



Instructions for Form CT-186-E

Telecommunications Tax Return and Utility Services Tax Return

Tax Law — Article 9, Sections 186-e, 186-a, 186-c and 188

CT-186-E-I

1995 Tax Law Changes Affecting Telephone and Telegraph Companies and Other Providers of Telecommunication Services — Effective for tax years beginning on or after January 1, 1995, section 186-a of the Tax Law, *Tax on the Furnishing of Utility Services*, has been amended to remove the provisions subjecting telephony and telegraphy and telephone and telegraph service receipts of whatever nature to tax under that section. The charges representing these receipts previously taxed under section 186-a are now taxed under newly enacted section 186-e, *Excise Tax on Telecommunication Services*.

Section 186-e imposes a 3.5% excise tax on the gross charges from: (1) any intrastate telecommunication services; (2) any interstate or international telecommunication services that originate or terminate in New York State and are charged to a service address in New York State (regardless of where the amounts charged are actually billed or ultimately paid); and (3) private telecommunication services attributable to New York State.

Relative to section 186-a, a provider of telecommunication services that is subject to the supervision of the Department of Public Service is considered a utility of the first class for the purposes of section 186-a and is subject to tax under that section on gross income for certain non-telecommunication receipts. These non-telecommunication receipts include receipts from interest, dividends, and royalties from sources within New York State; profits from the sale of securities held, managed, or controlled in New York State; real property sold within New York State; personal property sold within New York State that are not part of the stock in trade of the utility, and profits from any transaction, except sales for resale, within New York State. These non-telecommunication receipts were previously taxed under section 186-a and will continue to be taxed under section 186-a.

In addition, any person, corporation, or other entity (including a provider of telecommunication services), whether or not subject to the supervision of the Department of Public Service, who furnishes other utility services, such as gas, electricity, steam, water or refrigeration service, will continue to be subject to the tax under section 186-a on the receipts from those services.

Who Must File Form CT-186-E — Every provider of telecommunication services must file Form CT-186-E. If you have any receipts from telecommunication services, even if it is not your primary business, you must compute and report the excise tax imposed by section 186-e on Schedule A *New York State Excise Tax on Telecommunication Services*. In addition to your telecommunication activity, if you are a utility supervised by the Department of Public Service or have receipts from other utility services, you must compute and report the tax imposed by section 186-a on Schedule C *Utility Services Tax* on this form. (See the specific instructions for Schedule A for the definition and examples of a provider of telecommunication services, and Schedule C for the definition of utilities.)

If you have no receipts from telecommunication services, but have other receipts from the furnishing of other utility services, continue to use Form CT-186-P or Form CT-186-A, whichever applies, to report your taxes under section 186-a. In addition, continue to use Form CT-186-P/M or CT-186-A/M, whichever applies, to report your MTA surcharge.

Temporary Metropolitan Transportation Business Tax (MTA Surcharge) — You must also use this form to compute and report the MTA surcharges imposed by section 186-c on business done in the Metropolitan Commuter Transportation District (MCTD). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. If you provided telecommunication services in the MCTD during 1995, you must answer *Yes* to the first question above line A, and complete Schedule B, *MTA Surcharge Related to Telecommunication Services*. If you did not provide telecommunication services in the MCTD during 1995, you must disclaim liability for the MTA surcharge by answering *No*.

If you are a utility supervised by the Department of Public Service and did business in the MCTD in 1995, or if you provided utility services in the MCTD in 1995, you must answer *Yes* to the second question above line A, and complete Schedule D, *MTA Surcharge on Utility Services*. If you did not do business or provide utility services in the MCTD during 1995, you must disclaim liability for the MTA surcharge by answering *No*.

When and Where to File — You must report on a calendar year basis to New York State, even if you maintain your records and report to the IRS using a fiscal accounting period.

You must file Form CT-186-E on or before March 15, 1996.

Mail the return to: **NYS CORPORATION TAX, PROCESSING UNIT, PO BOX 1909, ALBANY NY 12201-1909.**

Extension of Time for Filing Tax Return — If you cannot meet the filing deadline, you may request an extension of time by filing Form CT-5.9-E, *Request for Three-month Extension to File New York State Telecommunications Tax Return and Utility Services Tax Return*, on or before March 15, 1996. The extension will apply to all of the taxes and surcharges reported on Form CT-186-E; no other extension is required. 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-E.

Other Forms and Information You May Have to Provide

Tax on Importation of Gas Services — Chapter 166 of the Laws of 1991 added section 189 to Article 9 that imposes a tax upon gas importers who import, or cause to be imported, gas services into New York State for their own use. For additional information see TSB-M-91(5)C.

Use Form CT-189, *Tax on Importation of Gas Services*, to remit the tax under section 189 of the Tax Law.

Foreign Corporations — Maintenance Fee and License Fee — A corporation organized outside of New York State (a foreign corporation) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay the annual maintenance fee or its equivalent in New York State taxes (including state and MTA surcharges) under Article 9, 9A or 32 will result in annulment of the authorization to do business in New York State. Payments of such taxes are counted as payments toward the \$300 annual maintenance fee, (but not the license fee reported on Form CT-240). If the total of such taxes is greater than \$300, then you have satisfied the requirement to pay the annual maintenance fee. If the total of such taxes paid for 1995 is less than \$300, and you are filing form CT-183, enter \$300 on line 8 of Form CT-183 and make your payment with that form; or, if you are filing Form CT-186, enter \$300 on line 9 of Form CT-186 and make a payment with that form. In addition, on any other Article 9 returns that you are required to file, indicate that a total tax and maintenance fee of \$300 was paid with Form CT-183 or CT-186, and make no remittance of tax with the other returns. Article 9 returns that may apply to you include CT-183, CT-183-M, CT-184, CT-184-M, CT-186-E and CT-189.

Foreign corporations must also file Form CT-240, *Foreign Corporation License Fee Report*.

Change of Business Information — If there have been any changes in your business name, identification number, mailing address, business address, telephone number or owner/officer information and you have not previously notified us, complete Form DTF-95, *Change of Business Information*. If you don't have a form, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073 to request one.

Change of Address — If your address has changed, enter your new address on the label and check the box next to the name and address block at the top of your corporation tax return. Do not check this box for any change of business information other than address. You must still attach the preprinted label with the old address to enable us to update your account.

Identifying Information — To ensure that your corporation tax forms are processed as quickly and efficiently as possible, it is important that we have the necessary identifying information from your preprinted label. Keep a record of the label information for future use. Please be certain to include your employer identification number and file number on each corporation tax form mailed. This will facilitate processing of your return to the correct account. Without this information, we may not be able to process your return.

If you use a paid preparer or accounting firm, make sure they use the mailing label or label information when completing all forms prepared for you.

Specific Instructions

Negative amounts, if any, should be shown in parentheses.

