



Instructions for Forms CT-3-S, CT-4-S, and CT-3-S-ATT New York S Corporation Franchise Tax Returns and Attachment

Table of contents

	Page
Changes for 2003	1
Who must file	2
Which form to file	2
Other forms you may need to file	2
When to file	3
Where to file	3
Penalties and interest	4
Is this an amended return?	4
Is this your final return?	4
Reporting period	5
Overview of corporation franchise tax	5
How to fill out your tax return	6
Line instructions for Form CT-4-S	7
Line instructions for Form CT-3-S	8
Line instructions for Form CT-3-S-ATT	11

Changes for 2003

Visit the *Corporation Franchise Tax Up-to-Date Information* page on our Web site at www.tax.state.ny.us/forms/corp_up_to_date_info.htm for Tax Law changes or forms corrections that occurred after the forms and instructions were printed.

For tax years beginning in 2003, 2004, and 2005, the Tax Law has been amended for New York S corporations, eliminating the tax on the entire net income (ENI) base, and imposing the fixed dollar minimum tax as calculated using the *Fixed dollar minimum tax schedule* on page 5 of the instructions. For a New York S corporation termination year, the tax for a New York S corporation short year is the fixed dollar minimum tax. A New York S corporation must still calculate the ENI base and capital base.

Registered securities and commodities dealers — For tax years beginning on or after January 1, 2003, the computation of the receipts factor of the business allocation percentage has changed for certain receipts earned by a registered securities or commodities broker or dealer. Fees from advisory services for the underwriting of securities, and fees for management or advisory services, are deemed to arise from services performed in New York State if the customer responsible for paying these fees is located in New York State. Interest earned on loans to affiliates are deemed to arise from a service in New York State, if the principal place of business of such affiliate who is responsible for the payment of interest is located in New York State. Income from principal transactions are deemed to arise from a service performed in New York State, if the production credits for these transactions are awarded to a New York State branch, office, or employee of the taxpayer. Receipts from the primary spread or selling concession from underwritten securities are deemed to arise from a service performed in New York State, if production credits are awarded to a branch, office, or employee of the taxpayer in New York State as a result of the sale of underwritten securities. For more information, see TSB-M-00(5)C, *Summary of Corporation Tax Legislative Changes Taking Effect in 2001 and After*, and the line instructions for line 10 of Form CT-3-S-ATT.

Transitional provisions for the federal Gramm-Leach-Bliley Act extended — The tax provisions that were scheduled to expire for tax years beginning on or after January 1, 2003, have been extended for one year. For more information on the provisions that were extended, see TSB-M-02(1)C, *Summary of Legislative Changes Enacted in 2001*, page 6.

Sport-utility vehicle (SUV) entire net income (ENI) modifications — For tax years beginning on or after January 1, 2003, an addition modification has been added to the computation of ENI for the amount deducted by a taxpayer (except an eligible farmer as defined in Tax Law section 210.22), under Internal Revenue Code (IRC) section 179, for an SUV with a vehicle weight in excess of 6,000 pounds. There has also been added a related subtraction modification for any recapture amount required under IRC section 179 that was subject to the addition modification. For more information, see TSB-M-03(5)C, *Summary of Corporation Tax Legislative Changes Enacted in 2003*.

Related member expense and income ENI modifications — For tax years beginning on or after January 1, 2003, a taxpayer may be required to add back to ENI certain royalty payments or certain interest payments made to a related member during the tax year, to the extent such payments were deducted in computing federal taxable income (FTI). If the related member is a New York State taxpayer, the related member may be required to subtract certain royalty payments or certain interest payments received during the tax year, to the extent the payments were included in FTI and were required to be added back. For more information, see TSB-M-03(5)C.

At the time these forms and instructions went to print, this provision was the subject of a possible legislative change. For the most up-to-date information concerning these modifications, visit the *Corporation Franchise Tax Up-To-Date Information for 2003* page of our Web site www.tax.state.ny.us/forms/corp_up_to_date_info.htm.

Attorney-in-fact (AIF) ENI deduction — The Tax Law provides an attorney-in-fact (AIF) for a reciprocal insurer, or a mutual insurance company that is an interinsurer, with a subtraction from FTI in computing ENI, if the reciprocal insurer or interinsurer has made the election provided for under IRC section 835. Effective for tax years beginning on or after January 1, 2003, the Tax Law has been amended to provide an additional condition that must be met before taking the subtraction. This condition is that the reciprocal insurer or interinsurer must be subject to the additional franchise tax on insurance corporations imposed under Tax Law section 1510(a). For tax years beginning on or after January 1, 2003, a reciprocal insurer or interinsurer is no longer subject to tax under section 1510(a). Accordingly, for tax years beginning on or after January 1, 2003, the subtraction is not allowed.

Decoupling from federal bonus depreciation — When computing ENI, the special bonus depreciation allowance created by the federal *Job Creation and Worker Assistance Act of 2002*, and enhanced by *The Jobs and Growth Tax Relief Reconciliation Act of 2003*, is no longer permitted for property placed in service on or after June 1, 2003, in a tax year beginning after December 31, 2002. However, the special bonus depreciation allowance is still permitted for qualified resurgence zone property, and for qualified liberty zone property. For more information, see TSB-M-03(5)C.

Filing fees for disregarded single member limited liability corporations (SMLLCs) — Effective for tax years beginning in 2003 and 2004, every SMLLC that is a disregarded entity for federal income tax purposes, and has income derived from New York sources, must file Form IT-204-LL, *Limited Liability Company/Limited Liability Partnership Filing Fee Payment Form*, and pay a filing fee within 30 days after the last day of its tax year. For more information, see TSB-M-03(5)C.

Estimated tax payments required by partnerships, limited liability companies (LLCs), and New York S corporations — Effective for tax years ending after December 31, 2002, every partnership, LLC, or New York S corporation that has income from New York State sources must pay estimated taxes on behalf of its nonresident individual and C corporation partners, members, or shareholders, on their distributive or pro rata share of the respective entity's income. For more information, see Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders*, and Form CT-2658, *Report of Estimated Tax for Corporate Partners*, and their instructions.

Penalties on estimated tax payments required by partnerships, limited liability companies, and New York S corporations — Effective for tax years ending after December 31, 2002, if a partnership, LLC, or New York S corporation does not pay the estimated tax, a penalty of \$50 is imposed for each failure to pay on behalf of each nonresident partner, member, or shareholder for whom the payment is required. If estimated tax is underpaid, the partnership, LLC, or New York S corporation may be subject to the underpayment of estimated tax penalty. For more information, see TSB-M-03(5)C.

Minimum interest rate reduced — The Tax Law was amended to remove the fixed minimum interest rate payable on overpayments of tax. Previously, the minimum rate of interest payable on overpayments of tax was 6%. This provision took effect on October 1, 2003, for interest allowable and due on refunds, or any other amounts that remained or became overpaid on or after October 1, 2003.

Change in interest rate on underpayments — The interest rate applicable to underpayments was increased by two percentage points effective April 1, 2003. The new rate applies to underpayments that remained or became due on or after that date. The interest rates are on our Web site (www.nystax.gov). For more information, see TSB-M-02(5)C, *Summary of Corporation Tax Legislative Changes Enacted in 2002*.

Who must file

An *S corporation* is a small business corporation whose shareholders have made an election to be taxed under personal income tax law, rather than corporation tax law, as permitted under Subchapter S of Chapter One of the IRC. Federal S corporations subject to Article 9-A of the Tax Law may make the same election for New York State, called a *New York S election*, by filing Form CT-6, *Election by a Federal S Corporation to be Treated as a New York S Corporation*. This includes both corporations organized under New York State law and foreign corporations (those organized under the laws of any other state) that do business, employ capital, own or lease property, or maintain an office in New York State.

A corporation that has elected to be treated as a New York S corporation (by filing Form CT-6) must file either Form CT-3-S, *New York S Corporation Franchise Tax Return*, or Form CT-4-S, *New York S Corporation Franchise Tax Return Short Form*, instead of Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-4, *General Business Corporation Franchise Tax Return Short Form*.

A bank S corporation must use Form CT-32-S, *New York Bank S Corporation Franchise Tax Return*.

Which form to file

An S corporation whose shareholders have filed Form CT-6 and received approval as a New York S corporation must file Form CT-3-S

or CT-4-S in place of Form CT-3 or Form CT-4. Form CT-4-S is simplified so that it can be used by most New York S corporations. All of the following conditions must be met by the corporation filing Form CT-4-S.

- The gross payroll is \$250,000 or less.
- The tax year is 12 months.
- The election to be a New York S corporation is not terminating.
- There is no subsidiary or investment capital.
- Business income is not allocated inside and outside New York State.
- Tax credits or tax credit recaptures are not claimed.
- A net operating loss deduction (NOLD) is not claimed.
- There is no addition to FTI shown on Form CT-3-S, line 7 (see page 9).
- There is no subtraction to FTI shown on Form CT-3-S, line 14, for S-1, S-3, S-4, S-5, S-6, S-7, S-8, or S-9 (see page 10).

If you file Form CT-4-S, attach Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, to report information for all individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the tax year.

If you file Form CT-3-S, attach Form CT-34-SH to report information for all individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the tax year; **and Form CT-3-S-ATT, *Schedules A, B, C, D, and E — Attachment to Form CT-3-S***, to report the business allocation percentage, computation and allocation of capital, computation of subsidiary and investment income, and the issuer's allocation percentage.

Foreign corporations authorized to do business but disclaiming tax liability

Form CT-245, *Maintenance Fee and Activities Return for a Foreign Corporation Disclaiming Tax Liability*, must be filed by a foreign corporation authorized to do business in New York State but disclaiming tax liability. The annual maintenance fee is \$300, unless you file a short period return, which may reduce your maintenance fee to less than \$300.

If you are disclaiming tax liability, you do not have to file a franchise tax return (that is, Form CT-3-S or CT-4-S). If it is determined that a franchise tax return is required, the maintenance fee may be allowed as a credit against any tax due under Article 9-A.

Combined returns

Certain groups of S corporations may be permitted or required to file on a combined basis. For more information, see Form CT-3-S-A-I, *Instructions for Form CT-3-S-A, New York S Corporation Combined Franchise Tax Return*.

Other forms you may need to file

Form CT-6, *Election by a Federal S Corporation to be Treated as a New York S Corporation*, must be filed and approved by the Tax Department in order to receive New York S corporation status.

Form CT-6.1, *Termination of Election to be Treated as a New York S Corporation*, must be filed to terminate New York S corporation status.

Form CT-8, *Claim for Credit or Refund of Corporation Franchise Tax Paid*, is used to request a refund other than from an overpayment. To speed up processing of the claim, mail it separately from your annual return. You must file a claim for refund based on a net operating loss (NOL) carryback within three years of the extended due date of the return for the loss year or within 27 months from the date of the federal credit or refund. A refund based on a federal change must be filed within two years from the date the federal change was required to be reported. All other claims for refunds must be received within three years from the date the return was filed, or two years from the date the tax was paid, whichever is later.

Form CT-33-D, *Tax on Premiums Paid or Payable to an Unauthorized Insurer*, must be filed if you purchased or renewed a taxable insurance contract that covers risks located in New York State from an insurer not authorized to transact business in New York State. This return must be filed within 60 days following the end of the

calendar quarter in which the contract was purchased or renewed. For more information, see TSB-M-90(9)C, *1990 Legislation - Direct Writings Tax*.

Form CT-60-QSSS, Qualified Subchapter S Subsidiary Information Schedule, must be filed to notify the Tax Department that a qualified subchapter S subsidiary (QSSS) is included in your return. Remember to check the box on Form CT-4-S (front) or CT-3-S (back), and attach Form CT-60-QSSS to either Form CT-4-S or CT-3-S.

Qualified subchapter S subsidiary (QSSS)

The filing requirements for a QSSS that is owned by a New York S corporation or a nontaxpayer corporation are outlined below. Where New York State follows federal QSSS treatment, the parent and QSSS file a single franchise tax return. The QSSS is ignored as a separate taxable entity, and the assets, liabilities, income, and deductions of the QSSS are included on the parent's franchise tax return. However, for other taxes such as sales and excise taxes, and the license and maintenance fees imposed under Article 9, the QSSS continues to be recognized as a separate corporation.

- A. **Parent is a New York S corporation** – New York State will follow the federal QSSS treatment. The parent and QSSS are taxed as a single New York S corporation and file Form CT-3-S or CT-4-S.
- B. **Nontaxpayer parent** – New York State follows the federal QSSS treatment where the QSSS is a New York State taxpayer, but the parent is not, if the parent elects to be taxed as a New York S corporation by filing Form CT-6. The parent and QSSS are taxed as a single New York S corporation and file Form CT-3-S or CT-4-S on a joint basis. If the parent does not elect to be a New York S corporation, the QSSS must file as a New York C corporation on a stand-alone basis on Form CT-3 or CT-4.
- C. **Exception: excluded corporation** – Notwithstanding the above rules, QSSS treatment will not be allowed unless both parent and QSSS are general business corporations. That is, the corporations will have to file on a stand-alone basis if one is an Article 9-A taxpayer but the other is an Article 9, 32, or 33 taxpayer, or is a corporation which would be subject to such taxes if taxable in New York State.

Where New York State follows federal QSSS treatment, the QSSS is not considered a subsidiary of the parent corporation.

Form CT-186-A, Utility Services Tax Return Gross Operating Income (Article 9, section 186-a), must be filed by a corporation not supervised by the New York State Department of Public Service that engages in the sale or furnishing of gas, electricity, steam, water, or refrigeration to pay a tax on its gross operating income, using Form CT-186-A.

Form CT-186-E or the short Form CT-186-EZ, Telecommunications Tax Return and Utility Services Tax Return, must be filed by a corporation that also provides telecommunication services under section 186-e, excise tax on telecommunication services, and the corporation must pay a tax on its gross receipts from the sale of telecommunication services.

Form CT-189, Tax on Importation of Gas Services, must be filed quarterly by gas importers who import, or cause to be imported, gas services into New York State for their own use or consumption. For more information, see TSB-M-91(5)C, *Tax on Importation of Gas Services Article 9 Section 189*, and TSB-M-97(3)C, *Important Notice: Changes to Form CT-189 for Gas Customers using Direct Pay Permits*.

Form CT-222, Underpayment of Estimated Tax by a Corporation, is used to determine if the corporation has underpaid an estimated tax installment, and, if so, compute the penalty for underpayment.

Form CT-240, Foreign Corporation License Fee Return, must be filed by any foreign corporation (organized outside New York State) in order to pay the license fee based on capital stock. This return must be filed when the corporation files its first franchise tax return, or if capital stock employed in New York State has increased since the last license fee report was filed.

