



Instructions for Form CT-33-C

Captive Insurance Company Franchise Tax Return

CT-33-C-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

General information

A premiums tax is imposed under Tax Law, Article 33, section 1502-b on captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70.

The tax is based on gross direct premiums and assumed reinsurance premiums but cannot be less than the minimum tax of \$5,000. Captive insurance companies cannot claim credits against this tax and are not permitted to file a combined return, but must use Form CT-33-C to compute their tax separately.

Exceptions: The Metropolitan Transportation Authority (MTA), and a public benefit corporation or not-for-profit corporation formed by a city with a population of 1 million or more pursuant to Insurance Law section 7005(a), are expressly exempt from the payment of fees, taxes, or assessments whether state or local.

Overcapitalized captive insurance companies, as defined in Tax Law, Article 1, section 2.11, are required to file a combined return under either Article 9-A or 32 with their closest controlling stockholder.

Captive insurance companies licensed by the Superintendent of Financial Services under Insurance Law Article 70 are not subject to the taxes imposed by Tax Law, Article 33, section 1501, 1502-a, or 1510, or to the metropolitan transportation business tax (MTA surcharge) imposed by Tax Law, Article 33, section 1505-a.

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 to file by filing Form CT-5, *Request for Six-Month Extension to File*.

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

You **must** also send a **copy** of Form CT-33-C 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 at the address above.

Specific instructions

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.

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

When filing an amended return for a credit or refund, 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. For additional limitations on credits or refunds, see Tax Law, Article 27, section 1087.

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

Unless the captive insurance company can prove otherwise, we will assume that all its premiums on lines 1 through 8 are allocated to New York State and its issuer's allocation percentage is 100%. For a captive company to prove that less than 100% of its premiums are allocated to New York State and its issuer's allocation percentage is less than 100%, it must demonstrate that the premiums were taxed by another state.

Tax on New York State gross direct premiums

Lines 1 through 4 — Four tax rates apply to gross direct premiums, as shown on lines 1 through 4 of this form.

Gross direct premiums are defined in Tax Law section 1510(c). These premiums include total gross premiums, deposit premiums, and assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently canceled, insurance and reinsurance executed, issued, or delivered on property or risks located or resident in New York State. *Gross direct premiums* also include premiums written, procured, or received in New York State on business that cannot be specifically allocated or apportioned and reported as taxable premiums, or that have not been used as a measure of a tax on business of any other state or states. For special risk premiums, only include premiums written, procured, or received in New York State on risks located or resident in New York State. Do not include premiums on annuity contracts, ocean marine insurance, policies issued under Insurance Law section 4236, and any premiums that New York State cannot tax according to federal law including federal long-term care insurance policies issued under United States Code Title 5, Chapter 90. Also exempt from this tax are premiums on risks located outside the United States that were written, procured, or received in New York State.

The term *premiums*, as used in the previous paragraph, includes all amounts received as consideration for insurance or reinsurance contracts, or contracts with health maintenance organizations for health services (other than for annuity contracts), and includes premium deposits, assessments, policy fees, membership fees, and separate costs assessed upon the captive insurance company's policyholders, and every other compensation for such contract. In addition, *premiums* include any amount received by a captive insurance company as consideration for insurance provided to its parents and affiliated companies, in the case of a pure captive insurance company, and to the industrial insureds that comprise the industrial insured group, in the case of a group captive insurance company. The terms *pure captive insurance company*, *group captive insurance company*, *industrial insureds*, and *industrial insured group* are defined in Insurance Law section 7002.

Deductions from gross direct premiums include:

A. Reinsurance premiums — When computing gross direct premiums, deduct (1) reinsurance premiums that have been received by way of reinsurance from corporations or other insurers authorized to transact business in New York State and

(2) reinsurance premiums 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.

B. Dividends paid or credited — 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 nor cash surrender values.

Tax on New York State reinsurance premiums

Lines 5 through 8 — Insurance Law section 7010 explains the reinsurance business that may be performed by a captive insurance company. A captive insurance company may assume reinsurance on risks ceded by any other insurer when the risks ceded are solely those of the industrial insured or members of the industrial insured group owning the captive insurance company. Also, when it has the permission of the Superintendent of Financial Services, a captive insurance company may assume risks of any insurer, provided the reinsurance premiums assumed do not exceed 50% of the gross premiums written by the captive insurance company in the calendar year.

Four rates apply to reinsurance premiums. Any reinsurance premiums deducted from gross direct premiums on lines 1 through 4 should be included and subjected to tax on lines 5 through 8.

Line 10 — Tax Law section 1502-b imposes a minimum tax of \$5,000.

Line 12b — If you did not file Form CT-5, a mandatory first installment is required for the period following the one that is covered by this return. If line 11 does not exceed \$100,000, enter 25% of the tax shown on line 11. If line 11 exceeds \$100,000, enter 40% of the tax shown on line 11.

Line 16 — 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 17 — 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 11 minus line 14) from the original due date to the date you paid. Exclude from the interest computation any amount shown on line 12a or 12b, *First installment of estimated tax for next period*.

Line 18 — Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deducting any payment made (line 11 minus line 14) 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 12a or 12b, *First installment of estimated tax for next period*.

- 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)).
- 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)).
- 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)).
- 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)(4)).

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 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 penalty and interest for you (see *Need help?*).

Composition of prepayments on Line 14

Line 27 — If you need additional space, enter ***see attached*** under line 27 and attach all additional prepayment information. Include additional amounts in the total on line 27 and on line 14.