Lines 1 and 4 — Compute the excise tax under section 186-e on Schedule A and transfer the amount shown on line 32, column L to line 1. Compute the utility services tax under section 186-a on Schedule C and transfer the amount shown on line 64 to line 4.

Lines 2 and 5 — Pursuant to the Laws of 1994, the state tax surcharge rate is 7.5% (.075) for tax years beginning on 1/1/95 and ending on 12/31/95 (including a tax year of less than 12 months). The state tax surcharge does not apply to the MTA surcharge.

Line 8 — Compute the MTA surcharge related to telecommunication services under section 186-c(1)(b) on Schedule B and transfer the amount on line 41, column L, to line 8.

Line 9 — Compute the MTA surcharge on the tax on furnishing utility services, imposed by section 186-c(1)(a), on Schedule D and transfer the amount on line 70 to line 9.

Line 12a — If the total excise tax and state tax surcharge shown on line 3 is more than \$1,000, and you did not file Form CT-5.9-E, you must pay a mandatory first installment for the period following that covered by this return. Enter 25% of the total tax and state tax surcharge (line 3, column I) and 25% of the MTA surcharge related to telecommunication services (line 8, column II).

Line 12b — If the total tax on utility services and state tax surcharge shown on line 6 is more than \$1,000, and you did not file Form CT-5.9-E, you must pay a mandatory first installment for the period following that covered by this return. Enter 25% of the total tax and state tax surcharge (line 6, column I) and 25% of the MTA surcharge (line 9, column II).

Additional Installments of Estimated Tax, Form CT-400

Since every provider of telecommunication services will report its taxes and surcharges under sections 186-e, 186-a, 188, and 186-o on Form CT-186-E, only one Form CT-400, *Estimated Tax for Corporations*, will be used to make any related estimated installment payments.

If the total of your estimated tax and state tax surcharge related to section 186-e or section 186-a will exceed \$1,000 for 1996, then you must file Form CT-400 and make installment payments of estimated tax, state tax surcharge and MTA surcharge.

You must combine your installment payments on one Form CT-400, but you are not required to combine the estimates for both section 186-a and section 186-a in determining the \$1,000 threshold. If both estimates are greater than \$1,000, estimated installments are required for both. If one estimate is less than or equal to \$1,000, and one is greater than \$1,000, installments are required only for the section estimated to be greater than \$1,000. If neither is greater than \$1,000, no installment payments are required. You must file Form CT-400 on June 15, September 15 and December 15 and pay the additional installments of estimated tax for 1996.

Line 14 — Effective January 1, 1995, sections 184 and 184-a have been amended such that telephone corporations are subject to tax only if they are formed for or principally engaged in local telephone business.* A corporation is considered to be principally engaged in a local telephone business if more than 50% of its operating receipts come from the furnishing of carrier access services and from telecommunication services provided within the same Local Access and Transport Area (LATA).

Since these amendments were enacted on June 7, 1995, but made effective January 1, 1995, you may have overestimated your tax liability because you are no longer subject to tax under sections 184 and 184-a. This may have resulted in an overpayment of taxes related to sections 184 and 184-a.

If you are a corporation that is principally engaged in local telephone business, ignore the following instructions. They do not apply to you.

Corporations not principally engaged in local telephone business must follow these two steps:

(1) When filing Form CT-186-E, you must check the appropriate box on page 7 to confirm that you are a corporation that is not principally engaged in local telephone business and will not be filing Forms CT-184 and CT-184-M.

(2) Complete line 75 to transfer the 1995 balances related to sections 184 and 184-a. Enter the balance of prepayments in your account for section 184 on line 75, column I. Enter the balance of prepayments in your account for section 184-a on line 75, column II.

* These amendments do not apply to section 183 or 183-a. In other words, any corporation principally engaged in any telephone business is still required to file Form CT-183 and, if doing business in the MCTD, Form CT-183-M.

Line 15 — Column I is used to compute the total balance of the taxes, state tax surcharges, and estimated installment payments related to the taxes imposed by sections 186-e and 186-a, less any prepayments made during the previous 12 months. If the total prepayments on line 14, column I, exceed the balance computed at line 13, column I, a negative balance (credit) will result.

Column II is used to compute the total balance of the MTA surcharges imposed under section 186-c, less any prepayments made during the previous 12 months. If the total prepayments on line 14, column II, exceed the balance computed at line 13, column II, a negative balance (credit) will result.

Column III is used to determine the total net balance. If a positive balance results, lines 16, 17, and 18 must be used to determine any additions to tax. If a negative (credit) balance results, you have a net overpayment, which should be transferred to line 20, column III as a positive number.

Line 16 — If you underpaid your estimated tax for 1995, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, check the box and enter the amount of penalty on line 16. If no penalty is due, enter "0" on line 16.

On Form CT-222, you must complete line 2, 1994 column, by adding your section 186-a tax, state tax surcharge, and MTA surcharge determined for 1994. You must complete line 2, 1995 column, by entering the total amount of the taxes, state tax surcharges, and MTA surcharges related to section 186-e and 186-a from lines 7 and 10 on Form CT-186-E. In addition, you must combine your installment payments related to each section on line 8 of Form CT-222. (If you are no longer subject to sections 184 and 184-a, you may also include those installment payments on line 8.)

Line 17 — If you do not pay the taxes, state tax surcharges and MTA surcharges on or before the due date (without regard to an extension of time) you must pay interest on the amount of the underpayment from the due date to the date paid. Exclude from the interest computation any amount shown on lines 11 and 12c. You may call the Business Tax Information Center for the current interest rate or to have the interest computed for you. See *Need Help?* for the phone numbers.

Line 18 — Additional charges for late filing and late payment are computed on the amount of taxes, state tax surcharges and MTA surcharges less any payment made on or before the due date. Exclude from the penalty computation any amount shown on line 11 or 12c, first installment of estimated tax for 1996.

- A. If you do not file a return when due, or if the request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax 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 1/2% per month up to 25% (section 1085(a)(2)).
- D. The total of the additional charges in items A and C may not exceed 5% for any one month, except as provided for in item B above (section 1085(a)).

If you think you are not liable for these additional charges, attach a statement to your return explaining the delay in filing and/or payment (section 1085).

Line 20 — If the amount on line 15, column III, is negative (credit), you have a net overpayment. Enter such overpaid amount from line 15, column III, as a positive number on line 20, column III.

Line 21 — You may elect to apply all or part of the overpayment on line 20, column III, to the taxes and surcharges to be reported on your Form CT-186-E for the next period. Enter the total amount you want to apply to the next period in column III.

Schedule A — Excise Tax on Telecommunication Services — Section 186-e

General — *Telecommunication services* means telephony or telegraphy, or telephone or telegraph service of any nature, including but not limited to any transmission of the following: voice, image, data, information or paging, through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar media or any combination thereof. *Telecommunication services* also include services that are not telecommunication services as such, but are: (1) ancillary to the provision of telephone service (for example, directory information, call forwarding, caller-identification, call-waiting and supplementary services) and (2) services (of whatever nature) which are incidental to the provision of telecommunication services. The charges from equipment provided in connection with the provision of any telecommunication service (e.g.,

beepers, telephones, fax machines, modems, etc.) are also subject to tax under section 186-e. The term *telecommunication services* does not apply to separately stated charges for a service that alters the substantive (information) content of the message transmitted.

