



Instructions for Form CT-3-M

General Business Corporation MTA Surcharge Return

CT-3-M-1

New for 2023

For a detailed list of what's new, including a summary of tax law changes, visit our website at www.tax.ny.gov (search: 2023).

Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

- Business information (how to enter and update)
- Entry formats
 - Dates
 - Negative amounts
 - Percentages
 - Whole dollar amounts
- Are you claiming an overpayment?
- NAICS business code number and NYS principal business activity
- Limitation on tax credit eligibility
- Third-party designee
- Paid preparer identification numbers
- Is your return in processible form?
- Use of reproduced and computerized forms
- Electronic filing and electronic payment mandate
- Online services
- Web File
- Form CT-200-V
- Collection of debts from your refund or overpayment
- Fee for payments returned by banks
- Reporting requirements for tax shelters
- Tax shelter penalties
- Voluntary Disclosure and Compliance Program
- Your rights under the Tax Law
- Need help?
- Privacy notification

All citations are to New York State Tax Law sections unless specifically noted otherwise.

General information

Who must file this form and pay this surcharge

A taxpayer filing Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*, under Article 9-A that does business, employs capital, owns or leases property, maintains an office, or derives receipts from activity, in the Metropolitan Commuter Transportation District (MCTD), must also file Form CT-3-M and pay a metropolitan transportation business tax (MTA surcharge) on business done in the Metropolitan Transportation Authority region. The **MCTD includes** the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

A corporation is considered to be deriving receipts in the MCTD if it has receipts within the MCTD of \$1.138 million or more. A corporation with less than \$1.138 million but at least \$11,000 of receipts within the MCTD in a tax year, that is part of a unitary group that meets the ownership test under §210-C, is deriving receipts from activity in the MCTD if the receipts within the MCTD of the members of the unitary group that have at least \$11,000 of

receipts within the MCTD in the aggregate meet the \$1.138 million threshold (§209-B.1 and TSB-M-22(2)C, *2023 MTA Surcharge Rate and Deriving Receipts Thresholds*).

The term *receipts* means the receipts that are subject to the New York State apportionment rules set forth in §210-A, and the term *receipts within the MCTD* means the receipts included in the numerator of the MCTD apportionment factor determined under §209-B.2. Also, receipts from processing credit card transactions for merchants include merchant discount fees received by the corporation.

A corporation is doing business in the MCTD if (§209-B.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 the MCTD 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 the MCTD 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.

A corporation that does **not** meet any of the thresholds above, but has at least 10 customers, or locations, or customers and locations, and is part of a unitary group that meets the ownership test under §210-C is doing business in the MCTD if the number of customers, locations, or customers and locations, within the MCTD of the members of the unitary group that have at least 10 customers, locations, or customers and locations, within the MCTD in the aggregate meets any of the thresholds above.

Exception: A qualified entity (QE) of a New York State innovation hot spot that operates solely within a hot spot is not subject to the MTA surcharge for five tax years, beginning with the first tax year during which it becomes a tenant in, or part of, a hot spot. This exception is only available to a QE that has irrevocably elected on its Form CT-3 to be subject to only the fixed dollar minimum tax base. This exception does not apply to taxpayers filing as part of a New York State combined group.

Estimated MTA surcharge

Any corporation that is subject to the MTA surcharge that is required to make a declaration of estimated franchise tax must also make a declaration of estimated MTA surcharge and make quarterly installment payments on Form CT-400, *Estimated Tax for Corporations*. 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 website.

For more information, see Form CT-400-I, *Instructions for Form CT-400*.

When and where to file

File this return and pay the amount of MTA surcharge due within 3½ months after the end of your reporting period. If your filing date falls on a Saturday, Sunday, or legal holiday, then you must file your return on or before the next business day.

Mail Form CT-3-M separately or with your **Form CT-3** or **CT-3-A** to:

NYS CORPORATION TAX
PO BOX 15181
ALBANY NY 12212-5181

Private delivery services

See Publication 55, *Designated Private Delivery Services*.

Extension of time for filing MTA surcharge return

You may request additional time to file an MTA surcharge return. File Form CT-5, *Request for Six-Month Extension to File (for franchise/business taxes, MTA surcharge, or both)*, or Form CT-5.3, *Request for Six-Month Extension to File (for combined franchise tax return, or combined MTA surcharge return, or both)*, on or before the due date of the return for which you are requesting the extension, and pay the MTA surcharge you estimate to be due.

Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box in the upper left corner of Form CT-3-M.

