



# Instructions for Form CT-3-S New York S Corporation Franchise Tax Return

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### Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

- Changes for the current tax year (general and by Tax Law Article)
- Business information (how to enter and update)
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All citations are to New York State Tax Law sections unless specifically noted otherwise.

### Who must file

An *S corporation* is a small business corporation whose shareholders have consented to the corporation's choice of S corporation status, as permitted under Subchapter S of Chapter One of the Internal Revenue Code (IRC). Generally, an S corporation does **not** pay federal income tax but, instead, the corporation's income and deductions are passed through to its shareholders for the shareholders to report on their own personal income tax returns. The shareholders of federal S corporations

subject to Tax Law Article 9-A may make 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, maintain an office, or derive receipts from activity, in New York State.

If a corporation is a federal S corporation and wishes to make the election for New York State, the corporation is required to file Form CT-6 and receive approval **before** filing Form CT-3-S or Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Federal approval as an S corporation is **not** automatic approval for New York State.

Once a corporation has approval from the New York State Tax Department to be treated as a New York S corporation, it is required to file Form CT-3-S instead of Form CT-3, *General Business Corporation Franchise Tax Return*. Form CT-3-S is used to pay the entity level franchise tax under Article 9-A. Such tax is the fixed dollar minimum tax imposed under §210.1(d). The corporation must attach Form CT-34-SH to report, in aggregate, the New York S corporation items that the individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the year need for filing their own New York State personal income tax returns.

**Mandated New York S corporation** – Shareholders of eligible federal S corporations that have not made the election to be treated as a New York S corporation for the current tax year will be deemed to have made that election if the corporation's investment income is more than 50% of its federal gross income for that year. For purposes of the mandated New York State S election, *investment income* means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate, or trust, to the extent such items would be includable in the corporation's federal gross income for the tax year. In determining an eligible S corporation's investment income, the investment income of a qualified subchapter S subsidiary (QSSS) owned directly or indirectly by the eligible S corporation is included. In this case, the taxpayer must file Form CT-3-S.

**Domestic corporations** – A domestic corporation (incorporated in New York State) is generally liable for franchise taxes for each fiscal or calendar year, or part thereof, during which it is incorporated until it is formally dissolved with the Department of State ([www.dos.ny.gov](http://www.dos.ny.gov)). However, a domestic corporation that is no longer doing business, employing capital, owning or leasing property, or deriving receipts from activity, in New York State is exempt from the fixed dollar minimum tax for years following its final tax year and is no longer required to file a franchise tax return provided it meets the requirements listed in §209.8.

**Foreign corporations** – A foreign corporation (incorporated outside of New York State) is liable for franchise taxes during the period in which it is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State.

A corporation is considered to be deriving receipts in this state if it has receipts within New York State of \$1 million or more in a tax year (§209.1). *Receipts* means the receipts that are subject to the apportionment rules in §210-A, and the term *receipts within this state* means the receipts included in the numerator of the apportionment factor determined under §210-A. Also, receipts from processing credit card transactions for merchants include merchant discount fees received by the corporation (§209.1(b)).

A corporation is doing business in this state if (§209.1(c)):

- it has issued credit cards (including bank, credit, travel, and entertainment cards) to 1,000 or more customers who have a mailing address in this state as of the last day of its tax year;
- it has merchant customer contracts with merchants and the total number of locations covered by those contracts equals 1,000 or more locations in this state to whom the corporation remitted payments for credit card transactions during the tax year; **or**
- the sum of the number of customers and the number of locations equals 1,000 or more.

For a foreign corporation that is a partner in a partnership, see *Corporate partners*.

A foreign corporation shall **not** be deemed to be doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in this state by reason of (§209.2):

- the maintenance of cash balances with banks or trust companies in this state;
- the ownership of shares of stock or securities kept in this state if kept in a safe deposit box, safe, vault, or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or with brokers who are members of a recognized security exchange, in safekeeping or custody accounts;
- the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to the corporation;
- the maintenance of an office in this state by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in this state, and does not employ capital or own or lease property in this state;
- the keeping of books or records of a corporation in this state if such books and records are not kept by employees of the corporation and the corporation does not otherwise do business, employ capital, own or lease property, maintain an office, or derive receipts from activity, in this state; **or**
- any combination of the activities listed above.

### Corporate partners

- If a partnership is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, then all of its corporate general partners must file franchise tax returns.
- A foreign corporation is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, if it is a limited partner of a partnership (other than a portfolio investment partnership) that is doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, and if it is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities or affairs of the partnership.

A limited liability company (LLC) or limited liability partnership (LLP) that is treated as a partnership for federal income tax purposes will be treated as a partnership for New York State tax purposes.

For purposes of determining nexus, the \$1 million threshold for deriving receipts is determined by combining the general partner's receipts in New York State with the partnership's receipts in New York State.

**Example:** *Partnership A has two general partners: Partner B who owns 60% of the partnership and Partner C who owns 40%. Partnership A has \$600,000 of receipts in New York. Separately, Partner B has \$700,000 of receipts in New York and Partner C has \$450,000 of receipts in New York. For purposes of determining nexus only, both partners B and C would be treated as having \$600,000 from the partnership. Combined with their own receipts, both general partners exceed \$1 million in receipts in New York (\$1.3 million for Partner B and \$1.05 million for Partner C). Therefore, both general partners are subject to tax.*

A corporate partner (except for certain foreign corporate limited partners) must compute its tax with respect to its interest in the partnership under either the aggregate or entity method. Under the aggregate method, a corporate partner takes into account its distributive share of receipts, income, gain, loss or deduction, and its proportionate part of assets, liabilities and transactions from the partnership. Under the entity method, a corporate partner is treated as owning an interest in a partnership entity. The interest is considered an intangible asset that constitutes business capital. The aggregate method is the preferred method.

### 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, 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.
- B. **Nontaxpayer parent** – New York State follows the federal QSSS treatment if 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 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.
- 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 or 33 taxpayer, or is a corporation that 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.

### New York State equivalents to federal Schedule K-1

- Form IT-204-IP, *New York Partner's Schedule K-1*, is completed for each partner who is an individual, estate or trust, or partnership required to file under Tax Law Article 22 (Personal Income Tax).
- Form IT-204-CP, *New York Corporate Partner's Schedule K-1*, is completed for each corporate partner that is taxable under Tax Law Article 9-A.

These forms give each partner its distributive share of income, deductions, New York modifications, credits, and other information the partner needs to complete the partner's New York State personal income tax or corporation franchise tax return.

**If you received a complete Form IT-204-CP from your partnership, see Form IT-204-CP-I, *Partner's Instructions for Form IT-204-CP*, before completing your franchise tax return.**

## Other forms you may need to file

**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-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 directly 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 Form CT-33-D.

### **Form CT-60, *Affiliated Entity Information Schedule***

You must file Form CT-60 if you are an Article 9-A taxpayer and you have included the activities of any of the following on your return:

- a QSSS;
- a partnership;
- a disregarded entity - single member LLC; or
- a tax-exempt domestic international sales corporation (DISC)

You must also file Form CT-60 if:

- you are a Form 1120S filer, or
- you have affiliated entities

**Form CT-186-E, *Telecommunications Tax Return and Utility Services Tax Return***, must be filed by a corporation that provides telecommunication services. The corporation must pay an excise tax on its gross receipts from the sale of telecommunication services under Article 9 section 186-e.