Example: *The character sequence 1, 2, 3, 4 is sent and the recipient receives only the summary number 10. The charge for this data processing service is separately billed. Because arithmetic processing has substantively changed the information content of the message sent, and the data processing service is separately billed, it is not considered a telecommunication service.*

Telecommunication services excludes television or radio programming transmitted to subscribers by cable television service.

Provider of telecommunication services means any person, corporation, or other entity who furnishes or sells telecommunication services, regardless of whether such activities are the main business of the person, corporation or other entity, or are only incidental thereto. Where a reference is made to a utility in regard to the tax imposed by section 186-e or section 186-a, such reference to utility shall be deemed to include a reference to a provider of telecommunication services.

Examples of providers of telecommunication services include:

- telephone companies, telegraph companies and telecommunication companies that sell or furnish telecommunication services;
- providers of voice, video, or data transmission services.
- providers of voice mail, electronic mail, and similar services;
- resellers of telecommunication services (other than hotels, motels, hospitals, COCOTS and other supplementary telecommunication service providers, referenced below) that purchase telecommunications facilities and services and resell them;
- providers of customer owned currency operated telephones (COCOTS) who purchase telecommunication services from a provider and resell them;
- providers of paging services;
- providers of mobile radio services; and
- owners of apartment buildings, office buildings, hotels, hospitals, etc., within New York State who purchase telecommunication facilities and services from a telecommunication company and resell or furnish the telecommunication facilities and services to a guest or tenant at identifiable, flat or metered rates.

Exemption from Tax — The following providers are exempt from the imposition of section 186-e tax:

New York State, including its political and civil subdivisions; municipalities of New York State; public districts, not-for-profit corporations and associations organized and operated exclusively for religious, charitable or educational purposes.

Gross receipt means the amount charged for the telecommunication service provided, with no deductions. See *Computation of Gross Charges - Subject to Tax* for additional information.

Tax Computation — Section 186-e imposes a 3.5% excise tax on each charge from: (1) any intrastate telecommunication services; (2) any interstate or international telecommunication services that originate or terminate in New York State and are charged to a service address in New York State (regardless of where the amounts charged are actually billed or ultimately paid); and (3) private telecommunication services attributable to New York State.

As an excise tax, the gross receipt from each telecommunication service is determined on a transaction by transaction basis (i.e. on the basis of each call or service). To facilitate the computation of tax for each category of transaction, specific instructions and worksheet models are provided at the end of these instructions. The worksheets are intended to assist in the record keeping with respect to the tax and aid in the completion of Schedules A and B. The worksheet models have been set up in a computer spreadsheet or database format in anticipation that record keeping will be automated. Do not file worksheets with your return.

The model worksheets cover the eight subcategories of telecommunication services to be reported on Schedule A:

- 1 - Intrastate services (line 24),
- 2 - Interstate and international services which originate or terminate in New York State and are charged to a service address in New York State (line 25),

- 3 - Services which are ancillary to the provision of telecommunication services (line 26),
- 4 - Services which are incidental to the provision of telecommunication services (line 27),
- 5 - Equipment provided in connection with telecommunication services (line 28),
- 6 - Intrastate private telecommunication services (line 29),
- 7 - Interstate and international private telecommunication channels where the charges for the use of each channel segment are separately ascertainable (line 30), and
- 8 - Interstate and international private telecommunication channels where the charges for the use of each channel segment are not separately ascertainable (line 31).

These worksheets are organized as spread sheets with specific columns used to report information pertaining to each particular subcategory and general columns related to Schedule A as follows:

- Column A - Amount of Gross Charge
- Column B - Sale for Resale Exclusion
- Column C - Other Exclusions and Deductions
- Column D - Total Exclusions and Deductions
- Column E - NYS Gross Charge before Allowance for Bad Debts
- Column F - Allowance for Bad Debts
- Column G - NYS Gross Charge Subject to Tax
- Column H - NYS Excise Tax on Telecommunication Services
- Column I - Resale Credit
- Column J - Balance after Deduction for Resale Credit
- Column K - Multijurisdictional credit
- Column L - New York State Excise Tax due on Telecommunications Services

Instructions for each worksheet are provided in the specific instructions for lines 24 - 31. The general columns, common to all of the worksheets, are described below.

Computation of Gross Charges Subject to Tax

Column A — The gross charge from each telecommunication service should be reported in column A, and include the following:

- all intrastate transmissions (Worksheet 1), all interstate or international transmissions which originate or terminate in New York State and are charged to a service address in this state (Worksheet 2), and all interstate or international private telecommunication services attributable to New York State (Worksheets 6-8);
- receipts from services which are ancillary to the provision of telecommunication services, for example, dial tone, basic service, directory information, call forwarding, caller-identification, call-waiting, and the like (Worksheet 3);
- receipts from services (of whatever nature) which are incidental to the provision of telecommunication services (Worksheet 4);
- receipts from the sale or rental of telecommunication equipment, rendered in connection with any other telecommunication services (Worksheet 5);
- any other telecommunication services receipts attributable to New York State.

The following receipts should not be reported in column A:

- receipts from information services, which are not telecommunication services as such, or from services which alter the substantive (information) content of the message sent, and
- receipts from the sale of cable television and radio programming. *Cable television and radio programming* means the transmitting to subscribers of programs broadcast by one or more television or radio stations or any other programs originated by any person by means of wire, cable, microwave or any other means. (Note: Telecommunication services provided to a cable television or radio provider, for the purposes of broadcasting programs to subscribers, are subject to tax under section 186-e.)

Service address means the location of the equipment from which the telecommunication originated or at which the telecommunication is received by the purchaser from the provider of telecommunication services. Special rules define the *service address* in instances where the telecommunication service is obtained through a credit or payment mechanism (such as a credit, calling card, or third party billing), and where the service address is not a defined location (such as a mobile telephone, paging system, maritime system, air-to-ground system, etc.). The rules are applied in the

following order, such that the first rule to apply should be used to determine the service address in instances where more than one rule may apply.

(1) If the telecommunication originates or terminates in New York and is charged to telecommunication equipment that is not associated with the origination or termination of the telecommunication (for example, by the use of a calling card or third party billing) and the location of the equipment charged is in New York, the service address will be deemed to be in New York.

(2) If the service is obtained through a credit or payment mechanism such as a bank, travel, credit or debit card, or if the service is obtained by charging telecommunication equipment that is not associated with the origination or termination of the telecommunication, (for example, by the use of a calling card or third party billing) and the equipment is not located in the state of origination or termination, then the service address is deemed to be the location of the origination of the telecommunication.