Form CT-399, Depreciation Adjustment Schedule, must be filed to compute the allowable New York State depreciation deduction if you claim: 1) the federal accelerated cost recovery system (ACRS) depreciation or modified accelerated cost recovery system (MACRS) deduction for certain property placed in service after December 31,

1980, or 2) the 30%/50% federal special depreciation for certain property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002.

Form CT-400, Estimated Tax for Corporations, must be filed if your New York State franchise tax liability can reasonably be expected to exceed \$1,000.

Form CT-3360, Federal Changes to Corporate Taxable Income, must be used to report any correction made by the Internal Revenue Service (IRS) in taxable income previously reported for any year, including changes based on the renegotiation of a government contract.

Form IT-204-LL, Limited Liability Company/Limited Liability Partnership Filing Fee Payment Form, must also be filed for tax years beginning in 2003 and 2004 by SMLLCs (that are treated as disregarded entities for federal income tax purposes and that have income derived from New York State sources) to pay a mandatory filing fee of \$100. Form IT-204-LL must be filed within 30 days after the last day of the tax year.

Form IT-2658, Report of Estimated Tax for Nonresident Individual Partners and Shareholders, must be filed by a New York S corporation that is required to pay estimated tax on behalf of a shareholder who is a nonresident individual.

Form IT-2659, Estimated Tax Penalties for Partnerships and New York S Corporations, is used to determine if estimated tax has been underpaid on behalf of a shareholder who is a nonresident individual. Form IT-2659 is also used to compute the penalty if the estimated tax has been underpaid.

Form DTF-95, Business Tax Account Update, and Form DTF-96, Report of Address Change for Business Tax Accounts — See *Name, address, and business information* on page 6.

Consult **Publication 20, Tax Guide for New Businesses**, for additional information regarding other taxes that may apply to you.

When to file

File your return within 2½ months after the end of your reporting period. If you are reporting for the calendar year, your return is due on or before March 15. If your filing date falls on a Saturday, Sunday, or legal holiday, file your return on or before the next business day.

Extension if you cannot meet the filing deadline

If you cannot meet the filing deadline, file Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*, and pay the properly estimated franchise tax on or before the original due date of the return. **Additional extension of time to file Form CT-3-S or CT-4-S will not be granted beyond six months.**

Where to file

Use one of the following addresses to mail your **Form CT-3-S**:

With payment	Without payment
NYS CORPORATION TAX PROCESSING UNIT PO BOX 22092 ALBANY NY 12201-2092	NYS CORPORATION TAX PROCESSING UNIT PO BOX 22096 ALBANY NY 12201-2096

Use one of the following addresses to mail your **Form CT-4-S**:

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

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

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file your return and pay tax. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* on page 23 of these instructions for information on ordering forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, address your return to: State Processing Center, 431C Broadway, Albany NY 12204-4836.

Penalties and interest

If you pay after the due date

If you do not pay the tax due on or before the original due date, you must pay interest on the amount of underpayment from the original due date (**without** regard to an extension of time for filing) of the return to the date the tax is paid. Exclude from the interest computation any amount representing the first installment of estimated tax for next period. Interest is always due, without any exceptions, on any underpayment of tax. **An extension of time for filing does not extend the due date for payment of tax.**

If you file and pay after the due date

Compute additional charges for late filing and late payment on the amount of tax minus any payment made on or before the due date (**with** regard to any extension of time for filing). Exclude from the penalty computation any amount representing the first installment of estimated tax for the next period.

- 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 a total of 25% (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the additional charge 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 a total of 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 (section 1085 (a)).

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

Note: You may compute interest and penalty by accessing our Web site at

www3.tax.state.ny.us/PAIC/PAICHomeServlet

or you may call 1 800 972-1233, and we will compute the interest and penalty for you.

If you understate your tax

If the tax you report is understated by 10% or \$5,000, whichever is greater, you will have to pay a penalty of 10% of the amount of understated tax. You can reduce the amount on which you pay penalty by subtracting any item for which there is or was substantial authority for the way you treated it, **or** there is adequate disclosure on the return or in an attached statement (see Article 27, section 1085(k)).

If you underpay your estimated tax

If you can reasonably expect your New York State franchise tax liability to exceed \$1,000, you must file Form CT-400. A penalty will be imposed if you fail to file a declaration of estimated tax or fail to pay the entire installment payment of estimated tax due. For complete details, see Form CT-222.

If you fail to pay estimated tax on behalf of a shareholder

— If the New York S corporation is required to pay estimated tax and fails to pay estimated tax on behalf of a shareholder, a penalty of \$50 per shareholder for each failure to pay may be imposed. The penalty may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

If you underpay estimated tax on behalf of a shareholder

— A New York S corporation may be subject to the underpayment of estimated tax penalty. For complete details, see Form IT-2659, *Estimated Tax Penalties for Partnerships and New York S Corporations*.

If you fail to provide shareholder information

If you do not file Form CT-3-S or Form CT-4-S on time, providing the shareholder information required (all items of income, loss, deduction, and other pertinent information), you will have to pay a penalty (section 685(h)(2)). The penalty is \$50 per shareholder per month or fraction of a month, up to a total of \$250 per shareholder. You will also have to pay a penalty of \$50 for each shareholder whose social security number you do not show (section 685(k)). All shareholders of the S corporation during any part of the tax year must be counted. The penalty may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

If you fail to provide information about your issuer's allocation percentage (applicable for Form CT-3-S only)

Section 1085(o) of the Tax Law provides for a penalty of \$500 for failure to provide information needed to compute issuer's allocation percentages. Compute the issuer's allocation percentage on Form CT-3-S-ATT, Schedule B.

Other penalties

Strong civil and criminal penalties may be imposed for negligence or fraud. For more information, contact the Business Tax Information Center (see *Need help?* on page 23).

Is this an amended return?

If you are filing an amended return for any purpose, including an amended return filed with Form CT-8 or CT-3360, check the *Amended return* box on the front of the return, above your employer identification number (EIN).

Is this your final return?

Check the *Final return* box on the front of the return, under the form number, only if filing a final return for one of the following reasons:

- voluntary dissolution of a New York corporation (New York Business Corporation Law sections 1001 through 1003)
- surrender of authority by a foreign corporation (New York Business Corporation Law section 1310)
- merger or consolidation (New York Business Corporation Law sections 904, 905, and 907)
- disposition of assets of a New York corporation (New York Business Corporation Law section 909(d))
- termination of existence of a foreign corporation (New York Business Corporation Law section 1311)
- liquidation under IRC sections 332, 336, and 337

See *Voluntary dissolution and surrender of authority and liability for taxes and fees* on the next page and Publication 110, *Information and Instructions for Termination of Business Corporations*, for the proper procedures to follow in terminating your business.

Corporations wishing to dissolve or surrender their authority to do business in New York State must contact the Tax Department. Call our Dissolution Unit at 1 800 327-9688 in the month you wish to stop conducting business in New York State.

In the case of a merger or consolidation, the *Final return* check box would be used only by the **nonsurviving** corporation.

The return will be treated as a final return if your business is terminated with the Department of State and the return covers the tax period from the last return filed to the date of the termination.

Foreign authorized corporations: See page 2 of these instructions, or refer to Form CT-245 if you are disclaiming tax liability but want to continue to be authorized to do business in New York State.

Do not check the *Final return* box if you are only changing the type of return that you file (such as from Form CT-3 to CT-3-S, or from Form CT-4-S to CT-3-S).

Voluntary dissolution and surrender of authority and liability for taxes and fees

A domestic corporation (incorporated in New York State) is generally liable for corporate franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated, regardless of whether it carries on any activity. For example, a person who intends to go into business organizes a new corporation under the New York Business Corporation Law for the purpose of operating the new business as a corporation. However, the business is never started and the corporation never conducts any business. Under these circumstances, the corporation would usually be liable for franchise taxes for each tax year until it is formally dissolved with the Department of State.

A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it does business, employs capital, owns or leases property, or maintains an office in New York State. In addition, a foreign corporation that is authorized to do business in New York State is also liable for payments of its annual maintenance fee until such time as it surrenders its authority to do business to the Department of State, regardless of whether it does business, employs capital, owns or leases property, or maintains an office in the state. The maintenance fee may be taken as a credit against the franchise tax.

The procedure for obtaining a consent to voluntary dissolution or surrender of authority and the forms that are required to be filed with the Tax Department are set forth in Publication 110. You can request this information by visiting our Web site at www.nystax.gov or calling the Business Tax Information Center at 1 800 972-1233.

New York S corporation termination year

The New York S election can terminate on a day other than the first day of the tax year, whether or not the federal S election terminates at the same time. In either case, the tax year is divided into two tax periods (an S short year and a C short year). The corporation must file Form CT-3-S for the S short year. For the C short year, the corporation must file Form CT-3 or CT-4. The due date of the S short year return is the same as the New York C short year return. For more information, see TSB-M-90(11)C, *1990 Legislation - Franchise Tax on New York S Corporations*.

When a section 338(h)(10) election is made for a target corporation that is a New York S corporation, the tax results of the federal election are recognized for New York State purposes. The target corporation that is a New York S corporation must file two short period reports. The first report is filed as a New York S corporation up to the date the election takes effect. The target corporation is also required to file a second short period report as a New York C corporation up to the end of its tax year.

If the federal and New York S elections terminate at the same time, entire net income assigned to Form CT-3-S for the S short year and to Form CT-3 or CT-4 for the C short year is determined using the same method of accounting as used for federal income tax purposes; that is, daily pro rata allocation under section 1362(e)(2) of the IRC or normal tax accounting rules under section 1362(e)(3) of the IRC.

If the federal S election continues but the New York S election terminates, use normal tax accounting rules under IRC section 1362(e)(3) if either of the following applies:

- all persons who are shareholders in the corporation at any time during the New York S short year and all persons who are shareholders in the corporation on the first day of the New York C short year consent to such election; or
- there is a sale or exchange of 50% or more of the stock in the corporation during the year.

Otherwise, use the daily pro rata allocation method under IRC section 1362(e)(2).

Check the box on the back of Form CT-3-S, under *Additional information*, to indicate which method of accounting the New York S corporation elected for the New York S short year and subsequent New York C short year.

The total tax for the New York S short year and New York C short year may not be less than the fixed dollar minimum tax determined as if the corporation were a C corporation for the entire year.

Reporting period

Your tax year for New York State must be the same as your federal income tax year. If you are a calendar-year filer, check the box in the upper right corner on the front of the form. If you are a fiscal-year filer, complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

Short periods — proration of fixed dollar minimum tax and maintenance fee

Compute the gross payroll and total receipts for short periods (a tax period of less than 12 months) by dividing the amount of each by the number of months in the short period and multiplying the result by 12.

The fixed dollar minimum tax and maintenance fee may be reduced for short periods as follows:

Period	Reduction
Not more than six months	50%
More than six months but not more than nine months	25%
Over nine months	none

Maintenance fee

If you are a foreign authorized corporation, you are subject to the annual maintenance fee for the entire period in which you are authorized, whether or not you are doing business in New York State. The Tax Law allows a reduction of the maintenance fee, as shown above, if the period for which the fee is imposed is nine months or less. For more information, see page 2.

Overview of corporation franchise tax

Tax base

For tax years beginning in 2003, 2004, and 2005, the franchise tax for a New York S corporation is the applicable fixed dollar minimum tax (including the \$800 fixed dollar minimum tax) determined under section 210(1)(d).

Fixed dollar minimum tax schedule

Fixed dollar minimum tax for all New York S corporations.

For a New York S corporation with a gross payroll of:	Fixed dollar minimum tax equals:
\$250,000 or less	\$100 *
More than \$250,000 but not more than \$500,000	\$225 *
More than \$500,000 but not more than \$1,000,000	\$325
More than \$1,000,000 but less than \$6,250,000	\$425
\$6,250,000 or more	\$1,500
However, if the corporation's gross payroll, total receipts, and average value of gross assets are each \$1,000 or less**	\$800

* Foreign authorized corporations: If the total of your tax is less than \$300, you must increase your payment accordingly to satisfy the \$300 maintenance fee requirement.

**If a short period, compute the gross payroll and total receipts by dividing the amount of each by the total number of months in the short period and multiplying the result by 12.

To avoid an erroneous assessment or a delay of your refund, you must enter an amount in the *Gross payroll*, *Total receipts*, and *Average value of gross assets* boxes provided on Form CT-3-S, lines 22 through 24 or Form CT-4-S, line 10. If you do not have payroll, receipts, or assets, enter "0" in the appropriate box(es). Failure to make an entry in these boxes may result in an assessment of tax or a reduction of your refund/credit.

How to fill out your tax return

Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Please include your EIN and file number on each corporation tax form mailed.

You will find your EIN and file number just above your corporation name and address. Keep a record of that information, and include it on each corporation tax form mailed.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate identifying information when completing all forms.

Are you claiming an overpayment?

If you are claiming an overpayment on Form CT-3-S, line 51, or Form CT-4-S, line 18, check the box on the front of your return to the right of your EIN and file number.

Name, address, and business information

Enter the S corporation's legal name, and also enter the corporation's mailing name if different from the S corporation's legal name.

If your address has changed, enter your new address in the appropriate area and check the box under the name and address block at the top of your return so that we can update your address. Do not check this box for any change of business information other than address.

You must report any changes in your business name, ID number, mailing address, physical address, telephone number, or owner/officer information on Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*, to correct your address for corporation tax or other tax types. You can get these forms from our Web site, by fax, or by phone (see *Need help?* on page 23).

NAICS business code number and principal business activity

Enter the six-digit NAICS business activity code number and the principal business activity from your federal return.

Whole dollar amounts

You may elect to show amounts in whole dollars rather than in dollars and cents. Round any amount from 50 cents through 99 cents to the next higher dollar, and round any amount less than 50 cents to the next lower dollar.

Negative amounts

Show any negative amounts in parentheses.

Percentages

When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Carry percentages to four decimal places.

Example: $5,000 \div 7,500 = 0.6666666 = 66.6667\%$

Signature

The return must be certified by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other authorized officer.

The return of a business conducted by a trustee or trustees must be signed by a person authorized to act for the business.

If an outside individual or firm prepared the return, the signature of the person and the name, address, and identification number of the firm must be included. Failure to sign the return will delay the processing of any refunds and may result in penalties.

Is your return in processible form?

Returns must be prepared in a manner that will permit their routine handling and processing. Interest will not be paid on an overpayment of taxes until the return is in a processible format.

Use of reproduced and computerized forms

Photocopies of returns are acceptable if they are of good quality and have an original signature in the proper place.

