



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

New for 2010

This year the Tax Department introduces new Form CT-1, *Supplement to Corporation Tax Instructions*. Changes for this year and general instructions related to your corporation tax return — previously found in individual return instructions — have been compiled in this single form.

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
- Use of reproduced and computerized forms
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

General information

Who must file this form and pay this surcharge

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

Estimated MTA surcharge

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

When and where to file

File this return and pay the amount of MTA surcharge due within 2½ months after the end of your reporting period. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

Mail Form CT-3M/4M separately or with your Form CT-3 or CT-3-A , as follows:	
With payment	Without payment
NYS CORPORATION TAX PROCESSING UNIT PO BOX 1909 ALBANY NY 12201-1909	NYS CORPORATION TAX PROCESSING UNIT PO BOX 22095 ALBANY NY 12201-2095

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

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

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

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your 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 MTA surcharge return

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

Amended return

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

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

For amended returns based on changes to federal taxable income (FTI) —

If your FTI has been changed or corrected by a final determination of the Commissioner of Internal Revenue or by a renegotiation of a contract or subcontract with the United States, you must file an amended return reflecting the changes to FTI 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) —

To claim a credit or refund resulting from the carryback of an NOL 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*, or federal Form 1120X, *Amended U.S. Corporation 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*.

If you are a federal S corporation that files as a New York C corporation file an amended New York State return for the prior year and attach a copy of federal Form 1120S, *U.S. Income Tax Return for an S Corporation*, for the loss year. File the amended return within 15 months from the end of the loss year.

For credits or refunds of corporation tax paid — To claim any refund type that requires an amended return, other than an NOL 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 Form 1120X) and proof of federal refund approval, *Statement of Adjustment to Your Account*.

If you are a federal S corporation, file an amended New York State return for the year being amended. If applicable, attach a copy of the amended federal Form 1120S.

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.

Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Enter your employer identification number and file number above your corporation tax name and address. Keep a record of that information and include it on each corporation tax form mailed. If you use a paid preparer or accounting firm, make sure they use your complete and accurate information when completing all forms.

Reporting period

Use this tax return for calendar year 2010 and fiscal years that begin in 2010 and end in 2011.

You can also use the 2010 return if:

- you have a tax year of less than 12 months that begins and ends in 2011, **and**
- the 2011 return is not yet available at the time you are required to file the return.

In this case you must show your 2011 tax year on the 2010 return and take into account any tax law changes that are effective for tax years beginning after December 31, 2010.

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

Line instructions

Line A — Make your check or money order payable in United States funds. We will accept a foreign check or foreign money order only if payable through a United States bank or if marked **Payable in U.S. funds**.

Computation of MTA surcharge

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

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

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

ENI base worksheet

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

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

MTI base worksheet

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

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

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

Capital base worksheet

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

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

Line 5b — If your franchise tax on Form CT-3, CT-4, or CT-3-A is \$1,000 or less, enter 0. If your franchise tax on Form CT-3, CT-4, or CT-3-A is more than \$1,000, but not greater than \$100,000, multiply the line 4 amount by 25% (.25). If your franchise tax on Form CT-3, CT-4, or CT-3-A exceeds \$100,000, multiply the line 4 amount by 40% (.40).

Line 9 — Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax pursuant to Tax Law, Article 27, section 1085(d).

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

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

Schedule A — Computation of MCTD allocation percentage

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

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

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

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

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

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

Schedule A, Part 1 — MCTD allocation

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

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

Line 17 — Enter the average value of real property you owned. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during

construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Example:

Computation of MCTD allocation percentage:

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

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

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

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

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

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

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

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

Lines 46 through 52 — Composition of prepayments claimed on

line 7 — If you need more space, write **see attached** in this section, and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to line 7.

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. Failure to sign the return will delay the processing of any refunds and may result in penalties. (For more information on paid preparer identification numbers, see *Changes for 2010* in Form CT-1.)



Up-to-date information affecting your tax return

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

Contents of this form

Form CT-1 contains both changes for the current tax year and general instructional information, serving as a supplement to corporation tax instructions.