(3) If the service address is not a defined location, as in the case of mobile telephones, paging systems, maritime systems, air-to-ground systems and the like, *service address* shall mean the location of the subscriber's primary use of the telecommunication equipment as defined by telephone number, authorization code, or location where bills are sent. However, the location of the mobile telephone switching office or similar facility that receives and transmits the signals of the telecommunication will be deemed the service address when the mobile telephone switching office or similar facility is outside the subscriber's assigned service area.

Exclusions and Deductions from Gross Charges — Certain charges should not be included in gross charges subject to tax, and certain deductions are allowed. If these amounts are included in column A, deductions should be reported on the corresponding lines in columns B and C; they include the following:

Column B — Exclude charges that constitute a sale-for-resale of telecommunication services to an interexchange carrier, local carrier, or facilities-based cellular common carrier (see the *Credits* section for the treatment of other sales-for-resale). Section 186-e requires that this exclusion be reported separately.

Column C — The following exclusions and deductions are to be claimed in column C if included in the gross charge reported in column A:

- any surcharges collected or any administrative fee retained when merely acting as collection agent for a municipality in connection with the provision of an enhanced emergency telephone system (E911) pursuant to Article Six of the County Law.
- receipts from the sale of telecommunication services to air carriers solely for the purpose of air safety and navigation, when such telecommunication services are provided by an organization, at least 90 percent owned, directly or indirectly, by air carriers, and which organization's principal function is to fulfill the requirements of the federal aviation administration (or successor thereto) or the international civil aviation organization (or successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control, or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation.
- cash discounts taken by customers on any telecommunication service.
- taxes imposed by New York State or its municipalities or the federal government when the provider is merely a collection agency for the tax authority (e.g. state and local sales tax).

Column D — Add the amounts in column B and column C and enter the total exclusions and deductions in column D.

Column E — Subtract total exclusions and deductions shown in column D from the gross charge shown in column A to determine the gross charge before allowance for bad debts. (This result may not be less than zero.)

Column F — Enter any deduction for bad debts allocated to each transaction (allowed with respect to telecommunication charges subjected to tax under section 186-e, when such debt has become worthless in accordance with consistently applied generally accepted accounting principles).

You may use any rational allocation method, but no deduction for bad debts reported in column F should be greater than the amount shown in column E.

Column G — Subtract column F from column E to determine the gross charges subject to tax. No amount in column G may be less than zero.

Computation of Tax and Credit Application

Column H — Multiply the amount in column G by 3.5% (.035) to calculate the excise tax on telecommunication services.

Column I — When a reseller of telecommunication services is not an interexchange carrier or local carrier (including a facilities-based cellular common carrier), a credit will be allowed to the reseller for tax paid when the services are actually resold. The credit is intended to operate so that the tax on the resale will be applied only to the difference between the gross charge imposed on resale and the amount paid to acquire the service resold. Mathematically, the amount of the credit may be computed by multiplying the reseller's cost to purchase the service by the tax rate.

Example: A telephone company sells for a total of \$2.00 a telecommunication service to a reseller for resale. The reseller, which is not an interexchange carrier or local carrier, resells the service for \$5.00. The reseller owes a tax on the difference of \$3.00, or \$.105 ($\$3.00 \times 3.5\%$). When reporting on the resold service, the reseller will show a gross charge of \$5.00, an excise tax computed of \$.175 ($\$5.00 \times 3.5\%$), and a credit of \$.07 ($\$2.00 \times 3.5\%$).

Column J — Subtract column I from column H. If the result is zero or negative, make no entry in column K, and carry the amount computed in column J to column L.

Column K — In order to prevent multijurisdictional taxation, a credit is allowed on any interstate or international telecommunication service upon proof that a telecommunication services provider paid a like tax to another state or country. The amount of the credit will be the amount lawfully due and paid to the other state or country, but it may not exceed the amount of tax actually imposed on the telecommunication under section 186-e.

Enter the amount of the multijurisdictional tax credit computed, but not greater than the amount shown in column J. If the amount in column J is zero or negative, make no entry in column K.

Column L — If the amount in column J is positive, subtract column K from column J and enter result here. If the amount in column J is zero or less, then carry the amount in column J to column L.

Specific Instructions — Schedule A

Part I — Telecommunication Services (other than private)

Line 24 — Use Worksheet 1 as a model to compute the amounts to be reported on line 24. On each line of Worksheet 1, enter the date, origination point and termination point of each service in columns (1), (2) and (3), respectively. (Both the origination point and termination point of the call must be in New York State to use this schedule. See Worksheet 2 if either the origin or destination of the service is outside New York State.) In column (4), enter the location of the service address if it is located in the MCTD. (This information is necessary only to identify a transaction as an inter-MCTD service and assist in the computation of the MTA surcharge on Worksheet 10. See instructions for Schedule B.) Report each intrastate service individually, including any local service charge, intrastate toll service charge, carrier access charge, and any other intrastate telecommunication services charge. Determine each gross charge and any related exclusions, deductions, and credits related to each respective service in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 24.

Line 25 — Use Worksheet 2 as a model to compute the amounts to be reported on line 25. Identify each interstate and international telecommunication service which originates or terminates in New York State and is charged to a service address in New York State. Enter the date, origination point, termination point and service address of each service in columns (1), (2), (3) and (4), respectively. Determine each gross charge and any related exclusions, deductions, and credits related to each respective service in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 25.

Line 26 — Use Worksheet 3 as a model to compute the amounts to be reported on line 26. Enter the date and description of each service in columns (1) and (2). Report each service individually, for example, directory information, call forwarding, caller-identification, call waiting and any supplementary service provided in New York State. Determine each

gross charge and any related exclusions, deductions, and credits related to each respective ancillary service in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 26.

Line 27 — Use Worksheet 4 as a model to compute the amounts to be reported on line 27. Enter the date and description of each service in columns (1) and (2). Report each service (of whatever nature) which is incidental to the provision of telecommunication services in New York State. Determine each gross charge and any related exclusions, deductions, and credits related to each respective ancillary service in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 27.)

Line 28 — Use Worksheet 5 as a model to compute the amounts to be reported on line 28. Enter the date and description of each item of equipment in columns (1) and (2). Report each item of equipment individually, (beepers, telephones, modems, etc.). Determine each gross charge and any related exclusions, deductions, and credits related to each respective item of equipment in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 28.

Part II — Private Telecommunication Services — General — Private telecommunication service means a dedicated telecommunication service that entitles the user or users to the *exclusive* or *priority* use of a communications channel or group of channels from one or more locations to one or more locations. In this context, *exclusive* means that the user-subscribers have use of a communications channel to the exclusion of all others who are not authorized to use the channel; and *priority* means that only authorized user-subscribers, as opposed to unauthorized persons, receive preferential use of a communications channel, but not necessarily a preference to the use of such channel with respect to each other.

