



Instructions for Form CT-186

Utility Corporation Franchise Tax Return

CT-186-I

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

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
- Are you claiming an overpayment?
- 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

General information

A continuing section 186 taxpayer is a corporation that was subject to section 186 on December 31, 1999, and elected to remain subject to section 186. The corporation was:

- primarily engaged in the business of co-generation for a tax year ending on December 31, 1999; **and**
- subject to tax under Tax Law section 186, but not section 186-a, for the tax year ending on December 31, 1999; **and**
- a party to a total output contract as of January 1, 2000.

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, *General Business Corporation Franchise Tax Return*, or CT-3-S, *New York S Corporation Franchise Tax Return*.

For additional information see Laws of 2000, Chapter 63.

Who must file

A continuing section 186 taxpayer must file Form CT-186. 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.

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

See Publication 55, *Designated Private Delivery Services*.

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, 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, Article 27, section 1087.

Other forms you may have to file Independently procured insurance tax – Article 33-A

If you purchase or renew a taxable insurance contract directly from an insurer not authorized to transact business in New York State under a *Certificate of Authority* from the Superintendent of Financial Services, you may be liable for a tax of 3.6% (.036) of the premium. For more information, see Forms CT-33-D (4/11), *Tax on Premiums Paid or Payable To an Unauthorized Insurer For Taxable Insurance Contracts with an Effective Date before July 21, 2011*; and CT-33-D (7/11), *Tax on Premiums Paid or Payable To an Unauthorized Insurer For Taxable Insurance Contracts with an Effective Date on or after July 21, 2011*.

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.

For information on voluntary dissolution and surrender of authority, see Forms TR-125, *Instructions for Voluntary Dissolution of New York State Business Corporations*, and TR-199, *Surrender of Authority-Foreign Corporation*, on our Web site (see *Need help?*).

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.

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.

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**.

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.

Mark an **X** in the appropriate box(es) and enter the total amount of tax credits claimed. 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).

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, Article 27, 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.

- A. 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)).
- 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 $\frac{1}{2}$ % (.005) per month up to 25% (.25) (section 1085(a)(2)).
- D. 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, or you may call and we will compute the penalty and interest for you (see *Need help?*).

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*.

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.