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New York State Corporate Tax Statistical Report

Corporation and Utilities Tax
Franchise Tax on Banking Corporations
Franchise Tax on Insurance Corporations

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Overview

This publication is the second in a series of corporate tax statistical reports to be published by the Department of Taxation and Finance's Office of Tax Policy Analysis (OTPA). The reports are intended to provide a detailed summary of corporate tax results both for policymakers and the interested public. It will provide users with data to aid in their analysis of corporate tax policy changes.

The tables in this report present tax statistics for Article 9 (the corporation and utilities tax), Article 32 (the franchise tax on banking corporations), and Article 33 (the franchise tax on insurance companies). For each tax, a narrative discussion accompanies the tables.

This publication provides data users with historical data. It covers multiple tax year periods and varies by tax.

Article 9: Corporation and Utilities Tax

The Article 9 tables present tax statistics for Article 9 taxpayers for the 1989-1993 tax years. The tables include data regarding the number of taxpayers and total tax liability by industrial sector. The industry sectors include pipeline, telephone and telegraph, trucking, railroad, water/water transportation, electricity and natural gas, and a miscellaneous category.

Highlights of Article 9

- Total tax liability has increased nearly 42 percent from 1989 to 1993.

- The ranking of tax liability by tax law section has not changed since 1989. Section 186-a taxpayers continue to incur the highest tax liability, followed by section 186, 184 and 183 taxpayers.

- The tax law section with the most taxpayers does not represent the tax law section with the highest liability. In 1993, Section 184 taxpayers represented the highest number when compared to total taxpayers, but the second lowest tax liability.

Article 32: Franchise Tax on Banking Corporations

The Article 32 tables present historical tax statistics by type of bank for the 1988-1993 tax years. The tables include the number of taxpayers and total tax liability, the distribution of tax liability by tax base, income statistics, and credits used by all Article 32 taxpayers. The types of banks include clearinghouse banks, foreign banks, commercial banks, savings banks, and savings and loan associations.

Highlights of Article 32

- Total tax liability increased by over 70 percent between 1988 and 1993.

- Between 1988 and 1993, the most significant shifts in distribution of total tax liability occurred within the savings bank and savings and loan association (dropping from 27 percent to 11.8 percent) and clearinghouse and commercial categories (increasing from 44.4 percent to over 62 percent).

- From 1988 through 1993, there was a slight overall decrease in the portion of bank tax liability attributable to alternative-based taxes. All classifications of banks exhibited movement toward alternative-based liabilities between 1988 and 1990. From 1990 through 1993, clearinghouse and commercial banks experienced the most marked shift away from alternative-based liability.

Article 33: Franchise Tax on Insurance Companies

The Article 33 tables present tax statistics for the 1987-1993 tax years. The tables include tax liability before limitation and credits, the percent of total Article 33 tax liability derived from the premiums base, and the amount of adjustments for limitations and credits by type of insurer. Types of insurers include property and casualty insurers, life insurers, and accident and health insurers.

Highlights of Article 33

- Total tax liability increased by 60 percent between 1987 and 1993.

- Between 1987 and 1993, the value of the limitation on tax liability (2.6 percent of gross premiums) increased from $36.3 million to $144.8 million. Property and casualty insurers are the category of taxpayer that benefited the most from the limitation.

- The amount of the retaliatory tax credits used by Article 33 taxpayers increased by 126 percent between 1991 and 1993. This increase was almost entirely attributable to a huge increase in the retaliatory credit used by life insurers.

Temporary Surcharges

The tax statistics presented in this report do not include the temporary surcharges [the 2.5 percent surcharge that applied to the pre-credit liability of Article 32 and 33 taxpayers in 1989, the temporary 15 percent surcharge that applied to the post-credit liability of Article 9, Article 32 and Article 33 taxpayers beginning in 1990, and the 17 percent Metropolitan Commuter Transportation District (MCTD) surcharge imposed since 1982]. The surcharges were not included in the tax statistics to maintain consistency in OTPA's tax liability reporting over the periods covered in this report. The calculation of the temporary surcharge from data reported in the statistical tables is straightforward. Data users may compute the value of the temporary 15 percent surcharge for 1993, for example, by multiplying total tax liability by 1.15. Data users cannot determine the value of the temporary 2.5 percent surcharge and the MCTD surcharge from the statistical tables because pre-credit tax liability data is not presented and because tax liability data for business activity conducted in the MCTD is not readily available.

Article 9: Corporation and Utilities Tax

Tax Structure

Article 9 contains several separate taxes that apply to various general and specialized businesses operating in New York State. These taxes appear in separate sections of Article 9 as follows:[1]

- *Section 180* organization tax on domestic (New York State) corporations;
- *Section 181* license fee on foreign (out-of-state) corporations;
- *Section 183* franchise tax on transportation and transmission companies and associations;
- *Section 184* additional franchise tax on transportation and transmission companies and associations;
- *Section 185* franchise tax on agricultural cooperatives;
- *Section 186* franchise tax on waterworks companies, gas companies, electric or steam heating, lighting and power companies;
- *Section 186-a* gross receipts tax on the furnishing of utility services;
- *Section 186-e* excise tax on telecommunications services enacted in 1995; and
- *Section 189* franchise tax on businesses importing natural gas for their own consumption.

Two separate surcharges also applied to these taxes for some (or all) of the tax years presented. The 17 percent temporary metropolitan commuter transportation business tax surcharge, first imposed in 1982, applied to the portion of sections 183, 184, 186, 186-a, 186-e, and 189 taxes attributable to business activity carried on in the 12-county taxes attributable to business activity carried on in the 12-county Metropolitan Commuter Transportation District (MCTD) for each of the tax years covered by the report.[2]

A 15 percent temporary business tax surcharge applied to sections 183, 184, 186, 186-a, and 189 taxes for the tax years 1990 through 1993. Unlike the metropolitan commuter transportation business tax surcharge, this surcharge applied to statewide revenues under these taxes.

Significant Tax Law Changes Impacting Data Analysis

1990

Chapter 90 of the Laws of 1990 increased the franchise tax on telephone and telegraph businesses from .3 percent to .75 percent for taxable years beginning on or after January 1, 1990.

Chapter 190 of the Laws of 1990 amended section 186-a to provide that, beginning July 1, 1990, local exchange carriers could no longer exclude receipts from the sale of carrier access services to a long distance carrier. Instead, the law granted a deduction to long distance carriers for New York access charges paid to local exchange carriers.[3] The law also required long distance carriers to deduct access charges purchased in New York before apportionment of gross receipts to New York.

1993

Chapter 708 of the Laws of 1993 limited the section 186-a provisions requiring utilities to provide a 3 percent rate reduction to quantities sold or services rendered prior to 1994. The law also reduced from 97 percent to 96.5 percent the aggregate reductions to be applied as a credit against the section 186-a tax. This provision took effect for taxable years beginning on or after January 1, 1993.

Description of Data

Data Availability

This section provides summaries of taxpayer data concerning the major Article 9 taxes. Major Article 9 taxes include those imposed under sections 183, 184, 186, and 186-a. The remaining Article 9 taxes are not included herein.[4]

Data Source

The data come from the Department of Taxation and Finance's Corporation Master Files for the tax years 1989-1993. A contracted processing bank provided the original data. All returns have been subjected to a basic calculations check necessary for verifying tax liability. However, the data are neither manually reviewed nor are missing data computed and added to the file. Therefore, these data are less reliable than that available from the Office of Tax Policy Analysis' other tax liability study files. Also, these data are extracted from the Department's Master File, as the file existed at a point in time, and may not include audit adjustments or amended or late filed returns. For ease of presentation, some data (both number of taxpayers and tax liability) have been aggregated based on the product sold which is subject to Article 9. For example, the real estate industry has been combined with the electric and gas industry under section 186-a. This is because the real estate industry, which includes large New York City apartment complexes, resembles the electric and gas industry in providing metered heat and other services to tenants and other customers. Similarly, the hotel industry has been combined with the telephone and telegraph industry because it charges customers for placing telephone calls.

Number of Taxpayers

This represents the actual number of tax returns filed for each tax year, although these data may not include some late filed returns, as previously noted. Data are compiled in the aggregate, by industry sector, for the selected tax sections of Article 9 included in the report. The data also include the respective shares that each industry sector represents in relation to the total number of taxpayers.

Liability Data

This represents the sum of the post-credit liability for each separate taxpayer filing a return. These data are shown in the aggregate, and for each industry sector, for the selected tax sections of Article 9. The data also include the respective shares that each industry sector represents in relation to all taxpayers.

Liability data exclude the temporary business tax surcharge for tax years 1990 through 1993. Readers can easily calculate liability including this by 1.15. Similarly, liability data exclude the temporary metropolitan commuter transportation business tax surcharge. Readers cannot calculate this surcharge, however, as the necessary geographic data are not available.

Data Classification

Taxpayers are classified according to Principal Business/Professional Activity (PIA)[5] and Standard Industrial Classification (SIC) codes appropriate for their industry groups. Taxpayers self-report appropriate PIA or SIC codes on their tax returns. These codes identify the general type of business activity in which the entity is engaged (e.g. pipelines, telephone and telegraph, railroads, or electricity and gas). However, taxpayers often fail to provide this information.

In addition, these codes were revised several times in the last two decades. As a result, taxpayers frequently report outdated codes. For tax years 1989-1992, an initial attempt to place taxpayers into selected industry groups was performed by reviewing taxpayer names. Even then, a large number of taxpayers remained unidentified. These taxpayers were grouped with miscellaneous taxpayers in presenting these data. Beginning in tax year 1993, data collection techniques and methodologies improved significantly, especially in the area of classifying taxpayers with missing codes. Some taxpayers remain unidentified. As previously, these taxpayers were grouped with miscellaneous taxpayers.

The associated liability is quite small for those taxpayers who cannot be identified by industry group. Because some of the taxpayer universe remains unidentified, only general comparisons can be made between industry sectors for each particular tax. This caveat applies to both the number of taxpayers and liability data.