**Form CT-222, *Underpayment of Estimated Tax by a Corporation***, is used to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law, Article 27, section 1085(d).

**Form CT-223, *Innovation Hot Spot Deduction***, must be filed if you are a corporation that is a qualified entity located both inside and outside a hot spot, or you are a corporate partner of a qualified entity, or both.

**Form CT-225, *New York State Modifications***, must be filed if you are entering an amount on Form CT-34-SH, lines 3 and/or 5.

**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) a 30%/50%/100% federal special depreciation deduction for certain property placed in service on or after June 1, 2003, in tax years beginning after December 31, 2002. This form also contains schedules for determining a New York State gain or loss on the disposition of such properties.

**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.

Most corporations are required to electronically file this form either using tax software or online, after setting up an online services account, through the department's Web site.

**Form DTF-664, *Tax Shelter Disclosure for Material Advisors***, is used to assist taxpayers and persons in complying with New York State's disclosure requirements.

**Form DTF-686, *Tax Shelter Reportable Transactions Attachment to New York State Return***, is used to assist taxpayers and persons in complying with New York State's disclosure requirements.

**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.

You may be subject to other business taxes such as:

- Sales and compensating use tax
- Employer's withholding tax
- Estimated taxes for corporations and personal income taxes
- Motor fuel taxes
- Highway use taxes
- Tax on sales or consumption of petroleum

See *Need help?* if you would like more information.

Tax Law, Article 36, section 1700 authorizes the Tax Department to waive civil and criminal penalties for taxpayers who disclose and pay overdue taxes. Under the Tax Department's Voluntary Disclosure and Compliance Program, eligible taxpayers who owe back taxes can avoid monetary penalties and possible criminal charges by:

- telling the Tax Department what taxes they owe;
- paying those taxes; and
- entering an agreement to pay all future taxes.

It is easy to apply. Visit our Web site (see *Need help?*). Just follow the prompts, answer a few questions, and submit your application electronically.

## 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 will not be granted beyond six months.**

Most corporations are required to electronically file their extension request either using tax software or online, after setting up an online services account, through the department's Web site.

## Where to file

**Form CT-3-S** – Use the following address:

**NYS CORPORATION TAX  
PO BOX 15182  
ALBANY NY 12212-5182**

### **Private delivery services**

See Publication 55, *Designated Private Delivery Services*.

## 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% (§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 (§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% (§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 (§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 (§1085).

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

### 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 (§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 make payments of estimated tax. 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.

### If you fail to provide shareholder information

If you do not file Form CT-3-S on time, or you fail to provide the shareholder information required (all items of income, loss, deduction, and other pertinent information), you will have to pay a penalty. The penalty is \$50 per shareholder per month or fraction of a month, up to a total of \$250 per shareholder (Article 22 section 685(h)(2)). You will also have to pay an additional penalty of \$50 for each shareholder whose social security number you do not show (§685(k)). All shareholders of the S corporation during any part of the tax year must be counted. These penalties may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

### Other penalties

Strong civil and criminal penalties may be imposed for negligence or fraud.

### Is this an amended return?

If you are filing an amended return for any purpose, mark an **X** in the *Amended return* box on page 1 of the return.

If you file an amended federal return, you must file an amended New York State return within 90 days thereafter.

You **must** file using the correct year's return for the tax year being amended. Do **not** use the most current year's return if the current year is not the year being amended. If you file on the wrong year's return, it may cause the amended return to be rejected, or may cause a delay in receiving any tax benefits claimed.

**For amended returns based on changes to federal taxable income (FTI)** – If your FTI has been changed or corrected by a final determination of the Commissioner of Internal Revenue, or by renegotiation of a contract or subcontract with the United States, you must file an amended return reflecting the change to FTI within 90 days (120 days if filing an amended combined return) of the final federal determination (as final determination is described under the regulations of the Commissioner of Taxation and Finance).

You must attach a copy of federal Form 4549, *Income Tax Examination Changes*, to your amended return.

If you filed as part of a consolidated group for federal tax purposes but on a separate basis for New York State tax purposes, you must submit a statement indicating the changes that would have been made if you had filed on a separate basis for federal tax purposes.

**For credits or refunds of corporation tax paid** – To claim any refund type that requires an amended return, file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually Form 1120X) and proof of federal refund approval, *Statement of Adjustment to Your Account*. Be sure to use the tax return for the year being amended.

If you are a federal S corporation, file an amended New York State return for the year being amended. If applicable, attach a copy of the amended federal Form 1120S. Every shareholder of the electing New York S corporation must file an amended return on a designated New York State individual, estate, or trust return.

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. However, a claim for credit or refund based on a federal change must be filed within two years from the time the amended return reporting the change or correction was required to be filed (see *For amended returns based on changes to federal taxable income (FTI)*). For additional limitations on credits or refunds, see §1087.

### Filing your final return

Mark an **X** in the *Final return* box on page 1 of the return if the corporation is a:

- domestic corporation that ceased doing business, employing capital, owning or leasing property, or deriving receipts from activity, in New York State during the tax year and wishes to dissolve; or
- foreign corporation that is no longer subject to the franchise tax in New York State.

Do not mark an **X** in the *Final return* box if you are only changing the type of return that you file (for example, from Form CT-3-S to CT-3).

Do not mark an **X** in the *Final return* box in the case of a merger or consolidation.

Include the full profit from any installment sale made in your final tax year in your final return. Also include in your final return any remaining profit not yet received from a prior year's installment sale.

For information on voluntary dissolution and surrender of authority, see *Instructions for voluntary dissolution of a New York corporation (TR-125)*, and *Instructions for surrender of authority by foreign business corporation (TR-199)*, on our Web site (see *Need help?*).

**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. The due date of the S short year return is the same as the New York C short year return.

When an IRC section 338(h)(10) election is made for a target corporation that is a New York S corporation, the target corporation must file two short period reports. When filing the second short period report, the federal taxable income (FTI) of the new target is the starting point for computing entire net income (ENI).

If the federal and New York S elections terminate at the same time, ENI assigned to Form CT-3 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 IRC section 1362(e)(2) or normal tax accounting rules under IRC section 1362(e)(3).

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).

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, mark an **X** in the appropriate line H box on Form CT-3-S, page 1.

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**

Use this tax return for calendar year 2015, fiscal years that begin in 2015 and end in 2016, and tax years of less than 12 months that begin on or after January 1, 2015, but before January 1, 2016.

If you have a tax year of less than 12 months that begins and ends in 2016 and the 2016 return is not yet available at the time you are required to file the return, you must file an extension request to file the short period return and wait for the 2016 return to become available on the Tax Department's Web site.

Do not use this tax return for any tax year that began prior to January 1, 2015.

All filers must complete the beginning and ending tax year boxes in the upper right corner on page 1 of the form.