Computer-produced corporation tax returns will be accepted if they meet our printing specifications. For more information, see Publication 76, *Specifications for Reproduction of New York State Corporation Tax Forms*.

Do you need a tax packet?

If you use a paid preparer, or if you use computer software to prepare your return, or if for any other reason you do not need a tax packet mailed to you for next year's taxes, please check the box above the certification and signature. When you check the box, the following year we will send you a postcard that you or whoever prepares your return should use to confirm your EIN, file number, and mailing information on your next return. By checking this box, you will help us reduce printing and mailing costs.

Line instructions for Form CT-4-S

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

Computation of entire net income base

Special instructions for computing entire net income (ENI) by a parent of a QSSS — Where New York State follows federal QSSS treatment (see page 3), a New York S corporation that is the parent of a QSSS should compute its ENI using the following rules:

- The assets, liabilities, income, and deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS are deemed to be those of the parent corporation.
- The stocks, bonds, and other securities issued by, and any indebtedness from, the QSSS are not subsidiary capital or investment capital of the parent corporation.
- Transactions between the parent corporation and the QSSS, including payment of interest and dividends, are not taken into account.
- General executive officers of the QSSS are deemed to be general executive officers of the parent.

Line 1 — Enter the amount of federal taxable income (FTI) that you would have reported on federal Form 1120, line 28, had the election under IRC Subchapter S of Chapter One not been made. Attach a statement (or a pro forma federal Form 1120) showing the computation of FTI required to be shown on federal Form 1120, line 28. The statement or pro forma federal Form 1120 must include the following items not reported on federal Form 1120S:

- Dividend income from federal Form 1120, line 4
- Interest income from federal Form 1120, line 5
- Gross rental income from federal Form 1120, line 6
- Gross royalty income from federal Form 1120, line 7
- Capital gain net income from federal Form 1120, line 8
- Charitable contribution deductions from federal Form 1120, line 19

Line 2 — Enter all interest received or accrued from federal, state, municipal, and other obligations that was exempt from taxation on your federal income tax return and is, therefore, not included on line 1. You may deduct from this amount any expenses attributable to that interest but denied deductibility under IRC section 265. Attach a list of items included on this line.

Line 3 — Enter the amount deducted on your federal return for New York State taxes imposed under Article 9-A, Article 32, or sections 183, 183-a, 184, and 184-a of Article 9. Include the amount deducted for taxes paid or accrued to the United States, its possessions, other U.S. states, their political subdivisions, any foreign country, and the District of Columbia, if the taxes are on or are measured by profits or income, or include profits or income as a measure of tax, including taxes expressly in lieu of the foregoing. However, do not include New York City taxes.

Lines 4 and 6 — Use these lines if one or more of the following applies:

- The corporation claims the federal accelerated cost recovery system/modified accelerated cost recovery system (ACRS/MACRS) deduction for property placed in service either **inside or outside** New York State after 1980 in tax periods beginning before 1985; **or**
- The corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984 and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation deduction for the property; **or**
- The corporation claims the 30%/50% federal special depreciation deduction under IRC section 168(k) (excluding qualified resurgence zone property described in section 208.9(q) of the Tax Law or qualified New York liberty zone property described in IRC section 1400L(b)(2)) for property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002; **or**

- The corporation disposes of ACRS/MACRS property or property for which you claimed the 30%/50% federal special depreciation deduction this year and the New York depreciation modifications applied in prior years.

Line 4 — If this line applies, complete Form CT-399. Enter the amount of your federal ACRS/MACRS depreciation deduction and the 30%/50% federal special depreciation deduction that must be added back to FTI from Form CT-399, Part I, line 1, column E, or, if you disposed of property this year, use the amount from Form CT-399, Part III, line 8, column A. Enter your recomputed New York State deduction on line 6. Attach Form CT-399.

Line 6 — If this line applies, in place of the disallowed federal ACRS/MACRS depreciation deduction or the 30%/50% federal special depreciation deduction entered on line 4, enter the amount from Form CT-399, Part I, line 1, column I, or, if you disposed of property this year, enter the amount from Form CT-399, Part III, line 8, column B. Attach Form CT-399.

Line 7 — Include any refund or credit of a tax imposed under Article 9, sections 183, 183-a, 184, and 184-a, Article 9-A, or Article 32 of the Tax Law, for which no deduction was allowed in computing your ENI in any prior year. Do not include on this line any refund or credit of tax that was used to offset an addition of tax on line 3. Do not include any refund or credit of New York City taxes.

Computation of tax

Line 10 — To avoid an erroneous assessment or a delay of your refund, you must enter an amount in the *Gross payroll*, *Total receipts*, and *Average value of gross assets* boxes provided on Form CT-4-S, *New York S Corporation Franchise Tax Return Short Form*, line 10. If you do not have payroll, receipts, or assets, enter "0" in the appropriate box(es).

Gross payroll — Include total wages, salaries, and other personal services compensation of all employees, including general executive officers, wherever located. For a short period (less than 12 months), annualize gross payroll by dividing it by the number of months in the short period and multiplying the result by 12.

Include amounts shown on federal Form 1120S, lines 7 and 8, including any employment credits deducted on line 8, plus any wages included in the cost of goods sold from Form 1120S, Schedule A, line 3.

Total receipts — Include the receipts from the sale of tangible personal property, services performed, rentals, royalties, receipts from the sales of rights for closed circuit and cable television transmissions, and all other business receipts received in the regular course of business. Include the amount reported on federal Form 1120S, *Income* section, lines 1c and 5, and the amount that you would have reported on federal Form 1120 or 1120-A, *Income* section, lines 6 and 7. **Do not include** any nonbusiness dividends, nonbusiness interest, or business or investment gains or losses. For a short period, annualize total receipts by dividing by the number of months in the short period and multiplying the result by 12.

Average value of gross assets — The average fair market value of real property and marketable securities, plus all other property at the value shown on your books, in accordance with generally accepted accounting principles (GAAP).

Fixed dollar minimum tax — Determined by the corporation's gross payroll, total receipts, and average value of gross assets. See *Fixed dollar minimum tax schedule* on page 5 to determine the applicable fixed dollar minimum tax. The fixed dollar minimum tax may be reduced for short periods. See *Short periods — proration of fixed dollar minimum tax and maintenance fee* on page 5 for the appropriate reduction for short periods.

If your gross payroll is \$250,000 or less, enter \$100 on line 10. However, if your gross payroll, total receipts, and average value of gross assets are each \$1,000 or less, enter \$800. If your gross payroll is **over \$250,000, do not continue**; you must file Form CT-3-S, *New York S Corporation Franchise Tax Return*.

Foreign authorized corporations must increase the payment on line A to satisfy the \$300 maintenance fee requirement.

Lines 13 and 14 — If you are not filing this return on time you must pay interest and additional charges. See *Penalties and interest* on page 4.

Lines 16a and 16b — If you want to contribute to Return a Gift to Wildlife or the Breast Cancer Research and Education Fund, or both, enter the whole dollar amount(s) in the appropriate box(es). Your gift will increase your payment or reduce your overpayment. You may not change the amount(s) of your gift after you file the return.

Line 18 – Unrequested refunds to be credited forward

If the corporation overpays its tax, it will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year unless you indicate a refund on line 20. We will notify you that the overpayment has been credited and explain how to request a refund of the credited amount. If you choose to request a refund of the credited amount, you must claim the refund prior to the original due date of the following year's return.

Lines 19 and 20 — You may apply an overpayment as a credit to your next state franchise tax period on line 19 or you may have it refunded on line 20. Indicate on lines 19 and 20 the amount of overpayment to be credited or refunded.

Collection of debts from your refund — We will keep all or part of your refund if you owe a past-due legally enforceable debt to the Internal Revenue Service (IRS) or to a New York State agency. This includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or for a social services district. We will refund any amount over your debt.

If you have any questions about whether you owe a past-due legally enforceable debt to the IRS or to a state agency, contact the IRS or that particular state agency.

For New York State tax **liabilities only** call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800) or write to NYS Tax Department, Tax Compliance Division, W A Harriman Campus, Albany NY 12227.

Line instructions for Form CT-3-S

Additional schedules — You may need to use additional schedules to complete your return. Schedules A through D appear on Form CT-3-S-ATT. If you use any schedules you must attach them to your return.

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

Computation of entire net income base

Special instructions for computing entire net income (ENI) by a parent of a QSSS — Where New York State follows federal QSSS treatment (see page 3), a New York S corporation that is the parent of a QSSS should compute its ENI using the following rules:

- The assets, liabilities, income, and deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS are deemed to be those of the parent corporation.
- The stocks, bonds, and other securities issued by and any indebtedness from the QSSS are not subsidiary capital or investment capital of the parent corporation.
- Transactions between the parent corporation and the QSSS, including payment of interest and dividends, are not taken into account.
- General executive officers of the QSSS are deemed to be general executive officers of the parent.

Line 1 — Enter the amount of federal taxable income (FTI) that you would have reported on federal Form 1120, line 28, had the election under IRC Subchapter S of Chapter One not been made. Attach a statement (or a pro forma federal Form 1120), showing the computation of FTI required to be shown on federal Form 1120, line 28. The statement or pro forma federal Form 1120 must include the following items not reported on federal Form 1120S:

- Dividend income from federal Form 1120, line 4
- Interest income from federal Form 1120, line 5

- Gross rental income from federal Form 1120, line 8
- Gross royalty income from federal Form 1120, line 7
- Capital gain net income from federal Form 1120, line 8
- Charitable contribution deductions from federal Form 1120, line 19

Lines 2 through 7 – Additions — Use lines 2 through 7 to add items that are not included in FTI but must be included in New York State ENI.

Line 2 — Enter all interest received or accrued from federal, state, municipal, and other obligations that was exempt from taxation on your federal income tax return and is, therefore, not included on line 1. You may deduct from this amount any expenses attributable to such interest but denied deductibility under IRC section 265. Attach a list of items included on this line.

Line 3a through 4b – Subsidiaries — If you have a subsidiary, you must complete Form CT-3-S-ATT, Schedule C. If you have subsidiary capital included on Form CT-3-S-ATT, line 45, column C, complete lines 3a, 3b, 4a, and 4b to report any expenses directly or indirectly attributable to subsidiary capital. Taxpayers should refer to TSB-M-88(5)C, *Direct and Indirect Attribution of Deductions Article 9-A*, for complete details regarding the attribution of interest expenses and TSB-M-95(2)C, *Attribution of Noninterest Deductions*, regarding the attribution of noninterest expenses. If you do not have a subsidiary, enter "0" on lines 3a, 3b, 4a, and 4b. See the following definitions of a subsidiary and subsidiary capital.

A *subsidiary* is a corporation, not including a domestic international sales corporation (DISC), of which you own more than half of the voting stock issued and outstanding. The test of ownership is actual beneficial ownership, rather than mere record title as shown by the stock books of the issuing corporation. Actual beneficial ownership of stock does not mean indirect ownership or control of a corporation through a corporate structure consisting of several tiers or chains. For more information, see NYS Regulations section 3-6.2.

Subsidiary capital is the taxpayer's total investment in shares of stock in its subsidiaries, and the amount of indebtedness owed to the taxpayer by its subsidiaries (whether or not evidenced by written instruments) on which interest is not claimed and deducted by the subsidiary under Articles 9-A, 32, or 33 of the Tax Law. For more information, see NYS Regulations section 3-6.3.

Line 3a — Enter the amount of **interest** deductions allowed in the computation of ENI (includable in the amount on *Line 4a Worksheet*, line E, on page 19) that are **directly** attributable to subsidiary capital (or to income, losses, or gains from subsidiary capital).

Line 3b — Enter the amount of **noninterest** deductions allowed in the computation of ENI (includable in the amount on *Line 4b Worksheet*, line E, on page 20) that are **directly** attributable to subsidiary capital (or to income, losses, or gains from subsidiary capital).

The direct attribution of deductions is based on an analysis of facts and circumstances. Deductions directly attributable to subsidiary capital or income include but are not limited to the following:

- Interest on debt incurred to buy subsidiary capital
- Salaries of employees engaged in the management, supervision, or conservation of subsidiary capital
- Expenses for legal advice relating to the acquisition of subsidiary capital
- Stewardship deductions relating to subsidiary capital

Do not include on lines 3a and 3b interest deductions or noninterest deductions that are directly attributable to:

- Investment capital (or to income, losses, or gains from investment capital); see Form CT-3-S-ATT, lines 63 and 64.
- Business capital (or to income, losses, or gains from business capital).

Note: For tax years beginning in 1995 or after, certain expenses may, at the taxpayer's election, be deemed to be directly attributable to business capital (or income, losses, or gains from business capital). These expenses include, among others, the following: depletion; advertising; research and development expenses; compensation packages of the chief executive officer, the chief financial officer, and the chief operating officer; charitable contributions; and internal auditing expenses. For a complete listing of deductions so deemed attributable to business capital, see TSB-M-95(2)C section III (A)(1).

If at least 95% of the noninterest deductions of an operating division or corporation are directly attributable to a particular class of capital or income, 100% of the noninterest deductions of that division or corporation may be directly attributed to that class of capital or income. For details, see TSB-M-95(2)C section IV.

Line 4a — Compute the amount of **interest** deductions that are **indirectly** attributable to subsidiary capital (or to income, gains, or losses from subsidiary capital) using *Line 4a Worksheet* on page 19.

Line 4b — Compute the amount of **noninterest** deductions that are **indirectly** attributable to subsidiary capital (or to income, gains, or losses from subsidiary capital) using *Line 4b Worksheet* on page 20.

Line 5 — Enter the amount deducted on your federal return for taxes imposed under Article 9, sections 183, 183-a, 184, 184-a, and Articles 9-A and 32. Include the amount deducted for taxes paid or accrued to the United States, its possessions, other U.S. states, their political subdivisions, any foreign country, and the District of Columbia, if the taxes are on or are measured by profits or income, or include profits or income as a measure of tax, including taxes expressly in lieu of the foregoing. However, do not include New York City taxes.

Line 6 — Use this line if one or more of the following applies:

- The corporation claims the federal accelerated cost recovery system/modified accelerated cost recovery system (ACRS/MACRS) deduction for property placed in service either **inside or outside** New York State after 1980 in tax periods beginning before 1985; **or**
- The corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984 and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation deduction for the property; **or**
- The corporation claims the 30%/50% federal special depreciation deduction under IRC section 168(k) (excluding qualified resurgence zone property described in section 208.9(q) of the Tax Law or qualified New York liberty zone property described in IRC section 1400L(b)(2)) for property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002; **or**
- The corporation disposes of ACRS/MACRS property or property for which you claimed the 30%/50% federal special depreciation this year and the New York State depreciation modifications applied in prior years.

