



Instructions for Form CT-33-D

Tax on Premiums Paid or Payable To an Unauthorized Insurer

CT-33-D-1

Up-to-date information affecting your tax return

Visit our Web site for tax law changes or forms corrections that occurred after the forms and instructions were printed (see *Need help?*).

Changes for 2009

Credit or refund form is obsolete — Effective January 1, 2009, and applicable to all open tax periods, Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*, can no longer be used. For further information, see Important Notice, N-09-2, *Form CT-8, Claim for Credit or Refund of Corporation Tax Paid, and Form CT-9, Claim for Tentative Refund Based Upon Carryback of Net Operating Loss, Are Obsolete*.

Fee for payments returned by banks — A new law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee. If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

General information

The tax under Article 33-A is imposed on any individual, partnership, corporation, limited liability company, society, association, joint-stock company, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary capacity, who purchases or renews a taxable insurance contract from an insurer not authorized to transact business in New York State (NYS) under a certificate of authority from the Superintendent of Insurance. The tax rate is 3.6% of premiums paid or payable, minus returns thereon, on taxable insurance contracts when the risk is located or resident in New York State, and applies to all contracts purchased or renewed.

A taxable insurance contract includes contracts described in New York State Insurance Law section 1113(a), paragraphs (4) through (14), (16), (17), (19), (20), and (22). This includes the following types of insurance: fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, fidelity and surety, motor vehicle and aircraft physical damage, marine and inland marine, credit, and residual value insurance.

Premiums subject to tax include both (1) 100% of premiums paid or payable to unauthorized insurers when the risk is located or resident **entirely within** New York State, and (2) an allocated portion of premiums, paid or payable to unauthorized insurers, when the risk is located or resident both **within and outside** New York State.

Exemptions — The tax imposed by Article 33-A does not apply to:

- Any taxable insurance contract procured through a New York licensed excess line broker. **Note:** The excess line tax and other stamping fees may be required. For more information, visit the Excess Line Association of New York Web site at www.elany.org.
- Premiums received as consideration for reinsurance contracts.

- The government of the United States or any instrumentality thereof.
- New York State and its political subdivisions.
- The United Nations and any other international organizations of which the United States is a member.
- Any foreign government.
- Any taxable insurance contract of the type described under the Insurance Law in section 2117(b), (c), and (d).
- Any premium that is preempted from taxation according to federal law, including federal long-term care insurance described under United States Code Title 5, Chapter 90.

Amended return — If you are filing an amended return, mark an **X** in the *Amended return* box on the top of Form CT-33-D. If you are amending your return to claim a refund because the insurance contract is canceled prior to the expiration of the insurance period and tax was paid on the premium, enter the previously paid tax on line 6.

When filing an amended return for a credit or refund, the amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. For additional limitations on credit or refunds, see Tax Law section 1087.

When and where to file — File this form within 60 days of the end of the calendar quarter during which the taxable insurance contract took effect or was renewed.

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

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

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. Round any amount less than 50 cents to the next lower dollar.

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

Entering dates — Unless you are specifically directed to use a different format, enter dates in the *mm-dd-yy* format (using dashes and not slashes).

Line instructions

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

Line 1 — Enter premiums paid or payable to an unauthorized insurer on risks located **entirely within** New York State. Enter **0** if all premiums are on risks located both within and outside New York State.

Line 2a — Enter total amount of premiums on risks located both **within and outside** New York State. Enter **0** on both lines 2a and 2b if all premiums were on risks located **entirely within** New York State and were included on line 1.

Line 2b — Enter the allocated portion of premiums from line 2a. These are the premiums allocated to New York State from risks located both **within and outside** New York State.

To determine the allocated portion of premiums from risks located both **within and outside** New York State and for additional information on allocation, see TSB-M-90(9)C, *1990 Legislation Direct Writings Tax*, or the *Official Compilation of Codes, Rules and Regulations of the State of New York*, Title 11, Part 27, section 27.9 and Appendix 4. Attach a statement showing the computation of your allocation.

Some of the insurance contract allocations are shown below; for a complete list, see Appendix 4. Allocation by a different method may be acceptable (for example, product liability insurance may be allocated by receipts from sales of the product in New York State).

Insurance contract	Allocation method
Real property	Insured value of structures in NYS
Personal property	Insured value of property permanently or principally situated in NYS
Fidelity, forgery, bankers blanket, and indemnity bonds	Number of insured employees in NYS
Performance and other surety bonds	Total bond value of contracts in NYS
Manufacturers and contractors liability	Payroll in NYS
Product liability	Number of units manufactured in NYS
Recreational liability	Amount of gate receipts in NYS
Aircraft or motor vehicle liability	Number of aircraft or motor vehicles principally garaged or hangared or principally used in NYS
Professional liability	Number of insureds in NYS
Environmental impairment	Number of units of exposure in NYS

Line 8 — If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment from the original due date to the date paid.

Line 9 — Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deduction of any payment made on or before the due date (**with** regard to any extension of time for filing).

- If you do not file a return when due, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- If you do not file a return within 60 days of the due date, the addition to tax in item A above cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (section 1085(a)(1)(B)).

- If you do not pay the tax shown on a return, add to the tax ½% per month up to 25% (section 1085(a)(2)).
- The total of the additional charges in items A and C above may not exceed 5% for any one month except as provided for in item B above (section 1085(a)).

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

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

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 5-a, 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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

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.
Corporation Tax Information Center: (518) 485-6027
In-state callers without free long distance: 1 888 698-2908
To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, 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, call the information center.