**Overview of corporation franchise tax**

New York S corporations taxable under Article 9-A are required to pay the fixed dollar minimum tax imposed under §210.1(d).

**Fixed dollar minimum tax schedule**

A domestic corporation that is no longer doing business, employing capital, owning or leasing property, or deriving receipts from activity, in New York State is exempt from the fixed dollar minimum tax for years following its final tax year and is no longer required to file a franchise tax return provided it meets the requirements listed in §209.8.

**Fixed dollar minimum tax for all New York S corporations** (except qualified New York manufacturers or qualified emerging technology companies (QETCs))

New York receipts of:	Fixed dollar minimum tax equals:
Not more than \$100,000	\$ 25
More than \$100,000 but not over \$250,000	\$ 50
More than \$250,000 but not over \$500,000	\$ 175
More than \$500,000 but not over \$1,000,000	\$ 300
More than \$1,000,000 but not over \$5,000,000	\$ 1,000
More than \$5,000,000 but not over \$25,000,000	\$ 3,000
Over \$25,000,000	\$ 4,500

**Fixed dollar minimum for New York S corporations that are qualified New York manufacturers or QETCs**

New York receipts of:	Fixed dollar minimum tax equals:
Not more than \$100,000	\$ 22
More than \$100,000 but not over \$250,000	\$ 44
More than \$250,000 but not over \$500,000	\$ 153
More than \$500,000 but not over \$1,000,000	\$ 263
More than \$1,000,000 but not over \$5,000,000	\$ 877
More than \$5,000,000 but not over \$25,000,000	\$ 2,631
Over \$25,000,000	\$ 3,947

If a short period (a tax period of less than 12 months), compute the New York receipts by dividing the amount of the receipts by the total number of months in the short period and multiplying the result by 12.

The fixed dollar minimum tax 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

**To avoid an erroneous assessment or a delay of your refund**, you must enter an amount on line 22, *New York receipts* on Form CT-3-S. If you do not have New York receipts, enter **0** on this line. Failure to make an entry on this line may result in an assessment of tax or a reduction of your refund/credit.

**Computation of tax for corporate partners**

A taxpayer that is subject to tax under Article 9-A and is a partner in a partnership (a corporate partner) computes its tax for its interest in the partnership using either the aggregate method or entity method, whichever applies. (For exception, see *Election by a foreign corporate limited partner*.)

**Aggregate method** – Under the aggregate method, a corporate partner is viewed as having an undivided interest in the partnership's assets, liabilities, and items of receipts, income, gain, loss and deduction. The partner is treated as participating in the partnership's transactions and activities.

**Entity method** – Under the entity method, a partnership is treated as a separate entity and a corporate partner is treated as owning an interest in the partnership entity. The partner's interest is an intangible asset that is classified as business capital.

**Corporate partners required to file under the aggregate method**

A corporate partner receiving a complete Form IT-204-CP, *New York Corporate Partner's Schedule K-1*, must file using the aggregate method. In addition, a corporate partner must file using the aggregate method if the corporate partner has access to the information necessary to compute its tax using the aggregate method. A corporate partner is presumed to have access to the information and therefore is required to file using the aggregate method if it meets **one or more** of the following conditions:

- it is conducting a unitary business with the partnership;
- it is a general partner of the partnership or is a managing member of an LLC which is treated as a partnership for federal income tax purposes;

- it has a 5% or more interest in the partnership;
- it has reported information from the partnership in a prior tax year using the aggregate method;
- its partnership interest constitutes more than 50% of its total assets;
- its basis in its interest in the partnership determined under IRC section 705 on the last day of the partnership year that ends within or with the taxpayer's tax year is more than \$5,000,000; or
- any member of its affiliated group has the information necessary to perform such computation.

A corporate partner that does not receive a complete Form IT-204-CP may file using the entity method **only** if it does **not** meet any of the conditions listed above **and** does not have access (and will not have access within the time period allowed for filing a return with regard to all extensions of time to file) to the information necessary to compute its tax using the aggregate method and certifies these facts to the commissioner.

**Computation of tax under the aggregate method** – The taxpayer's **distributive share** (see IRC section 704) of each partnership item of receipts, income, gain, loss, and deduction and the taxpayer's **proportionate part** of each partnership asset, liability, and partnership activity are included in the computation of the taxpayer's fixed dollar minimum tax. These items have the same source and character in the hands of the partner for Article 9-A purposes that the items have for the partner for federal income tax purposes.

**Election by a foreign corporate limited partner** – A foreign corporation that is a limited partner in, and that is engaged, directly or indirectly, in the participation or in the domination or control of all or any portion of the business activities of one or more limited partnerships where such partnership(s) are doing business, employing capital, owning or leasing property, maintaining an office, or deriving receipts from activity, in New York State, is subject to tax under Article 9-A. When this is the **sole** reason the foreign corporation is taxable under Article 9-A, and such corporation does **not** file on a combined return, such corporation may elect to compute its tax by taking into account only its distributive share of each partnership item of receipts, income, gain, loss, and deduction (including any modifications), and its proportionate part of each asset, liability, and partnership activity of the limited partnership.

If the taxpayer meets the criteria to make the election and does not have access to the information necessary to do the computation, the taxpayer may treat its distributive share of the partnership's items of income, gain, loss, and deduction as business income and its interest in the partnership as business capital and may allocate that business income and capital entirely to New York State.

This election may not be made if the limited partnership and corporate group are engaged in a unitary business, wherever conducted, and there are substantial inter-entity transactions between the limited partnership and the corporate group.

*Corporate group* means the corporate limited partner itself or, if it is a member of an affiliated group, the corporate limited partner and all other members of such affiliated group.

*Affiliated group* has the same meaning as such term is defined in IRC section 1504 without regard to the exclusions provided for in section 1504(b). However, the term *common parent corporation* is deemed to mean any person as defined in IRC section 7701(a)(1).

## 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. Include your employer identification number (EIN) and file number on each corporation tax form filed and keep a record of that information for future use.

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

### Signature

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

The return of an association, publicly traded partnership, or business conducted by a trustee or trustees must be signed by a person authorized to act for the association, publicly traded partnership, or business.

If an outside individual or firm prepared the return, all applicable entries in the paid preparer section must be completed, including identification numbers (see *Paid preparer identification numbers* in Form CT-1). Failure to sign the return will delay the processing of any refunds and may result in penalties.

## Line instructions for Form CT-3-S

**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 J** – If you are claiming qualified New York manufacturer or QETC status for purposes of a lower fixed dollar minimum tax, mark an **X** in the applicable box.

- A corporation qualifies as a manufacturer if during the tax year the taxpayer is **principally engaged** in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing. A taxpayer is *principally engaged* in the foregoing activities if, during the tax year, more than 50% of its gross receipts are derived from receipts for the sale of goods produced by these activities.

The generation of and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are not considered qualifying activities for purposes of the principally engaged test.

In addition, a taxpayer (or in the case of a combined return, a combined group), that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the tax year at least 2,500 employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for federal income tax purposes at the close of the tax year is at least \$100 million.