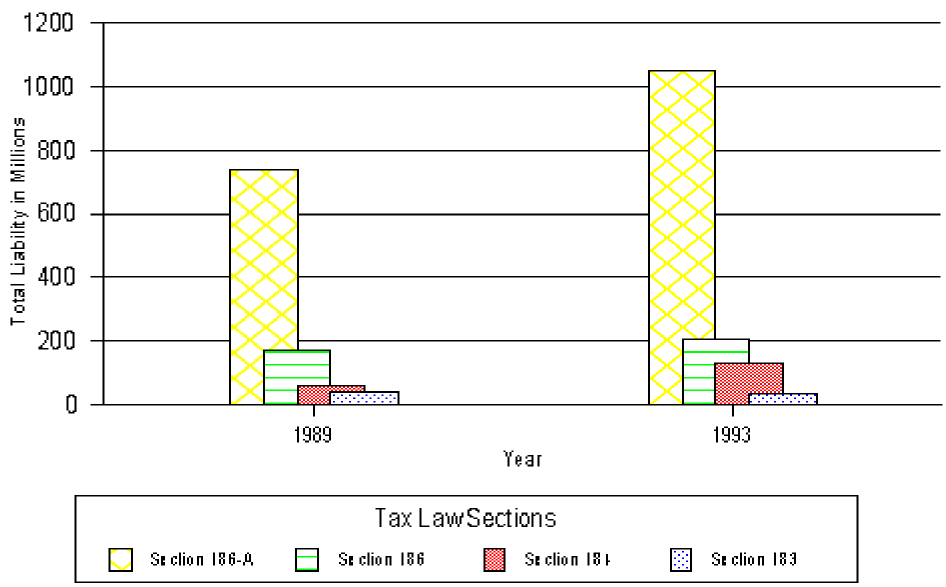
Overview of Statistics

Total Liability Distribution by Tax Law Section

Figure 1 shows that the taxes imposed under sections 183, 184, 186 and 186-a resulted in a total liability of $1,005.4 million for tax year 1989. Section 186-a generated the largest amount of tax liability, totaling $737.9 million. Tax liability under section 186 accounted for $168.9 million. The next highest total liability was incurred by section 184 taxpayers. This amount equaled $60.2 million. Section 183 taxpayers accounted for the smallest total tax liability of $38.4 million.

Total Article 9 liability, excluding surcharges, increased from $1,005.4 million to $1,424.3 million from tax years 1989 to 1993. Section 186-a represented the largest increase in tax liability to $1,050.1 million. Section 186 tax liability increased from $168.9 million in 1989 to $206.8 million in 1993. Tax liability under section 184 more than doubled compared to 1989 levels. This reflects the rate increase in 1990 on telephone and telegraph from .3 percent to .75 percent. Section 183 tax liability decreased in 1993 to $36.5 million.

Figure 1: Selected Article 9 Taxes: Liability Distribution by Tax Law Section - Tax Years 1989 and 1993

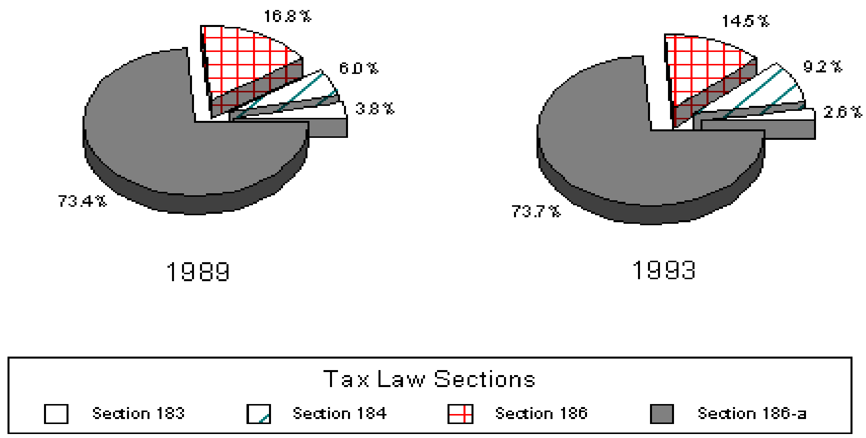


Percent Liability Distribution by Tax Law Section

Figure 2 shows that the taxes imposed under sections 183, 184, 186 and 186-a resulted in a total liability of $1,005.4 million for tax year 1989. Section 186-a generated the largest proportion of tax liability, at 73 percent of the total. Tax liability under section 186 accounted for 17 percent of the total, while tax liability under section 184 resulted in 6 percent. Section 183 accounted for the smallest share equaling 4 percent.

Total Article 9 liability, excluding surcharges, increased by nearly 42 percent to $1,424.3 million from tax years 1989 to 1993. However, the proportions attributable to each tax did not remain constant. Section 186-a liability increased slightly and still accounted for the largest share, at 74 percent. Section 186 decreased to 15 percent of total liability. In contrast, the section 184 share of total liability grew to 9 percent. Finally, as section 183 liability increased, its share of total liability declined to 3 percent.

Figure 2: Selected Article 9 Taxes - Percent Liability Distribution by Tax Law Section - Tax Years 1989 and 1993

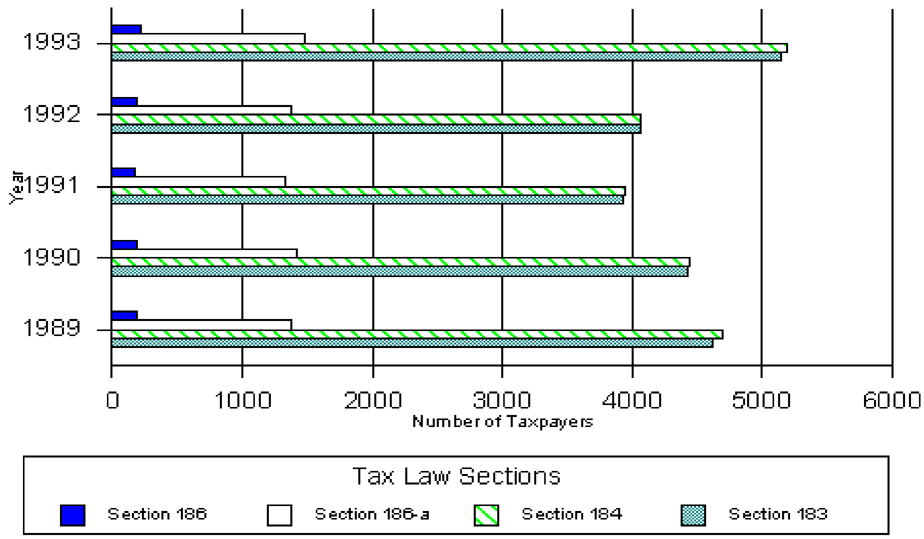


Note: Figures exclude the temporary business tax surcharge (applicable tax years 1990-1993) and temporary MCTD surcharge (applicable tax years 1989-1993). Totals may not add due to rounding.

Number of Taxpayers by Tax Law Section and Year

Figure 3 illustrates the number of taxpayers by tax law section and year, beginning in 1989. The number of section 186 taxpayers, representing the smallest number when compared to total taxpayers, has remained relatively constant over time. In 1993, the total number of section 186 taxpayers equaled 219, up from 191 taxpayers in 1989. Similarly, the number of section 186-a taxpayers has also remained relatively steady from 1989 through 1993. During 1991 and 1992 the number of section 184 taxpayers declined slightly from previous levels. By 1993, however, this number substantially exceeded 1992. Section 184 taxpayers represented the largest number of total taxpayers in 1993, equaling 5,189. The number of section 183 taxpayers also declined in 1991 and 1992. Showing a similar trend to section 184 taxpayers, this number began to increase beginning in 1993.

Figure 3: Total Number of Article 9 Taxpayers by Tax Law Section and Year - 1989-1993



Section 183 Franchise Tax on Transportation and Transmission Companies

The section 183 franchise tax on transportation and transmission companies applies to all companies principally engaged in providing these services.[6] The tax equals the higher of: 1.5 mills on each dollar of net value of issued capital stock in New York State; or 0.375 mills per dollar of par value for each 1 percent of dividends paid if the share of dividends paid on capital stock equals 6 percent or more; or a $75 minimum tax.

Number of Taxpayers

Section A of Table 1 presents the number of section 183 taxpayers by industry sector for tax years 1989 to 1993. Over this period, the total number of taxpayers increased from 4,616 to 5,150, an increase of 12 percent. The vast majority of section 183 taxpayers are trucking companies. In 1989, trucking accounted for 3,551 taxpayers (77 taxpayers in 1993, and its share of total section 183 taxpayers increased to 79 percent.

The second largest taxpayer group were miscellaneous and unidentified taxpayers accounting for 12 percent of taxpayers in 1993. The 221 telephone and telegraph companies represented 4 percent of taxpayers. The remaining industry sectors consisted of water/water transportation (3 percent), railroads (0.9 percent), and pipelines providing transportation services (0.6 percent).

Tax Liability

Section B of Table 1 shows the total liability for section 183 taxpayers by industry sector for tax years 1989 to 1993. Total liability decreased by .05 percent between 1989 and 1993 from $38.4 to $36.5 million. The most pronounced year-to-year decrease occurred from 1990 to 1991 when liability decreased from $37.5 million to $31.0 million (17 percent). However, liability subsequently recovered to $33.6 million in 1992 and continued to increase in 1993.

The majority of section 183 tax liability was generated by the telephone and telegraph sector with 91 percent of the total in 1993. Based on liability, the next largest sectors were trucking (4 percent), railroads (2 percent), pipelines providing transportation (2 percent), and water transportation (1 percent). The miscellaneous and unidentified group made up 12 percent of the section 183 taxpayers, but accounted for only 0.2 percent of the tax.

Table 1A: Number of Section 183 Taxpayers

1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent
Pipeline (Transport)	22	0.5	23	0.5	22	0.6	30	0.7	32	0.6
Telephone & Telegraph	166	3.6	164	3.7	150	3.8	177	4.4	221	4.3
Trucking	3,551	76.9	3,435	77.7	3,106	79.0	3,167	77.9	4,073	79.1
Railroad	35	0.8	37	0.8	33	0.8	40	1.0	44	0.9
Water/Water Transportation	131	2.8	130	2.9	123	3.1	117	2.9	158	3.1
Misc./Unidentified	711	15.4	633	14.3	496	12.6	535	13.2	622	12.1
All Sectors	4,616	100.0	4,422	100.0	3,930	100.0	4,066	100.0	5,150	100.0

Table 1B: Total Tax Liability of Section 183 Taxpayers

($ Millions)
1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent
Pipeline (Transport)	$ 0.4	1.2	$ 0.7	2.0	$ 0.5	1.5	$ 0.7	2.0	$ 0.7	1.9
Telephone & Telegraph	35.3	91.9	34.6	92.1	28.2	91.1	30.2	89.8	33.3	91.3
Trucking	1.1	2.9	1.1	3.1	1.1	3.7	1.2	3.7	1.4	3.8
Railroad	1.0	2.7	0.7	1.9	0.8	2.6	1.2	3.5	0.8	2.1
Water/Water Transportation	0.4	1.0	0.3	0.7	0.3	0.9	0.3	0.9	0.2	0.7
Misc./Unidentified	0.1	0.3	0.1	0.2	0.1	0.3	0.1	0.2	0.1	0.2
All Sectors	$38.4	100.0	$37.5	100.0	$31.0	100.0	$33.6	100.0	$36.5	100.0

Note: Totals may not add due to rounding. Total tax liability amounts do not reflect the 15% temporary business tax surcharge that applied to post-credit liability for tax years 1990-1993 or the 17% Metropolitan Commuter Transportation District surcharge that applied in all years.

