



Instructions for Form DTF-686

Tax Shelter Reportable Transactions

General information

The Tax Law requires all taxpayers to disclose information relating to transactions that present the potential for tax avoidance (a *tax shelter*). This requirement is similar to the tax shelter disclosure required for federal income tax purposes. The Tax Law also imposes penalties for nondisclosure and the underpayment of taxes due to participation in these transactions and extends the statute of limitations for assessments relating to these transactions.

For more information, see:

- TSB-M-05(2)C, (4)I, *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*
- TSB-M-05(2.1)C, (4.1)I, *Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*
- TSB-M-07(1)C, *Additional Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*

To learn more about the reporting requirements for New York reportable transactions, see New York Codes, Rules, and Regulations (NYCRR) Title 20, Part 2500, *New York Reportable Transactions*, or visit www.tax.ny.gov (search: NYCRR).

Note: All citations are to New York State Tax Law articles and sections unless specifically noted otherwise.

Who must file

Definitions

The term *return or report* includes original returns or reports and amended returns or reports.

A *taxpayer* or person who files a return or report under Article 9, 9-A, 22 or 33 includes:

- corporations subject to tax under § 183, 184, or 186, and persons subject to tax under § 186-a or 186-e;
- general business corporations subject to tax under Article 9-A;
- individuals (including sole proprietorships), partnerships (including a limited liability company [LLC] that is treated as a partnership for federal income tax purposes), estates and trusts, partners in a partnership (including members of an LLC that is treated as a partnership for federal income tax purposes), shareholders of an S corporation, and beneficiaries of an estate or trust subject to tax or required to file a tax return under Article 22; and
- insurance corporations and captive insurance companies subject to tax under Article 33.

Federal disclosure requirements

If you are required to file a return or report under Article 9, 9-A, 22, or 33 before July 1, 2029, **and** you were (or are) required to file a disclosure statement related to a reportable transaction or a listed transaction with the IRS, pursuant to Internal Revenue Code (IRC) § 6011, you must disclose that information with your New York State return or report.

Affiliated groups and group returns

Affiliated groups: If you are a member of an affiliated group as defined by IRC § 1504, you must individually file a disclosure statement for New York State even though one member of your affiliated group may file the disclosure statement with the IRS on behalf of affiliated group members.

Group agents: If you are a group agent authorized to file a group return under Article 22 on behalf of a group of nonresident members, you must file the disclosure statement for New York State and file it with the New York State group return.

Nonresident individual group members: If you are a nonresident individual group member who participates in a group return under Tax Law Article 22, you are not required to individually file this disclosure. Also, you are not required to disclose listed or reportable transactions that do not affect New York source income.

Exceptions

Tax years beginning before January 1, 2004:

- See TSB-M-05(2.1)C, (4.1)I concerning collective disclosure election for large partnerships, and abbreviated disclosure statements for a taxpayer that is a partner of a large partnership.
- See TSB-M-05(2.2)C, (4.2)I, *Additional Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*, concerning collective disclosure election for large trusts, and abbreviated disclosure statements for a taxpayer that is a beneficiary of a large trust.

Members of a federal consolidated return: See TSB-M-07(1)C concerning consolidated disclosure.

Reportable transactions that have been delisted by the IRS: For information concerning reporting requirements, see TSB-M-05(2.1)C, (4.1)I.

New York reportable transaction disclosure requirements

If you participate in New York reportable transactions, you are required to disclose your participation when you file your tax return for that tax year. A *New York reportable transaction* is a transaction that has the potential to be a tax avoidance transaction under Tax Law Article 9, 9-A, 22, or 33.

There are three types of New York reportable transactions:

- New York listed transactions
- New York confidential transactions
- New York transactions with contractual protection.

When to file

Federal disclosure requirements

Attach to Form DTF-686 a duplicate of the IRS disclosure statement (currently IRS Form 8886) and any related information submitted to the IRS. Attach Form DTF-686 to the return or report you file for the current tax year.

In addition, with the **first** return or report you file, you must also submit:

- all disclosure statements you were required to file with the IRS at any time with respect to listed transactions for which you were also required to file a New York State return or report for the tax year in which the transaction occurred under Article 9, 9-A, 22, or 33; and
- all disclosure statements that you were required to file with the IRS with respect to reportable transactions, other than listed transactions, that you participated in during any tax year for which the statute of limitations for assessment has not expired.

New York reportable disclosure requirements

Complete one Form DTF-686-ATT, *New York Reportable Transaction Disclosure Statement and Request for a Determination*, for each New York reportable transaction. Attach each Form DTF-686-ATT to Form DTF-686. Attach Form DTF-686 to the return or report you file for the current tax year.

Line instructions

You must mark at least one box on either line 1 or line 4, as applicable.

Line 1

Mark an **X** in each box that you have identified and checked on all attached federal Forms 8886. If you marked box 1A, you must enter on line 3 the applicable code for **each** federal listed transaction you are reporting.

Line 3

In each box, enter the applicable code from the table below that corresponds to **each** transaction you are reporting.

Code	Federal listed transactions
01	Revenue Ruling 90-105
02	Notice 95-34
03	ASA Investorings Partnership vs. Commissioner
04	Treasury Regulation 1.643(a)-8
05	Notice 99-59
06	Treasury regulation 1.7701(l)-3
07	Revenue Ruling 2000-12
08	Notice 2000-44
09	Notice 2000-60
10	Notice 2000-61
11	Notice 2001-16
12	Notice 2001-17
13	Notice 2001-45
14	Notice 2002-21
15	Notice 2002-35
16	Notice 2002-50
17	Revenue Ruling 2002-69
18	Revenue Ruling 2003-6
19	Notice 2003-22
20	Notice 2003-24
21	Notice 2003-47
22	Notice 2003-55
23	Notice 2003-77
24	Notice 2003-81
25	Notice 2004-8
26	Revenue Ruling 2004-4
27	Revenue Ruling 2004-20
28	Notice 2004-20
29	Notice 2004-30
30	Notice 2004-31
31	Notice 2005-13
32	Notice 2007-57
33	Notice 2007-83
34	Notice 2008-34
35	Notice 2015-73
36	Notice 2017-10
37	Other

For additional information on these transactions, visit the IRS website at www.irs.gov.

Line 4

Mark an **X** in each box that applies to a transaction for which you attached a Form DTF-686-ATT.

Waiver of the secrecy provisions of the Tax Law for purposes of a consolidated disclosure

For corporations that are members of a federal consolidated group, the corporation designated as responsible for filing the copy of the federal disclosure statement on behalf of all New York State consolidated group members must sign the waiver when completing its Form DTF-686.

In addition, each corporation participating in the consolidated disclosure must also sign the waiver when completing its abbreviated Form DTF-686.

Additional tax shelter recordkeeping requirements

If you are required by § 25 to disclose any transaction, file any duplicate return, or maintain any list, you must retain the following for **six years**:

- all relevant correspondence,
- memoranda,
- notes,
- valuation studies,
- meeting minutes,
- spreadsheets, models, opinions,
- records you are required to retain pursuant to IRC § 6011, and
- all other records or documents related to the disclosure, filing, and list maintenance requirements of § 25.

You must make the information available for inspection in connection with any examination.

Need help?

Visit our website at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Automated income tax refund status: 518-457-5149

Personal Income Tax Information Center: 518-457-5181

Corporation Tax Information Center: 518-485-6027

To order forms and publications: 518-457-5431

Text Telephone (TTY) or TDD equipment users: Dial 7-1-1 for the New York Relay Service

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.