This form contains information on the following topics:

- Changes for the current tax year (non-legislative and legislative)
- Business information (how to enter and update)
- Entry formats
 - Dates
 - Negative amounts
 - Percentages
 - Whole dollar amounts
- Third-party designee
- Use of reproduced and computerized forms
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
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- Privacy notification

Changes for 2010

Non-legislative changes

Web File — You can Web File Form CT-400, *Estimated Tax for Corporations*, on our Web site (see *Need help?*). You'll need to create an *Online Services* account or log into your existing one, and select the corporation tax estimated payment option.

You can also Web File the following extension requests:

- Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*
- Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*
- Form CT-5.9, *Request for Three-Month Extension To File (for Article 9 tax return, MTA surcharge, or both)*

Benefits of Web filing include:

- direct payment from your bank account or by ACH credit
- instant confirmation

For more information, visit our Web site and select the corporation tax Web File option.

Form CT-200-V, Payment Voucher for E-Filed Corporation Tax Returns and Extensions — This form is a payment voucher for taxpayers who e-file their forms but cannot e-pay and need to pay with a paper check or money order. Form CT-200-V is for use only for returns or extensions that were e-filed and should never accompany a paper-filed return.

Paid preparer identification numbers — New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. For 2010, the paid preparer section on corporation tax forms has been updated accordingly. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site (see *Need help?*.) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number (SSN). (PTIN information is available at www.irs.gov.)

Legislative changes

Articles 9, 9-A, 13, 32, and 33

Chapter 242, Laws of 2010

Amended definition of tax return preparer under Tax Law, Article 1, section 32 — Enrolled agents, employees of enrolled agents, and those preparing returns under the supervision of enrolled agents are no longer included in the definition of *tax return preparer*.

Article 9

Chapter 57, Laws of 2010

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, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

Biofuel tax credit cap — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

Empire Zones Program — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

Article 9-A

Chapter 24, Laws of 2010

Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

Chapter 57, Laws of 2010

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, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

Biofuel tax credit cap — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit cap imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$2.5 million.

Qualified emerging technology company (QETC) facilities, operations, and training tax credit — For tax years beginning on or after January 1, 2010, partners in a partnership and shareholders of a New York S corporation will have the credit limit imposed at the entity level, so that the aggregate credit allowed to all partners or shareholders of these entities does not exceed \$250,000.

Empire Zones Program — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

Empire State film production tax credit — Numerous amendments impacting the credit were made. For more information concerning the amendments, visit the Governor's Office for Motion Picture and Television Development Web site at www.nylovesfilm.com.

Empire State film post-production tax credit — Effective August 11, 2010, a new tax credit is available for the film and television post-production industry. The amount of credit allowed is allocated by the Governor's Office for Motion Picture and Television Development. For more information, refer to Form CT-261, *Claim for Empire State Film Post-Production Credit*, and its instructions.

Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

Updated definition of captive REIT — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

Clarifying New York source income — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

Chapter 59, Laws of 2010

Excelsior Jobs Program tax credit — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit that must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at www.empire.state.ny.us and select *Business Programs*.

Chapter 297, Laws of 2010

Farmers' school property tax credit — For tax years beginning on or after January 1, 2011, the farmers' school property tax credit was amended to maintain eligibility for the credit when farmers receive payments for the sale of their development rights under the state's Farmland Protection Program. This change will allow payments from the Farmland Protection Program to be treated as excess gross income from farming.

Chapter 472, Laws of 2010

Tax credit for rehabilitation of historic properties — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

Article 32

Chapter 24, Laws of 2010

Transitional provisions for the Gramm-Leach-Bliley (GLB) Act extended — For tax years beginning on or after January 1, 2010, and before January 1, 2011, Tax Law, Article 32, sections 1452(m) and 1462(f)(2)(iv) have been amended to extend the transitional provisions relating to the GLB Act.

Chapter 57, Laws of 2010

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, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

Elimination of bad debt modifications when computing entire net income — For tax years beginning on or after January 1, 2010, Article 32 was amended to eliminate the bad debt adjustments previously required by the Business Tax Reform and Rate Reduction Act of 1987 (see TSB-M-87(17)C, *Business Tax Reform and Rate Reduction Act of 1987 Article 32 - Franchise Tax on Banking Corporations*), and as amended by Chapter 411 of the Laws of 1996 (see TSB-M-96(1)C, *Important Notice: Summary of 1996 Corporation Tax Law Changes*).