Section 184 Additional Franchise Tax on Transportation and Transmission Corporations

The section 184 additional franchise tax on transportation and transmission companies applies to all companies principally engaged in providing these services. The tax rate equals 0.75 percent on gross earnings from all sources.

Number of Taxpayers

Section A of Table 2 shows the total number of section 184 taxpayers by industry sector from tax year 1989 to 1993. The total number of taxpayers shows an increase similar to section 183 during these tax years. This is because the universes of section 183 and 184 taxpayers are virtually identical. In 1989, there were 4,698 section 184 taxpayers versus 5,189 in 1993, an increase of 11 percent.

A small disparity exist between the aggregate number of section 183 and section 184 taxpayers in each tax year. In 1989, for instance, there were 82 more section 184 taxpayers than section 183 taxpayers. This difference decreased to 17 in 1990 and then jumped to 39 in 1993. Conversely, there were 7 more section 183 taxpayers than section 184 taxpayers in tax year 1992. These differences exist despite the fact that these groups of taxpayers are virtually identical. As previously noted, however, these data are taken from the Department’s Master File as the file existed at one point in time. As a result, differences in the number of taxpayers may persist for a number of reasons. These include, for example, the fact that some taxpayers may file their return on extension or because some taxpayers may fail to timely file all required returns. This difference may also be a timing difference. Taxpayers file section 183 returns at the beginning of the tax year, but section 184 returns at the end of the tax year.

The industry breakdown of section 184 taxpayers is also similar to that presented for section 183. The industry share of taxpayers has remained relatively stable over time. In 1993, the largest single group of section 184 taxpayers was the trucking industry with 4,103 taxpayers (79 percent of the total). The miscellaneous and unidentified group at 12 percent (628 taxpayers) was the next largest. Only a small proportion of taxpayers were from the remaining groups: telephone and telegraph companies (4 percent), water/water transportation (3 percent), railroads (0.9 percent), and pipelines providing transportation (0.6 percent).

Table 2A: Number of Section 184 Taxpayers

1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent
Pipeline (Transport)	23	0.5	23	0.5	24	0.6	31	0.8	32	0.6
Telephone & Telegraph	176	3.7	168	3.8	156	3.9	174	4.3	222	4.3
Trucking	3,584	76.3	3,427	77.2	3,105	78.6	3,157	77.8	4,103	79.1
Railroad	39	0.8	41	0.9	37	0.9	39	1.0	46	0.9
Water/Water Transportation	137	2.9	138	3.1	125	3.2	122	3.0	158	3.0
Misc./Unidentified	739	15.7	642	14.5	504	12.8	536	13.2	628	12.1
All Sectors	4,698	100.0	4,439	100.0	3,951	100.0	4,059	100.0	5,189	100.0

Table 2B: Total Tax Liability of Section 184 Taxpayers

($ Millions)
1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent
Pipeline (Transport)	$ 0.4	0.6	$ 0.4	0.3	$ 0.4	0.3	$ 1.0	0.8	$ 1.3	1.0
Telephone & Telegraph	36.8	61.1	94.1	79.8	100.8	81.6	100.2	81.2	104.0	79.4
Trucking	20.6	34.3	20.7	17.6	20.2	16.3	20.0	16.2	23.8	18.2
Railroad	0.5	0.8	0.7	0.6	0.4	0.3	0.4	0.3	0.4	0.3
Water/Water Transportation	0.6	0.9	0.6	0.5	0.6	0.5	0.6	0.5	0.7	0.6
Misc./Unidentified	1.3	2.2	1.4	1.2	1.2	1.0	1.2	0.9	0.7	0.5
All Sectors	$60.2	100.0	$117.9	100.0	$123.5	100.0	$123.3	100.0	$130.9	100.0

Note: Totals may not add due to rounding. Total tax liability amounts do not reflect the 15% temporary business tax surcharge that applied to post-credit liability for tax years 1990-1993 or the 17% Metropolitan Commuter Transportation District surcharge that applied in all years.

Tax Liability

Section B of Table 2 details how total section 184 liability changed from 1989 to 1993. Aggregate liability increased by 117 percent during the period. Approximately 96 percent of that increase occurred between 1989 and 1990. This increase was largely due to the increase in the tax rate on telephone and telegraph companies to equalize their rate with that of other section 184 taxpayers. Telephone and telegraph companies were subject to a lower (0.30 percent) rate of tax from 1985-1989.

As a result of the above legislative changes, the proportion of section 184 liability paid by telephone and telegraph companies changed significantly. In 1989, the telephone and telegraph sector accounted for 61 percent of section 184 liability. In 1990, this proportion increased to 80 percent. By 1992, telephone and telegraph company liability equaled $100.2 million of a total $123.3 million, or 81 percent. This percentage declined slightly in 1993 to 79 percent.

The second largest industrial sector in terms of 1993 liability was trucking at $23.8 million (18 percent of the total). The remainder of section 184 liability was attributable to the following sectors: miscellaneous and unidentified (0.5 percent), pipelines (1 percent), water/water transportation (0.6 percent), and railroads (0.3 percent).

Trucking companies accounted for 79 percent of all taxpayers under section 183 and 79 percent of all taxpayers under section 184 in tax year 1993. However, the industry accounted for 18 percent of total section 184 liability compared to 4 percent under section 183. Many of these companies are small, single operator businesses that pay the minimum tax under section 183.

Section 186 Franchise Tax on Waterworks Companies, Gas Companies, Electric or Steam Heating, Lighting and Power Companies

Section 186 imposes a franchise tax on waterworks companies, gas companies, electric or steam heating, lighting and power companies. The tax rate equals 0.75 percent on the gross earnings from all sources on all companies principally engaged in providing the above services, or a combination thereof. In addition, a 4.5 percent tax applies on the amount of dividends paid in excess of 4 percent of the amount of paid-in capital employed in New York, subject to a $125 minimum.

Number of Taxpayers

Section A of Table 3 presents the number of section 186 taxpayers by industry sector for the tax years 1989 through 1993. The total number of taxpayers increased slightly over the period rising from 191 in 1989 to 219 in 1993.

The largest group of taxpayers was consistently the water industry which accounted for 51 percent of section 186 taxpayers in 1993. The second largest sector was electric and gas companies at 26 percent. This group includes all of New York’s investor-owned utilities that provide combined electric and gas service. The miscellaneous and unidentified group was the next largest, accounting for 9 percent of taxpayers. The remaining industry sectors were gas-only companies (10 percent), and pipelines selling natural gas (4 percent).

Tax Liability

Section B of Table 3 shows total section 186 liability by industry sector for the tax years 1989 through 1993. Total liability increased by 22 percent over the period from $168.9 million to $206.8 million. The liability of electric and gas companies increased by $41 million during the period. This increase was partially offset by a decrease in pipeline tax liability. Although electric and gas companies accounted for only 26 percent of all section 186 taxpayers in 1993, they represented 88 percent of total liability ($182.3 million).

The gas services-only sector accounted for the next largest proportion of total liability. Their tax liability was 9 percent in 1993. The remaining $6.6 million in liability was shared among pipelines selling natural gas (2 percent), water companies (0.8 percent), and miscellaneous and unidentified taxpayers (0.2 percent).

Table 3A: Number of Section 186 Taxpayers

1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent
Electric & Gas	31	16.2	32	16.7	31	17.1	37	19.2	57	26.0
Gas Only	15	7.9	15	7.8	13	7.2	10	5.2	22	10.0
Water	110	57.6	108	56.3	101	55.8	103	53.4	112	51.1
Pipeline (Sales)	10	5.2	10	5.2	10	5.5	9	4.7	8	3.7
Misc./Unidentified	25	13.1	27	14.1	26	14.4	34	17.6	20	9.1
All Sectors	191	100.0	192	100.0	181	100.0	193	100.0	219	100.0

Table 3B: Total Tax Liability of Section 186 Taxpayers

($ Millions)
1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent
Electric & Gas	$141.3	83.7	$134.4	84.3	$138.1	85.4	$148.0	86.7	$182.3	88.2
Gas Only	16.4	9.7	16.2	10.2	15.9	9.8	17.4	10.2	17.9	8.7
Water	1.3	0.8	1.5	0.9	1.5	0.9	1.2	0.7	1.7	0.8
Pipeline (Sales)	9.9	5.9	7.0	4.4	6.0	3.7	3.9	2.3	4.5	2.2
Misc./Unidentified	0.0	0.0	0.4	0.2	0.3	0.2	0.2	0.1	0.4	0.2
All Sectors	$168.9	100.0	$159.4	100.0	$161.7	100.0	$170.7	100.0	$206.8	100.0

Note: Totals may not add due to rounding. Total tax liability amounts do not reflect the 15% temporary business tax surcharge that applied to post-credit liability for tax years 1990-1993 or the 17% Metropolitan Commuter Transportation District surcharge that applied in all years.

Section 186-a Tax on the Furnishing of Utility Services

The section 186-a tax applies to all companies furnishing utility services, regardless of whether or not the provider is principally engaged in that business. Utility services include gas, electricity, steam, water, refrigeration, and telephone or telegraph service. The tax equals 3.5 percent of gross receipts. Providers subject to the supervision of the Department of Public Service pay the tax on gross income from all sources. Other providers pay the tax on gross operating income from the sale or provision of utility services.

Number of Taxpayers

Section A of Table 4 presents the total number of section 186-a taxpayers by industry sector for the tax years 1989 through 1993. The total number of taxpayers increased slightly by 112 taxpayers from 1,375 to 1,487 (.08 percent). For 1993, 40 percent of total taxpayers fell into the telephone and telegraph sector. Second was the miscellaneous and unidentified group, which accounted for 36 percent (528 taxpayers) of all section 186-a taxpayers.

The electric and gas industry had 231 taxpayers (16 percent) in 1993. The remaining taxpayers were divided among water providers (7 percent), gas only providers (2 percent) and pipelines selling natural gas (0.6 percent).

The number of taxpayers remitting section 186-a excise tax is significantly greater than the number of taxpayers paying sections 186, 184 and 183 franchise taxes. This is because taxpayers subject to the section 186-a tax need not be principally engaged in providing utility services in order to be subject to the tax as is the case with sections 183, 184, and 186. For example, hotels, which charge their customers for placing telephone calls, would pay tax under section 186-a. These taxpayers have been combined with the telephone and telegraph taxpayers.

Tax Liability

Section B of Table 4 shows total section 186-a liability by industry sector for the tax years 1989 through 1993. Total liability increased over the period from $737.9 million to $1,050.1 million (42 percent). This increase was primarily attributable to two tax law changes.

