



Instructions for Form CT-186-P

Utility Services Tax Return — Gross Income

Tax Law — Article 9, Section 186-a

CT-186-P-1

Attention: If you are a telephone or telegraph company or other provider of telecommunication services, even if it is not your primary business, do not file this form; file Form CT-186-E.

1995 Legislation — 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 represented by these receipts previously taxed under Section 186-a are now taxed under newly enacted Section 186-e, *Excise Tax on Telecommunication Services*.

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 and paging, through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar media or any combination thereof. *Telecommunication services* also includes services that are not telecommunication services as such, but are: (1) ancillary to the provision of telephone service (e.g., 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.

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

Section 186-e imposes a 3.5% excise tax on 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 purposes of Section 186-a and is subject to tax 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 is not part of the stock and 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.

However, any person, corporation, or other entity (including a provider of telecommunication services), whether or not supervised by 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 such other services.

To facilitate the filing requirements for providers of telecommunication services subject to Section 186-e, who also may have receipts subject to tax under Section 186-a, a new form has been designed. If you have any receipts from

telecommunication services, even if it is not your primary business, you must now file Form CT-186-E to report the taxes imposed by sections 186-e and 186-a. In addition, Form CT-186-E is used to report the MTA counterpart of the section 186-e excise tax and the MTA surcharge imposed on section 186-a tax.

Note: If you have no receipts from telecommunication services, but have other receipts from the furnishing of utility services (water, gas, electricity, steam or refrigeration), then you will continue to use Form CT-186-P to report your taxes under Section 186-a. In addition you will continue to use Form CT-186-P/M to report your MTA surcharge.

Tax Rate — Chapter 410 of the Laws of 1991 increased the tax rate for utilities taxed under Article 9, section 186-a. Effective for periods beginning on or after January 1, 1991, the tax rate is 3.5%.

Other Forms You May Have to File — Chapter 166 of the Laws of 1991 added section 189 to Article 9 which 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 collected from the individual gas importer.

Who Must File Form CT-186-P — The following are required to file Form CT-186-P: Every utility doing business in New York State that is subject to the supervision of the New York State Department of Public Service or Department of Transportation who sells or furnishes gas, electricity, steam, water, or refrigerator service by means of mains, pipes or wires for ultimate consumption or use by the purchaser in this state. Utilities include persons, corporations, companies, associations, joint stock associations, copartnerships, estates, assignees of rents, persons acting in a fiduciary capacity, and persons, their assignees, lessees, trustees or receivers, appointed by any court, that are subject to the supervision of the New York State Department of Public Service. Utilities include, but are not limited to, street surface, rapid transit, subway and elevated railroads, gas, electric, steam, water, bridge, express, transfer, freight terminal companies and nonoperating railroads that lease their property to others. **Motor carriers or brokers are not required to file this return.**

A utility subject to 186-a which has gross income of less than \$500 for the tax year ending December 31, is exempt from the payment of the tax under this section but must still file a return.

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.

When and Where to File — You must report gross income 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.

File your annual return on or before March 15, 1996.

Mail 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 on or before March 15, 1996. 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-P.

Metropolitan Transportation Business Tax (MTA Surcharge)

Any corporation taxable under Article 9, section 186-a that does business in the Metropolitan Commuter Transportation District (MCTD) must file Form CT-186-P/M and pay a metropolitan transportation business tax surcharge on business done in the Metropolitan Transportation Authority region (MTA surcharge). The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Corporations not doing business in the MCTD must disclaim liability for the MTA surcharge by answering *No* to the question on page 1 of Form CT-186-P and are not required to file Form CT-186-P/M.

Maintenance Fee for Foreign Corporations — 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 (or Article 9A or 32) will result in annulment of the authorization to do business in New York State. Payment of such taxes (but not a license fee reported on Form CT-240) are counted as payments toward the \$300 annual maintenance fee. If the total of such taxes paid for 1995 is more than \$300, the corporation has satisfied the requirement to pay the \$300 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 a payment with that form; 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 include CT-183, 183-M, 184, 184-M, 184-R, 186, 186-M, 186-A, 186-A/M, 186-E, 186-P, 186-P/M and 189.

Foreign corporations must also file a report of license fee - see Form CT-240, *Foreign Corporation License Fee Return*.

Tax on Gains Derived from Certain Real Property

Transfer (Article 31-B, Section 1449-a) — 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.