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

If you need to report changes to the MCTD apportionment percentage, you must file an amended Form CT-3-M.

For more information about filing an amended return, see *Amended returns* in the instructions for Form(s) CT-3 or CT-3-A.

Important identifying information

For us to process your corporation tax forms, it is important that we have the necessary identifying information. Enter your employer identification number and file number above your corporation tax name and address. Keep a record of that information and include it on each corporation tax form mailed. If you use a paid preparer or accounting firm, make sure they use your complete and accurate information when completing all forms.

Reporting period

Use this tax return for calendar year 2023, fiscal years that begin in 2023 and end in 2024, and tax years of less than 12 months that begin on or after January 1, 2023, but before January 1, 2024.

You can also use the 2023 return if:

- you have a tax year of less than 12 months that begins and ends in 2024, **and**
- the 2024 return is not yet available at the time you are required to file the return.

In this case you must show your 2024 tax year on the 2023 return and take into account any tax law changes and any change in the tax surcharge rate in effect for tax years beginning **after** December 31, 2023.

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

Line instructions

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

Computation of MTA surcharge

§209-B.1(a) requires that the rate of MTA surcharge applies only to that portion of the tax imposed under §209, before the deduction of any credits, that is attributable to the taxpayer's business activity carried on within the MCTD. In addition, the MTA surcharge computed on a combined return includes a surcharge on the fixed dollar minimum tax for each member of the combined group subject to the MTA surcharge.

Line 1a – If you file Form CT-3, enter the amount from Form CT-3, Part 2, line 2. If you file Form CT-3-A, enter the amount from Form CT-3-A, Part 2, line 2.

Line 1b – If you file Form CT-3-A, enter the total fixed dollar minimum tax of each member of the combined group that is subject to the MTA surcharge that is included on Form CT-3-A, Part 2, line 4b.

If line 4 is **less than** line 7, go to line 13a.

If line 4 is **greater than or equal to** line 7, continue with line 8a.

Line 8b – If on line 5, column B of the Form CT-300 used to report the mandatory first installment (MFI) for the tax period immediately **following** the tax period for which this return is being filed (the **next** MTA surcharge period) you did **not** apply an anticipated overpayment amount of New York State **MTA surcharge** tax from the tax period for which this return is being filed to your MFI for the **next** MTA surcharge period, enter **0** and proceed to line 8c. **Note:** For calendar-year 2024 filers, that Form CT-300 was due March 15, **2024**.

If on line 5, column B of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **MTA surcharge** tax from the tax period for which this return is being filed to your MFI for the **next** MTA surcharge period, enter the amount from line 5, column B of that Form CT-300 that you **actually** applied toward satisfying the amount on line 4, column B of that Form CT-300: generally, the lesser of the amount on line 5, column B or the amount on line 4, column B.

Line 9 – Form CT-222, *Underpayment of Estimated Tax by a Corporation*, 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 penalty pursuant to Tax Law, Article 27, section 1085(d).

Line 13b – If on line 5, column B of the Form CT-300 used to report the MFI for the tax period immediately **following** the tax period for which this return is being filed (the **next** MTA surcharge period) you did **not** apply an anticipated overpayment amount of New York State **MTA surcharge** tax from the tax period for which this return is being filed to your MFI for the **next** MTA surcharge period, enter **0** and proceed to line 13c. **Note:** For calendar-year 2024 filers, that Form CT-300 was due March 15, **2024**.

If on line 5, column B of that Form CT-300 you **did** apply an anticipated overpayment amount of New York State **MTA surcharge** tax from the tax period for which this return is being filed to your MFI for the **next** MTA surcharge period, enter the amount from line 5, column B of that Form CT-300 that you **actually** applied toward satisfying the amount on line 4, column B of that Form CT-300: generally, the lesser of the amount on line 5, column B or the amount on line 4, column B. If line 13b is **less than or equal to** line 13a, proceed to line 13c. If line 13b is **greater than** line 13a, subtract line 13a from line 13b and enter the result on line **8c**. Complete lines 9 through 12 to determine your balance due. Do not complete lines 13c through 16.

Lines 14, 15, and 16 – You may apply an overpayment as a credit to your next MTA surcharge return, or to your state franchise tax return for this period, or you may have it refunded. Indicate on these lines the amount of your overpayment you want credited or refunded.

Schedule A – Computation of MCTD apportionment percentage

Enter the MCTD amounts in column A and the New York State amounts in column B.

Determine the MCTD apportionment percentage by adding a single-weighted property factor, a single-weighted receipts factor, and a single-weighted payroll factor and dividing the result by three (or the number of factors if a factor is missing).