Table 4A: Number of Section 186-a Taxpayers

1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent	Number of Taxpayers	Percent
Electric & Gas	143	10.4	155	10.9	153	11.5	167	12.1	231	15.5
Gas Only	13	0.9	13	0.9	11	0.8	9	0.7	23	1.5
Pipeline (Sales)	5	0.4	5	0.4	4	0.3	5	0.4	9	0.6
Water/Water Transportation	93	6.8	91	6.4	89	6.7	84	6.1	103	6.9
Telephone & Telegraph	466	33.9	473	33.3	440	33.1	464	33.6	593	39.9
Misc./Unidentified	655	47.6	682	48.1	634	47.6	650	47.1	528	35.5
All Sectors	1,375	100.0	1,419	100.0	1,331	100.0	1,379	100.0	1,487	100.0

Table 4B: Total Tax Liability of Section 186-a Taxpayers

($ Millions)
1989-1993

	1989		1990		1991		1992		1993	
Industry Sector	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent	Total Tax Liability	Percent
Electric & Gas	$389.7	52.8	$384.6	51.2	$468.5	50.1	$514.0	51.8	$ 629.8	60.0
Gas Only	46.8	6.3	46.9	6.2	53.5	5.7	58.0	5.8	0.2	0.0
Pipeline (Sales)	2.5	0.3	2.5	0.3	1.3	0.1	1.7	0.2	0.8	0.1
Water/Water Transportation	4.7	0.6	4.9	0.7	6.1	0.7	6.0	0.6	6.5	0.6
Telephone & Telegraph	290.0	39.3	308.3	41.0	401.1	42.9	407.8	41.1	407.5	38.8
Misc./Unidentified	4.2	0.6	4.4	0.6	5.1	0.5	5.6	0.6	5.4	0.5
All Sectors	$737.9	100.0	$751.6	100.0	$935.6	100.0	$993.1	100.0	$1,050.1	100.0

Note: Totals may not add due to rounding. Total tax liability amounts do not reflect the 15% temporary business tax surcharge that applied to post-credit liability for tax years 1990-1993 or the 17% Metropolitan Commuter Transportation District surcharge that applied in all years.

First, effective July 1, 1990, in the telephone and telegraph industry sector, the tax law was changed to shift the deduction for access charges from local exchange carriers to long-distance (interexchange) carriers.[7] In the case of interstate and international revenues, the law was amended to permit the access deduction prior to, rather than after, apportionment of these revenues to New York State. This change, in and of itself, resulted in a revenue increase for 1990 and subsequent years.[8]

The second change in the tax law was an increase in the section 186-a tax rate from 3.0 percent to 3.5 percent effective January 1, 1991. As a result, total section 186-a revenue increased 24 percent from tax year 1990 to 1991 alone.

Electric and gas companies, combined with the telephone and telegraph sector, accounted for most of the 1993 total section 186-a liability (99 percent). They accounted for $629.8 million (60 percent) and $407.5 million (39 percent), respectively. The remaining liability was divided among gas only providers (less than .1 percent), water providers (0.6 percent), miscellaneous and unidentified providers (0.5 percent), and pipelines selling natural gas (0.1 percent).

Endnotes

1. See “New York State Tax Structure: History and Comparative Analysis,” prepared by the New York State Department of Taxation and Finance, Office of Tax Policy Analysis, August 1994, for more detail on this tax and its recent evolution.

2. MCTD counties include: New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Legislation enacted in 1994 (effective April 15, 1993) extended the MTA surcharge from December 31, 1993 to December 31, 1995.

3. The New York State Court of Appeals ruled the access deduction method unconstitutional in 1994. See endnote 8 for a summary of the results of this ruling.

4. Consistent with prior statistical reports, data concerning the sections 180, 181, and 185 taxes are omitted from this report. The report also excludes data concerning the section 189 tax enacted in 1991. These taxes have a minimal impact on overall Article 9 liability. Finally, due to lack of available data, this report does not provide information on section 186-e.

5. The Internal Revenue Service (IRS) asks taxpayers to identify their principal business activity using these codes for federal tax purposes.

6. Aviation companies pay tax under Article 9-A.

7. Access fees are fees paid by long-distance carriers to local telephone companies to complete long-distance calls. These fees are deducted from gross receipts subject to tax under section 186-a.

8. However, this access deduction method was ruled unconstitutional by the New York State Court of Appeals in 1994. As a result of this ruling, legislation was enacted in 1995 to reform the corporate taxation of telecommunications services in New York State. Generally, the legislation provided that the section 184 additional franchise tax on transportation and transmission corporations and associations would apply only to companies principally engaged in a local telephone business. It also shifted the section 186-a 3.5 percent excise tax on receipts from telecommunications services to a new section 186-e. See “Improving New York State’s Telecommunications Taxes: A Background Study and Status Report,” prepared by the New York State Department of Taxation and Finance, Office of Tax Policy Analysis, August 1996, for a more detailed discussion of these tax law changes.

Article 32: Corporate Franchise Tax on Banking Corporations

Tax Structure[1]

Article 32 levies a franchise tax on banking corporations doing business in the State. The bank tax is computed on the highest of four alternative bases:

- 9 percent of allocated entire net income (ENI); or
- 3 percent of alternative income (ENI without regard to specified exclusions); or
- $250; or
- one-tenth, one twenty-fifth or one-fiftieth of a mill of taxable assets allocated to New York (depending on net-worth-to-asset ratio and percentage of assets secured by mortgages).

Calculation of the taxes based on allocated ENI begins with federal taxable income, which includes certain exclusions and deductions. Taxpayers then make several New York modifications and allocate their income to arrive at New York taxable income. These modifications include, for example, a bad debt deduction for large commercial banks, a deduction for the eligible net income of international banking facilities (IBFs), deductions for a portion of interest income from government obligations and interest and dividend income from subsidiary capital.[2] Banks conducting business both inside and outside New York allocate their income and assets by applying a three-factor allocation formula consisting of payroll, deposits, and receipts. The receipts and deposits factors are double-weighted and only a fraction of the payroll factor is used.

Alternative entire net income differs from ENI, in that it does not include deductions for portions of subsidiary interest and interest on government obligations. In addition, the factors of the alternative income allocation formula are single weighted.

The tax on allocated taxable assets starts with the taxpayer's total assets. Taxable assets equal total assets less assets attributable to the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Taxpayers then apply an allocation percentage, which equals the percentage used for allocating ENI. The tax rate imposed on allocated taxable income equals:

Net Worth Ratio:	And the Percent of Mortgages Included in Total Assets:	Tax Rate:
Less than 4%	33% or more	.00002
At least 4% but less than 5%	33% or more	.00004
All others	All others	.0001

Taxpayers may take credits against the highest tax liability, with the exception of the $250 minimum tax, to determine their after-credit liability. These credits include, for example, the job incentive credit and the special additional mortgage recording tax credit.

For the 1989 tax year, a 2.5 percent business surcharge was applied to the pre-credit liability of taxpayers. During the 1990 through 1993 tax years, a temporary 15 percent surcharge was applied to post-credit liability. A surcharge rate of 17 percent also applied in each tax year to taxes otherwise due, after deduction of credits, allocable to the 12-county Metropolitan Commuter Transportation District.

Description of Data and Terms

This section summarizes tax liability data for the tax years 1988 through 1993. Tables 5 and 6 present this data.

Tables 5 through 8 provide summary data for five separate categories of banks and the total for all banks. The five categories are clearinghouse banks, foreign banks, commercial banks, savings banks, and savings and loan associations. However, to protect taxpayer confidentiality, the clearinghouse and commercial bank categories were combined, and savings banks and savings and loan associations were grouped together. Each table provides statistics profiling the three groups of taxpayers for the tax years 1988 through 1993. The tables are labeled as follows:

number of taxpayers and total tax liability; distribution of tax liability by basis of tax; allocated entire net income; and tax credits used.

To assist readers in interpreting the tables, the data base and terms used in the tables are discussed below.

Data Source

All tax statistics provided in this report come from data contained on bank tax returns. The tables are a tabulation of a data base of all bank returns manually reviewed by the Office of Tax Policy Analysis (OTPA). The data are collected and verified by OTPA for mathematical accuracy. Missing data are added where information exists. The data base includes all timely filed and amended returns available at the time the data base is created. There are no adjustments to the data base for audit results. The statistics do not reflect surcharges (discussed in more detail below) imposed on bank tax liability.

Number of Banks

For purposes of presentation, this count reflects each consolidated or combined group, or each bank filing separately as a single filing entity. This count refers to each filing entity as a single bank.

Clearinghouse Banks

Clearinghouse banks are financial institutions that are members of the New York Clearing House Association. As members of this Association, their functions include handling daily fund exchanges from other clearinghouse banks and settling exchanges.

Commercial Banks

Commercial banks are institutions that are not classified as clearinghouse banks, foreign banks, savings banks or savings and loan associations. Banks included in this category are domiciled in the United States.

Foreign Banks

Foreign banks, as defined in this data base, are commercial banks headquartered outside New York State, the United States or its possessions with nexus in New York State.

Savings Banks

Savings banks are depository financial institutions that primarily accept consumer deposits and make home mortgage loans.

Savings and Loan Associations

Savings and loan associations are depository financial institutions that receive deposits primarily from consumers and hold most of their assets as home mortgage loans. Unlike savings banks, these financial institutions are authorized to engage in commercial lending, nonmortgage consumer lending, and trust services.

Alternative Bases

For confidentiality reasons, the taxable assets and alternative entire net income bases are aggregated in the tables. They are referred to in the tables as alternative bases.

Tax Liability

The tax liability provided in the tables refer to amounts reported on Article 32 returns and included in the OTPA data base. The OTPA data base does not include surcharge data. Thus, the tax liability statistics do not reflect the Metropolitan Commuter Transportation District (MCTD) surcharge paid by banks doing business within the MCTD region. The reported figures also do not include the temporary 2.5 percent pre-credit surcharge imposed in 1989 or the temporary 15 percent post-credit surcharge imposed in the 1990 tax year.

For tax years 1990 through 1993, data users may determine the amount of the post-credit surcharge by multiplying the amount of net tax liability after limitation and credits by 1.15 percent. The 2.5 percent pre-credit surcharge that applied during the 1989 tax year cannot be determined from the information presented in the tables.

Allocated Entire Net Income (ENI)

Allocated ENI refers to the New York portion of ENI. Taxpayers determine the amount of ENI attributable to New York using formula apportionment.

Tax Credits Used

The credit data are limited to credits used on the taxpayer's return. They do not reflect credits earned but not used, or balances of unused credits.

Job Incentive Credit

A credit is allowed to the owner or operator of a business establishment which has been certified for eligibility by the New York State Job Incentive Board (prior to April 1, 1983) or the State Tax Commission (subsequent to April 1, 1983). An eligible business facility is a facility which is located in an eligible area and creates or retains at least five jobs. This credit may not be carried forward to future taxable years. The credit expires for tax years beginning on or after January 1, 2000.