- A *qualified New York manufacturer* is a manufacturer that has property in New York State that is principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, and either:
  - the adjusted basis of the property for federal income tax purposes is at least \$1 million at the close of the tax year; or
  - all of its real and personal property is located in New York State.
- A *QETC* is a qualified emerging technology company as defined under Public Authorities Law section 3102-e(1)c, without regard to the \$10 million limitation.

## Computation of tax

**To avoid an erroneous assessment or a delay of your refund**, you must enter an amount on line 22, *New York receipts*. If you do not have receipts, enter **0** on line 22.

**Line 22 – New York receipts** – Include the total receipts included in the numerator of the apportionment factor from line 103, column A (New York State). For a short period, annualize such receipts by dividing by the number of months in the short period and multiplying the result by 12.

**Line 23 – Fixed dollar minimum tax** – Determined by your New York receipts. See *Fixed dollar minimum tax schedule* to determine the applicable fixed dollar minimum tax. Qualified New York manufacturers, and QETCs should also mark an **X** in the applicable box on line J. The fixed dollar minimum tax may be reduced for short periods. See instructions under the fixed dollar minimum tax tables for the appropriate reduction for short periods.

**Line 24** – If you claimed any New York State tax credits for any tax year prior to becoming a New York S corporation, and the Tax Law requires recapture of some or all of the credit, under stated conditions, then the tax credit must be recaptured in the year required even when the year is a New York S year. Use the appropriate credit form to compute the recaptured tax credits.

**Line 26** – Enter the amount of nonrefundable special additional mortgage recording tax credit from Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*, line 9, and any deferred nonrefundable special additional mortgage recording tax credit from Form CT-501, *Temporary Deferral Nonrefundable Payout Credit*, line 7. The special additional mortgage recording tax credit cannot reduce your tax liability below the amount of your fixed dollar minimum tax. Do not include on this line any amount of special additional mortgage recording tax credit shown on Form CT-502, *Temporary Deferral Refundable Payout Credit*, line 9.

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

**Line 37** – Include overpayment credited from prior years. You may also include, from last year's return, any amount of refundable special additional mortgage recording tax credit you chose to be credited as an overpayment.

**Line 40** – Form CT-222 is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax pursuant to Tax Law §1085(d).

**Lines 41 and 42** – If you are not filing this return on time, you must pay interest and additional charges. See *Penalties and interest*.

**Voluntary gifts/contributions** – If you want to contribute to *Return a Gift to Wildlife*, *Breast Cancer Research and Education Fund*, *Prostate and Testicular Cancer Research and Education Fund*, *National September 11 Memorial & Museum at the World Trade Center*, *Volunteer Firefighting and Volunteer Emergency Services Recruitment and Retention Fund*, *Veterans Remembrance and Cemetery Maintenance and Operation Fund*, *Women's Cancers Education and Prevention Fund*, or all seven, enter the amount(s) on the appropriate line(s). The amount you give must be in whole dollars. Your gift will increase your payment or reduce your overpayment. You cannot change the amount of your gift after you file your return.

**Line 44a – Return a Gift to Wildlife** – Your contribution will benefit New York's fish, wildlife, and marine resources, and you can receive a free issue of *Conservationist* magazine. Call 1 800 678-6399 for your free sample issue. For more information about New York State's environmental conservation programs go to [www.dec.ny.gov](http://www.dec.ny.gov). For information about *Conservationist*, go to [www.TheConservationist.org](http://www.TheConservationist.org).

**Line 44b – Breast Cancer Research and Education Fund** – Your contribution will support ground-breaking research and education in New York State to prevent, treat, and cure breast cancer. Help make breast cancer a disease of the past. For more information, go to [www.wadsworth.org/extramural/breastcancer](http://www.wadsworth.org/extramural/breastcancer). New York State will match your contribution to the Breast Cancer Research and Education Fund, dollar for dollar.

**Line 44c – Prostate and Testicular Cancer Research and Education Fund** – Your contribution will advance prostate and testicular cancer research, support programs and education projects in New York State. New York State will match contributions to the Prostate and Testicular Cancer Research and Education Fund, dollar for dollar.

**Line 44d – National September 11 Memorial & Museum at the World Trade Center (9/11 Memorial)** – Your contribution will help create and sustain the National September 11 Memorial & Museum which will commemorate and honor the thousands of people who died in the attacks of September 11, 2001, and February 26, 1993. The Memorial and Museum will recognize the endurance of those who survived, the courage of those who risked their lives to save others, and the compassion of all who supported us in our darkest hours. Help New York State, the nation, and the world remember by making a contribution. For more information, go to [www.911memorial.org](http://www.911memorial.org).

**Line 44e – Volunteer Firefighting and Volunteer Emergency Services Recruitment and Retention Fund** – Contributions to this fund will help recruit and retain the men and women who make up our volunteer fire and volunteer emergency medical services units. Volunteer firefighters and volunteer emergency services workers are crucial to the effective operation of a municipality and for the safety and well-being of the citizens of this state. Volunteer firefighters and volunteer emergency medical services workers provide invaluable benefits to their local communities. Despite their importance, the number of volunteer firefighters and volunteer emergency services workers has declined significantly over the past few years. For more information, go to [www.dhss.ny.gov/ofpc](http://www.dhss.ny.gov/ofpc) or contact the State Office of Fire Prevention and Control at (518) 474-6746.

**Line 44f – Veterans Remembrance and Cemetery Maintenance and Operation Fund (Veterans Remembrance)** – Your contribution will help provide for the perpetual care of state veterans cemeteries. Contributions will be used for the purchase, leasing, and improvement of land for veterans cemeteries, the purchase and leasing of equipment and other materials needed for the maintenance of cemeteries, and other associated costs.

**Line 44g – Women's Cancers Education and Prevention Fund** – Contributions to this fund will be used for grants for women's cancers education and prevention programs that have been approved by the New York State Department of Health. High risk women's cancers include cervical, endometrial, gestational trophoblastic tumors, ovarian, uterine sarcoma, vaginal, and vulvar cancers. Increased education and early detection can help women become more aware of symptoms and seek timely medical attention. For more information, go to [www.health.ny.gov/diseases/cancer/](http://www.health.ny.gov/diseases/cancer/).

**Line 47 – 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 49. 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 48 and 49** – You may apply an overpayment as a credit to your next state franchise tax period or you may have it refunded. Indicate on lines 48 and 49 the amount of overpayment you wish to be credited or refunded.

## Computation of business apportionment factor

For tax years beginning on and after January 1, 2015, significant changes were made to the rules for computing the business apportionment factor. Business income is apportioned based on a single receipts factor generally using customer-based sourcing. Receipts from services are generally sourced to New York State if the customer receives the benefit of the service in the state.

You must complete the computation of business apportionment factor section, even if your business allocation percentage is 100% to report the computation of the New York State receipts used to determine your fixed dollar minimum tax.

Nonresident shareholders of a New York S corporation need the business apportionment factor to determine their New York State source income pursuant to §632(a)(2).