If this line applies, complete Form CT-399. Enter from Form CT-399, Part I, line 1, column E, the amount of your ACRS/MACRS deduction that must be added back to FTI. If you disposed of property this year, use the amount from Form CT-399, Part III, line 8, column A. Enter your recomputed New York State deduction on line 13.

Line 7 — If you have any of the following other additions to FTI, enter the total amount of those additions and attach a list.

A-1 If your corporation has a safe harbor lease you must include the following:

- Any amount you claimed as a deduction in computing FTI solely as a result of an election made under IRC section 168(f)(8) as it was in effect on December 31, 1983.
- Any amount you would have been required to include in the computation of your FTI if you had not made the election permitted under IRC section 168(f)(8) as it was in effect on December 31, 1983.

A-2 The amount of special additional mortgage recording tax paid in tax years beginning after 1993, under section 253(1-a) of the Tax Law, allowed as a deduction in determining FTI, when a credit or a refund is allowed on Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*, for the tax year.

A-3 The amount of special additional mortgage recording tax paid in tax years beginning after 1993, under section 253(1-a) of the Tax Law, when property for which the tax was paid is sold or disposed of at a gain or loss, and the basis of the property was not adjusted by the special additional mortgage recording tax credit if a credit or refund was allowed on Form CT-43.

A-4 Qualified emerging technology investments (QETI) — If you elected to defer the gain from the sale of QETI, then you must add to FTI the amount previously deferred when the reinvestment in the New York State qualified emerging technology company which qualified you for that deferral is sold. See subtraction S-5 on page 10.

A-5 Qualified public utility corporations must make the required additions under section 208.9(c-2) of the Tax Law. Qualified power producers and qualified pipeline corporations must make the required additions under section 208.9(c-3) of the Tax Law. For additional information, see instructions for Form CT-3-S-ATT, Schedule E, on page 17.

A-6 Amount of related member royalty and interest expense required to be added back pursuant to Tax Law section 208.9(o).

A-7 Amount of SUV depreciation required to be added back pursuant to Tax Law section 208.9(b)(16).

Lines 9 through 14 – Subtractions — Use lines 9 through 14 to subtract items that are included in FTI but should not be included in New York State ENI.

Line 9 — If you have a subsidiary, complete Schedule C on Form CT-3-S-ATT and enter the amount from Part II, line 51. This amount must include capital gains and any other income and gain from subsidiary capital that was included as part of FTI. Do not include foreign dividends gross-up under IRC section 78. A DISC does not qualify as a subsidiary.

Include as subsidiary dividends any subpart F income received from a controlled foreign corporation in which you own more than 50% of the voting stock (see federal Form 1120, Schedule C, line 14).

Line 10 — Enter 50% of dividends received from nonsubsidiary stock that meets the holding requirements of IRC section 246(c). Include 50% of subpart F income received from a controlled foreign corporation in which you own 50% or less of the voting stock (see federal Form 1120, Schedule C, line 14). Include 50% of the dividends received from a money market mutual fund included as cash on Form CT-3-S-ATT, Schedule D, Part I, Section II, line 54. **Do not** include grossed-up dividends, pursuant to IRC section 78. For more information, see TSB-M-89(14)C, *50% Dividend Deduction to Conform with Federal Holding Periods*.

Line 11 — Enter foreign dividend gross-up, pursuant to IRC section 78 (see federal Form 1120, Schedule C, line 15). ENI **does not include** any amount treated as dividends pursuant to IRC section 78 (section 208.9(a)(6)).

Line 12 — A New York S corporation is allowed a net operating loss deduction (NOLD) that is based upon the deduction allowed under IRC section 172, had the corporation not made the election under IRC Subchapter S of Chapter One (the amount that would have been entered as NOLD on federal Form 1120, line 29a).

These rules apply:

- A deduction is not allowed for a net operating loss (NOL) sustained during any tax year:
 - beginning before January 1, 1990; **or**
 - in which the corporation was not subject to tax under Article 9-A; **or**
 - in which the corporation was a New York C corporation.
- IRC section 172 federal losses must be adjusted in accordance with Article 9-A, section 208.9(a), (b), and (g).
- The New York State NOLD is limited to the amount required under IRC section 172 to reduce FTI to zero.
- You may carry an NOL back or forward. Both a New York C year and a New York S year are counted as a tax year for determining the number of tax years for which a NOL may be carried back or carried forward.
- For NOLs sustained in tax years beginning **on or before** August 5, 1997, the NOL may be carried back three years and carried forward 15 years.
- For NOLs sustained in tax years beginning **after** August 5, 1997, the NOL may be carried back two years instead of three years (with an exception for certain disaster losses), but may be carried forward for 20 years.
- For taxpayers eligible for the five-year carryback of NOLs arising in tax years ending in 2001 and 2002 for federal tax purposes, a five-year carryback is allowed for purposes of computing the New York State NOLD under Article 9-A.
- A New York S year is treated as a tax year for purposes of determining the number of tax years to which the NOL may be carried back or forward (Tax Law section 208.9(f)(4)).

- The New York State NOL carryback is computed as if the corporation elected under IRC section 172 to relinquish the carryback provisions, except for the first \$10,000 for each loss year that may be carried back to preceding years.
- Any portion of the New York State \$10,000 NOL carryback that was not carried back to preceding years may be carried forward.
- The New York NOLD for any particular year is limited to the federal NOLD for that year. (For the purposes of this limitation, a corporation that has elected to carryback up to \$10,000 of its NOL for New York State purposes should compute its federal NOLD as if it only carried back the same \$10,000.)
- You may elect to relinquish the carryback period. The election must be filed on or before the due date (or extended due date) of the return for the loss year. Any corporation that does not make an election on time must carry back the first \$10,000 of the NOL before the loss can be carried forward.

Line 13 — Use this line if one or more of the following applies:

- The corporation claims the federal ACRS/MACRS deduction for property placed in service either **inside or outside** New York State after 1980 in tax periods beginning before 1985; **or**
- The corporation claims the federal ACRS/MACRS deduction for property placed in service **outside** New York State in tax periods beginning after 1984 and before tax periods beginning in 1994, and the corporation made the election to continue using the IRC section 167 depreciation deduction for the property.
- The corporation claims the 30%/50% federal special depreciation deduction under IRC section 168(k) (excluding qualified resurgence zone property described in section 208.9(q) of the Tax Law or qualified New York liberty zone property described in IRC section 1400L(b)(2)) for property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002; **or**
- The corporation disposes of ACRS/MACRS property or property for which you claimed the 30%/50% federal special depreciation this year and the New York State depreciation modifications applied in prior years.

Enter the amount from Form CT-399, Part I, line 1, column I; if you have disposed of property this year, enter the amount from Form CT-399, Part III, line 8, column B, and attach Form CT-399. For more information, see Form CT-399-I, *Instructions for Form CT-399*.

Line 14 — If you have any of the following other subtractions from FTI, enter the total amount of those subtractions and attach a list.

S-1 If you have receipts from the operation of school buses, include all receipts from the transportation of pupils, teachers, and others acting in a supervisory capacity to and from school or school activities, minus deductions allowed in computing federal income that are directly or indirectly attributable to those receipts.

S-2 Include any refund or credit of a tax imposed under Article 9-A or Article 32 of the Tax Law, for which no exclusion or deduction was allowed in determining the taxpayer's ENI for any prior year, or any refund or credit of a tax imposed under section 183, 183-a, 184, or 184-a of the Tax Law. Do not include on this line any refund or credit of tax that was used to offset an addition of tax on line 5. Do not include any refund or credit of New York City taxes.

S-3 Include the amount of wages disallowed under IRC section 280C in the computation of your FTI because you claimed a federal credit. Attach a copy of the appropriate federal credit form.

S-4 If your corporation has a safe harbor lease, you must include both of the following:

- Any amount included in your FTI solely as a result of an election made under IRC section 168(f)(8) as it was in effect on December 31, 1983; **and**
- Any amount you could have excluded from FTI if you had not made the election provided for in IRC section 168(f)(8) as it was in effect on December 31, 1983. Leases for qualified mass-commuting vehicles as determined in IRC section 103(b)(9) are exempt from these adjustments.

S-5 You may defer the gain on the sale of QETI that are held for more than 36 months and rolled over into the purchase of a QETI within 365 days. A replacement QETI must be purchased within the 365-day period beginning on the date of sale. Gain is not deferred and must be recognized to the extent that the amount realized on the sale of the

original QETI exceeds the cost of replacement QETI. The gain deferral applies to any QETI sold on or after March 12, 1998, that meets the holding-period criteria. The gain deferred must be added back in the year the replacement QETI is sold.

If you elect the gain deferral, deduct from FTI the amount of the gain deferral (to the extent the gain is included in FTI). If purchase of the replacement QETI within the 365-day period occurs in the same tax year as the sale of the original QETI, or in the following tax year and before the date the corporation's franchise tax return is filed, take the deduction on that return. If purchase of the replacement QETI within the 365-day period occurs in the following tax year and on or after the date the corporation's franchise tax return is filed, you must file an amended return to claim the deduction. For additional information, see TSB-M-98(7)C, *1998 Summary of Corporation Tax Legislative Changes*, pages 5 and 6.

S-6 Victims or targets of Nazi persecution: Include the amount received (including accumulated interest) from an eligible settlement fund, or from an eligible grantor trust established for the benefit of these victims or targets, if included in FTI. Do not include amounts received from assets acquired with such assets or with the proceeds from the sale of such assets (Article 1, section 13 of the Tax Law).

S-7 Qualified public utility corporations and transferees must make the required subtractions under section 208.9(c-2) of the Tax Law. Qualified power producers and qualified pipeline corporations must make the required subtractions under section 208.9(c-3) of the Tax Law. For additional information, see instructions for Form CT-3-S-ATT, Schedule E, on page 17.

S-8 Amount of related member royalty and interest income required to be subtracted pursuant to Tax Law section 208.9(o).

S-9 Amount of SUV recapture required to be subtracted pursuant to Tax Law section 208.9(a)(16).

Line 16 — Subtract line 15 from line 8 to determine your ENI. To show a loss, use parentheses. If line 16 is a loss, without regard to the deduction on line 12, complete the *Net operating loss carryback election* on the back of Form CT-3-S, *New York S Corporation Franchise Tax Return*.

Lines 17 through 21 – Entire net income base — The *ENI base* is the portion of your ENI allocated to New York State with certain adjustments. It may consist of both business and investment income.

Use Form CT-3-S-ATT, Schedule A, Part I, II, or III to compute your business allocation percentage.

Use Form CT-3-S-ATT, Schedule D, Part I and II to compute your investment income and investment allocation percentage.

Line 17 — Complete Form CT-3-S-ATT, Schedule D, Part II, and enter the amount of your investment income from line 70. Do not enter more than the amount from line 16. If you had no investment income, enter "0" and do not use Schedule D of Form CT-3-S-ATT.

Line 20 — Multiply line 18 by your business allocation percentage from Form CT-3-S-ATT, Schedule A, line 19, 27, or 29. If you claim a business allocation percentage of 100%, enter the full amount from line 18 and do not use Schedule A.

Computation of tax

To avoid an erroneous assessment or a delay of your refund, you must enter an amount in the *Gross payroll*, *Total receipts*, and *Average value of gross assets* boxes provided on Form CT-3-S, lines 22 through 24. If you do not have payroll, receipts, or assets, enter "0" in the appropriate box(es).

Line 22 – Gross payroll — Include total wages, salaries, and other personal services compensation of all employees, including general executive officers, wherever located. For a short period (less than 12 months), annualize gross payroll by dividing it by the number of months in the short period and multiplying the result by 12.

Use the total amounts shown on federal Form 1120S, lines 7 and 8, including any employment credits deducted on line 8, plus any wages included in the cost of goods sold, Form 1120S, Schedule A, line 3.

Line 23 – Total receipts — Include the receipts from the sale of tangible personal property, services performed, rentals, royalties, receipts from the sales of rights for closed circuit and cable television

transmissions, and all other business receipts received in the regular course of business. For a short period, annualize total receipts by dividing by the number of months in the short period and multiplying the result by 12. Include the amount reported on federal Form 1120S, *Income* section, lines 1c and 5, and the amount that you would have reported on federal Form 1120 or 1120-A, *Income* section, lines 6 and 7. **Do not include** any nonbusiness dividends, nonbusiness interest, or business or investment gains or losses.

Line 24 – Average value of gross assets — The average fair market value of real property and marketable securities, plus all other property at the value shown on your books, in accordance with generally accepted accounting principles (GAAP). Use the amount from Form CT-3-S-ATT, line 34, column C.

Line 25 – Fixed dollar minimum tax — Determined by your gross payroll, total receipts, and average value of gross assets. See *Fixed dollar minimum tax schedule* on page 5 to determine the applicable fixed dollar minimum tax. The fixed dollar minimum tax may be reduced for short periods. See *Short periods — proration of fixed dollar minimum tax and maintenance fee* on page 5 for the appropriate reduction for short periods.

Line 26 — If you claimed any New York State tax credits during any year prior to becoming a New York S corporation and the property on which you claimed the credit is disposed of or ceases to be in qualified use, you must recapture some or all of the credit. Use the appropriate credit form to compute the recaptured tax credits.

Lines 30 through 33 — Due to changes in the Tax Law, these lines **do not apply** for tax year 2003.

Lines 37 through 43 – Composition of prepayments — If additional space is necessary, enter **see attached** in this section and attach all relevant prepayment information.

Line 45 — If you underpaid your estimated tax, use Form CT-222 to compute the penalty. Attach Form CT-222, check the box, and enter the penalty on line 45. If no penalty is due, enter “0” on line 45.

Lines 46 and 47 — If you are not filing this return on time, you must pay interest and additional charges. See *Penalties and interest* on page 4.

Lines 49a and 49b — If you want to make a contribution to Return a Gift to Wildlife or the Breast Cancer Research and Education Fund, or both, enter the whole dollar amount(s) in the appropriate box(es). Enter the gift amount(s) on lines 49a and 49b. Your gift will increase your payment or reduce your overpayment. You may not change the amount(s) of your gift after you file the return.

Line 51 – Unrequested refunds to be credited forward
If you have overpaid your tax, you will not automatically receive a refund. Instead, we will credit your overpayment to the following tax year unless you indicate a refund on line 53. We will notify you that the overpayment has been credited and explain how to request a refund of the credited amount. If you choose to request a refund of such credited amount, you must claim a refund of such overpayment prior to the original due date of the following year's return.