Mortgage Servicing Tax Credit

A credit is allowed for servicing mortgages acquired by the New York State Mortgage Agency. The credit value varies by dwelling size and the amount of the mortgage.

Special Additional Mortgage Recording Tax Credit

A corporation may claim a credit for the New York special additional mortgage recording tax paid on mortgages recorded on or after January 1, 1979. Taxpayers may carry forward the unused mortgage recording tax credit to future tax years. Mortgages on certain property, such as property in the Metropolitan Commuter Transportation District and Erie County, are ineligible for the credit.

Overview of Statistics

Table 5 reports data on the number of taxpayers in each category, the amount of their total tax liability, the percent of the bank tax paid by each category, and the average tax liability of banks within each category.

Number of Taxpayers and Total Tax Liability

Number of Taxpayers

This table shows that between the 1988 tax year and the 1991 tax year, the total number of banks increased from 826 to 831. The total number of banks dropped to 814 in the 1992 tax year, and to 804 in the 1993 tax year. Foreign banks and the clearinghouse/commercial bank category were the largest groups of Article 32 taxpayers between 1988 and 1993. The number of banks classified as foreign banks increased from 340 in 1988 to 355 in 1993. The number of clearinghouse/commercial banks also increased during this period, from 324 to 343. Through 1993, foreign and clearinghouse/commercial bank groups each represented over 40 percent of the total number of Article 32 taxpayers.

The number of savings banks and savings and loan associations dropped from 162 in tax year 1988 to 106 in tax year 1993. This represented a decrease from approximately 20 percent of total Article 32 taxpayers to nearly 13 percent. This decrease resulted primarily from merger activity.

Total Tax Liability

Total tax liability decreased nearly 18 percent, from $301.6 million to $247.8 million, between 1988 and 1990. A large portion of this change was attributable to a decrease in clearinghouse and commercial bank liability, which dropped by 28 percent from almost $134 million in 1988 to $96.6 million in 1990. The tax liability of savings banks and savings and loan associations also fell by about 36 percent during this period. Foreign banks were the only category that experienced overall growth in total liability between 1988 and 1990. During this period, the total tax liability of foreign banks increased steadily from $86.4 million to $98.6 million.

Table 5: Number of Taxpayers and Total Tax Liability
1988-1993

Tax Year	Type of Bank	Number of Taxpayers	Total Tax Liability	Percent of Bank Tax	Average Tax Liability
1988	Clearinghouse & Commercial	324	$133,785,118	44.4%	$412,917
	Foreign	340	86,386,437	28.6%	254,078
	Savings & Savings & Loans	162	81,410,865	27.0%	502,536
	All Banks	826	$301,582,420	100.0%	$365,112
1989	Clearinghouse & Commercial	317	$100,175,286	40.0%	$316,010
	Foreign	363	95,946,055	38.3%	264,314
	Savings & Savings & Loans	149	54,309,492	21.7%	364,493
	All Banks	829	$250,430,833	100.0%	$302,088
1990	Clearinghouse & Commercial	325	$96,638,478	39.0%	$297,349
	Foreign	360	98,623,474	39.8%	273,954
	Savings & Savings & Loans	136	52,506,839	21.2%	386,080
	All Banks	821	$247,768,791	100.0%	$301,789
1991	Clearinghouse & Commercial	332	$146,108,272	42.5%	$440,085
	Foreign	377	145,898,771	42.4%	386,999
	Savings & Savings & Loans	122	51,882,746	15.1%	425,268
	All Banks	831	$343,889,789	100.0%	$413,826
1992	Clearinghouse & Commercial	328	$176,106,561	42.8%	$536,910
	Foreign	365	161,702,101	39.3%	443,019
	Savings & Savings & Loans	121	73,857,258	17.9%	610,391
	All Banks	814	$411,665,920	100.0%	$505,732
1993	Clearinghouse & Commercial	343	$318,805,406	62.0%	$929,462
	Foreign	355	135,193,083	26.3%	380,826
	Savings & Savings & Loans	106	60,540,618	11.8%	571,138
	All Banks	804	$514,539,107	100.0%	$639,974

Note: Total tax liability amounts do not reflect the 2.5% surcharge that applied to pre-credit liability for tax years ending after 6/30/89 and before 7/1/90 or the temporary 15% surcharge that applied to post-credit liability for tax years 1990-1993. This amount also does not reflect the 17% Metropolitan Commuter Transportation District surcharge.

Total tax liability for all Article 32 taxpayers jumped from $247.8 million in the 1990 tax year to $343.9 million in the 1991 tax year. The tax liability of all categories of banks, except savings and loan associations, increased between 1990 and 1991. The largest percentage change in total liability occurred among clearinghouse and commercial banks, which increased by over 51 percent, from $96.6 million to $146.1 million.

Between 1991 and 1993, total tax liability increased sharply from $343.9 million to $514.5 million. All categories of banks, except foreign banks, experienced an overall increase in total tax liability during this period. The largest percentage change in total tax liability occurred in the clearinghouse/commercial categories. This category increased by 118 percent, from $146.1 million to $318.8 million. Foreign banks experienced a 7 percent decrease in total tax liability during this period.

Shares of Total Tax

Between 1988 and 1993, the most significant shifts in distribution of total bank tax liability occurred within the savings bank and savings and loan association, and clearinghouse/commercial bank categories. The portion of bank tax paid by savings banks and savings and loan associations dropped from 27 percent in 1988 to 11.8 percent in 1993. In contrast, total tax liability of clearinghouse/commercial banks increased from 44.4 percent in 1988 to over 62 percent in 1993.

A more modest shift occurred in the distribution of total bank tax liability of foreign banks. The tax liability of foreign banks, as a percentage of total tax liability, increased from approximately 28.6 percent to 42.4 percent between 1988 and 1991, and then dropped to 26.3 percent in 1993.

Average Tax Liability

The average tax liability for all banks increased from $365,112 in the 1988 tax year to $413,826 in the 1991 tax year. In the 1992 tax year, average liability for all banks increased to $505,732. The average tax liability of all categories of banks was greater in 1992 than in 1988 through 1991. In contrast, between 1991 and 1993, the average tax liability of only clearinghouse/commercial banks increased overall, jumping from $440,085 to $929,462.

Distribution of Tax Liability by Basis of Tax

Table 6 includes statistics regarding the distribution of tax liability by basis of tax. The table lists the number of taxpayers paying on the income base, alternative bases (asset or alternative entire net income bases), and the minimum tax base, and the amount of tax liability paid under each base.

Basis of Tax

Table 6 shows that, from 1988 through 1993, there was an overall increase in the portion of bank tax liability attributable to alternative based taxes. In 1988, Article 32 taxpayers paid $37.1 million in taxes based on assets and alternative entire net income. Asset-base taxpayers accounted for over $37 million of this amount. During the 1992 and 1993 tax years, alternative base taxes equaled about $52 million. Asset-base taxpayers represented over $50 million of that amount.

In 1988, alternative base liability represented 12 percent of the total liability under the bank tax. Alternative base taxes represented about 18 percent of total bank tax liability in 1991 and dropped to 10 percent of total bank tax liability in 1993.

All classifications of banks exhibited movement toward alternative based tax liabilities between 1988 and 1990. In terms of tax liability, the most significant shifts occurred among clearinghouse and commercial banks and foreign banks. In 1988, the alternative based liability of clearinghouse and commercial banks represented about 13 percent of their total bank tax liability. This portion increased to almost 36 percent in 1990, and dropped to about 5 percent in 1993. The alternative based liability of foreign banks, as a percentage of total foreign bank tax liability, followed a similar trend through 1992. In 1988, alternative based liability equaled about 22 percent of total foreign bank tax liability. The alternative base increased, as a portion of foreign bank liability, to almost 34 percent in 1990. This percentage decreased to just over 17 percent in 1992, and increased to 27 percent in 1993.

Allocated Entire Net Income

Table 7 provides data regarding the number of taxpayers with allocated positive and negative allocated entire net income, the amount of total

Table 6: Distribution of Tax Liability by Basis of Tax
1988-1993

Tax Year	Type of Bank	Income Base Number of Taxpayers	Income Base Liability	Alternative Base Number of Taxpayers	Alternative Base Liability	Minimum Tax Number of Taxpayers	Minimum Tax Liability
1988	Clearinghouse & Commercial	203	$116,810,943	60	$16,958,925	61	$15,250
	Foreign	83	67,269,769	175	19,096,168	82	20,500
	Savings & Savings & Loans	136	80,347,768	7	1,058,347	19	4,750
	All Banks	422	$264,428,480	242	$37,113,440	162	$40,500
1989	Clearinghouse & Commercial	217	$66,495,556	61	$33,669,980	39	$9,750
	Foreign	93	64,376,982	182	31,547,073	88	22,000
	Savings & Savings & Loans	116	52,417,730	16	1,887,512	17	4,250
	All Banks	426	$183,290,268	259	$67,104,565	144	$36,000
1990	Clearinghouse & Commercial	196	$62,113,798	84	$34,513,430	45	$11,250
	Foreign	85	65,126,767	197	33,477,207	78	19,500
	Savings & Savings & Loans	101	49,702,366	21	2,800,973	14	3,500
	All Banks	382	$176,942,931	302	$70,791,610	137	$34,250
1991	Clearinghouse & Commercial	199	$111,248,270	87	$34,848,502	46	$11,500
	Foreign	116	121,931,414	181	23,947,357	80	20,000
	Savings & Savings & Loans	94	50,228,174	16	1,651,572	12	3,000
	All Banks	409	$283,407,858	284	$60,447,431	138	$34,500
1992	Clearinghouse & Commercial	207	$153,780,920	64	$22,311,391	57	$14,250
	Foreign	124	133,745,321	171	27,939,280	70	17,500
	Savings & Savings & Loans	95	72,926,439	8	926,319	18	4,500
	All Banks	426	$360,452,680	243	$51,176,990	145	$36,250
1993	Clearinghouse & Commercial	223	$303,125,363	69	$15,667,293	51	$12,750
	Foreign	100	98,445,010	188	36,731,323	67	16,750
	Savings & Savings & Loans	81	60,085,537	4	449,831	21	5,250
	All Banks	404	$461,655,910	261	$52,848,447	139	$34,750

Note: Total tax liability amounts do not reflect the 2.5% surcharge that applied to pre-credit liability for tax years ending after 6/30/89 and before 7/1/90 or the temporary 15% surcharge that applied to post-credit liability for tax years 1990-1993. This amount also does not reflect the 17% Metropolitan Commuter Transportation District surcharge.