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 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.

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

Specific Instructions

Line 2 — The Laws of 1994 amended the state tax surcharge.

The state tax surcharge rates are:

- 7½% (.075) for tax years beginning on 1/1/95 and ending on 12/31/95 (including a tax year of less than 12 months); and
- 2½% (.025) for tax years beginning on 1/1/96 and ending on 12/31/96 (including a tax-year of less than 12 months).

The state tax surcharge does not apply to the MTA surcharge.

Line 4b First Installment for the next period — If the tax and state tax surcharge shown on line 3 is more than \$1,000 and you did not file Form CT-5.9, 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 shown on line 3.

Additional Installments for 1996, Form CT-400 — If you expect your franchise tax plus state tax surcharge for 1996 to exceed \$1,000, 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 8 — 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 8. If no penalty is due, enter "0" on line 8.

Line 9 — If you do not pay the tax and state tax surcharge 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 line 4a or 4b, first installment of estimated tax for 1996. You may call the Business Tax Information Center for the current interest rate or to have the interest computed for you. See *Need Help?* on page 4.

Line 10 — Additional charges for late filing and late payment are computed on the amount of tax and state tax surcharge less any payment made on or before the due date. Exclude from the penalty computation any amount shown on line 4a or 4b, 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 in item A 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, ½% per month up to 25% (section 1085(a)(2)).
- D The total of the additional charges in item 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).

Definition of Gross Income — Gross income includes receipts from transactions within New York State which are derived from the utility's principal business and profits from transactions within New York State which are not derived from the utility's principal business.

Receipts which are included in gross income include the following:

- receipts from the sale 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 which are performed in the conduct of the utility's principal business;
- receipts from sale of merchandise within New York State which are part of the utility's stock in trade;
- other receipts from sales made or services rendered within New York State which are derived from the conduct of the utility's principal business; and
- receipts from interest, dividends and royalties from sources within New York State.

In determining gross income receipts, 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 25 and 35 of Schedule A.

Profits which are included in gross income 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 which 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 to Form CT-186-P a certificate issued by the New York State Department of Public Service, verifying this deduction.

Schedule A — Computation of Gross Income

Part I — Computation of Receipts

Lines 17 through 20 — Taxpayers that sell gas, electricity, steam, water or refrigeration which is delivered through mains, pipes or wires for ultimate consumption or use within New York State are required to complete lines 17-20. Enter for each type of commodity sold for ultimate consumption or use within New York State the receipts from such sales without any deductions.

Line 21 — Enter all receipts (without any deductions) from services rendered within New York State that are directly connected with the sale of gas, electricity, steam, water or 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; and
- receipts from "rentals" within New York State which in fact constitute service charges (e.g., receipts received from equipment necessary to enable the customer to use the commodity).

Line 22 — Enter receipts (without any deduction) from sales of merchandise (conditional or otherwise) within New York State that are directly connected with the sale of gas, electricity, water or 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 which does 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 23 — Enter any other receipts (without any deduction) from sales made or services rendered within New York State which are derived from the conduct of the utility's principal business.

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 which is not a utility.

Line 25 — Deductions allowed from receipts on lines 17 through 23 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 where the taxpayer is merely a collection 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 17 through 23. Attach a statement listing all deductions.

Line 27 — 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 which 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 which 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 which 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 which 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 payer 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 payer'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, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227. 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.

Line 28 — 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 II — Computation of Profits

Line 30 — Enter profits (i.e., gross selling price minus basis without any further deductions) from the sale of securities which 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 that 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 those of:

- the United States, any state, territory, or possession of the United States;
- 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 31 — Enter profits (i.e., gross selling price minus basis without any further deductions) from the sale of real property within New York State in which the utility owns or has an ownership interest.

Line 32 — Enter profits (i.e., gross selling price minus basis without any further deductions) 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) which constitute stock in trade of the utility and are included in merchandise inventory.

Line 33 — Enter profits (i.e., gross selling price minus basis without any further deductions or in the case of the sale of a service, the gross selling price of the service minus the cost of the service provided) from any transactions within New York State which are 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 where the utility uses its mains, pipes or wires within New York State to transport or transmit a commodity owned by another utility.

Line 35 — Deductions allowed from profits on lines 30 through 33 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 where 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 30 through 33. Attach a statement listing all deductions.

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.