Lines 52 and 53 — You may apply an overpayment as a credit to your next state franchise tax period or you may have it refunded. Indicate on lines 52 and 53 the amount of overpayment you wish to be credited or refunded.

Line 54 — Enter the amount of refundable special additional mortgage recording tax credit from Form CT-43, line 13. Do not include on this line any amount of special additional mortgage recording tax credit shown on Form CT-43, line 9.

Collection of debts from your refund — We will keep all or part of your refund if you owe a past-due legally enforceable debt to the Internal Revenue Service (IRS) or to a New York State agency. This includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or for a social services district. We will refund any amount over your debt.

If you have any questions about whether you owe a past-due legally enforceable debt to the IRS or to a state agency, contact the IRS or that particular state agency.

For New York State tax **liabilities only**, call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800), or write to NYS Tax Department, Tax Compliance Division, W A Harriman Campus, Albany NY 12227.

Line instructions for Form CT-3-S-ATT, Schedules A, B, C, D, and E

Schedule A, Parts I, II, and III provide for an allocation of business income and business capital both within and outside New York State. If you claim a business allocation percentage of less than 100%, you must complete the appropriate part of Schedule A to allocate your business income and capital. If you claim a business allocation percentage of 100%, you do not need to complete Schedule A. Enter 100% on Form CT-3-S, *New York S Corporation Franchise Tax Return*, line 20 and on Form CT-3-S-ATT, Schedule B, line 42.

Schedule A, Part I, Computation of business allocation percentage

The *property factor* is the percentage of the average value of your real and tangible personal property, whether owned or rented, that is located within New York State. The *business receipts factor* is the percentage of your business receipts attributable to New York State. The *payroll factor* is the percentage of your payroll that is attributable to New York State.

Lines 1 through 5 — Enter the New York State amounts in column A and the total amounts in column B.

You must value real and tangible personal property owned by the corporation at the adjusted basis for federal income tax purposes. However, you may make a one-time, revocable election to value real and tangible personal property at fair market value. You must make this election on or before the due date (or extended due date) for filing the franchise tax return for your first tax year.

Line 1 — Enter the average value of real property you owned. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

Line 2 — Enter the average value of real property rented to you as lessee. The value of rented real property is generally eight times the gross rent payable during the year covered by this return. *Gross rent* includes any amount payable as rent or in lieu of rent (such as taxes or repairs) and amortization of leasehold improvements that revert to the lessor at the end of the lease.

Line 3 — Enter the average value of inventories.

Line 4 — Enter the average value of tangible personal property you owned, such as machinery, tools, and implements. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of credit.

Line 5 — Enter the average value of tangible personal property rented to you as lessee. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

Lines 8 and 9 — Receipts from the sale of tangible personal property are allocable to New York State if (1) shipments are made to points in New York State, **or** (2) the receipts are earned within New York State.

Receipts from the sale of tangible personal property are allocated to New York State if:

- The property is shipped via common carrier, contract carrier, or via the taxpayer's vehicle or other means of transportation, to a point in New York State. If the property is shipped to a point in New York State, it is presumed that the destination of the property is a point in New York State, unless the taxpayer has evidence that shows the property was shipped to a point outside New York State. It doesn't matter who arranges for the shipment of the property.

- The possession of the property is transferred to a purchaser or purchaser's designee at a point in New York State. If possession of the property is transferred in New York State, it is presumed that the destination of the property is a point in New York State, unless the taxpayer has evidence that shows that the destination of the property is a point outside New York State.
- The possession of the property is transferred to a purchaser or purchaser's designee at a point outside New York State, if the destination of the property is a point in New York State. If possession of the property is transferred outside New York State, it is presumed that the destination of the property is a point outside New York State, unless the taxpayer has evidence that shows the destination of the property is a point in New York State.

Examples of types of evidence sufficient to demonstrate the destination of property include (1) a bill of lading or other shipping document designating the destination location, regardless of the free on board (FOB) point, and (2) a purchase invoice designating the destination location.

The Arts and Cultural Affairs Law

The Arts and Cultural Affairs Law provides that receipts from the sale of works of art, by an art merchant, are receipts from the sale of tangible personal property (rather than receipts for services performed).

This provision applies to works of art that are:

- created by an artist or craftsman; **and**
- consigned by such artist or craftsman to an art merchant; **and**
- sold by the art merchant on and after August 9, 1995.

The provision does not apply to consigned works of art sold at a public auction.

Line 10 — Enter receipts for services performed based on where they are performed.

Receipts from broadcasting or publishing — Corporations engaged in broadcasting or the publication of newspapers and periodicals must allocate to New York State receipts from the sale of advertising to the extent that the broadcasts or publications are delivered to the ultimate purchasers, subscribers, listeners, or viewers in New York State.

Receipts for services to regulated investment companies

The receipts received from an investment company for the sale of management, administration, or distribution services must be allocated based on the domicile of the shareholders of the investment company (section 210.3(a)(6)(A)(ii)). For more information, see TSB-M-88(9)C, *Allocation of Receipts from services provided to a Regulated Investment Company (Mutual Fund) and Similar Investment Companies*.

Receipts earned by registered securities and commodities dealers

— The rules below apply for determining whether a receipt is deemed to arise from services performed in New York State by a registered securities or commodities broker or dealer for purposes of computing the receipts factor of the business allocation percentage (section 210.3(a)(9)(A)). A *registered securities or commodities broker or dealer* is a broker or dealer who is registered by the Securities and Exchange Commission or the Commodities Futures Trading Commission. The terms securities and commodities have the same meanings as the meanings in IRC sections 475(c)(2) and 475(e)(2).

- **Brokerage commissions** — Brokerage commissions earned from the execution of securities or commodities purchase or sales orders for the accounts of customers are deemed to arise from a service performed in New York State if the customer who is responsible for paying the commissions is located in New York State.
- **Margin interest** — Margin interest earned on brokerage accounts is deemed to arise from a service performed in New York State if the customer who is responsible for paying the margin interest is located in New York State.
- **Account maintenance fees** — Account maintenance fees are deemed to arise from a service performed in New York State if the customer who is responsible for paying the account maintenance fees is located in New York State.
- **Income from principal transactions** — Gross income from principal transactions (that is, transactions where the registered broker or dealer is acting as principal for its own account, rather than as an agent for the customer) are deemed to arise from a

service performed in New York State if the production credits for these transactions are awarded to a New York State branch, office, or employee of the taxpayer.

- **Fees from advisory services for the underwriting of securities** — Fees earned from advisory service for a customer in connection with the underwriting of securities (where the customer is the entity contemplating the issuance of the securities or is issuing securities) or for the management of an underwriting of securities are deemed to arise from a service performed in New York State if the customer responsible for paying the fee is located in New York State.
- **Receipts from the primary spread for the underwriting of securities** — Receipts from the primary spread or selling concession from underwritten securities are deemed to arise from a service performed in New York State if production credits are awarded to a branch, office, or employee of the taxpayer in New York State as a result of the sale of underwritten securities.
- **Interest earned on loans to affiliates** — Interest earned on loans and advances made by a taxpayer to an affiliate with whom they are not required or permitted to file a combined return are deemed to arise from a service performed in New York State if the principal place of business of the affiliate who is responsible for the payment of interest is located in New York State.
- **Fees for management or advisory services** — Fees earned from management or advisory services, including fees from advisory services for activities relating to mergers or acquisition activities, are deemed to arise from a service performed in New York State if the customer responsible for paying these fees is located in New York State.

A customer is located in New York State if the mailing address of the customer that appears in the broker's or dealer's records is in New York State.

Receipts for services by air freight forwarders — Receipts for services performed by air freight forwarders acting as principal, and like indirect air carriers, are allocated to New York State as follows:

Receipts from:	Allocate receipts
• Pickup and deliveries both made in New York State	100% to New York State
• Pickup only made in New York State	50% to New York State
• Delivery only made in New York State	50% to New York State

Receipts for transporting or transmitting gas through pipes

Receipts from the service of transporting or transmitting gas through pipes are allocated to New York State using the following fraction:

$$\frac{\text{miles of transportation units within New York State}}{\text{miles of transportation units within and outside New York State}} \times \frac{\text{Receipts from the service of transporting or transmitting gas through pipes}}{\text{Receipts from the service of transporting or transmitting gas through pipes allocated to New York State}} = \text{Receipts from the service of transporting or transmitting gas through pipes allocated to New York State}$$

A *transportation unit* is the transportation of one cubic foot of gas over a distance of one mile.

Line 11 — Enter receipts from all property you rented to others. Rental receipts are attributable to the location of the property.

Line 12 — Enter receipts from royalties, allocated where earned.

Line 13 — Enter all other business receipts, allocated where earned.

Line 16 — Enter the total amount of all wages and compensation of employees other than general executive officers.

General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either inside or outside New York State is not a general executive officer. Employees within New York State include all employees regularly connected with or working out of an office or other place of business you maintained within New York State, no matter where the services of the employees were performed.

Line 19 — Divide line 18 by three or by the number of factors. This is your allocation percentage for business income and capital. Enter this amount on Form CT-3-S, line 20, and on Form CT-3-S-ATT, Schedule B,

line 42. If a factor is missing, add the remaining factors and divide by the total number of factors present. If all factors but one are missing, the remaining factor is the allocation percentage. A factor is missing only if both column A and column B are zero.

Example: *Computation of allocation percentage for business income and capital:*

	Corp. A	Corp. B	Corp. C
Property factor	80%	60%	60%
Receipts factor	20%	30%	30%
Payroll factor	60%	0%*	None*
Total	160%	90%	90%
Divided by	3	3	2
Allocation percentage for business income and capital	53%	30%	45%

* In the example above, Corporation C has no payroll factor since it has no employees either inside or outside New York State. Corporation B has no employees in New York State but has employees outside New York State.

Schedule A, Part II — Computation of business allocation percentage for aviation corporations

Business allocation percentage for aviation corporations — Only 60% of the New York revenue (revenue aircraft arrivals and departures, revenue tons handled, and originating revenue) will be included in the numerator of each of the three allocations factors on lines 20c, 22c, and 24c when calculating the business allocation for aviation corporations (section 210.3(a)(7)(A)).

Line 20a — Aircraft arrivals and departures — Enter the number of landings and takeoffs of an aircraft of an aviation corporation and the number of pickups and deliveries by the aircraft. Do not include arrivals and departures for maintenance, repair, refueling (where no debarkation or embarkation of traffic occurs), training, emergencies, and nonrevenue flights.

Line 22a — Revenue tons handled — Enter the weight, in tons, of revenue passengers (at 200 pounds per passenger) and revenue cargo first received as originating or connecting traffic, or finally discharged at an airport.

Line 24a — Originating revenue — Enter revenue from the transportation of revenue passengers and revenue property first received as originating or connecting traffic.

Schedule A, Part III — Computation of business allocation percentage for trucking and railroad corporations

Trucking and railroad corporations that have not made an election to remain taxable under Article 9 are taxable under Article 9-A.

Use Schedule A, Part III to compute the business allocation percentage. The business allocation percentage is computed on the basis of mileage and is used to allocate business income when determining the ENI base.

The *mileage allocation* is a percentage based on the number of revenue miles traveled within New York State, compared to the total revenue miles traveled everywhere (exclude nonrevenue miles, such as deadheading miles).

Line 28 — Enter in column A the number of revenue miles within New York State. Enter in column B the number of revenue miles everywhere.

Schedule B — Computation and allocation of capital

To determine the value of your assets for the capital base computations, you must include real property and marketable securities at fair market value. All other property must be included at the value shown on your books in accordance with generally accepted accounting principles (GAAP). Use lines 30 through 34 to adjust the assets you reported on your federal return. If you are not required to complete the balance sheet on your federal tax return, use the amount which would have been reported on the federal return.

On lines 30 through 35, enter the values at the beginning of the year in column A and at the end of the year in column B. Enter the average value in column C. Average value is generally computed quarterly if your usual accounting practice permits it. However, you may use a more frequent basis such as monthly, weekly, or daily. If your usual accounting practice does not permit a quarterly or more frequent computation of the average value of assets, you may use a semiannual or annual computation if no distortion of average value results.

Line 33 — Enter the fair market value of real property and marketable securities included on line 31. The *fair market value* of an asset is the price (without deduction of an encumbrance, whether or not the taxpayer is personally liable) at which a willing seller will sell and a willing purchaser will buy. You can generally find the fair market value of marketable securities from price quotes in financial newspapers. To determine fair market value of real property, see TSB-M-85(18.1)C, *Valuation of Real Property*, and NYS Regulations section 3-3.5.

Line 35 — Enter the amount of all liabilities (both long and short term) when computing the capital base. Use the same method of averaging that you used to determine average value of assets.

Schedule C — Computation of subsidiary capital and subsidiary income

Complete Schedule C if you have any subsidiaries. A *subsidiary* is a corporation (not including a DISC) that is controlled by the taxpayer, because the taxpayer owns more than 50% of the total number of shares of the corporation's voting capital stock, issued and outstanding.

The test of ownership is actual beneficial ownership, rather than mere record title as shown by the stock books of the issuing corporation. Actual beneficial ownership of stock does not mean indirect ownership or control of a corporation through a corporate structure consisting of several tiers, chains, or both. A limited liability company (LLC) that is more than 50% owned by the taxpayer and has elected to be treated as a corporation for federal tax purposes is a subsidiary. For more information, see NYS Regulations section 3-6.2.

Schedule C, Part I — Computation and allocation of subsidiary capital

Subsidiary capital is the taxpayer's total investment in shares of capital stock of its subsidiaries and the amount of indebtedness owed to the taxpayer by its subsidiaries (whether or not evidenced by written instruments) on which interest is not claimed and deducted by the subsidiary against any tax imposed by Articles 9-A, 32, or 33, minus liabilities directly or indirectly attributable to subsidiary capital.

When computing the amount of indebtedness owed to the taxpayer by its subsidiaries, consider each subsidiary separately. Loans and advances from the parent to the subsidiary may be offset by loans and advances from the same subsidiary to the parent, but may not be reduced to less than zero. Loans and advances from a subsidiary to the parent may not offset the parent's investment in the stock of the subsidiary or offset loans and advances from the parent to any other subsidiary.

Subsidiary capital does not include accounts receivable acquired in the ordinary course of trade or business, either for services rendered or for the sale of property primarily held for sale to customers. Each item of subsidiary capital must be reduced by any of the parent's liabilities that are directly or indirectly attributable to that item of subsidiary capital.

Do not include stocks, bonds, and other securities issued by, and any indebtedness from, a QSSS in the computation of subsidiary capital if the QSSS is included in the parent's return (see page 3).