**Columns A and B** – *New York State* (column A) amounts are determined per the specific line instructions. *Everywhere* (column B) amounts should be 100% of the receipts, net income, net gains (not less than zero), or other applicable items, unless otherwise specified. If only one category of receipts, net income, net gains (not less than zero), or other applicable item applies to your business, you must still complete both columns for that category. Skip a line only if both the numerator (column A) and the denominator (column B) are zero.

### Section 210-A.2 – Sales of tangible personal property, electricity and net gains from real property

**Line 50** – Receipts from the sale of tangible personal property are apportioned to New York State when shipments are made to points in the state, or the destination of the property is a point in the state.

**Line 51** – Receipts from the sale of electricity are apportioned to New York State when delivered to points in the state. Receipts from sales of tangible personal property and electricity that are traded as commodities, as defined in IRC section 475, are included on line 76, in accordance with §210-A.5(a)(2)(l).

**Line 52** – Net gains (not less than zero) from the sales of real property located within the state are apportioned to New York State.

### Section 210-A.3 – Rentals of real and tangible personal property, royalties, and rights for certain closed circuit and cable TV transmissions

**Line 53** – Receipts from rentals of real and tangible personal property located within the state are apportioned to New York State.

**Line 54** – Receipts of royalties from the use of patents, copyrights, trademarks, and similar intangible personal property within the state are apportioned to New York State.

**Line 55** – Receipts from the sales of rights for closed-circuit and cable television transmissions of an event (other than events occurring on a regularly scheduled basis) taking place within the state as a result of the rendition of services by employees of the corporation, as athletes, entertainers, or performing artists, are entered in the New York column to the extent that those receipts are attributable to such transmissions received or exhibited within the state.

### Section 210-A.4 – Receipts from sale of, license to use, or granting of remote access to digital products

**Line 56** – For Article 9-A apportionment purposes, the term *digital product* means any property or service, or combination thereof, of whatever nature delivered to the purchaser through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media, or any combination of these. Digital product includes, but is not limited to, an audio work, audiovisual work, visual work, book or literary work, graphic work, game, information or entertainment service, storage of digital products and computer software by whatever means delivered. The term *delivered* to includes furnished or provided to or accessed by. A digital product does not include legal, medical, accounting, architectural, research, analytical, engineering or consulting services.

If the receipt for a digital product is comprised of a combination of property and services, it cannot be divided into separate components and is considered to be one receipt, regardless of whether it is separately stated for billing purposes. The entire receipt must be allocated according to a hierarchy (see below).

Receipts from the sale of, license to use, or granting of remote access to digital products within the state, are determined according to the following hierarchy:

- 1) The customer's primary use location of the digital product
- 2) The location where the digital product is received by the customer or is received by a person designated for receipt by the customer
- 3) The apportionment fraction used on the Article 9-A return of the taxpayer for the preceding tax year for such digital product, or
- 4) The apportionment fraction in the current tax year for those digital products that can be sourced using the methods in items 1 and 2.

**Note:** The rule in item 3 does not apply to your first tax period that begins on or after January 1, 2015.

The taxpayer must exercise due diligence under each method before rejecting it and proceeding to the next method in the hierarchy, and must base its determination on information known to the taxpayer or information that would be known to the taxpayer upon reasonable inquiry.

### Section 210-A.5(a)1 – Qualified financial instruments (QFIs), the 8% method

**Line 57** – A *qualified financial instrument* means a financial instrument of a type reported on lines 60 through 73, and 76 through 79 that is marked to market in the tax year by the taxpayer under IRC sections 475 or 1256. Further, if the taxpayer has in the tax year marked to market a financial instrument of the type described on the aforementioned lines, then any financial instrument within that type that has not been marked to market by the taxpayer under IRC sections 475 or 1256 is a QFI in the tax year. If the only loans that are marked to market under IRC sections 475 or 1256 are loans secured by real property, then no loans are QFIs. Stock that is investment capital shall not be a QFI.

Taxpayers may elect to use the *fixed percentage method* to apportion QFIs; if so, all income, gain or loss from QFIs, including marked to market net gains as described in the line 77 instructions, constitutes business income, gain or loss. Under the fixed percentage method, 8% of all net income (not less than zero) from QFIs is included in the New York State column. This election is irrevocable, applies to all QFIs, and must be made on an annual basis on the original timely filed return (determined with regard to extensions of time for filing) by marking an **X** in the box on line 57. If you do not mark the box but still apportion QFI receipts by 8%, you will be considered to have made the election.

When **any** financial instrument has been marked to market that is reported on:

- a) **either** line 60 or 61, then **both** boxes on lines 60 and 61 must be marked; and
- b) **any** of lines 62 through 73, and 76 through 79, then the box next to the section heading above the line on which the financial instrument is reported must be marked.

For all financial instruments that do **not** meet the definition of a QFI and if you did **not** elect the fixed percentage method for QFIs, use the apportionment rules as detailed in the instructions for lines 58 through 79. For purposes of these apportionment instructions, an individual is deemed to be located in New York State if his or her billing address is in the state. A business entity is deemed to be located in New York State if its commercial domicile is located in the state.

Use the following hierarchy to determine the *commercial domicile* of a business entity, based on known information, or information that would be known upon reasonable inquiry:

- 1) The seat of management and control of the business entity, or
- 2) The billing address of the business entity in the taxpayer's records.

You must exercise due diligence before rejecting the first method and proceeding to the next method in this hierarchy.

For purposes of these apportionment instructions, *registered securities broker or dealer* means a broker or dealer registered as such by the Securities and Exchange Commission (SEC) or a broker or dealer registered as such by the commodities futures trading commission, and shall include an over-the-counter (OTC) derivatives dealer as defined under regulations of the SEC (17 CFR 240.3b-12).

For purposes of these apportionment instructions, *gross proceeds* are determined after the deduction of any cost incurred to acquire the securities, but shall not be less than zero.

### Section 210-A.5(a)(2)(A) – Loans

A loan is secured by real property if 50% or more of the value of the collateral used to secure the loan (when valued at FMV as of the time the loan was entered into) consists of real property. Gross proceeds are determined after the deduction of any cost to acquire the loans, but shall not be less than zero.

**Line 58** – Include in the New York column, interest from loans secured by real property located within the state.

**Line 59** – For the New York column, multiply the amount of net gains (not less than zero) from sales of loans secured by real property by a fraction, the numerator of which is the amount of gross proceeds from sales of loans secured by real property located within the state, and the denominator of which is the amount of gross proceeds from sales of such loans everywhere.

In the Everywhere column, include the amount of net gains (not less than zero) from sales of loans secured by real property both within and outside New York State.

**Line 60** – In the New York column, include interest from loans **not** secured by real property if the borrower is located in New York State.

**Line 61** – For the New York column, multiply net gains (not less than zero) from sales of loans **not** secured by real property by a fraction, the numerator of which is the amount of gross proceeds from sales of loans not secured by real property to purchasers located within the state, and the denominator of which is the amount of gross proceeds from sales of such loans to purchasers located within and outside the state.

In the Everywhere column, include the amount of net gains (not less than zero) from sales of loans **not** secured by real property within and outside the state.