Line 29 — Use Worksheet 6 as a model to compute the amounts to be reported on line 29. Enter the name or other description of the private telecommunication service in column (1). Report each intrastate private telecommunication service individually. Determine each gross charge and any related exclusions, deductions, and credits related to each respective service in columns A through L, as described in the general instructions above. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 29.

(Note: The entire private telecommunication channel must be in New York State to use Worksheet 6. In other words, all channel termination points must be located in New York State. Channel termination point refers to the point where a user interfaces with a private telecommunication channel through the use of telecommunication equipment, such as a telephone or computer terminal.)

Line 30 — Use Worksheet 7 as a model to compute the amounts to be reported on line 30. Enter the name or other description of the private telecommunication service in column (1). The gross charge from each interstate or international private telecommunication service, that is not separately ascertainable for each use, is determined in columns (2), (3), and (4), provided that each channel segment, as separately billed, fairly reflects New York State origination and/or termination traffic. If each channel segment, as separately billed, does not fairly reflect New York State origination and/or termination traffic, then you must allocate using the method in *Worksheet 8*. (See instructions for line 31.)

Columns (2) through (4) operate as follows:

Column (2): Enter 100% of the separately stated amounts charged at each channel termination point within New York State,

Column (3): Enter 100% of the separately stated amounts charged for the use of each channel segment between channel termination points within New York State, and

Column (4): Enter 50% of the separately stated amounts charged for the use of any channel segment between a channel termination point in New York State and a channel termination point outside New York State.

Enter the total of columns (2), (3), and (4) in Column A. Determine any related exclusions, deductions, and credits related to each respective service, as described in the general instructions above. Since the gross charge in column A is an allocation, you must allocate the related

exclusions, deductions, and credits in the same manner. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 30.

Line 31 — Use Worksheet 8 as a model to compute the amounts to be reported on line 31. Enter the name or other description of the private telecommunication service in column (1). The gross charge from each interstate or international private telecommunication service, that is not separately ascertainable for each use, is determined in columns (2), (3), (4), (5), (6), and (7), when each channel segment is not separately billed or, if separately billed, does not fairly reflect New York State origination and/or termination traffic.

Columns (2) through (7) are used to determine the allocated portion of the gross interstate or international channel charges with respect to the number of channel termination points within New York divided by the total number of channel termination points everywhere, and operate as follows:

Column (2): Enter any separately identified charges imposed at each channel termination point or for any other separately identified service related to each private telecommunication service.

Column (3): Enter the gross channel charge for each private telecommunication service.

Column (4): Enter the total number of channel termination points located in New York State for each respective private telecommunication service.

Column (5): Enter the total number of channel termination points located in New York State and outside New York State for each respective private telecommunication service.

Column (6): Divide column (4) by column (5). This is your allocation percentage.

Column (7): Multiply column (3) by column (6). This is your gross channel charge allocated to New York State.

Enter the total of columns (2) and (7) in Column A. Determine any related exclusions, deductions, and credits related to each respective service, as described in the general instructions above. Since the gross charge in column A is an allocation, you must allocate the related exclusions, deductions, and credits in the same manner. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule A, line 31.

Line 32 — Once all amounts have been transferred from Worksheets 1-8, total columns A-L and enter on line 32. If the amount on line 32, column L, is positive, transfer this amount to line 1, column I. This is your New York State excise tax on telecommunication services.

Refund Election — In lieu of the credits discussed above, a taxpayer may elect to take a refund. However, not withstanding the provisions of section 1088(c), no interest will be allowed or paid on any credit or refund allowed pursuant to the sale-for-resale credit.

Since this is an excise tax computed on a transaction-by-transaction basis, the form has been designed to apply the credits on a transaction-by-transaction basis. The amount of any unused tax credits would be indicated by a negative (credit) balance on Schedule A, line 32, column L. This amount may be taken as a refund. Enter the amount of the refund claimed on line 23, and check the *refund claimed* box above line A on page 1.

Schedule B — MTA Surcharge Related to Telecommunication Services — Section 186-c(1)(b)

Section 186-c has been amended to add the *MTA Surcharge Related to Telecommunication Services* in the metropolitan commuter transportation district (MCTD). Similar to the statewide *Excise Tax on Telecommunication Services* imposed by section 186-e, the MTA surcharge is imposed on charges derived from the MCTD, but at a rate of 17% of the state tax rate. Currently, the MTA rate is 0.595% (.17 × .035 = .00595 = .595%). The MTA surcharge is effective for tax years beginning on or after January 1, 1995, and ending before December 31, 1997.

All of the definitions and provisions of section 186-e apply to the MTA surcharge imposed by section 186-c(1)(b), with any necessary modifications and limitations, including substituting the words *metropolitan commuter transportation district* for the word *state* where appropriate. Accordingly, the tax applies to gross charges from (1) any intra-MCTD telecommunication services, (2) any inter-MCTD telecommunication services that originate or terminate in the MCTD and are charged to a

service address in the MCTD (including intrastate, interstate, and international telecommunication services), and (3) private telecommunication services attributable to the MCTD.

The worksheets for the MTA surcharge reported in Schedule B are setup in a similar fashion as the worksheets for Schedule A. The eight subcategories of telecommunication services related to the MCTD to be reported on Schedule B are as follows:

- 9 - Intra-MCTD services (line 33),
- 10 - Inter-MCTD (including intrastate, interstate and international) services which originate or terminate in the MCTD and are charged to a service address in the MCTD (line 34),
- 11 - Services which are ancillary to the provision of telecommunication services (line 35),
- 12 - Services which are incidental to the provision of telecommunication services (line 36),
- 13 - Equipment provided in connection with telecommunication services (line 37),
- 14 - Intra-MCTD private telecommunication services (line 38),
- 15 - Inter-MCTD (including intrastate, interstate and international) private telecommunication channels where the charges for the use of each channel segment are separately ascertainable (line 39), and
- 16 - Inter-MCTD (including intrastate, interstate and international) private telecommunication channels where the charges for the use of each channel segment are not separately ascertainable (line 40).

Specific columns used to report information pertaining to each particular subcategory and general columns related to Schedule B are as follows:

- Column A - Amount of Gross Charge
- Column B - Sale for Resale Exclusion
- Column C - Other Exclusions and Deductions
- Column D - Total Exclusions and Deductions
- Column E - MTA Gross Charge before Allowance for Bad Debts
- Column F - Allowance for Bad Debts
- Column G - MCTD Gross Charge Subject to MTA Surcharge
- Column H - MTA Surcharge on Telecommunication Services
- Column I - Resale Credit
- Column J - Balance after Deduction for Resale Credit
- Column K - Multijurisdictional Credit
- Column L - MTA Surcharge Due on Telecommunication Services

Instructions for each worksheet are provided in the specific instructions for lines 33 - 40. The general columns, common to all of the worksheets, are described below.