Column C — Enter the average value of each item of your investment in subsidiaries. Average value is generally computed quarterly if your usual accounting practice permits. However, you may use a more frequent basis such as a monthly, weekly, or daily average. If your usual accounting practice does not permit a quarterly or more frequent computation of average value, you may use a semiannual or annual computation if no distortion of average value results. Value marketable securities at fair market value, and other property using GAAP.

Column D — Deduct all liabilities, both long-term and short-term, directly or indirectly attributable to subsidiary capital. Use the same method of averaging used to determine the average value of assets in column C. Enter, for each item of subsidiary capital listed in column A, the liabilities directly or indirectly attributable to it. Liabilities directly attributable to an asset (stock or debt) are those that were incurred to acquire that asset.

Use the worksheet below to determine the amount of liabilities indirectly attributable to a particular asset.

In column D, on the line for the asset in question, include the sum of the amount from line O of this worksheet and the amount of liabilities directly attributable to that asset.

Column D Worksheet

A. Total liabilities (enter amount from Form CT-3-S-ATT, Schedule B, line 35, column C)	A. _____
Liabilities directly attributable to:	
B. Subsidiary capital	B. _____
C. Investment capital	C. _____
D. Business capital	D. _____
E. Total liabilities directly attributable (add lines B, C, and D)	E. _____
F. Total liabilities indirectly attributable (subtract line E from line A)	F. _____
G. Average value of subsidiary capital (enter amount from Form CT-3-S-ATT, Schedule C, Part I, line 45, column C)	G. _____
H. Average value of adjusted total assets (enter amount from Form CT-3-S-ATT, Schedule B, line 34, column C)	H. _____
I. Divide line G by line H	I. _____ %
J. Multiply line F by line I	J. _____
K. Value of the particular asset shown in Schedule C, Part I, column C	K. _____
L. Enter amount from line G	L. _____
M. Divide line K by line L	M. _____ %
N. Enter amount from line J	N. _____
O. Liabilities indirectly attributable to a particular asset (multiply line M by line N)	O. _____

Column E — Determine the net average value of each item listed in column A by subtracting column D from column C. If the net average value of any item is less than zero, enter "0."

Column F — Enter the issuer's allocation percentage for each item listed in column A. The issuer's allocation percentage is used to compute the amount of subsidiary capital 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, or other security and represents that corporation's amount of capital employed in New York State as compared to total capital employed everywhere.

If the corporation that issued the stock, bond, or other security is not required to file a New York State corporation franchise tax return, its issuer's allocation percentage is zero.

Always enter the issuer's allocation percentage from the first year preceding the current tax year. For example, if the New York S corporation is computing Schedule C for 2003, enter the issuer's allocation percentage obtained from the issuer's 2002 tax return.

Issuer's allocation percentages are available on the Tax Department's Web site, by telephone, or by written request. You may obtain up to three issuer's allocation percentages by calling us. To obtain more than three, you must access our Web site or make a written request. See the *Need help?* section on page 23. Issuer's allocation percentages are also available from many online and printed tax services.

Column G — Multiply net average value, column E, of each item listed in column A by its issuer's allocation percentage in column F. This is the value of subsidiary capital allocated to New York State.

Schedule C, Part II — Income attributable to subsidiary capital

Lines 48 through 50 — Enter the amount of interest, dividends, and capital gains attributable to subsidiary capital. In addition, include on line 50 items such as collapsible corporation gain and gain on the sale of subsidiary capital that is not a capital asset for federal tax purposes.

Schedule D, Part I — Computation of investment capital and investment allocation percentage

The term *investment capital* means the value of the taxpayer's investments in stocks, bonds, and other corporate or government securities, reduced by directly and indirectly attributable liabilities.

Do not include stocks, bonds, and other securities issued by, and any indebtedness from, a QSSS in the computation of investment capital if the QSSS is included in the parent's return (see page 3).

The term *instrument* includes stock and debt held in book entry form.

Include in investment capital only those stocks, bonds, or other securities that are:

1. Stocks and similar corporate equity instruments (such as business trust certificates, and units in a publicly traded partnership taxable as a corporation pursuant to section 208.1 of the Tax Law).
2. Debt instruments (such as bonds) issued by the United States, the District of Columbia, and any state, territory, or possession of the United States, any foreign country, or any political subdivision or governmental instrumentality of the foregoing.
3. Qualifying corporate debt instruments (see *Section 1* below).
4. Options on any item described in 1, 2, or 3 above and not excluded from investment capital nor deemed to be cash (see *Instruments deemed cash* on the next page), or on a stock or bond index, or on a futures contract on such an index, unless the options are purchased primarily to diminish the taxpayer's risk of loss from holding one or more positions in assets that constitute business or subsidiary capital.
5. Stock rights and stock warrants not in the possession of the issuer.
6. Investments in stocks, bonds, and other securities of an LLC that is not 50% or more owned by the taxpayer and has elected to be treated as a corporation for federal tax purposes.

Investment capital **does not** include:

- Stock issued by the taxpayer.
- Stocks, bonds, or other securities constituting subsidiary capital (see Tax Law section 208.4). Debt instruments issued by a subsidiary are not subsidiary capital if the subsidiary claimed and deducted interest on the instruments under Article 9-A, 32, or 33 of the Tax Law.
- Securities of an individual, partnership, trust, or other nongovernmental entity that is not a corporation pursuant to section 208.1 of the Tax Law (such as FNMA and GNMA pass-through certificates).
- Stocks, bonds, and other securities of a DISC, or any indebtedness from a DISC.
- Regular and residual interests in a real estate mortgage investment conduit (REMIC) as defined in IRC section 860D.
- Futures and forward contracts.
- Stocks, bonds, and other securities held by the taxpayer for sale to customers in the regular course of business.

If you **own** a stock, bond, or other security that is subject to a repurchase agreement, include this instrument as investment capital. Do not include it if it is held as collateral. See NYS Regulations section 3-3.2(f) for a full discussion of securities held subject to a repurchase agreement.

Part I categorizes investment capital into two sections:

Section I — Corporate and governmental debt instruments.

Section II — Corporate stock, stock rights, stock warrants, and stock options.

Section I — Corporate and governmental debt instruments

Column A — List investments in governmental and qualifying corporate debt instruments (including certificates of deposit), debt instruments issued by the U.S., any state, territory, or possession of the U.S., the District of Columbia, or any foreign country or any political subdivision or government instrumentality of any of the foregoing. Do not include instruments deemed to be cash. See *Instruments deemed cash* below.

The term *qualifying corporate debt instrument* means all debt instruments issued by a corporation **other than** the following:

- Instruments issued by the taxpayer or a DISC.
- Instruments that constitute subsidiary capital in the hands of the taxpayer.
- Instruments acquired by the taxpayer for services rendered or for the sale, rental, or other transfer of property, if the obligor is the recipient of the services or property. However, when a taxpayer sells or otherwise transfers property that is investment capital in the taxpayer's hands and receives in return a corporate obligation issued by the recipient of the property, the corporate obligation, if it is not otherwise excluded from investment capital, would constitute investment capital in the hands of the taxpayer.
- Instruments acquired for funds if (1) the obligor is the recipient of the funds, (2) the taxpayer is principally engaged in the business of lending funds, and (3) the obligation is acquired in the regular course of the taxpayer's business of lending funds. A taxpayer is principally engaged in the business of lending funds if, during the tax year, more than 50% of its gross receipts consist of interest income from loans or net gain from the sale or redemption of notes or other evidences of indebtedness arising from loans made by the taxpayer. Receipts do not include return of principal or nonrecurring, extraordinary items.
- Accepted drafts (such as banker's acceptances and trade acceptances) if the taxpayer is the drawer of the draft.
- Instruments issued by a corporation that is a member of an affiliated group that includes the taxpayer. An *affiliated group* is a corporation or corporations and the common parent thereof.

A *common parent* means an individual, corporation, partnership, trust, or estate that owns or controls, either directly or indirectly, at least 80% of the voting stock of the corporation or corporations. An affiliated group also includes all other corporations with at least 80% of the voting stock owned or controlled, either directly or indirectly, by one or more of the corporations included in the affiliated group or by the common parent and one or more of the corporations included in the affiliated group.

- Accounts receivable, including those held by a factor.

Instruments deemed cash — A debt instrument described above or included in investment capital must be treated as cash if it is payable:

- on demand;
- by its terms within six months and one day from the date the debt was incurred; or
- by its terms more than six months and one day from the date the debt was incurred, on each day in the tax year on and after the first day in the tax year that is not more than six months and one day prior to the maturity date (see *Examples* below).

Cash, under some circumstances, may be treated as investment capital. See the instructions for line 54 on page 16.

Examples:

1. A calendar-year taxpayer owns a municipal bond with a maturity date of January 1, 2004. As of July 30, 2003, the first day not more than six months and one day before the maturity date, and on each day thereafter, the bond is deemed to be cash. The bond should be included in Section I, but in computing the average value of the bond and attributable liabilities, the taxpayer should be treated as no longer owning the bond on any date on or after July 30, 2003. The value of the bond should then be treated as cash for each day the taxpayer continues to own the bond after July 29, 2003.
2. A taxpayer purchased a four-month qualifying corporate debt instrument on the day it was issued, and on the maturity date, renewed it for an additional four-month term. The two four-month debt instruments are deemed to be cash. The renewal of the first four-month debt instrument is treated as the creation of a second,

separate debt instrument, each of the two instruments being due within six months and one day of the date on which the debt was incurred.

3. A calendar-year taxpayer owns a five-year qualifying marketable corporate bond with a maturity date of January 1, 2004. The taxpayer also owns corporate stock, but has no cash at any point during the 2003 tax year. The bond is deemed to be cash as of July 1, 2003, the date six months and one day prior to maturity. The fair market value of the bond is \$95,000 on March 31, 2003, \$90,000 on June 30, 2003, \$98,000 on September 30, 2003, and \$100,000 on December 31, 2003. The bond should be listed in Section I, column A, because it qualifies as investment capital. Its average value, to be stated in Section I, column C, is computed as $(\$95,000 + \$90,000 + 0 + 0)/4 = \$46,250$. The use of the zeros represents the fact that the taxpayer owned no cash on March 31 or June 30. The figures \$98,000 and \$100,000 represent the fact that the taxpayer is deemed to own cash in these amounts on September 30 and December 31, respectively. The taxpayer had liabilities attributable to the bond. The amount of the liabilities should be treated in conformity with the above treatment of the value of the bond itself. Thus, the liabilities, that were in the amount of \$10,000, \$12,000, \$8,000, and \$6,000 on the four test dates yield an average liability of \$5,500 attributable to the listed bond $[(\$10,000 + \$12,000 + 0 + 0)/4 = \$5,500]$, to be entered in column D of Section I, and an average liability of \$3,500 $[(0 + 0 + \$8,000 + \$6,000)/4 = \$3,500]$ to be applied to determine the net average value of the taxpayer's cash. If the taxpayer elects to treat the deemed cash as investment capital, it would include \$49,500 on line 54, column C, and \$3,500 on line 54, column D. If the cash election is not made, the \$49,500, reduced by \$3,500, would constitute business capital.
4. A taxpayer purchased a debt instrument includable in Section I with a maturity date of December 15, 2003. Any such investment will be deemed cash on the same numerical date as the maturity date, less one day, six months prior. Thus, the date on which this debt instrument becomes cash is June 14, 2003.

Section II — Corporate stock, stock rights, stock warrants, and stock options

Column A — List investments in the following:

- Stock issued by a corporation.
- Options as described in item 4 of the definition of investment capital on page 14.
- Units in a publicly traded partnership treated as a corporation for purposes of Article 9-A of the Tax Law.
- Business trust certificates.
- Stock rights and stock warrants not in the possession of the issuer.
- Other corporate equity instruments similar to stock.

Sections I and II — Columns C through G

Column C — Enter the total average fair market value of each item listed in column A. On any date, the fair market value of stocks, bonds, and other regularly traded securities is the mean between the highest and lowest selling prices. The average value is generally computed quarterly if your usual accounting practice permits it, but you may use a monthly, weekly, or daily average. If your usual accounting practice does not permit a quarterly or more frequent computation of average fair market value, you may use a semiannual or annual computation if no distortion of average fair market value results. If the security is not marketable, value it using GAAP.

When a debt instrument ceases to be treated as investment capital in Section I and is treated as cash because of the six month and one day rule, compute the column C average value of the debt instrument and the column C average value of cash as shown in example 3 above.

Column D — Deduct all liabilities, both long-term and short-term, directly or indirectly attributable to investment capital. Use the same method of averaging used to determine the average value of assets in column C. Enter, for each item of investment capital listed in column A, the sum of the liabilities directly or indirectly attributable to it. Liabilities directly attributable to an asset are those that were incurred to acquire that asset. When a debt instrument ceases to be treated as investment

capital in Section I and is treated as cash because of the six month and one day rule, compute the column D liabilities of the debt instrument and the column D liabilities of cash as shown in example 3 on page 15.

Use the worksheet below to determine the amount of liabilities indirectly attributable to a particular asset.

In column D, on the line for the asset in question, include the sum of the amount from line O of this worksheet and the amount of liabilities directly attributable to that asset.

Column D Worksheet

A. Total liabilities (enter amount from Form CT-3-S-ATT, Schedule B, line 35, column C)	A. _____
Liabilities directly attributable to:	
B. Subsidiary capital	B. _____
C. Investment capital	C. _____
D. Business capital	D. _____
E. Total liabilities directly attributable (add lines B, C, and D)	E. _____
F. Total liabilities indirectly attributable (subtract line E from line A)	F. _____
G. Average value of investment capital (enter amount from Form CT-3-S-ATT, Schedule D, Part I, line 55, column C)	G. _____
H. Average value of adjusted total assets (enter amount from Form CT-3-S-ATT, Schedule B, line 34, column C)	H. _____
I. Divide line G by line H	I. _____ %
J. Multiply line F by line I	J. _____
K. Value of the particular asset shown in Schedule D, Part I, column C	K. _____
L. Enter amount from line G	L. _____
M. Divide line K by line L	M. _____ %
N. Enter amount from line J	N. _____
O. Liabilities indirectly attributable to a particular asset (multiply line M by line N)	O. _____

Column E — Determine the net average value of each item listed in column A by subtracting column D from column C. If the net average value of any item is less than zero, enter "0."

Column F — Enter the issuer's allocation percentage for each investment listed in column A. The issuer's allocation percentage is used to compute the amount of investment capital 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, or other security and represents that corporation's amount of capital employed in New York State as compared to total capital employed everywhere.

If the corporation that issued the stock, bond, or other security is not required to file a New York State corporation franchise tax return, its issuer's allocation percentage is zero.

The issuer's allocation percentage is zero for all governmental securities.

