



Instructions for Form CT-13

Unrelated Business Income Tax Return

Important reminder to file a complete return: You must complete all required schedules and forms that make up your return, and include **all pages** of those forms and schedules when you file. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

Up-to-date information affecting your 2005 tax return

Visit the *Corporation Tax Up-to-Date Information* page on our Web site for Tax Law changes or forms corrections that occurred after the forms and instructions were printed (see *Need help?* on back).

New for 2005

Your refund or overpayment may be applied against outstanding debts owed to other states

Due to a recent law change, your refund or overpayment may be reduced by amounts of outstanding tax debts owed to other states. The Commissioner of Taxation and Finance may enter into a reciprocal agreement with other states to offset a New York tax refund or overpayment against tax liabilities owed to other states, provided those other states agree to offset overpayments due their taxpayers against tax debt owed to New York. For more concerning these changes, see *Collection of debts from your refund or overpayment* on back and TSB-M-05(3)C, *Summary of Corporation Tax Legislative Changes Enacted in 2005*.

Who must file Form CT-13

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

1. Corporations liable for tax under the Tax Law Article 9-A.
2. Organizations whose sole unrelated trade or business in New York State consists of providing commercial-type insurance (IRC section 501(m)(2)(A)).
3. Employee trusts as described in IRC section 401(a).

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

When to file

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

Amended return

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

Change in business information

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*. You can get these forms from our Web site, by phone, or by fax. See *Need help?* on the back for the phone numbers and Web address.

Reporting period

Complete the beginning and ending tax period boxes in the upper right corner on the front of the form.

NAICS business code number

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

Principal unrelated business activity

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

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

Negative amounts — Show any negative amounts with the minus (-) sign.

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

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

Specific line instructions

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

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

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

Line 5 — Enter the amount of related-member royalty expense required to be added back under Tax Law section 292(a)(6).

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

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

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

Line 9 — Enter the amount of related-member royalty income required to be subtracted under Tax Law section 292(a)(6).

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

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

Line 21 — Late filing and late payment penalties

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

- A. If you do not file a return when due, or if the application for extension is invalid, add to the tax 5% (.05) per month up to a maximum 25% (.25) (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (section 1085(a)(1)(B)).
- C. If you fail to pay the tax shown on a return, add ½% (.005) per month to the balance due, up to a maximum 25% (.25) (section 1085(a)(2)).
- D. The total of the additional charges in items A and C above may not exceed 5% (.05) in any one month, except as provided for in item B above (section 1085(a)).

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

Note: You may compute your penalty and interest by accessing our Web site and clicking on *Electronic Services*, or you may call and we will compute the interest and penalty for you (see *Need help?* below).

Line 23 — Collection of debts from your refund or overpayment

We will keep all or part of your refund or overpayment if you owe a past-due, legally enforceable debt to a New York State agency, or to another state, or if you owe a New York City tax warrant judgment debt. If we keep your refund or overpayment, we will notify you.

A New York State agency 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 a social services district. We will refund or apply as an overpayment any amount over your debt.

If you have any questions about whether you owe a past-due, legally enforceable debt to a state agency, or to another state, or whether you owe a New York City tax warrant judgment debt, contact the state agency, the other state, or the New York City Department of Finance.

For New York State tax liabilities only, call 1 800 835-3554 (from areas 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.

For New York City liabilities only, call (212) 232-3550.

Schedule A

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

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

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

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

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

General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, comptroller, and any other officer charged with the general executive affairs of the corporation. An executive officer whose duties are restricted to territory either within or outside New York State is not a general executive officer.

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.

Need help?

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

 **Fax-on-demand forms:** 1 800 748-3676

 **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

 **Hearing and speech impaired**
(telecommunications device for the
deaf (TDD) callers only): 1 800 634-2110