Computation of Gross Charges Subject to MTA Surcharge

Columns A through G — The transactions making up the gross charges derived from the MCTD are a subset of the transactions making up gross charges statewide (as accounted for in Worksheets 1-8). From the statewide transactions, you need to identify the transactions related to the MCTD and the information necessary to compute gross charges derived from the MCTD. You may wish to flag MCTD-related transactions when you are accounting for them on a statewide basis, in order to capture them for the MCTD computation.

Using Worksheets 1-6, you will transfer each MCTD-related line item in columns A, B, C, D, E, F, and G to the corresponding columns in the appropriate MTA worksheet. Other pertinent information (shown in the numeric columns specific to each worksheet) will also be transferred to the corresponding columns in the appropriate MTA worksheet.

The relationship between the worksheets for the MCTD transactions and the state transactions is shown in the following table:

MCTD transactions reported on Worksheet	are a subset of the transactions reported on Worksheet
9 - Intra-MCTD services	1
10 - Inter-MCTD services *	1 & 2
11 - Ancillary services	3
12 - Incidental services	4
13 - Equipment	5
14 - Intra-MCTD private**	6

* Inter-MCTD telecommunication services will include intrastate, interstate and international transactions (from Worksheets 1 and 2) that originate or terminate in the MCTD and have a service address in the MCTD.

** Intra-MCTD private telecommunication services are those services where all channel termination points are within the MCTD.

Once the MCTD-related transactions are transferred to the appropriate worksheet, the MTA surcharge is computed in columns H - L for each transaction.

Inter-MCTD private telecommunication services are a subset of intrastate, interstate, and international private telecommunication services. Each service must be identified and allocated in a similar manner as interstate and international private telecommunication services, as shown in worksheets 7 and 8. See the specific instructions for lines 39 and 40 (Worksheets 15 and 16).

Computation of MTA Surcharge and Credit Application

Column H — Multiply the amount in column G by .595% (.00595) to calculate the MTA surcharge related to telecommunication services.

Column I — The resale credit is available to any reseller that is not an interexchange carrier or local carrier. The computation is performed in the same manner as the statewide resale credit, but using the MTA surcharge rate. See page 4 for details.

Column J — Subtract column I from column H. (If the result is zero or negative, make no entry in column K, and carry the amount computed in column J to column L.

Column K — The multijurisdictional credit is applicable in similar circumstances as the statewide credit. See page 4 for details. The amount of the credit will be the excess of any multijurisdictional tax credit applied against the tax on any given transaction under section 186-e that was part of the amount lawfully due and paid to the other state or country. The credit may not exceed the amount of MTA surcharge actually imposed on the telecommunication under section 186-c(1)(b).

Enter the amount of the multijurisdictional tax credit computed, but not greater than the amount shown in column J. If the amount in column J is zero or negative, make no entry in column K.

Column L — If the amount in column J is positive, subtract column K from column J and enter result here. If the amount in column J is zero or less, then carry the amount in column J to column L.

Specific Instructions — Schedule B

Lines 33 through 38 — Identify the transactions from Worksheets 1-6 that are derived from the MCTD and transfer the particular line items to the appropriate MTA worksheet, as outlined in the table above. Compute columns H through L as described in the general instructions. Transfer the totals from each worksheet to the corresponding line and columns in Schedule B.

Line 39 — Use Worksheet 15 as a model to compute the amounts to be reported on line 39. Enter the name or other description of the private telecommunication service in column (1). The gross charge from each *inter-MCTD (including intrastate, interstate or international) private telecommunication service*, which is not separately ascertainable for each use, is determined in columns (2), (3), and (4), provided that each channel segment, as separately billed, fairly reflects MCTD origination and/or termination traffic. If each channel segment, as separately billed, does not fairly reflect MCTD origination and/or termination traffic, then you must allocate using the method in Worksheet 16 (see instructions for line 40).

Columns (2) through (4) operate as follows:

Column (2): Enter 100% of the separately stated amounts charged at each channel termination point within the MCTD.

Column (3): Enter 100% of the separately stated amounts charged for the use of each channel segment between channel termination points within the MCTD, and

Column (4): Enter 50% of the separately stated amounts charged for the use of any channel segment between a channel termination point in the MCTD and a channel termination point outside the MCTD.

Enter the total of columns (2), (3), and (4) in Column A. Determine any related exclusions, deductions, and credits related to each respective service, as described in the general instructions above. Since the gross charge in column A is an allocation, you must allocate the related exclusions, deductions, and credits in the same manner. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule B, line 39.

Line 40 — Use Worksheet 16 as a model to compute the amounts to be reported on line 40. Enter the name or other description of the private telecommunication service in column (1). The gross charge from each *inter-MCTD (including intrastate, interstate or international) private telecommunication service*, that is not separately ascertainable for each use, is determined in columns (2), (3), (4), (5), (6), and (7), when each

channel segment is not separately billed or, if separately billed, does not fairly reflect MCTD origination and/or termination traffic.

Columns (2) through (7) are used to determine the allocated portion of the gross inter-MCTD channel charges with respect to the number of channel termination points within the MCTD divided by the total number of channel termination points everywhere, and operate as follows:

Column (2): Enter any separately identified charges imposed at each channel termination point or for any other separately identified service related to each private telecommunication service.

Column (3): Enter the gross channel charge for each private telecommunication service.

Column (4): Enter the total number of channel termination points located in the MCTD for each respective private telecommunication service.

Column (5): Enter the total number of channel termination points located in the MCTD and outside the MCTD for each respective private telecommunication service.

Column (6): Divide column (4) by column (5). This is your allocation percentage.

Column (7): Multiply column (3) by column (6). This is your gross channel charge allocated to the MCTD.

Enter the total of columns (2) and (7) in Column A. Determine any related exclusions, deductions, and credits related to each respective service, as described in the general instructions above. Since the gross charge in column A is an allocation, you must allocate the related exclusions, deductions, and credits in the same manner. Once each line has been computed, total the lines and transfer the totals from columns A through L to the corresponding columns in Schedule B, line 40.

Line 41 — Once all amounts have been transferred from Worksheets 9-16, total columns A-L and enter on line 41. If the amount on line 41, column L, is positive, transfer such amount to line 8, column I. This is your MTA surcharge related to telecommunication services.

Refund Election — In lieu of the credits described above, you may make a refund election. For further information, see the instructions for line 32 under *Refund Election*.

Schedule C — Tax on Utility Services — Section 186-a

General — *Utilities* include every person, subject to the supervision of the New York State Department of Public Service or Department of Transportation, engaged in the business of operating street surface, rapid transit, subway, and elevated railroads, as well as non-operating railroads. *Utilities* also include every person, whether or not subject to the supervision of the State Department of Public Service, who sells gas, electricity, steam, water or refrigeration, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water or refrigerator service, by means of mains, pipes, or wires; regardless of whether such activities are the main business of such person or are only incidental thereto. Every provider of telecommunication services that is subject to the supervision of the New York State Department of Public Service is considered a utility for the purposes of section 186-a.