Table 7: Allocated Entire Net Income

1988-1993

Tax Year	Type of Bank	Positive Allocated ENI: Number of Taxpayers	Positive Allocated ENI: Total ($ Thousands)	Positive Allocated ENI: Average ($ Thousands)	Negative Allocated ENI: Number of Taxpayers	Negative Allocated ENI: Total ($ Thousands)	Negative Allocated ENI: Average ($ Thousands)
1988	Clearinghouse & Commercial	257	1,466,622	5,707	67	(386,781)	(5,773)
	Foreign	180	865,559	4,809	160	(624,066)	(3,900)
	Savings & Savings & Loans	147	962,610	6,548	15	(197,090)	(13,139)
	All Banks	584	3,294,791	5,642	242	(1,207,937)	(4,991)
1989	Clearinghouse & Commercial	250	952,618	3,810	67	(665,465)	(9,932)
	Foreign	189	772,652	4,088	174	(1,386,334)	(7,967)
	Savings & Savings & Loans	127	627,450	4,941	22	(297,018)	(13,501)
	All Banks	566	2,352,720	4,157	263	(2,348,817)	(8,931)
1990	Clearinghouse & Commercial	239	808,876	3,384	86	(2,487,279)	(28,922)
	Foreign	185	768,652	4,155	175	(1,323,780)	(7,564)
	Savings & Savings & Loans	108	592,658	5,488	28	(392,351)	(14,013)
	All Banks	532	2,170,186	4,079	289	(4,203,410)	(14,545)
1991	Clearinghouse & Commercial	240	1,415,846	5,899	92	(2,388,632)	(25,963)
	Foreign	215	1,433,865	6,669	162	(698,133)	(4,309)
	Savings & Savings & Loans	102	605,000	5,931	20	(439,332)	(21,967)
	All Banks	557	3,454,711	6,202	274	(3,526,097)	(12,869)
1992	Clearinghouse & Commercial	251	1,869,436	7,448	77	(802,407)	(10,421)
	Foreign	210	1,565,079	7,453	155	(1,032,724)	(6,663)
	Savings & Savings & Loans	107	867,499	8,107	14	(453,872)	(32,419)
	All Banks	568	4,302,014	7,574	246	(2,289,003)	(9,305)
1993	Clearinghouse & Commercial	280	3,534,319	12,623	63	(369,671)	(5,868)
	Foreign	183	1,162,501	6,352	172	(1,639,409)	(9,531)
	Savings & Savings & Loans	93	715,384	7,692	13	(205,581)	(15,814)
	All Banks	556	5,412,204	9,734	248	(2,214,661)	(8,930)

positive and negative allocated entire net income, and the average amount of positive and negative allocated entire net income. These statistics indicate the number and types of banks reporting income or losses and the amount of the income and losses for each tax year.

The trend in the amount of allocated entire net income and losses indicates a significant decrease in New York income between 1988 and 1990 and an overall increase in the amount of allocated losses during that period. During this period, the trend in allocated entire net income and losses parallels the trend in total entire net income and losses.

The number of banks reporting positive allocated entire net income decreased overall from 1988 through 1993. However, the amount of positive allocated entire net income increased from $3.3 billion in 1988 to $5.4 billion in 1993.

The number of banks reporting negative allocated income increased overall from 242 in 1988 to 248 in 1993. Clearinghouse and commercial banks experienced substantial increases in New York losses between 1988 and 1991. The number of clearinghouse banks experiencing losses increased from 67 in 1988 to 92 in 1991. This number dropped to 63 in 1993. The amount of negative allocated entire net income increased from $387 million in 1988, peaking at $2.5 billion in 1990. The negative allocated losses for this group dropped to $370 million in 1993.

Tax Credits Used

Table 8 provides statistics about the total number of banks using the special additional mortgage recording tax credit, mortgage servicing credit, and the job incentive credit between 1988 and 1993. This table also shows the value of the credits used during this time period.

As displayed in Table 8, between 1988 and 1993, the special additional mortgage recording tax credit was used more frequently than the other credits. In 1988, the value of the credit used by 164 taxpayers equaled $13.8 million. In 1993, 124 taxpayers used this credit which totalled $16.1 million.

The mortgage servicing credit was the second most frequently used credit during this period. The number of taxpayers taking the mortgage servicing credit ranged from 79 to 69. The amount of the credit used by these taxpayers ranged from $4.2 million to $4.8 million.

Table 8: Credits Used by Article 32 Taxpayers - 1988-1993

	Tax Credits Used					
	Job Incentive Credit		Mortgage Servicing Credit		Mortgage Recording Tax Credit	
Tax Year	Number of Taxpayers	Amount of Credit Used	Number of Taxpayers	Amount of Credit Used	Number of Taxpayers	Amount of Credit Used
1988	30	$12,177,818	79	$4,150,074	164	$13,832,424
1989	20	3,554,448	82	4,832,200	143	13,822,258
1990	17	3,921,897	77	4,749,036	135	11,722,937
1991	11	4,620,826	75	4,973,361	131	12,506,005
1992	7	4,567,229	68	4,903,309	133	17,904,659
1993	ND	ND	69	4,797,158	124	16,123,070

ND = not disclosable

Between 1988 and 1992, the number of taxpayers using the job incentive credit dropped from 30 to 7. The amount of the job incentive credit used also decreased from over $12 million to $4.6 million during this period. Data regarding the job incentive credit for the 1993 tax year is not disclosable.

Endnotes

1. For a more detailed description of the corporate franchise tax on banking corporations, see "New York State Tax Structure: History and Comparative Analysis," prepared by the New York State Department of Taxation and Finance, Office of Tax Policy Analysis, August 1994.

2. For an analysis of how these deductions impact tax liability, please see "State of New York Tax Expenditure Report 1996-1997," prepared by the New York State Department of Taxation and Finance, in conjunction with the New York State Division of the Budget.

Article 33: Corporate Franchise Tax on Insurance Companies

Tax Structure[1]

New York imposes a franchise tax on insurance companies under Article 33 of the Tax Law. The franchise tax on insurance companies has two components. The first component of the tax is based on the higher of four alternative bases, plus a tax on subsidiary capital. The four bases and applicable tax rates include:

- 9 percent of allocated entire net income; or
- 0.16 percent of allocated business and investment capital; or
- 9 percent of allocated income and salaries basis; or
- a minimum tax of $250.

The second component of the Article 33 tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. Different tax rates apply to premiums written by life insurers and property and casualty insurers. Premiums received by corporations licensed as life insurers, including premiums on accident and health contracts, are taxed at a rate of 0.8 percent. Premiums written by corporations licensed as property and casualty insurers are taxed at the rate of 1.3 percent. However, premiums received by property and casualty insurers on accident and health contracts are taxed at the rate of 1.0 percent.

For corporations doing business within and without the State, the bases in the net income component of the tax are allocated to New York. The apportionment formula used includes weighted ratios of premiums (with a weight of nine) and wages (with a weight of one), earned or paid in New York to those earned or paid everywhere.

Taxpayers add the tax on gross premiums to the highest of the four alternative taxes (the income base), plus the tax on subsidiary capital. Taxpayers then subtract economic development zone credits. The remainder is “capped” at 2.6 percent of taxable premiums. This limitation on tax represents the maximum tax on insurance companies. Taxpayers then claim credits other than EDZ credits against the total liability.[2]

For the 1989 tax year, a 2.5 percent business surcharge was applied to the pre-credit liability of taxpayers. During the 1990 through 1993 tax years, a temporary 15 percent surcharge was applied to post-credit liability. A surcharge rate of 17 percent also applied in each year to taxes otherwise due, after deduction of credits, allocable to the 12-county Metropolitan Commuter Transportation District.

Description of Data and Terms

This section provides tax return data for the tax years 1987 through 1993. Tables 9 through 12 present this information. The tables provide statistics for four separate categories of insurance companies and for all insurance companies. To assist readers in interpreting the data, definitions of many of the terms used in the tables are provided below.

Data Base

All tax statistics provided in this section are based solely on data as contained on insurance tax returns. The tables are derived from a data base developed by the Office of Tax Policy Analysis (OTPA). The report does not adjust the return data for audit results. The statistics do not reflect surcharges (discussed in more detail below).

Tax Statistics

The tax statistics provided in the tables refer to amounts reported on Article 33 returns and included in the OTPA data base. The OTPA data base does not include surcharge data. Thus, the tax liability statistics do not reflect the Metropolitan Commuter Transportation District (MCTD) surcharge paid by insurance companies doing business within the MCTD region. The reported figures also do not include the temporary 2.5 percent pre-credit surcharge imposed in 1989 or the temporary 15 percent post-credit surcharge imposed in the 1990 tax year.

For tax years 1990 through 1993, data users may determine the amount of the post-credit surcharge by multiplying the amount of net tax liability after limitation and credits by 1.15 percent. The 2.5 percent pre-credit surcharge that applied during the 1989 tax year cannot be determined from the information presented in the tables.[3]

Number of Taxpayers

For purposes of statistical presentation, these tabulations count each tax return (consolidated, combined group, or separate) as a single filing entity.

Life Insurance Companies

These include companies authorized by the Superintendent of Insurance to do an insurance business consisting of either insuring the lives of human beings or providing annuity contracts.

Property and Casualty Insurance Companies

These include companies authorized by the Superintendent of Insurance to write insurance against the loss of, or damage to, property.

Others

This category includes insurance companies authorized by the Superintendent of Insurance to write accident and health insurance, title insurance, mortgage and financial guaranty insurance, or reciprocal insurance.

Savings Banks

Officers and employees of savings banks may be authorized by the Superintendent of Insurance to negotiate, order, solicit, or procure applications or orders for life insurance or annuity contracts.

Domestic Companies

Domestic insurance companies are companies incorporated or organized in New York State.

Foreign Companies

Foreign insurance companies are companies incorporated or organized in any other state, U.S. possession, nation, territory, or province.

Limitation on Tax

Article 33 provides a "cap," or limitation, on total tax liability of an insurance company which equals 2.6 percent of gross premiums.

Fire Insurance Tax Credit

Taxpayers may take a credit for additional taxes on premiums written by corporations organized in another state or country for any insurance against loss or damage by fire, paid by foreign fire insurance companies and foreign mutual fire insurance companies. These taxes are imposed under the Insurance Law. Unused credits may not be carried forward.

Retaliatory Tax Credit

Taxpayers domiciled or organized in New York may take a credit for up to 90 percent of any retaliatory taxes paid to other states as a result of New York State-imposed taxes on insurers domiciled or organized in those other states. Taxpayers may elect to have the unused credit either refunded or carried forward to future tax years.

Job Incentive Credit

A credit is allowed to the owner or operator of a business establishment which has been certified for eligibility by the New York State Job Incentive Board (prior to April 1, 1983) or the State Tax Commission (subsequent to April 1, 1983). An eligible business facility is one which is located in an eligible low-income area and creates or retains at least five jobs. The credit may not be carried forward to future taxable years.