Average value of property

The *average value of a taxpayer's real and tangible personal property* means the adjusted basis of such property for federal income tax purposes provided, however, that the taxpayer may make a one-time, revocable election to use fair market value as the value of all its real and tangible personal property. In the instance of a combined return, each taxpayer included on the return must have made an election that is in effect for that tax year.

Line 17 – Enter the average value of real property you **owned**. Do not include real property and related equipment (except inventoriable goods) that are under construction and are not occupied or used during construction. Include property or equipment under construction that is partially used in the regular course of business only to the extent used.

Line 18 – Enter the average value of **rented** real property. The value of rented real property is generally eight times the gross rent payable during the year covered by this return. *Gross rent* includes any amount payable as rent or in lieu of rent (such as taxes or repairs), and amortization of leasehold improvements that revert to the lessor at the end of the lease.

Line 20 – Enter the average value of tangible personal property you **owned**, such as machinery, tools, and implements. Do not include cash, shares of stock, bonds, notes, credits, evidences of an interest in property, or evidences of credit.

Line 21 – Enter the average value of tangible personal property you **rented**. The value of rented tangible personal property is generally eight times the gross rent payable during the year covered by this return.

Receipts from:

Lines 24 through 77 – The percentage of a taxpayer’s receipts within the MCTD is ascertained pursuant to the apportionment rules described in §210-A, with the following exceptions:

- The numerator of the apportionment fraction under §210-A is the denominator for purposes of the MCTD receipts factor.
- The numerator of the MCTD receipts factor is determined by applying the rules of §210-A as if those rules referenced the MCTD rather than New York State.
- If a provision in §210-A provides that 8% of the receipts specified in that provision should be included in the numerator of the New York State apportionment fraction, 90% of such 8% amount should be included in column A, and 100% of such 8% amount should be included in column B. The election to use the 8% method on Form CT-3 or CT-3-A carries over to Form CT-3-M.
- If a provision in §210-A provides that the receipts specified in that provision are **not** included in the numerator of the apportionment fraction under such section, such receipts are not included in determining the portion of the taxpayer’s business activity carried on within the MCTD.

For specific instructions on how to complete lines 24 through 77, see Form CT-3-I, *Instructions for Form CT-3*, or Form CT-3-A-I, *Instructions for Form CT-3-A*, Part 6.

Line 67 – Receipts from global intangible low-taxed income cannot be sourced to New York State. Therefore, no entries are allowed in either the MCTD or New York State columns.

Payroll

Line 80 – Enter the total amount of all wages and compensation of employees other than general executive officers. Employees within the MCTD include all employees regularly connected with or working out of an office or other place of business you maintained within the MCTD, no matter where the services of the employees were performed.

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

Line 83 – If a factor is missing, add the remaining factors and divide by the total number of factors present. If all factors but one are missing, the remaining factor is the MCTD apportionment percentage. A factor is missing only if both the numerator (column A) and denominator (column B) are zero.

Example:

Computation of MCTD apportionment percentage:

	Corp. A	Corp. B	Corp. C
Property factor	60%	60%	60%
Receipts factor	30%	30%	30%
Payroll factor	30%	0%*	None*
Total	120%	90%	90%
Divided by	3	3	2
MCTD apportionment percentage	40%	30%	45%

* In this example, Corporation C has no payroll factor since it has no employees in the MCTD and no employees in New York State. Corporation B has no employees in the MCTD but has employees in New York State.

Composition of prepayments claimed on line 7

If you need more space, write **see attached** in this section, and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to this line.

Line 84 – Determine the amount to enter by completing the *Worksheet for line 84* below.

Worksheet for line 84

From the Form CT-300 used to report the MFI for the tax period for which **this** return is being filed (**Note:** For calendar-year 2023 filers, that Form CT-300 was due March 15, **2023**):

1. Enter the portion of line A (*Payment enclosed*) that represents **MTA** MFI paid: generally, the amount on line 6, column B of that Form CT-300 1. _____
2. Enter the portion of line 5, column B **actually** applied toward satisfying the amount on line 4, column B: generally, the lesser of the amount on line 5, column B or the amount on line 4, column B of that Form CT-300. This is your *2022 anticipated overpayment applied*. 2. _____
3. **Add the amounts on lines 1 and 2, and enter the total here and on Form CT-3-M, line 84** 3. _____

Line 89 – Enter the amount reported on line 15 of the Form CT-3-M that you filed for the tax period **immediately prior** to the tax period for which this return is being filed.

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.