Empire Zones Program — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

Real estate investment trust (REIT)/regulated investment company (RIC) provisions made permanent — For tax years beginning on or after January 1, 2011, the REIT and RIC provisions enacted by Chapter 60 of the Laws of 2007, and as amended by Chapter 57 of the Laws of 2008, relating to the taxation of captive REITs and captive RICs that were due to expire, were made permanent.

Updated definition of captive REIT — For tax years beginning on or after January 1, 2010, Tax Law, Article 1, section 2.9 was amended to exclude certain entities from the definition of *captive REIT*. For the revised definition, refer to your franchise tax return instructions.

Clarifying New York source income — The Tax Law was amended to ensure that nonresident shareholders of an S corporation who make elections under either Internal Revenue Code (IRC) section 338(h)(10) or 453 are taxed in accordance with those elections and the transaction is treated as producing New York source income. Also, income received by nonresidents from installment sale contracts entered into before a New York S corporation terminates its taxable status in New York is New York source income.

Chapter 59, Laws of 2010

Excelsior Jobs Program tax credit — Approved participants in the program will be eligible for the Excelsior Jobs Program credit. Empire State Development (ESD) will issue a certificate of tax credit which must be submitted with the taxpayer's return to claim the credits. For more information, visit ESD's Web site at www.empire.state.ny.us and select *Business Programs*.

Chapter 67, Laws of 2010

Bank tax extender — For tax years beginning before January 1, 2011, certain provisions of the franchise tax on banking corporations have been extended.

Chapter 472, Laws of 2010

Tax credit for rehabilitation of historic properties — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

Article 33

Chapter 57, Laws of 2010

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, refer to Form CT-500, *Corporation Tax Credit Deferral*, and its instructions.

Empire Zones Program — Numerous amendments impacting the empire zone (EZ) and qualified empire zone enterprise (QEZE) tax credits were made. For more information on a specific amendment, refer to the credit claim form and instructions for each credit.

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Chapter 472, Laws of 2010

Tax credit for rehabilitation of historic properties — For tax years beginning on or after January 1, 2010, the credit for rehabilitation of historic properties has been amended to clarify current provisions and to make the credit available to banks and insurance companies.

How to fill out your tax return

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 (see *Need help?*) 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 your address 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?*).

Entry formats

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).

Negative amounts — Show any negative amounts with a minus (-) sign.

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

Example: $5,000/7,500 = 0.6666666 = 6.6667\%$.

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.

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, 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.

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.

Use of reproduced and computerized forms

Photocopies of returns are acceptable if they are of good quality and have an original signature in the proper place. We will accept computer-produced corporation tax returns if they meet our printing specifications. For more information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

General information

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 or write to: NYS Tax Department, Collections and Civil Enforcement Division, W A Harriman Campus, Albany NY 12227.

Fee for payments returned by banks

The 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.

Tax shelter penalties

The Tax Law provides penalties for failure to disclose certain transactions and related information regarding tax shelters and for the underpayment of taxes due to participation in these shelters. For more information, refer to TSB-M-05(2)C, *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*.

Voluntary Disclosure and Compliance Program

The Voluntary Disclosure and Compliance Program provides relief from certain penalties and criminal prosecution to eligible taxpayers who come forward and reveal previously undisclosed liabilities. For more information, see TSB-M-08(11)C, *Voluntary Disclosure and Compliance Program*.

Your rights under the Tax Law

The Taxpayer Bill of Rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when you appeal a departmental decision, and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the department to obtain payment. For a complete copy of the information contained in all of these statements, you may obtain Publication 131, *Your Rights and Obligations Under the Tax Law*, by visiting our Web site or by calling (see *Need help?*).

Need help?



Internet access: www.tax.ny.gov
(for information, forms, and publications)



Telephone assistance is available from 8:30 A.M. to 4:30 P.M. (eastern time), Monday through Friday.

Corporation Tax Information Center: (518) 485-6027

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



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. 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.

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.