Special Additional Mortgage Recording Tax Credit

Taxpayers may take a credit which is equal in amount to the special additional mortgage recording tax paid on mortgages recorded on or after January 1, 1979, on property which is located within New York. Mortgages on certain property, such as property in the Metropolitan Commuter Transportation District and Erie County, are ineligible for the credit. The unused credit may be carried forward and used in subsequent years.

Economic Development Zone Credits

Taxpayers may qualify for credits for certain investments and creating jobs in Economic Development Zones. Unused credits may be carried forward indefinitely.

Overview of Statistics

Tables 9 through 12 provide statistics regarding four categories of insurance companies subject to Article 33 for tax years 1987 through 1993. The four categories include life insurance companies, property and casualty insurance companies, other insurance companies (accident and health, title, mortgage and financial guaranty and reciprocal insurers), and savings banks.

Tables 9 through 12 present statistics similar to those presented in the insurance tax liability table formerly included in the annual Statistical Report published by the Office of Tax Policy Analysis.[4] This table was last included in the 1988-89 Statistical Report for the 1986 tax year. This section provides data beginning with the 1987 tax year.

Tax Liability Before Limitation and Credits

Number of Taxpayers

As shown in Table 9, the number of insurance companies subject to Article 33 increased from 731 in 1987 to 791 in 1991, and dropped to 758 in 1993. Between 1987 and 1993, property and casualty insurers consistently represented roughly two-thirds of the Article 33 taxpayers during this period. This group of taxpayers increased overall in number from 478 in 1987 to 518 in 1993. This increase was primarily due to foreign property and casualty insurers, which increased in number from 355 to 391 (see Table 10).

Table 9: Article 33 Tax Liability Before Limitation and Credits

1987-1993

Tax Year	Insurance Category*	Number of Taxpayers	Tax Liability Before Limitation & Credits	Share of Total Insurance Tax**	Average Tax Liability
1987	Life	153	$111,707,173	25.8%	$730,112
	Property & Casualty	478	306,323,436	70.8%	640,844
	Others	52	13,870,616	3.2%	266,743
	Savings Bank	48	820,204	0.2%	17,088
	Total	731	$432,721,429	100.0%	$591,958
1988	Life	157	$151,668,605	33.4%	$966,042
	Property & Casualty	498	288,988,725	63.6%	580,299
	Others	52	12,909,766	2.8%	248,265
	Savings Bank	48	1,066,456	0.2%	22,218
	Total	755	$454,633,552	100.0%	$602,164
1989	Life	160	$183,452,387	37.7%	$1,146,577
	Property & Casualty	501	288,819,561	59.3%	576,486
	Others	53	13,511,449	2.8%	254,933
	Savings Bank	47	1,299,114	0.3%	27,641
	Total	761	$487,082,511	100.0%	$640,056
1990	Life	152	$142,191,249	30.8%	$935,469
	Property & Casualty	505	291,509,017	63.2%	577,246
	Others	61	26,394,317	5.7%	432,694
	Savings Bank	43	996,472	0.2%	23,174
	Total	761	$461,091,055	100.0%	$605,902
1991	Life	157	$203,626,344	36.3%	$1,296,983
	Property & Casualty	537	331,124,264	59.1%	616,619
	Others	60	23,840,194	4.3%	397,337
	Savings Bank	37	1,600,264	0.3%	43,250
	Total	791	$560,191,066	100.0%	$708,206
1992	Life	154	$275,041,141	41.6%	$1,785,981
	Property & Casualty	520	351,367,389	53.1%	675,707
	Others	64	33,691,523	5.1%	526,430
	Savings Bank	36	1,676,784	0.3%	46,577
	Total	774	$661,776,837	100.0%	$855,009
1993	Life	150	$269,497,443	38.9%	$1,796,650
	Property & Casualty	518	384,407,430	55.4%	742,099
	Others	59	38,057,798	5.5%	645,047
	Savings Bank	31	1,313,798	0.2%	42,381
	Total	758	$693,276,469	100.0%	$914,613

*Insurance Category "others" includes accident and health, title, guarantee and reciprocal insurance companies.

**Totals may not equal 100% due to rounding.

Note: The statistics included in this table do not reflect the 2.5% surcharge that applied to pre-credit liability in the 1989 tax year; the temporary 15% surcharge that applied to post-credit liability for the 1990-1993 tax years; or the 17% Metropolitan Commuter Transportation District surcharge.

Table 9 also shows that life insurers were the second largest group of Article 33 taxpayers. From 1987 through 1991 tax years, life insurers increased in number from 153 to 157, and decreased to 150 in 1993. Between 1987 and 1993, life insurers represented about 20 percent of all Article 33 taxpayers. During the same period, the two remaining categories of Article 33 taxpayers, other and savings banks accounted for roughly 15 percent of the total.

Tax Liability Before Limitation and Credits

Table 9 also shows that, between 1987 and 1993, tax before the 2.6 percent limitation on premiums and credits increased from $432.7 million to $693.3 million. This represented a 60 percent increase during this period.

Between 1987 and 1993, the share of tax liability attributable to property and casualty insurers dropped from 71 percent to 55 percent. During this period, the percentage of total tax liability attributable to life insurers increased from nearly 26 percent to almost 39 percent. The tax liability of the remaining categories of insurers represented roughly 5 percent of total liability.

Average Tax Liability

As displayed in Table 9, the average tax liability of all Article 33 taxpayers, before application of the limitation and credits, increased from $591,958 in 1987 to $914,613 in 1993. Life insurers had the highest average tax liability between 1987 and 1993. Their average tax liability ranged from $730,112 to $1,796,650 in those tax years. Property and casualty insurers had the second highest average tax liability, which ranged from a low of $576,486 to a high of $742,099. Insurers classified as “others” had an average tax liability of about $257,000 between 1987 and 1989. The tax liability of that group increased markedly to $645,047 in 1993.

Tax Liability of Foreign and Domestic Insurers Before Limitation and Credits

Table 10 shows that, during tax years 1987 through 1993, foreign insurers paid over 60 percent of the total insurance tax. Foreign property and casualty insurers accounted for the largest portion of total insurance tax liability, ranging between 41 percent and almost 55 percent of total

Table 10: Article 33 Tax Liability of Domestic and Foreign Insurers

Before Limitation and Credits
1987-1993

Tax Year	Insurance Category*	Number of Domestic Companies	Liability of Domestic Companies	Share of Total Liability	Number of Foreign Companies**	Liability of Foreign Companies	Share of Total Liability
1987	Life	86	$58,834,026	13.6%	67	$52,873,147	12.2%
	Property & Casualty	123	69,807,598	16.1%	355	236,515,838	54.7%
	Others	20	7,062,375	1.6%	32	6,808,241	1.6%
	Savings Bank	48	820,204	0.2%	0	0	0.0%
	Total	277	$136,524,203	31.6%	454	$296,197,226	68.4%
1988	Life	86	$80,832,057	17.8%	71	$70,836,548	15.6%
	Property & Casualty	121	69,095,935	15.2%	377	219,892,790	48.4%
	Others	21	6,673,953	1.5%	31	6,235,813	1.4%
	Savings Bank	48	1,066,456	0.2%	0	0	0.0%
	Total	276	$157,668,401	34.7%	479	$296,965,151	65.3%
1989	Life	89	$94,613,591	19.4%	71	$88,838,796	18.2%
	Property & Casualty	124	75,133,809	15.4%	377	213,685,752	43.9%
	Others	20	6,861,111	1.4%	33	6,650,338	1.4%
	Savings Bank	47	1,299,114	0.3%	0	0	0.0%
	Total	280	$177,907,625	36.5%	481	$309,174,886	63.5%
1990	Life	87	$79,984,790	17.3%	65	$62,206,459	13.5%
	Property & Casualty	116	72,934,413	15.8%	389	218,574,604	47.4%
	Others	25	15,053,876	3.3%	36	11,340,441	2.5%
	Savings Bank	43	996,472	0.2%	0	0	0.0%
	Total	271	$168,969,551	36.6%	490	$292,121,504	63.4%
1991	Life	87	$119,489,995	21.3%	70	$84,136,349	15.0%
	Property & Casualty	128	83,247,048	14.9%	409	247,877,216	44.2%
	Others	26	15,330,871	2.7%	34	8,509,323	1.5%
	Savings Bank	37	1,600,264	0.3%	0	0	0.0%
	Total	278	$219,668,178	39.2%	513	$340,522,888	60.8%
1992	Life	87	$161,867,817	24.5%	67	$113,173,324	17.1%
	Property & Casualty	131	75,214,633	11.4%	389	276,152,756	41.7%
	Others	28	19,517,740	2.9%	36	14,173,783	2.1%
	Savings Bank	36	1,676,784	0.3%	0	0	0.0%
	Total	282	$258,276,974	39.0%	492	$403,499,863	61.0%
1993	Life	86	$158,841,208	22.9%	64	$110,656,235	16.0%
	Property & Casualty	127	81,166,569	11.7%	391	303,240,861	43.7%
	Others	26	23,543,557	3.4%	33	14,514,241	2.1%
	Savings Bank	31	1,313,798	0.2%	0	0	0.0%
	Total	270	$264,865,132	38.2%	488	$428,411,337	61.8%

*Insurance Category "others" includes accident and health, title, guarantee and reciprocal insurance companies.

**"Foreign" companies include out-of-state and alien (non-United States) insurance companies.

Note: The statistics included in this table do not reflect the 2.5% surcharge that applied to pre-credit liability in the 1989 tax year; the temporary 15% surcharge that applied to post-credit liability for the 1990-1993 tax years; or the 17% Metropolitan Commuter Transportation District surcharge.

liability. Foreign life insurers, in contrast, paid less than 20 percent of total insurance tax liability during this seven-year period.

This trend differed among domestic insurers, which paid about one-third of total insurance tax liability between 1987 and 1993. Domestic life insurers and property and casualty insurers paid, on average, about 20 percent and 14 percent of total liability, respectively.

Tax Liability by Basis of Tax

Percentage of Tax from Premiums and "Income" Bases

As illustrated in Table 11, the premiums basis, as a percentage of total Article 33 tax liability before application of the tax limitation and credits, equaled roughly 60 percent between the 1987 tax year and the 1991 tax year, dropping to 48 percent in 1992 and 1993.

Between 1987 and 1993, the premiums basis, as a percentage of total tax liability, ranged from about 56 percent to 70 percent for property and casualty insurers. For life insurers, this percentage dropped from 61 percent in 1987 to 37 percent in 1993. Another significant change in the premiums basis as a percentage of total tax liability occurred in the "others" category, which dropped from an average of about 63 percent in 1987 through 1989 to 38 percent in 1993.