### Section 210-A.5(a)(2)(B) – Federal, state, and municipal debt

**Lines 62 through 67** – Receipts are **not** included in column A, **unless** the election to apportion receipts from QFI's by the 8% method was made. For lines 62 through 65, in the Everywhere column, enter 100% of the applicable receipts. For lines 66 and 67, in the Everywhere column, enter 50% of the receipts constituting interest and net gains (not less than zero) from sales of debt instruments issued by other states or their political subdivisions.

### Section 210-A.5(a)(2)(C) – Asset-backed securities and other government agency debt

**Line 68** – In the New York column, enter 8% of the interest income from:

- 1) Asset-backed securities issued by government agencies;
- 2) Other securities issued by government agencies, including but not limited to securities issued by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Small Business Administration (SBA); or
- 3) Asset-backed securities issued by other entities.

**Line 69** – In the New York column, enter 8% of the net gains (not less than zero) from:

- 1) Sales of asset-backed securities or other securities issued by government agencies, including but not limited to securities issued by GNMA, FNMA, FHLMC, or the SBA; or
- 2) Sales of other asset-backed securities that are sold through a registered securities broker or dealer, or through a licensed exchange.

**Line 70** – For the New York column, multiply net gains (not less than zero) from sales of other asset-backed securities **not** reported on line 69 by a fraction, the numerator of which is the amount of gross proceeds from such sales to purchasers located in the state, and the denominator of which is the amount of gross proceeds from such sales to purchasers located within and outside the state.

In the Everywhere column, enter 100% of the amount of net gains (not less than zero) from sales of other asset-backed securities not reported on line 69.

### Section 210-A.5(a)(2)(D) – Corporate bonds

**Line 71** – In the New York column, enter interest from corporate bonds when the commercial domicile of the issuing corporation is in the state.

**Line 72** – In the New York column, enter 8% of the net gains (not less than zero) from sales of corporate bonds sold through a registered securities broker or dealer, or through a licensed exchange.

**Line 73** – For the New York column, multiply net gains (not less than zero) from those sales of corporate bonds **not** reported on line 72 by a fraction, the numerator of which is the amount of gross proceeds from such sales to purchasers located within the state, and the denominator of which is the amount of gross proceeds from such sales to purchasers located within and outside the state.

In the Everywhere column, enter the amount of net gains (not less than zero) from sales of corporate bonds to purchasers within and outside the state.

### Section 210-A.5(a)(2)(E) – Interest income from reverse repurchase and securities borrowing agreements

**Line 74** – In the New York column, enter 8% of net interest income (not less than zero) from reverse repurchase agreements and securities borrowing agreements. For this calculation, net interest income is determined after the deduction of the amount of interest expense from the taxpayer's repurchase agreements and securities lending transactions, but cannot be less than zero. The amount of such interest expense is the interest expense associated with the sum of the value of the taxpayer's repurchase agreements where the taxpayer is the seller or borrower, **plus** the value of the taxpayer's securities lending agreements where the taxpayer is the securities lender (provided such sum is limited to the sum of the value of the taxpayer's reverse repurchase agreements where the taxpayer is the purchaser or lender, **plus** the value of the taxpayer's securities lending agreements where the taxpayer is the securities borrower).

### Section 210-A.5(a)(2)(F) – Interest income from federal funds

**Line 75** – In the New York column, enter 8% of the net interest (not less than zero) from federal funds (determined after deduction of interest expense from federal funds).

### Section 210-A.5(a)(2)(I) – Net income from sales of physical commodities

**Line 76** – For the New York column, multiply the net income from sales of physical commodities by a fraction, the numerator of which is the amount of receipts from sales of physical commodities actually delivered to points within the state or, if there is no actual delivery of the physical commodity, the amount sold to purchasers located in the state, and the denominator of which is the amount of receipts from all sales of physical commodities actually delivered to points within and outside the state or, if there is no actual delivery of the physical commodity, the amount sold to purchasers located both within and outside the state.

Net income (not less than zero) from sales of physical commodities is determined after the deduction of the cost to acquire or produce the physical commodities.

In the Everywhere column, enter 100% of the net income (not less than zero) from sales of physical commodities.

### Section 210-A.5(a)(2)(J) – Marked to market net gains

**Line 77** – For purposes of lines 58 through 92, *marked to market* means that a financial instrument is treated by the taxpayer as sold for its FMV on the last business day of the taxpayer's tax year, despite no actual sale having taken place, under IRC sections 475 or 1256. The term *marked to market gain or loss* means the gain or loss recognized by the taxpayer under IRC sections 475 or 1256 because the financial instrument is treated as sold for its FMV on the last business day of the tax year.

The amount of marked to market net gains (not less than zero) from each type of financial instrument to be included in the New York column is determined by multiplying such net gains (not less than zero) from each such type of financial instrument by a fraction, the numerator of which is the numerator of the apportionment fraction for the net gains from actual sales of that type of financial instrument as reported on lines 58 through 79 (as applicable), and the denominator of which is the denominator of the apportionment fraction for the net gains from actual sales of that type of financial instrument determined on the applicable line.

In the Everywhere column, enter 100% of the marked to market net gains (not less than zero) from financial instruments for which the amount to be included in the New York column is determined under the immediately preceding paragraph.

If the type of financial instrument that is marked to market is not otherwise sourced by the taxpayer on lines 58 through 79, or if

the taxpayer has a net loss from the sales of that type of financial instrument not otherwise sourced on lines 58 through 79, for the New York column, multiply the marked to market net gains (not less than zero) from that type of financial instrument by a fraction, the numerator of which is the sum of the amount of receipts from financial instruments entered in the New York column on lines 58 through 79, and the denominator of which is the sum of the amount of receipts entered in the Everywhere column on lines 58 through 79.

In the Everywhere column, enter 100% of the marked to market net gains (not less than zero) from financial instruments for which the amount to be included in the New York column is determined under the immediately preceding paragraph.

### Section 210-A.5(a)(2)(H) – Income from other financial instruments

**Line 78** – In the New York column, enter interest from other financial instruments when the payor is located in New York State.

**Line 79** – In the New York column, include net gains (not less than zero) from sales of other financial instruments and other income (not less than zero) from other financial instruments when the purchaser or payor is located in the state. However, if the purchaser or payor is a registered securities broker or dealer, or the transaction is made through a licensed exchange, then include 8% of the net gains (not less than zero) or other income (not less than zero).

### Section 210-A.5(b) – Other receipts from broker or dealer activities

For the purposes of lines 80 through 86, *securities* has the same meaning as in IRC section 475(c)(2), and *commodities* has the same meaning as in IRC section 475(e)(2). If the taxpayer receives any of the receipts reported on lines 80 through 84 as a result of a securities correspondent relationship that the taxpayer has with another broker or dealer (with the taxpayer acting in this relationship as the clearing firm), those receipts are deemed generated within the state to the extent set forth in §210-A.5(b)(1) through §210-A.5(b)(4). The amount of those receipts excludes the amount the taxpayer is required to pay to the correspondent firm for the correspondent relationship. If the taxpayer receives any of the receipts reported on lines 80 through 84 as a result of a securities correspondent relationship that the taxpayer has with another broker or dealer (with the taxpayer acting in this relationship as the introducing firm), these receipts are deemed generated within the state to the extent set forth in §210-A.5(b)(1) through §210-A.5(b)(4). If the taxpayer is unable to determine the mailing address of the customer from its records, include 8% of the receipts in the numerator of the apportionment fraction.