Utilities include persons (including providers of telecommunication services), corporations, companies, associations, joint-stock companies or associations, partnerships or limited liability companies, estates, assignees of rents, any person acting in a fiduciary capacity, or any other entity and persons, their assignees, lessees, trustees or receivers, appointed by any court.

Motor carriers or brokers are not required to file this schedule.

If your gross income or gross operating income is \$500 or less, you are exempt from tax under section 186-a, but you are still required to complete Schedule C. (This limitation does not apply to the tax under section 186-e or related MTA surcharge that were computed on Schedule A and B.)

Exemption from Tax — The following are exempt from taxation under section 186-a:

New York State, including its political and civil subdivisions; municipalities of New York State; public districts, not-for-profit corporations and associations organized and operated exclusively for religious, charitable or educational purposes; a corporation leasing from a city in New York State a water works system to supply water at cost to relieve water pollution in a river within that city; and limited dividend housing corporations organized under the Private Housing Finance Law.

Gross Income and Gross Operating Income — If you are subject to the supervision of the Department of Public Service, you must pay a tax of 3.5% on your gross income. Gross income is the total of all receipts computed in Schedule C, Parts I, II, and III.

If you are not subject to the supervision of the Department of Public Service, you must pay a tax of 3.5% on your gross operating income. Gross operating income is the total of receipts computed in Schedule C, Part I only.

Gross income includes receipts from transactions within New York State that are derived from the utility's principal business (from the furnishing of utility services and other business receipts) and profits from transactions within New York State that are not derived from the utility's principal business. *Gross operating income* includes only those receipts from the sale or furnishing of utility services.

With respect to a utility that is a provider of telecommunication services, gross income or gross operating income includes only those receipts that do not constitute receipts from the sale of telecommunication services, as such services are defined in section 186-e of the Tax Law.

In determining gross income or gross operating income, include cash, credits and property of any kind or nature without any deductions for the cost of property sold, the cost of materials used, labor, services or other costs, interest or discount paid or any other expenses, except those deductions provided for with respect to lines 51 and 61 of Schedule C.

Part I — Receipts that are included in both gross income and gross operating income include the following:

- receipts from the sale or furnishing of gas, electricity, steam, water or refrigeration when sold through mains, pipes or wires for ultimate consumption or use within New York State;
- receipts from services rendered within New York State that are performed in connection with the utility services described above;
- receipts from sale or furnishing of merchandise within New York State in connection with the utility services described above;
- other receipts from sales made or services rendered within New York State that are derived from the utility services described above.

Part II — Receipts which are included in gross income only include receipts from interest, dividends and royalties from sources within New York State.

Part III — Profits that are included in gross income only include the following:

- profits from the sale of securities which are held, managed, or controlled within New York State;
- profits from the sale of real property within New York State;
- profits from the sale of personal property within New York State that are not part of the utility's stock in trade; and
- profits from any transaction (except sales for resale and rentals) within New York State.

Do not deduct gross income received from a financial resource asset unless you attach a certificate issued by the New York State Department of Public Service verifying this deduction.

Line Instructions

Part I - Computation of Receipts from Utility Services

Lines 42 through 45 — Enter for each type of commodity sold or furnished for ultimate consumption or use within New York State the receipts from such sales without any deductions.

Line 47 — Enter all receipts (without any deductions) from services rendered within New York State that are directly connected with the sale or furnishing of gas, electricity, steam, water and refrigeration for ultimate consumption or use within New York State.

Receipts include but are not limited to the following:

- receipts from installation charges;
- receipts from service charges (other than installation) that are performed in the conduct of the utility's principal business or in connection with the furnishing of utility services; and
- receipts from "rentals" within New York State which in fact constitute service charges (e.g., receipts from equipment necessary to enable the customer to use the commodity).

Line 48 — Enter receipts (without any deduction) from sales of merchandise (conditional or otherwise) within New York State which are directly connected with the sale of gas, electricity, water and refrigeration, for ultimate consumption or use within New York State. Sales of merchandise include materials and supplies that constitute stock in trade of the utility and are included in merchandise inventory. Receipts include but are not limited to the following:

- receipts from the sale of merchandise to utility's customers;
- receipts from the sale of merchandise to other utilities; and
- receipts from the sale of merchandise to employees (except work supplies - i.e., clothing, shoes, helmets, etc.).

Do not include receipts from the sale of merchandise that do not constitute stock in trade and are not included in merchandise inventory (i.e., items of fixed assets such as fixtures, furniture or machines).

Line 49 — Enter any other receipts (without any deduction) from sales made or services rendered within New York State that are derived from the conduct of the utility's principal business or furnishing of utility services. Receipts include but are not limited to the following:

- receipts from the sale of residuals and by-products that are consumed or used in New York State; and
- receipts from transportation or transmission agreements, such as contract carriage and lease operating agreements, where the utility uses its mains, pipes or wires within New York State to transport or transmit a commodity owned by the purchaser that is not a utility.

Line 51 — Deductions allowed from receipts on lines 46 through 50 are the following:

- receipts from sales for resale,
- cash discounts taken by the customer;
- uncollectible accounts; and
- taxes imposed by New York State or its municipalities or the federal government when the taxpayer is merely a collection agency for the taxing authority (e.g., state and local sales tax and federal excise taxes).

If you are reporting gross operating income, you may also deduct the cost of utility services purchased and resold when the tax under section 186 a was paid by the utility providing the service to you. To claim this deduction, attach a schedule identifying the commodity, the utility purchased from, the quantity purchased, purchase price, quantity consumed that was not sold, quantity sold, and receipts from the quantity sold.

Enter all deductions listed above that are included as receipts on line 50. Attach a statement listing all deductions.

Part II — Receipts from Interest and Dividends Allocated to New York State

Complete Part II only if you are subject to the supervision of the Department of Public Service.

Line 53 — Enter receipts from interest and dividends from sources within New York State without any deduction for any expense incurred in connection with the receipt. Do not include interest and dividends received from any of the following:

- a corporation, the majority of whose voting stock is owned by the taxpaying utility;
- obligations of the United States, any state, territory or possession of the United States or the District of Columbia;
- obligations of a foreign country; and
- any obligation from any political subdivision or governmental instrumentality of any of the foregoing.

Compute receipts from interest and dividends from sources within New York State that are received from corporate and noncorporate entities. Enter in column A the name of the entity that paid the interest or dividend. Enter in column B the type of security (i.e., stock, bond, interest bearing cash account, etc.). Enter in column C the amount of interest or dividends received. Enter in column D the issuer's allocation percentage of the corporation that issued the security (always enter the issuer's allocation percentage from the year immediately preceding the current tax year). The issuer's allocation percentage is used to compute the amount of interest and dividends allocated to New York State. The issuer's allocation percentage is obtained from the New York State corporation franchise tax return filed by the corporation that issued the stock, bond, interest bearing cash account or other security and represents that corporation's amount of

capital, income or premiums employed in New York State as compared to total capital, income or premiums employed everywhere.