Tax Liability After Limitation and Credits

Tax Limitation

As shown in Table 12, the number of taxpayers whose tax liability was "capped" at 2.6 percent of gross premiums increased from 217 in 1987 to 298 in 1993. During this period, the value of the cap, or the limitation on tax liability, for all Article 33 taxpayers increased from $36.3 million in 1987 to $144.8 million in 1993. Property and casualty insurers are the category of taxpayer that tend to benefit the most from the limitation. This category represented over 58 percent of the total value of the limitation in 1993.

Table 11: Article 33 Tax Liability by Basis of Tax

Before Limitation and Credits
1987-1993

Tax Year	Insurance Category*	Amount of Premiums Based Tax	Percent of Tax From Premiums Base	Amount of Income Based Tax**	Percent of Tax From Income Base
1987	Life	$68,093,929	60.96%	$43,613,244	39.04%
	Property & Casualty	195,410,159	63.79%	110,913,277	36.21%
	Others	8,335,687	60.10%	5,534,929	39.90%
	Savings Bank	579,050	70.60%	241,154	29.40%
	Total	$272,418,825	62.95%	$160,302,604	37.05%
1988	Life	$73,419,973	48.41%	$78,248,632	51.59%
	Property & Casualty	186,709,651	64.61%	102,279,074	35.39%
	Others	8,540,693	66.16%	4,369,073	33.84%
	Savings Bank	608,162	57.03%	458,294	42.97%
	Total	$269,278,479	59.23%	$185,355,073	40.77%
1989	Life	$76,774,679	41.85%	$106,677,708	58.15%
	Property & Casualty	203,546,105	70.48%	85,273,456	29.52%
	Others	8,282,176	61.30%	5,229,273	38.70%
	Savings Bank	589,874	45.41%	709,240	54.59%
	Total	$289,192,834	59.37%	$197,889,677	40.63%
1990	Life	$79,389,428	55.83%	$62,801,821	44.17%
	Property & Casualty	202,884,849	69.60%	88,624,168	30.40%
	Others	10,201,967	38.65%	16,192,350	61.35%
	Savings Bank	618,022	62.02%	378,450	37.98%
	Total	$293,094,266	63.57%	$167,996,789	36.43%
1991	Life	$83,027,505	40.77%	$120,598,839	59.23%
	Property & Casualty	221,392,973	66.86%	109,731,291	33.14%
	Others	9,991,475	41.91%	13,848,719	58.09%
	Savings Bank	612,725	38.29%	987,539	61.71%
	Total	$315,024,678	56.24%	$245,166,388	43.76%
1992	Life	$98,717,335	35.89%	$176,323,806	64.11%
	Property & Casualty	210,053,187	59.78%	141,314,202	40.22%
	Others	12,942,382	38.41%	20,749,141	61.59%
	Savings Bank	687,459	41.00%	989,325	59.00%
	Total	$322,400,363	48.72%	$339,376,474	51.28%
1993	Life	$100,052,170	37.13%	$169,445,273	62.87%
	Property & Casualty	214,575,614	55.82%	169,831,816	44.18%
	Others	14,316,649	37.62%	23,741,149	62.38%
	Savings Bank	691,242	52.61%	622,556	47.39%
	Total	$329,635,675	47.55%	$363,640,794	52.45%

*Insurance Category "others" includes accident and health, title, guarantee and reciprocal insurance.

**The income based portion of the tax is the higher of four alternative bases, plus a tax on subsidiary capital.

Note: The statistics included in this table do not reflect the 2.5% surcharge that applied to pre-credit liability in the 1989 tax year; the temporary 15% surcharge that applied to post-credit liability for the 1990-1993 tax years; or the 17% Metropolitan Commuter Transportation District surcharge.

Table 12: Article 33 Tax Liability After Limitation and Credits

1987-1993

Tax Year	Insurance Category 3/	Tax Limitation 1/ Number of Taxpayers	Tax Limitation 1/ Amount of Limitation	Total Tax Credits 2/ Number of Taxpayers 4/	Total Tax Credits 2/ Amount of Tax Credits	Limitation & Tax Credits	After Limitation & Tax Credits 5/
1987	Life	38	$5,792,123	16	$10,365,024	$16,157,147	$95,550,026
	Property & Casualty	167	29,483,632	256	42,796,880	72,280,512	234,042,924
	Others	12	1,060,592	7	212,760	1,273,352	12,597,264
	Savings Bank	0	0	6	30,869	30,869	789,335
	Total	217	$36,336,347	285	$53,405,533	$89,741,880	$342,979,549
1988	Life	49	$13,955,520	17	$6,029,534	$19,985,054	$131,683,551
	Property & Casualty	185	31,416,083	279	36,940,766	68,356,849	220,631,876
	Others 5/	16	689,287	9	220,762	910,049	13,066,173
	Total	250	$46,060,890	305	$43,191,062	$89,251,952	$365,381,600
1989	Life	50	$22,464,631	19	$7,701,225	$30,165,856	$153,286,531
	Property & Casualty	157	35,858,391	269	45,316,299	81,174,690	207,644,871
	Others 5/	25	952,471	7	258,232	1,210,703	13,599,860
	Total	232	$59,275,493	295	$53,275,756	$112,551,249	$374,531,262
1990	Life	48	$13,104,291	19	$9,669,476	22,773,767	$119,417,482
	Property & Casualty	160	33,079,958	269	34,242,350	67,322,308	224,186,709
	Others 5/	24	10,080,408	8	1,215,286	11,295,694	16,095,095
	Total	232	$56,264,657	296	$45,127,112	$101,391,769	$359,699,286
1991	Life	61	$25,270,960	23	$6,148,250	31,419,210	$172,207,134
	Property & Casualty	194	42,791,013	269	33,939,544	76,730,557	254,393,707
	Others	29	9,400,204	11	2,235,577	11,635,781	13,804,677
	Total	284	$77,462,177	303	$42,323,371	$119,785,548	$440,405,518
1992	Life	63	$48,685,759	24	$27,585,992	76,271,751	$198,769,390
	Property & Casualty	187	79,514,960	250	32,235,070	111,750,030	239,617,359
	Others 5/	34	13,321,866	8	2,282,892	15,604,758	19,763,549
	Total	284	$141,522,585	282	$62,103,954	$203,626,539	$458,150,298
1993	Life	72	$45,227,172	30	$54,136,953	99,364,125	$170,133,318
	Property & Casualty	205	84,819,613	246	38,160,387	122,980,000	261,427,430
	Others	21	14,704,852	7	3,133,531	17,838,383	21,533,213
	Total	298	$144,751,637	283	$95,430,871	$240,182,508	$453,093,961

1/ The amount displayed in the "Tax Limitation" column equals the amount of a taxpayer's total tax liability minus the limitation on the taxpayer's total tax liability (which equals 2.6 percent of the taxpayer's gross premiums).

2/ Total tax credits includes the retaliatory tax credit, job incentive credit, EDZ wage and capital credits, fire premiums credit and the mortgage recording tax credit. The number of life and property and casualty insurers using the retaliatory credit and the amount used equalled:

	Life Insurers		Property & Casualty	
1987	13	$8.7 m	38	$3.5 m
1988	14	$4.0 m	49	$5.2 m
1989	16	$4.0 m	47	$5.3 m
1990	18	$7.6 m	47	$5.8 m
1991	23	$6.2 m	46	$5.6 m
1992	23	$25.7m	45	$8.4 m
1993	29	$52.5m	52	$14.3 m

3/ Insurance Category "others" includes accident and health, title, guarantee and reciprocal insurance. In order to maintain confidentiality, savings banks were included in the "others" category.

4/ The number of taxpayers displayed in the "Total Credits" column reflects the number of taxpayers taking individual credits. Because taxpayers may use multiple credits, the same taxpayer may be included in this column more than once. Although the Tax Law provides that EDZ credits apply before the limitation on tax, the number of EDZ credits claimed was not material between the 1987 and 1991 tax years. Therefore, the EDZ credits were included in the Total Credits column.

5/ The tax statistics included in this table do not reflect the 2.5% surcharge that applied to pre-credit liability in the 1989 tax year; the temporary 15% surcharge that applied to post-credit liability for tax years beginning after 6/30/90 and ending before 7/1/94; or the 17% Metropolitan Commuter Transportation District surcharge.

Tax Credits

From 1987 through 1991, the overall number of taxpayers using credits increased from 285 to 303. The number of taxpayers using credits dropped to 283 in 1993. The amount of credits used by Article 33 taxpayers equaled over $53 million in the 1987 tax year and dropped to roughly $42 million in the 1991 tax year. Between 1991 and 1993, the amount of credits used by Article 33 taxpayers increased by 126 percent, to $95.4 million. This increase was almost entirely attributable to a huge increase in the amount of the retaliatory tax credit used by life insurers.

Retaliatory tax credits, which may be used only by domestic Article 33 taxpayers, represented a large portion of total credits used by life insurers between 1987 and 1993. In contrast, the retaliatory credit represented a small portion of the total amount of credits used by property and casualty insurers between 1987 and 1993. This may be attributable to the high proportion of foreign to domestic property and casualty insurers.

Tax Liability After Tax Limitation and Credits

Table 12 shows that tax liability after limitation and credits equaled nearly $343 million in the 1987 tax year and over $453 million in the 1993 tax year. Between 1987 and 1993, net tax after adjustments ranged between 65 percent and 80 percent of total tax liability before adjustments.

Endnotes

1. For a more detailed description of the corporate franchise tax on insurance corporations, see "New York State Tax Structure: History and Comparative Analysis," prepared by the New York State Department of Taxation and Finance, Office of Tax Policy Analysis, August 1994.

2. Insurance companies may claim the following credits under Article 33: economic development zone wage and capital credits (Tax Law Sections 1511(g)(h)); life insurance company guarantee fund assessments (Tax Law section 1511(f)); special additional mortgage recording taxes paid (Tax Law Section 1511(e)); eligible business facilities (Tax Law Section 1511(d)); retaliatory taxes (Tax Law Section 1511 (c)); and fire insurance tax credits (Tax Law Section 1511(a)).

3. The 2.5 percent surcharge applied to each taxpayer's pre-credit liability (the lower of either the sum of the taxes measured by premiums, "income," and subsidiary capital, or 2.6 percent of gross premiums). The tables include the <u>aggregate</u> value of tax before limitation and credits, and the tax limitation for all Article 33 taxpayers. The data user cannot determine, from the tables, the amount of each individual taxpayer's pre-credit liability. As a result, the value of the 2.5 percent surcharge cannot be determined from the data presented in the tables.

4. The tables included in this corporate tax statistical report provide data comparable to that provided in the tables included in the annual <u>Statistical Report</u> prior to 1988-89. The tables in this corporate tax statistical report provide additional information, including the amount of the premiums based tax and income based tax and the percent of tax from the income based tax. The tables also aggregate tax credit information in order to maintain confidentiality.