**Line 80** – In the New York column, enter brokerage commissions derived from the execution of securities or commodities purchase or sales orders for the accounts of customers if in the records of the taxpayer, the mailing address of the customer responsible for paying the commissions is in the state.

**Line 81** – In the New York column, enter margin interest earned on behalf of brokerage accounts if in the records of the taxpayer, the mailing address of the customer responsible for paying such margin interest is in the state.

**Line 82** – In the New York column, enter the amount of fees for advisory services to a customer in connection with the underwriting of securities for the entity that is contemplating issuing or is issuing securities, or fees for managing an underwriting, if in the records of the taxpayer, the mailing address of the customer responsible for paying such fees is in the state.

**Line 83** – In the New York column, enter the receipts constituting the primary spread of selling concession from underwritten securities if the customer is located in the state. The term *primary spread* means the difference between the price paid by the taxpayer to the issuer of the securities being marketed and the price received from the subsequent sale of the underwritten securities at the initial public offering price, less any selling concession and any fees paid to the taxpayer for advisory services or any manager's fees, if those fees are not paid by the customer to the taxpayer separately. The term *public offering price* means the price agreed upon by the taxpayer and the issuer at which the securities are to be offered to the public. The term *selling*

*concession* means the amount paid to the taxpayer for participating in the underwriting of a security where the taxpayer is not the lead underwriter.

**Line 84** – In the New York column, enter account maintenance fees if in the records of the taxpayer, the mailing address of the customer responsible for paying such account maintenance fees is in the state.

**Line 85** – In the New York column, enter fees for management or advisory services, including fees for advisory services in relation to merger or acquisition activities, if in the records of the taxpayer, the mailing address of the customer responsible for paying such fees is in the state. Exclude fees paid for services reported on line 92.

**Line 86** – Interest earned on loans and advances made by the taxpayer to a corporation affiliated with the taxpayer, but with which the taxpayer is not included in a combined return under Article 9-A are deemed to arise from services performed at the principal place of business of the affiliated corporation. If such principal place of business is in New York State, include the interest in the New York column.

### Section 210-A.5(c) – Receipts from credit card and similar activities

**Line 87** – In the New York column, enter interest, fees, and penalties in the nature of interest from bank, credit, travel, and entertainment card receivables if in the records of the taxpayer, the mailing address of the card holder is in the state.

**Line 88** – In the New York column, enter service charges and fees from such cards, if in the records of the taxpayer, the mailing address of the card holder is in the state.

**Line 89** – In the New York column, enter receipts from merchant discounts when the merchant is located within the state. If the merchant has locations both within and outside of New York State, **only** receipts from merchant discounts attributable to sales made from locations within New York State are entered in the New York column. The location of the merchant is presumed to be the address of the merchant shown on the invoice submitted to the taxpayer by the merchant.

**Line 90** – In the New York column, enter receipts from credit card authorization processing, and clearing and settlement processing, received by credit card processors if the location where the customer of the credit card processor accesses the credit card processor's network is located within the state.

**Line 91** – For the New York column, multiply the total amount of all other receipts received by credit card processors not reported on lines 50 through 102 by the average of 8% and the percent of its New York access points. The *percent of New York access points* is the number of locations within the state from which the credit card processor's customers access the credit card processor's network, divided by the total number of locations in the United States where the credit card processor's customers access the credit card processor's network.

### Section 210-A.5(d) – Receipts from certain services to investment companies

**Line 92** – For the New York column, multiply the receipts received from an investment company arising from the sale of management, administration, or distribution services to such investment company by a fraction, the numerator of which is the sum of the monthly percentages determined for each month of the investment company's federal tax year that ends within the tax year of the taxpayer (but excluding any month during which the investment company had no outstanding shares), and the denominator of which is the number of those monthly percentages.

To determine the monthly percentage for each month, divide the number of shares in the investment company that are owned on the last day of the month by shareholders that are located in New York State by the total number of shares in the investment company outstanding on that date.

In the Everywhere column, enter 100% of the receipts received from an investment company arising from the sale of management, administration, or distribution services to the investment company.

For purposes of these receipts, the following apply:

- An individual, estate or trust is deemed located in the state if his, her, or its mailing address in the records of the investment company is in the state. A business entity is deemed located in the state if its commercial domicile is located in the state.
- *Investment company* means a regulated investment company, as defined in IRC section 851, and a partnership to which IRC section 7704(a) applies (by virtue of section 7704(c)(3)) and that meets the requirements of IRC section 851(b). This is applied to the tax year, for federal income tax purposes, of the business entity that is asserted to constitute an investment company that ends within the tax year of the taxpayer.
- *Receipts from an investment company* includes amounts received directly from an investment company as well as amounts received from the shareholders in the investment company, in their capacity as such.
- *Management services* means the rendering of investment advice to an investment company, making determinations as to when sales and purchases of securities are to be made on behalf of an investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed pursuant to a contract with the investment company entered into according to the federal Investment Company Act of 1940, section 15(a), as amended.
- *Distribution services* means the services of advertising, servicing investor accounts (including redemptions), marketing shares or selling shares of an investment company; but in the case of advertising, servicing investor accounts (including redemptions) or marketing shares, **only** where such service is performed by a person who is (or was, in the case of a closed end company) also engaged in the service of selling such shares. In the case of an open-end company, the service of selling shares must be performed pursuant to a contract entered into pursuant to the federal Investment Company Act of 1940, section 15(b), as amended.
- *Administration services* includes clerical, accounting, bookkeeping, data processing, internal auditing, legal, and tax services performed for an investment company, but only if the provider of such service or services during the tax year in which such service or services are sold also sells management or distribution services (as defined above), to such investment company.

**Section 210-A.6 – Receipts from railroad and trucking businesses**

**Line 93** – For the New York column, multiply receipts from the conduct of a railroad business or a trucking business (including surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car business) by a fraction, the numerator of which is the miles in such business within the state during the period covered by this return, and the denominator of which is the miles in such business both within and outside the state during such period.

**Section 210-A.6-a – Receipts from operation of vessels**

**Line 94** – For the New York column, multiply receipts from the operation of vessels by a fraction, the numerator of which is the aggregate number of working days of the vessels owned or leased by the taxpayer in territorial waters of the state during the period covered by this return, and the denominator of which is the aggregate number of working days of all vessels owned or leased by the taxpayer during such period.

**Section 210-A.7 – Receipts from aviation services**

**Line 95 Air freight forwarding** – In the New York column, enter the receipts from the activity of air freight forwarding acting as principal and like indirect air carrier receipts arising from that activity as follows:

- 100% of such receipts if both the pickup and delivery associated with those receipts are made in the state; and
- 50% of such receipts if either the pickup or delivery associated with those receipts is made in this state.

In the Everywhere column, enter the amount of receipts from all such activity.

