cannot tax according to federal law (including premiums received for a long-term care insurance policy under United States Code Title 5, Chapter 90, and any premiums for federal group life insurance under United States Code Title 5, Chapter 87).

— **Deductions from gross direct premiums**

- **Reinsurance premiums assumed** — When computing gross direct premiums, you may deduct (1) reinsurance premiums assumed, 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 Insurance Law section 2105 and that are subject to the premiums tax on excess-lines brokers under Insurance Law section 2118.
- **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 D — Computation of issuer's allocation percentage**

Complete this schedule by entering New York gross direct premiums on line 36 and total gross direct premiums on line 37 as reported in your annual statement filed with the Superintendent of Financial Services for the tax year. Tax Law section 1085(a) provides for a penalty of \$500 for failure to provide information needed to compute your issuer's allocation percentage.



**Composition of prepayments**

**Lines 39 through 46** — 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 10.

**Line 44** — 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**

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

1. Empire zone (EZ) capital tax credit.
2. EZ and zone equivalent area (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 47** — Enter the total tax credits claimed 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. If you are required to recapture a tax credit that was allowed in a previous reporting period, and the result is a negative credit amount on your credit claim form, enter this negative amount, with a minus sign, in the applicable box.

**Fire insurance premiums tax credit** — Credit for taxes on premiums for any insurance on loss or damage by fire under Insurance Law sections 9104 and 9105 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 5 less the EZ capital tax credit, EZ or ZEA wage tax credits, and any noncarryover 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.

Enter in the *Other credits* box any credits being claimed on line 6 that are not specifically listed on Form CT-33-NL above line 47 and attach the appropriate form(s).

**Line 48** — Enter the total amount of refund-eligible tax credits claimed on line 47. The retaliatory tax credits, the QEZE real property tax credit, the brownfield redevelopment tax credit, the remediated brownfield credit for real property taxes, the environmental remediation insurance credit, the security officer training tax credit, the investment tax credit (ITC) for the financial services industry (for qualified new businesses only), and the excelsior jobs program credit are the only refund-eligible credits under Article 33.

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