In the event the entity that issued the security was not a corporate entity, the amount of interest or dividends allocated to New York State is determined by the percentage of capital employed in New York State by the payor of the stock, bonds, interest bearing cash account, etc. for the year immediately preceding the current tax year. Attach a statement showing the computation of the payor's capital employed in New York State as compared to total capital employed everywhere.

Issuer's allocation percentages for corporate entities can be obtained from tax services publications or by written request (in duplicate) to: NYS Tax Department, W A Harriman Campus, Business Tax Information Center, Albany NY 12227. Call toll free 1 800 972-1233. From areas outside New York State, call (518) 438-8581.

Line 54 — Enter receipts from royalties from sources within New York State without any deductions incurred in connection with the receipt. Royalties include all amounts received by the utility for the use of patents or copyrights, whether or not such patents or copyrights were issued to or are owned by the utility. A patent or copyright is used in New York State to the extent that the activities under the patent or copyright are carried on in New York State.

Part III — Computation of Profits — Complete Part III only if you are subject to the supervision of the Department of Public Service.

For purposes of lines 56 - 59, the term *profits* means gross selling price minus basis without any further deductions.

Line 56 — Enter profits from the sale of securities that are held, managed or controlled within New York State.

Securities include shares of stock in any corporation, certificates of stock or interest in any corporation, securities issued by governmental bodies, securities issued by corporations of a like nature as stock and bonds which are sold in the open market or on a recognized exchange, designed as a means of investment, and issued for the purpose of financing corporate enterprises and providing a distribution of rights in, or obligations of, such enterprises.

Include profits from the sale of any tax exempt securities such as the following:

- the United States, any state, territory, possession of the United States or the District of Columbia;
- any foreign country; and
- any political subdivision or instrumentality of any of the foregoing.

Include profits from the sale of securities of an affiliated company and profits from the sale of reacquired stock (treasury stock).

Except for a block transaction, losses from sales of securities may not be applied against profits from the sale of securities. A block transaction is a single sale where sales of the same security are made in a block transaction (i.e., a utility carries a block of 10,000 shares of the same securities of a corporation in its portfolio and orders its broker to sell the entire block; the fact that the broker executes the order by disposing of the block in several lots does not change the essential nature of the transaction and make it more than one sale).

Line 57 — Enter profits from the sale of real property within New York State in which the utility owns or has an ownership interest.

Line 58 — Enter profits from the sale of personal property within New York State that does not constitute stock in trade of the utility and is not included in merchandise inventory. Profits include but are not limited to the following:

- profits from the sale of fixed assets such as fixtures, furniture, machinery, equipment, etc.

Do not include profits from the sale of merchandise (i.e., materials and supplies) that constitute stock in trade of the utility and are included in merchandise inventory.

Line 59 — Enter profits from any transaction within New York State that is not performed in the conduct of the utility's principal business. Do not include profits from sales for resale or profits from rentals. Profits include but are not limited to the following:

- profits from the sale of merchandise (i.e., materials and supplies) that do not constitute stock in trade of the utility and are not included in merchandise inventory;
- profits from labor not performed in the conduct of utility's principal business; and

- profits from transportation or transmission agreements when the utility uses its mains, pipes or wires within New York State to transport or transmit a commodity owned by another utility.

Line 61 — Deductions allowed from profits on lines 56 through 59 are the following:

- brokerage fees, legal fees, advertising fees and other selling expenses incurred due to the sale of securities, real property and personal property;
- cash discounts taken by the customer;
- uncollectible accounts; and
- taxes imposed by New York State or its municipalities or the federal government when the taxpayer is merely a collecting agency for the taxing authority (e.g., state and local sales tax, federal excise taxes).

Enter all deductions listed above that are included as receipts on lines 56 through 59. Attach a statement listing all deductions.

Part IV — Computation of Tax on Utility Services

Line 63 — If you are subject to the supervision of the Public Service Commission, enter the total of Parts I, II, and III (lines 52, 55, and 62) to determine your gross income. If you are not subject to the supervision of the Public Service Commission, then enter the receipts computed in Part I only (line 52), to report your gross operating income.

Line 64 — If the amount of gross income or gross operating income computed on line 63 is not greater than \$500, enter \$-0-. If such amount is greater than \$500, multiply line 63 by 3.5% (.035) to determine your tax on utility services. Enter here and on line 4.

Schedule D — Computation of MCTD Allocation and MTA Surcharge — Section 186-c(1)(a)

If you are a utility supervised by the Department of Public Service and did business in the MCTD in 1995, or if you provided utility services in the MCTD in 1995, you must complete Schedule C, *MTA Surcharge on Utility Services*.

The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

The MTA surcharge rate for 1995 is 17% (.17).

Computation of MCTD Allocation Percentage — If you do all your New York State business within the 12 counties of the MCTD, enter 100% on line 67.

If you do part of your business outside the MCTD, compute your MCTD allocation percentage by completing lines 65 through 67.

Line 65 — Enter your gross income or gross operating income, whichever applies, from line 63.

Line 66 — Enter your gross income or gross operating income, whichever applies, from sources within the MCTD. Use the same method of accounting to compute MCTD gross income or gross operating income as was used to compute New York State gross income or gross operating income.

Line 67 — Divide line 66 by line 65. This is your MCTD allocation percentage.

Computation of MTA Surcharge

Line 68 — Enter your New York State tax on utility service from line 64.

Line 69 — Multiply line 67 by line 68 to determine your tax allocated to the MCTD.

Line 70 — Multiply line 69 by 17% (.17) to determine your MTA surcharge on utility services. Enter here and on line 9.

Supplementary Information Pertaining to Private Telecommunication Services Lines 77, 78 and 79 — Enter the total number of channel termination points everywhere (Worksheets 8 and 16, column (5), in New York State (Worksheet 8, column (4), and in the MCTD (Worksheet 16, column (4)).

Tax on Gains Derived from Certain Real Property Transfers (Article 31-B, Section 144a-a)

Lines 80 and 81 — Every corporation with an interest in real property located in New York State must keep a record of the transfer of its stock and report annually every transfer of a controlling interest in its stock and any other information that may be required to enforce this article.

Controlling interest is either 50% or more of the total combined voting power of all classes of stock or 50% or more of the capital, profits or beneficial interest in that voting stock.

Need Help?

For forms or publications, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518) 438-1073.

For information, forms or publications, call the Business Tax Information Center at 1 800 972-1233. The call is toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. For information, you can also call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

Telephone assistance is available from 8:30 a.m. to 4:25 p.m., Monday through Friday.

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, please call the information and assistance numbers listed above.

Hotline for the Hearing and Speech Impaired - If you have a hearing or speech impairment and have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling 1 800 634-2110 toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. Hours of operation are from 8:30 a.m. to 4:15 p.m., Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.