Always enter the issuer's allocation percentage from the first year preceding the current tax year. For example, if the New York S corporation is computing Schedule D for 2003, enter the issuer's allocation percentage obtained from the issuer's 2002 tax return.

Issuer's allocation percentages are available on the Tax Department's Web site, by telephone, or by written request. You may obtain up to three issuer's allocation percentages by calling us. To obtain more than three, you must make a written request or access our Web site. See the *Need help?* section on page 23. Issuer's allocation percentages are also available from many online and printed tax services.

Line 54 – Cash election — At the election of the taxpayer, cash on hand and cash on deposit may be treated as either investment capital or business capital. However, no election to treat cash as investment capital may be made when the taxpayer has no other investment capital.

Cash includes shares in a money market mutual fund. A *money market mutual fund* is a no-load, open-end investment company registered under the Federal Investment Company Act of 1940 that attempts to maintain a constant net asset value per share (that is, a *money market fund*). *Cash* also includes debt instruments deemed cash. See *Instruments deemed cash* on page 15.

Cash cannot be split between business capital and investment capital. It must be treated as all business capital or all investment capital.

Schedule D, Part II — Computation of investment income for allocation

Complete this schedule if you are allocating part of your ENI by using an investment allocation percentage from Schedule D, Part I. *Investment income* is income from investment capital to the extent it is included in ENI, minus deductions allowable in computing ENI that are attributable to investment capital or investment income, and minus a portion of any NOLD allowable in computing ENI.

Income from investment capital includes dividends (other than from a subsidiary or a DISC), interest, and capital gains and losses from sales or exchanges of investment capital that are included in the computation of ENI. Professional service corporations (Article 15 or 15-A of the Business Corporation Law) must use an investment allocation percentage of 100% (section 210.3(b)(3)).

Line 56 — Enter interest income received from investment capital listed in Schedule D, Part I, Section I, column A, to the extent included in ENI.

Line 57 — Enter interest income received from bank accounts (cash) if included on line 54. Include interest income received from a savings account, checking account, time deposit account (other than a certificate of deposit), or similar accounts that are usually evidenced by a passbook. Enter "0" on this line if the investment allocation percentage on line 53 is zero. Allocate this interest income by the business allocation percentage and included as business income.

Line 58 — Enter interest income from debt instruments deemed cash, including certificates of deposit, if included on line 54.

Line 59 — Enter dividend income received from investment capital listed in Schedule D, Part I, Section II, column A, or dividend income received from money market mutual funds included as cash on line 54, to the extent included in ENI. Include the following:

- 50% of dividends received from money market mutual funds included as cash on line 54. 50% of these dividends were deducted on Form CT-3-S, line 10.
- 50% of dividends received from nonsubsidiary stock that meets the holding requirements of IRC section 246(c). 50% of these dividends were deducted on Form CT-3-S, line 10.
- 50% of subpart F income constituting dividends received from a controlled foreign corporation in which you own 50% or less of the voting stock (see federal Form 1120, Schedule C, line 14). For additional information, see TSB-A-87 (23.1)C, *American International Group, Inc.* 50% of these dividends were deducted on Form CT-3-S, line 10.
- 100% of dividends received from nonsubsidiary stock that did not meet the holding requirements of IRC section 246(c).

Line 60 — Enter any net capital gains or losses from the sales and exchanges of securities constituting investment capital that were used in computing FTI.

Line 61 — Other items of investment income include but are not limited to premium income from an unexercised covered call option if the item that covers the call is an item constituting investment capital.

Line 63 — Enter the amount of interest deductions allowed in the computation of ENI (that is, includable in the amount on the *Line 65 Worksheet*, line E, on page 21) that are **directly** attributable to investment capital (or to income, losses, or gains from investment capital).

Line 64 — Enter the amount of **noninterest** deductions allowed in the computation of ENI (that is, includable in the amount on the *Line 66 Worksheet*, line E, on page 22) that are **directly** attributable to investment capital (or to income, losses, or gains from investment capital).

The direct attribution of deductions is based on an analysis of the facts and circumstances. Deductions directly attributable to investment capital or income include but are not limited to the following:

- interest on debt incurred to buy investment capital
- safe deposit box rentals
- financial news subscriptions
- salaries of employees engaged in the management and conservation of stocks, bonds, and other securities included in investment capital
- investment counsel fees
- custodian fees
- the cost of insurance and fidelity bonds covering investment capital
- expenses for legal advice relating to the acquisition of investment capital

Do not include on lines 63 and 64 interest deductions or noninterest deductions that are directly attributable to the following:

- Subsidiary capital (or to income, losses, or gains from subsidiary capital); see Form CT-3-S, lines 3a and 3b.
- Business capital (or to income, losses, or gains from business capital). **Note:** For tax years beginning in 1995 or after, certain expenses may, at the taxpayer's election, be deemed to be directly attributable to business capital (or income, losses, or gains from business capital). These expenses include, among others: depletion; advertising; research and development expenses; compensation packages of the chief executive officer, the chief financial officer, and the chief operating officer; charitable contributions; and internal auditing expenses. For a complete listing of deductions so deemed attributable to business capital, see TSB-M-95(2)C, *Attribution of Noninterest Deductions*, section III (A)(1).

If at least 95% of the noninterest deductions of an operating division or corporation are directly attributable to a particular class of capital or income, 100% of the noninterest deductions of that division or corporation may be directly attributed to that class of capital or income. See TSB-M-95(2)C, section IV for details.

Line 65 — Compute the amount of **interest** deductions that are **indirectly** attributable to investment capital (or to income, gains, or losses from investment capital) using the *Line 65 Worksheet* on page 21.

If you completed the *Line 4a Worksheet* on page 19 of these instructions, skip lines A through I on the *Line 65 Worksheet* and enter on line J the amount from the *Line 4a Worksheet*, line J.

Line 66 — Compute the amount of **noninterest** deductions that are **indirectly** attributable to investment capital, or to income, gains, or losses from investment capital, using *Line 66 Worksheet* on page 22.

If you completed the *Line 4b Worksheet* on page 20 of these instructions, skip lines A through I on the *Line 66 Worksheet* and enter on line J the amount from the *Line 4b Worksheet*, line J.

Line 69 — Apportion any NOLD claimed on Form CT-3-S, line 12, between business income and investment income. Divide investment income before deduction of any NOL (Schedule D, Part II, line 68) by ENI before deduction of any NOL (Form CT-3-S, line 16 plus line 12). Multiply the result by the NOLD. Enter this amount on line 69.

Schedule E — Qualified public utilities and transferees, qualified power producers, and qualified pipeline corporations

Qualified public utility corporations must adjust ENI to reflect modifications for depreciation and federal gain or loss on transition property, and for regulatory assets, pursuant to section 208.9(c-2) of the Tax Law. Complete Schedule E, Part I.

Transferees (whether or not qualified public utilities) of transition property from a qualified public utility in a tax-free transaction must adjust ENI to reflect modifications to federal gain or loss subsequently recognized on the transition property, pursuant to

section 208.9(c-2) (6)(B)(iv) of the Tax Law. Complete Schedule E, Part I, lines 78 and 79.

Qualified power producers and qualified pipeline corporations must adjust ENI to reflect modifications for depreciation on transition property, pursuant to section 208.9(c-3) of the Tax Law. Complete Schedule E, Part II.

A *qualified public utility* is a taxpayer that was (1) subject to rate-making supervision by the New York State Department of Public Service on December 31, 1999, and (2) subject to tax under section 186 of Article 9 of the Tax Law for the tax year ending on December 31, 1999.

A *qualified power producer* is a taxpayer that was (1) not subject to rate-making supervision by the New York State Department of Public Service on December 31, 1999, and (2) subject to tax under section 186 of Article 9 of the Tax Law for the tax year ending on December 31, 1999, on account of being principally engaged in the business of supplying electricity.

A *qualified pipeline* is a taxpayer that was (1) subject to rate-making supervision by the Federal Energy Regulatory Commission or the New York State Department of Public Service on December 31, 1999, and (2) subject to tax under sections 183 and 184 of Article 9 of the Tax Law for the tax year ending on December 31, 1999, on account of being principally engaged in the business of pipeline transmission.

Transition property is property placed in service by a qualified public utility, qualified power producer, or qualified pipeline, before January 1, 2000, for which a depreciation deduction is allowed under IRC section 167. Property is transition property only with respect to the taxpayer that owns it on January 1, 2000, and is not transition property in the hands of a subsequent transferee. (However, see the instructions for Schedule E, lines 78 and 79 for a basis adjustment which may inure from transition property.)

Book basis of transition property is the cost of the property minus the accumulated depreciation on the property determined on the taxpayer's books and records in accordance with GAAP.

New York basis of transition property is the cost of the property minus the aggregate of the New York depreciation deductions allowed on the property under Article 9-A of the Tax Law. This aggregate is the sum of the amounts on line 75 of Schedule E with respect to the property for all tax years ending after 1999.

Schedule E, Part I — Adjustments for qualified public utilities and transferees

Complete this part if you are a qualified public utility. Use lines 71 through 81 to compute the adjustments for ENI.

Transferees: if you are not a qualified public utility but you are a transferee of transition property from a qualified public utility, use only lines 78, 79, and 81 to compute the adjustments for ENI.

Other additions

Line 71 - Transition property – federal depreciation — Enter the amount deducted on your federal return for depreciation of transition property. See line 75 to compute the New York depreciation deduction.

Line 72 - Transition property – federal loss — If transition property is sold or otherwise disposed of at a loss for federal income tax purposes, the amount of the loss must be recalculated for New York State using book basis in place of federal tax basis for the property. Enter the amount of loss deducted on your federal return and see line 76 to recalculate the loss for New York State.

Line 73 - Transition property – New York gain — If transition property is sold or otherwise disposed of at a gain for federal income tax purposes in a tax year ending before 2010 (or at any time thereafter if the property is a nuclear electric generating facility), the amount of the gain must be recalculated for New York State using New York basis in place of federal tax basis for the property. However, this recalculation can only reduce the federal gain to zero; it cannot produce a New York loss. Enter the New York gain on transition property calculated using New York basis. If recalculation of the federal gain using New York basis yields a loss, the New York gain is zero. See line 77 to subtract the federal gain.

Other subtractions

Line 75 - Transition property – New York depreciation — In place of the federal depreciation deduction entered on line 71, enter the amount of depreciation expense on transition property shown on your books and records for the tax year and determined in accordance with GAAP.

In the case of a financing arrangement when, for federal purposes, the qualified public utility is treated as the owner of the transition property and allowed a depreciation deduction for federal income tax purposes but not allowed a depreciation deduction for GAAP purposes, you should compute the New York depreciation deduction in accordance with GAAP as if the transition property was depreciated on your books and records.

Line 76 - Transition property – New York loss — In place of the federal loss entered on line 72, compute the New York loss on the sale or other disposition of transition property by using book basis instead of federal tax basis.

Line 77 - Transition property – federal gain — Enter the amount of gain included on your federal return from the sale or other disposition of transition property. See line 73 to recalculate the gain for New York State.

Lines 78 and 79 - Transition property – basis adjustment carryover — If transition property is disposed of in a nonrecognition transaction (*original disposition*), such as a tax-free reorganization or a trade-in for replacement property, a basis adjustment on the transition property carries over to the transferee of the property or to the replacement property, to reduce the gain or increase the loss in a subsequent recognition transaction involving the property that was formerly transition property or the replacement property.

Line 78 – Federal gain — If the former transition property or the replacement property is sold at a gain for federal income tax purposes in a tax year ending before 2010 (or at any time thereafter if the property is a nuclear electric generating facility), the gain is reduced, but not below zero, by the New York basis differential. The *New York basis differential* is the amount by which the New York basis of the property exceeds its federal tax basis on the date of **original disposition**. Enter the New York basis differential of the former transition property or the replacement property sold at a federal gain this year, but not more than the amount of differential necessary to bring the federal gain to zero.

Line 79 – Federal loss — If the former transition property or the replacement property is sold at a loss for federal income tax purposes, the loss is increased by the amount of the book basis differential. The

book basis differential is the amount by which the book basis of the property exceeds its federal income tax basis on the date of **original disposition**. Enter the book basis differential of the former transition property or the replacement property sold at a federal loss this year.

Line 80 – Regulatory asset deduction — Enter the total of the amounts recognized as expenses on your books and records for the tax year, if the amounts were recognized as expenses for federal income tax purposes in a tax year ending on or before December 31, 1999, when (1) the amounts represent expenditures that, when made, were charged to a deferred debit account or similar asset account on your books and records, (2) the recognition of expense on your books and records is matched by revenue stemming from a procedure or adjustment allowing the recovery of the expenditures, and (3) the revenue is recognized for federal income tax purposes in the tax year.

Schedule E, Part II — Adjustments for qualified power producers and qualified pipeline corporations

Complete this part if you are a qualified power producer or a qualified pipeline corporation and you claim a depreciation deduction on transition property for federal income tax purposes. Use lines 82 and 83 to compute the adjustments for ENI.

Other subtractions

Line 83 — In place of the federal depreciation deduction entered on line 82, compute a New York depreciation deduction by treating all of your transition property as a single asset placed in service on the first day of the federal tax year that ends in 2000. The *New York basis* for depreciation is the net book value of your transition property on the first day of the federal tax year that ends in 2000 (or on the later date in 1999 that the property is placed in service). To compute the New York deduction, use net book value, the straight-line depreciation method, a 20-year life, and a salvage value of zero.

For qualified power producers, *net book value* is the cost of your transition property minus the accumulated depreciation shown on your books and records, and determined in accordance with GAAP.

For qualified pipeline corporations, *net book value* is the cost of your transition property minus the accumulated depreciation shown on your books and records, and determined in accordance with the regulatory reports filed with the Federal Energy Regulatory Commission or the New York State Department of Public Service.