**Line 96 Other aviation services** – For the New York and Everywhere columns, determine the portion of receipts from aviation services, other than services described in line 95 (but including the receipts of a qualified air freight forwarder, as described below) to enter by averaging lines 1, 3, and 5 (shown in bold) in the worksheet below.

*Aircraft arrivals and departures* means the number of landings and takeoffs in the tax year, **plus** the number of air pickups and deliveries by such aircraft. Do **not** include arrivals and departures solely for maintenance, repair, or refueling (where no debarkation or embarkation of traffic occurs). Arrivals and departures of ferry and personnel training flights, or in the event of emergency situations, are also not included. Arrivals and departures of flights transporting officers and employees receiving air transportation are included (but see *Note*: below for exceptions) without regard to remuneration.

**Note:** The Commissioner of Taxation and Finance may exempt from the calculation arrivals and departures of all non-revenue flights including flights involving the transportation of officers and employees receiving air transportation to perform maintenance or repair services, or where such officers or employees are transported in conjunction with an emergency situation or the investigation of an air disaster (other than on a scheduled flight).

*Revenue tons handled by the taxpayer at airports* means the weight, in tons, of revenue passengers (at 200 pounds per passenger) and revenue cargo first received, either as originating or connecting traffic or finally discharged at an airport.

*Originating revenue* means revenue to the taxpayer from the transportation of revenue passengers and revenue property first received by the taxpayer as originating or connecting traffic at airports.

**Worksheet for line 96**

		A	B	C	D
		Within NYS	Column A X 60% (.60)	Everywhere	NYS percentage
<b>1</b>	<b>Aircraft arrivals and departures</b> during the period of this return .....	<b>1</b>			
<b>2</b>	Divide line 1, column B, by line 1, column C .....	<b>2</b>			
<b>3</b>	<b>Revenue tons handled at airports</b> during the period of this return .....	<b>3</b>			
<b>4</b>	Divide line 3, column B, by line 3, column C .....	<b>4</b>			
<b>5</b>	<b>Originating revenue</b> during the period of this return .....	<b>5</b>			
<b>6</b>	Divide line 5, column B, by line 5, column C .....	<b>6</b>			
<b>7</b>	Add all percentage amounts in column D, lines 2, 4, and 6; then divide by 3 .....	<b>7</b>			
<b>8</b>	Enter 100% of receipts from other aviation services; also enter on line 96, in column B .....	<b>8</b>			
<b>9</b>	Multiply line 7 by line 8; also enter on line 96, in column A .....	<b>9</b>			

A corporation is a *qualified air freight forwarder* with respect to another corporation if:

- it owns or controls, either directly or indirectly, all of the capital stock of such other corporation; or if all of its capital stock is owned or controlled, either directly or indirectly, by such other corporation; or if all of the capital stock of both corporations is owned or controlled, either directly or indirectly, by the same interests;
- it is principally engaged in the business of air freight forwarding; and
- its air freight forwarding business is carried on principally with the airline or airlines operated by such other corporation.

### Section 210-A.8 – Advertising: newspapers/periodicals, TV/radio, and other means

**Line 97** – For the New York column, multiply receipts from sales of advertising in newspapers or periodicals by a fraction, the numerator of which is the number of newspapers and periodicals delivered to points within the state, and the denominator of which is the number of newspapers and periodicals delivered to points both within and outside the state.

**Line 98** – For the New York column, multiply receipts from sales of advertising on television or radio by a fraction, the numerator of which is the number of viewers or listeners within the state, and the denominator of which is the number of viewers or listeners both within and outside the state.

**Line 99** – For the New York column, multiply receipts from sales of advertising **not** reported on either line 97 or 98 that is furnished, provided, or delivered to or accessed by the viewer or listener through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite or similar successor media, or any combination of these, by a fraction, the numerator of which is the number of viewers or listeners within the state, and the denominator of which is the number of viewers or listeners both within and outside the state.

### Section 210-A.9 – Receipts from the transportation or transmission of gas through pipes

**Line 100** – For the New York column, multiply receipts from the transportation or transmission of gas through pipes by a fraction, the numerator of which is the taxpayer's transportation units within the state, and the denominator of which is the taxpayer's transportation units both within and outside the state. A *transportation unit* is the transportation of one cubic foot of gas over a distance of one mile.

### Section 210-A.10 – Receipts from other services/activities not specified

**Line 101** – In the New York column, enter receipts from services and other business receipts not reported on lines 50 through 102, if the location of the customer is within the state. The determination of the amount of receipts included in the New York column is made according to the *Hierarchy of methods* below. The taxpayer must exercise due diligence under each method described before rejecting it and proceeding to the next method in the hierarchy, and must base its determination on information known to the taxpayer, or information that would be known to the taxpayer upon reasonable inquiry.

#### Hierarchy of methods

- 1) The benefit is received in this state
- 2) Delivery destination
- 3) The apportionment fraction for such receipts within the state determined according to §210-A.10 for the preceding tax year
- 4) The apportionment fraction for the current tax year determined according to §210-A.10 for those receipts that can be sourced using the hierarchy of sourcing method in item 1 or 2.

**Note:** The rule in item 3 does not apply to your first tax period that begins on or after January 1, 2015.

### Section 210-A.11 – Discretionary adjustments

If it appears that the apportionment fraction determined according to §210-A does not result in a proper reflection of the taxpayer's business income or capital within the state, the Commissioner of Taxation and

Finance is authorized in his or her discretion to adjust it, or the taxpayer may request that the commissioner adjust it. This is done by:

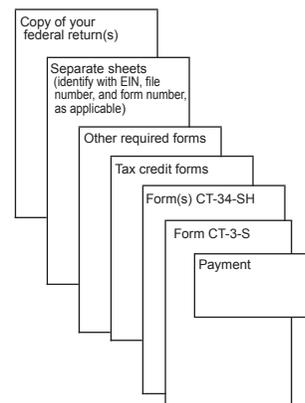
- excluding one or more items in such determination,
- including one or more other items in such determination, or
- any other similar or different method calculated to effect a fair and proper apportionment of the business income and capital reasonably attributed to the state.

The party seeking the adjustment bears the burden of proof to demonstrate that the apportionment fraction determined according to §210-A does not result in a proper reflection of the taxpayer's business income or capital within the state and that the proposed adjustment is appropriate.

Where you have received approval from the commissioner to make such adjustment, use line 102 to report it. Do **not** use line 102 to report an adjustment **unless** you have received the approval of the commissioner. If you have not received the approval of the commissioner before filing this return, you must file using the statutory rules for apportionment. You may file an amended return after you have received approval.

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

- Read the instructions.
- Use the correct forms and include all pages.
- Include your EIN and file number on each form filed.
- Have the appropriate individuals sign the completed return.
- Make your check or money order payable to: **New York State Corporation Tax**.
- Attach Form(s) CT-34-SH and the appropriate tax credit forms.
- Attach a complete copy of your federal return(s) to Form CT-3-S.
- If you are using tax software, attach a completed copy of Form CT-2, *Corporation Tax Return Summary*.
- Assemble your return and attachments this way:



For mailing address information, see *Where to file*.