



Instructions for Form CT-13

Unrelated Business Income Tax Return

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-13

An organization or trust, as described in Internal Revenue Code (IRC) section 511(a)(2) or (b)(2), that is carrying on an unrelated trade or business in New York State must file this return and pay the tax due regardless of the amount of federal gross income from an unrelated trade or business. *An unrelated trade or business* is one not related to the purposes that exempt an organization from tax under IRC section 501. However, the following organizations are not subject to tax under Article 13 and are not required to file Form CT-13:

1. Corporations liable for tax under Tax Law Article 9-A.
2. Organizations whose sole unrelated trade or business in New York State consists of providing commercial-type insurance (IRC section 501(m)(2)(A)).

Mark an **X** in the appropriate box above line A on Form CT-13 if you ceased operating the unrelated business during the tax year covered by this return. If you become liable for the unrelated business income tax during any subsequent tax year, you must resume filing Form CT-13.

When to file

File this form within 4½ months after the end of the reporting period. If you need more time to file, you may request an extension of the filing date by completing and filing Form CT-5, *Request for Six-Month Extension to File*, and paying the tax due on or before the due date of this return.

Exception: Employee trusts, as described in IRC section 401(a), must file within 3½ months after the reporting period ends. If you are an employee trust, mark an **X** in the appropriate box above line A on Form CT-13.

Where to file

Mail your return to: **NYS CORPORATION TAX
PROCESSING UNIT
PO BOX 22038
ALBANY NY 12201-2038**

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: State Processing Center, 431C Broadway, Albany NY 12204-4836

Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box on the top of Form CT-13.

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 by the Internal Revenue Service (IRS) — If your federal unrelated business taxable income has been changed or corrected by a final determination of the Commissioner of Internal Revenue, you must file an amended return reflecting the federal changes within 90 days 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.

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 to a prior year, file an amended return within 90 days 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 amended Form 990-T, *Exempt Organization Business Income Tax Return*;
- a copy of the New York State return for the loss year; and
- proof of federal refund approval, *Statement of Adjustment to Your Account*.

For credits or refunds of corporation tax paid — To claim any refund type that requires an amended return, other than an NOL carryback (see above), file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually amended Form 990-T) 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.

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.

Principal unrelated business activity

In the box labeled *Principal unrelated business activity*, give the one unrelated business activity that accounts for the largest percentage of total receipts. *Total receipts* are gross receipts and all other income. State the broad field of unrelated business activity as well as the specific product or services (for example, investments, providing services to or selling products to nonmembers, rental income, etc.).

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 3 — If you are a shareholder of a federal S corporation that did not make a New York S election, enter your pro rata share of any amounts that are required to be added to federal unrelated business taxable income.

- Add back any items of deduction or loss that were passed through from the corporation and are included in federal unrelated business taxable income on line 1.
- Add back any distributions of cash or property from the S corporation that are not already included in federal unrelated business income pursuant to IRC section 1368 or 1371(e). Any distribution under IRC section 1368(b)(2) is treated as ordinary income.
- If gain or loss is included in unrelated business income, upon the disposition of stock or discharge of the indebtedness, add any increase in basis resulting from years that the corporation was a federal S corporation but was a C corporation for New York State tax purposes. Refer to Tax Law, Article 13, section 292(a)(5), and Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*, for more information.

Line 4 — If you are a shareholder of a federal S corporation that did make a New York S election, enter your shareholder's pro rata share of the federal subchapter S corporation's reduction for taxes on built-in gains or excess net passive income (IRC section 1366(f)). These taxes were paid at the entity level for federal tax purposes, reducing the gain for shareholders. The taxes are *grossed up* for New York State purposes.

Line 5

IRC section 199 deduction — Enter in the first entry box the amount of the deduction for domestic production activities from your federal return that is required to be added back under Tax Law section 292(a)(7).

If you have the following other addition to federal unrelated business taxable income, add the amount from the first entry box to this addition and enter the result.

Royalty payments made to a related member or members — Enter the amount of related-member royalty expense required to be added back under Tax Law section 292(a)(6).

Line 7 — Enter income derived from the conduct of games of chance or from the rental of premises for the conduct of games of chance permitted by a license granted under General Municipal Law Article 9-A. Games of chance **do not** include bingo or lottery games. Also enter income from providing commercial-type insurance that is included in federal unrelated business taxable income because of IRC section 501(m)(2)(A).

Line 8 — If you are a shareholder of a federal S corporation that did not make a New York S election, enter any amounts that must be subtracted from federal unrelated business taxable income.

- Subtract items of income or gain passed through from the federal S corporation.
- If gain or loss is included in unrelated business income, upon the disposition of stock or discharge of the indebtedness, subtract any decrease in basis resulting from years that the corporation was a federal S corporation but was a C corporation for New York State tax purposes.
- Subtract the amount of any modifications to unrelated business income that were made on your federal return and that are attributable to the distribution of cash or property from the federal S corporation pursuant to IRC section 1368 or section 1371(e).

Line 9 — Other subtractions (attach list)

S-1 Enter the amount of related-member royalty income required to be subtracted under Tax Law section 292(a)(6).

S-2 Enter any amount of tax refunded or credited as an overpayment under this article or Article 23 for which no exclusion or deduction was allowed in determining taxable income for any prior year.

Line 12 — The net operating loss deduction (NOLD) is limited to the lower of either the federal or New York State net operating loss (NOL). Your NOL may not exceed the deduction allowable for federal tax. A NOLD cannot be claimed for periods that the taxpayer was not subject to tax under Tax Law Article 13.

Line 20 — If you do not pay the tax on or before the original due date, not the extended due date, you must pay interest on the amount of the underpayment from the original due date to the date paid.

Line 21 — Late filing and late payment penalties

Additional charges for late filing and late payment are computed on the amount of tax less any payment made on or before the due date, determined with regard to any extension of time for filing.

- 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 a maximum 25% (.25) (Article 27 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 fail to pay the tax shown on a return, add ½% (.005) per month to the balance due, up to a maximum 25% (.25) (section 1085(a)(2)).
- D. The total of the additional charges in items A and C above may not exceed 5% (.05) in 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 or 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 interest and penalty for you (see *Need help?*).

Schedule A

Lines 26 through 39 — Enter the New York State amount in column A and the entire amount in column B.

Line 26 — The *fair market value* of any asset is the price (without any encumbrance, whether or not the taxpayer is liable) at which a willing seller will sell and a willing purchaser will buy. Average fair market value is generally computed on a quarterly basis. If your usual accounting practice does not permit computing average fair market value quarterly or more frequently, you may use a semiannual or annual basis if no distortion of average fair market value results.

Line 27 — *Gross rent* includes any amount payable as rent or instead of rent, such as taxes and repairs, and the amount of annual amortization of any costs of leasehold improvements made by or on the behalf of the taxpayer. Multiply gross rents, paid or payable during the year covered by the return, by eight to arrive at the amount of gross rents to be included on line 27.

Line 29 — *Tangible personal property* includes personal property, such as machinery, tools, implements, goods, wares, and merchandise. **Do not** include cash, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidence of debt.

Line 39 — Include only the personal service compensation of employees (other than general executive officers) of the unrelated trade or business.

General executive officers include the chairman, president, vice president, secretary, assistant secretary, 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 within or outside New York State is not a general executive officer.

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.