Worksheets for Form CT-3-S

Line 4a Worksheet

<p>A. Enter federal interest deductions that would have been shown on federal Form 1120, line 18, had the New York S corporation not made the election under IRC Subchapter S of Chapter One and filed federal Form 1120 instead of federal Form 1120S A. _____</p> <p>B. Enter amounts of interest deductions included on line A that are required to be added back to FTI in computing ENI (other than the amount on Form CT-3-S, lines 3a and 4a), for example, interest deductions taken in computing an amount included on Form CT-3-S, line 14. Enter Form CT-3-S line number and amount below. Line # _____ Amount _____ Line # _____ Amount _____ Line # _____ Amount _____ Total B. _____</p> <p>C. Balance (subtract line B from line A) C. _____</p> <p>D. Enter amounts of interest deductions that are required to be subtracted from FTI in computing ENI (for example, the interest deductions taken in computing the amount on Form CT-3-S, line 2). Enter Form CT-3-S line number and amount below. Line # _____ Amount _____ Line # _____ Amount _____ Line # _____ Amount _____ Total D. _____</p>	<p>E. Total New York interest deductions included in ENI (add lines C and D) E. _____</p> <p>F. Enter any interest deductions directly attributable to subsidiary capital included on Form CT-3-S, line 3a F. _____</p> <p>G. Enter any interest deductions directly attributable to investment capital included on Form CT-3-S-ATT, line 63 G. _____</p> <p>H. Enter any interest deduction directly attributable to business capital H. _____</p> <p>I. Subtotal (add lines F, G, and H) I. _____</p> <p>J. Interest deductions subject to indirect attribution (subtract line I from line E) J. _____</p> <p>K. Enter the amount from Form CT-3-S-ATT, line 45, column C K. _____</p> <p>L. Enter the amount from Form CT-3-S-ATT, line 34, column C L. _____</p> <p>M. Percentage (divide line K by line L) M. _____ %</p> <p>N. Amount of interest deductions indirectly attributable to subsidiary capital (multiply line J by line M; enter this amount on Form CT-3-S, line 4a) N. _____</p>
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(continued on next page)

Line 4b Worksheet

A. Enter federal noninterest deductions that would have been included on federal Form 1120, line 27 (excluding the amount from federal Form 1120, line 18) had the New York S corporation not made the election under IRC Subchapter S of Chapter One and filed federal Form 1120 instead of federal Form 1120S A. _____

B. Enter amounts of noninterest deductions included on line A that are required to be added back to FTI in computing ENI (other than the amounts on Form CT-3-S, lines 3b and 4b). Include the New York excess depreciation amount described in Tax Law section 208.9(b)(11) to the extent that this amount was subtracted in computing ENI for prior tax years that began on or after January 1, 1987.

Enter Form CT-3-S line number and amount below.

Line # _____ Amount _____
 Line # _____ Amount _____
 Line # _____ Amount _____ Total B. _____

C. Balance (subtract line B from line A) C. _____

D. Enter amounts of noninterest deductions that are required to be subtracted from FTI in computing ENI (or amounts related to foreign source income not included on federal Form 1120).

These are:

- The portion of wages and salaries paid or incurred for the tax year for which a deduction is not allowed pursuant to IRC section 280C (Tax Law, section 208.9(a)(7)).
- Depreciation deductions permitted under Article 9-A with respect to decoupled property pursuant to Tax Law, section 208.9(a)(11) and (12).
- Deductions arising from decoupling from federal safe harbor lease provisions pursuant to Tax Law, section 208.9(a)(10).
- Depreciation deduction permitted under Article 9-A for decoupled property pursuant to Tax Law section 208.9(o) and (p).
- Related member royalty income deduction permitted under Article 9-A pursuant to Tax Law section 208.9(o).
- SUV recapture permitted under Article 9-A pursuant to Tax Law section 208.9(a)(16).
- Deduction for qualified public utilities and transferees permitted under Article 9-A pursuant to Tax Law section 208.9(c-2).
- Deduction for qualified power producers and qualified pipelines corporation permitted under Article 9-A pursuant to Tax Law section 208.9(c-3).
- Deduction for sale of QETI permitted under Article 9-A pursuant to Tax Law section 208.9(l).
- Deduction for eligible settlement fund or eligible grantor trust permitted under Article 1 pursuant to Tax Law section 13.
- The noninterest deductions taken in computing the amount on Form CT-3-S, line 2.

Enter Form CT-3-S line number and amount below.

Line # _____ Amount _____
 Line # _____ Amount _____
 Line # _____ Amount _____ Total D. _____

E. Total New York noninterest deductions included in ENI (add lines C and D) E. _____

F. Enter noninterest deductions directly attributable to subsidiary capital from Form CT-3-S, line 3b F. _____

G. Enter noninterest deductions directly attributable to investment capital from Form CT-3-S-ATT, line 64 G. _____

H. Enter noninterest deductions directly attributable to business capital H. _____

I. Subtotal (add lines F, G, and H) I. _____

J. Noninterest deductions subject to indirect attribution (subtract line I from line E) J. _____

K. Enter gross income attributable to subsidiary capital. *Gross income from subsidiary capital* is that portion of total gross income consisting of dividends, interest, and gains (but not losses) from subsidiary capital. To determine the amount to enter on line K, take the amount of dividends, interest, and gains reported on Form CT-3-S-ATT, line 51, and add back any losses used to compute the amount of capital gains from subsidiary capital on Form CT-3-S-ATT, line 50 K. _____

L. Enter total gross income. For these purposes *total gross income* means gross income as defined in IRC section 61, increased by (1) those items described in section 61 that are included in the computation of ENI by reason of Tax Law, section 208.9(c), relating to foreign source income and (2) interest on state and local bonds excluded from gross income under IRC section 103. Gross income is not reduced by any deduction for capital losses or by any other deductions L. _____

M. Income percentage (divide line K by line L) M. _____%

N. Enter amount from Form CT-3-S-ATT, line 45, column C N. _____

O. Enter amount from Form CT-3-S-ATT, line 34, column C O. _____

P. Asset percentage (divide line N by line O) P. _____%

Q. Subsidiary capital percentage (If line L is zero, the subsidiary capital percentage is equal to the asset percentage. If line O is zero, the subsidiary capital percentage is equal to the income percentage.)

- a. Enter percentage from line M _____%; multiply by two a. _____%
 - b. Enter percentage from line P b. _____%
 - c. Total (add lines a and b) c. _____%
- Subsidiary capital percentage (divide line c by three) Q. _____%

R. Amount of noninterest deductions indirectly attributable to subsidiary capital (multiply line J by the percentage from line Q or, if an election has been made to use the asset percentage, by the percentage from line P. Enter this amount on Form CT-3-S, line 4b.) R. _____

Worksheets for Form CT-3-S-ATT

Line 65 Worksheet

<p>A. Enter federal interest deductions that would have been included on federal Form 1120, line 18 had the New York S corporation not made the election under IRC Subchapter S of Chapter One and filed federal Form 1120 instead of federal Form 1120S A. _____</p> <p>B. Enter amounts of interest deductions included on line A that are required to be added back to FTI in computing ENI (other than the amount on Form CT-3-S, lines 3a and 4a); for example, interest deductions taken in computing an amount included on Form CT-3-S, line 14.</p> <p>Enter Form CT-3-S line number and amount below.</p> <p>Line # _____ Amount _____</p> <p>Line # _____ Amount _____</p> <p>Line # _____ Amount _____ Total B. _____</p> <p>C. Balance (subtract line B from line A) C. _____</p> <p>D. Enter amounts of interest deductions that are required to be subtracted from FTI in computing ENI (for example, the interest deductions taken in computing the amount on Form CT-3-S, line 2).</p> <p>Enter Form CT-3-S line number and amount below.</p> <p>Line # _____ Amount _____</p> <p>Line # _____ Amount _____</p> <p>Line # _____ Amount _____ Total D. _____</p>	<p>E. Total New York interest deductions included in ENI (add lines C and D) E. _____</p> <p>F. Enter any interest deductions directly attributable to subsidiary capital from Form CT-3-S, line 3a F. _____</p> <p>G. Enter any interest deductions directly attributable to investment capital from Form CT-3-S-ATT, line 63 G. _____</p> <p>H. Enter any interest deduction directly attributable to business capital H. _____</p> <p>I. Subtotal (add lines F, G, and H) I. _____</p> <p>J. Interest deductions subject to indirect attribution (subtract line I from line E) J. _____</p> <p>K. Enter the amount from Form CT-3-S-ATT, line 55, column C K. _____</p> <p>L. Enter the amount from Form CT-3-S-ATT, line 34, column C L. _____</p> <p>M. Percentage (divide line K by line L) M. _____ %</p> <p>N. Amount of interest deductions indirectly attributable to investment capital (multiply line J by line M; enter this amount on line 65) N. _____</p>
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(continued on next page)

Line 66 Worksheet

A. Enter federal noninterest deductions that would have been included on federal Form 1120, line 27 (excluding the amount from federal Form 1120, line 18) had the New York S corporation not made the election under IRC Subchapter S of Chapter One and filed federal Form 1120 instead of federal Form 1120S A. _____

B. Enter amounts of noninterest deductions included on line A that are required to be added back to FTI in computing ENI (other than the amounts on Form CT-3-S, lines 3b and 4b). Include the New York excess depreciation amount described in Tax Law section 208.9(b)(11) to the extent that this amount was subtracted in computing ENI for prior tax years that began on or after January 1, 1987.

Enter Form CT-3-S line number and amount below.

Table with 4 columns: Line #, Amount, Total B. Includes three rows for data entry.

C. Balance (subtract line B from line A) C. _____

D. Enter amounts of noninterest deductions listed below that are required to be subtracted from FTI in computing ENI (or amounts related to foreign source income not included on federal Form 1120).

These are:

- List of 12 bullet points detailing various noninterest deductions such as wages, depreciation, and related member royalty income.

Enter Form CT-3-S line number and amount below.

Table with 4 columns: Line #, Amount, Total D. Includes three rows for data entry.

E. Total New York noninterest deductions included in ENI (add lines C and D) E. _____

F. Enter noninterest deductions directly attributable to subsidiary capital from Form CT-3-S, line 3b F. _____

G. Enter noninterest deductions directly attributable to investment capital from Form CT-3-S-ATT, line 64 G. _____

H. Enter noninterest deductions directly attributable to business capital H. _____

I. Subtotal (add lines F, G, and H) I. _____

J. Noninterest deductions subject to indirect attribution (subtract line I from line E) J. _____

K. Enter gross income attributable to investment capital. Gross income from investment capital is that portion of total gross income consisting of (1) dividends, interest, and gains (but not losses) from investment capital and (2) items described at NYS Regulations section 4-8.3(a)(2)-(5). To determine the amount to enter on line K, take the amount of dividends, interest, and gains reported on Form CT-3-S-ATT, line 62, and add back any dividends excluded on Form CT-3-S, line 10, and any losses used to compute the amount of capital gains from investment capital on Form CT-3-S-ATT, line 60 K. _____

L. Enter total gross income. For these purposes total gross income means gross income as defined in IRC, section 61, increased by (1) those items described in section 61 that are included in the computation of ENI by reason of Tax Law, section 208.9(c) relating to foreign source income, and (2) interest on state and local bonds excluded from gross income under IRC section 103. Gross income is not reduced by any deduction for capital losses or by any other deductions L. _____

M. Income percentage (divide line K by line L) M. _____ %

N. Enter amount from Form CT-3-S-ATT, line 55, column C .. N. _____

O. Enter amount from Form CT-3-S-ATT, line 34, column C .. O. _____

P. Asset percentage (divide line N by line O) P. _____ %

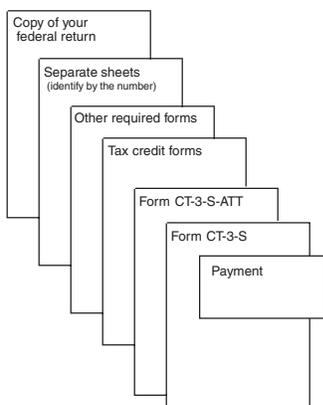
Q. Investment capital percentage (If line L is zero, the investment capital percentage is equal to the asset percentage. If line O is zero, the investment capital percentage is equal to the income percentage.)

- Sub-points a, b, c for calculating investment capital percentage, including instructions to multiply by two and add lines a and b.

R. Amount of noninterest deductions indirectly attributable to investment capital (multiply line J by the percentage from line Q or, if an election has been made to use the asset percentage, by the percentage from line P. Enter this amount on line 66) R. _____

When preparing and mailing your New York S Corporation Franchise Tax Return, please be sure to:

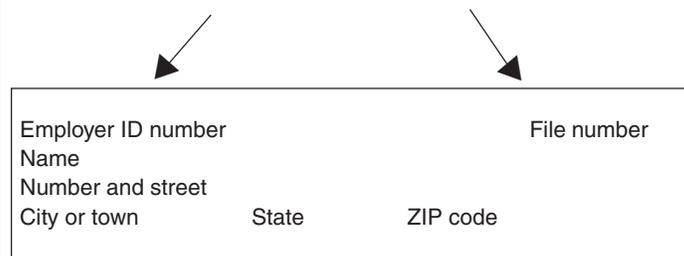
- Read the instructions.
- Use the correct forms.
- Include your employer identification number and file number on each form filed.
- Check the box located above the signature area on Form CT-3-S or CT-4-S if you do not need forms mailed to you next year.
- Have the appropriate individuals sign the completed return.
- Make your check payable to: **New York State Corporation Tax.**
- If completed, attach Form CT-3-S-ATT and all other schedules you are required to file.
- Attach a complete copy of your federal return to Form CT-3-S or Form CT-4-S.
- Attach the appropriate tax credit forms.
- Assemble your return and attachments this way:



For mailing address information, see *Where to file* on page 3.

Important identifying information

To assist in processing your corporation tax forms, please be sure to accurately complete the corporation's identifying information including your current address. You will find your **employer identification number** and **file number** just above your printed corporation name and address.



Keep a record of your identifying information for future use.

If you use a paid preparer or accounting firm, make sure they use your complete and accurate information when completing all forms prepared for you.

Name, address, and business information – If your address has changed, enter your new address in the appropriate area and check the box below the address so that we can update your address for this tax type. Do not check this box for any change of business information other than for your address.

You must report any changes in your business name, ID number, mailing address, physical address, telephone number, or owner/officer information on Form DTF-95, *Business Tax Account Update*. If only your address has changed, you may use Form DTF-96, *Report of Address Change for Business Tax Accounts*, to correct your address for this and all other tax types. You can get these forms from our Web site, by fax, or by phone. See *Need help?* below for the Web address and phone number.

Need help?



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



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Business Tax Information Center: 1 800 972-1233

From areas outside the U.S. and outside Canada: (518) 485-6800



Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. 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.



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 1 800 972-1233.



If you need to write, address your letter to:
NYS TAX DEPARTMENT
BUSINESS TAX INFORMATION CENTER
W A HARRIMAN CAMPUS
ALBANY NY 12227

Your rights under the Tax Law

The Taxpayer Bill of Rights requires, in part, that the Tax Department advise you, in writing, of your rights and obligations during an audit, when you appeal a departmental decision, and when your appeal rights have been exhausted and you need to understand enforcement capabilities available to the department to obtain payment. For a complete copy of the information contained in all of these statements, you may request Publication 131, *Your Rights and Obligations Under the Tax Law*, by calling toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.