

**Instructions for Form CT-186-EZ****Telecommunications Tax Return – Short Form**

Tax Law — Article 9, Sections 186-e and 186-c

CT-186-EZ-I**General Information****Changes Effective in 1998**

The Tax Law was amended to reduce the tax rate applicable to section 186-e. The rate change is effective October 1, 1998. For the period January 1, 1998, through September 30, 1998, the tax rate is 3.5%. For the period October 1, 1998, through December 31, 1998, the tax rate is 3.25%. However, the MTA surcharge related to section 186-e must be computed as if the 3.5% tax rate is in effect for the entire year.

This new form, CT-186-EZ, *Telecommunications Tax Return - Short Form*, was created for smaller providers of telecommunication services. See below to determine which form to file.

Which Form to File

Every provider of telecommunication services must file Form CT-186-E or CT-186-EZ to report the tax due under section 186-e. In addition to your telecommunication activity, if you are a utility supervised by the Department of Public Service or have receipts from other utility services, you must use Form CT-186-E to report the tax imposed by section 186-a.

Provider of telecommunication services means any person, corporation, or other entity who furnishes or sells telecommunication services, regardless of whether such activities are the main business of the person, corporation, or other entity, or are only incidental services. (Any reference to a utility in regard to the tax imposed by section 186-e or 186-a is deemed to include a reference to a provider of telecommunication services.)

Who May File Form CT-186-EZ

Generally, except for those listed under *Who May Not File Form CT-186-EZ* below, any provider of telecommunication services may file Form CT-186-EZ. Form CT-186-EZ may be used only by providers selling telecommunication services to customers for ultimate consumption. Examples include:

- Companies exclusively providing paging services (including ancillary and incidental services and equipment) selling exclusively to customers for ultimate consumption
- Resellers of mobile telephone services (including ancillary and incidental services and equipment) selling exclusively to customers for ultimate consumption
- Providers of pay telephone services
- Retail stores that provide telephone services to customers on the premises
- Retail stores that provide self-operated facsimile or data transmission services to customers on the premises
- Providers of prepaid phone cards
- Landlords providing telecommunication services to tenants where the charges for the services are separately stated
- Hotels and motels providing telecommunication services to guests where the charges for services are separately stated
- Hospitals selling telecommunication services to persons on the premises where the charges for the services are separately stated
- Any other provider of telecommunication services selling services exclusively to customers for ultimate consumption

Who May Not File Form CT-186-EZ

The following providers of telecommunication services are **not permitted** to file Form CT-186-EZ, and must instead file Form CT-186-E:

- Local exchange telephone companies
- Interexchange telephone companies

- Facilities-based cellular telephone companies
- Any provider selling telecommunication services to others for resale
- Any provider of private telecommunication services
- Any provider that is supervised by the Department of Public Service
- Any provider of telecommunication services that also sells electricity, steam, gas, water, or refrigeration

Exempt Sellers

The following, if selling telecommunications services, are exempt from tax under section 186-e:

New York State, municipalities, political and civil subdivisions of New York State or a municipality, public districts, not-for-profit corporations, and associations organized and operated exclusively for religious, charitable, or educational purposes.

When and Where to File

You must report on a calendar year basis to New York State, even if you maintain your records and report to the IRS using a fiscal accounting period.

This return is due on March 15 following the close of the calendar tax year. If March 15 falls on a Saturday, Sunday, or legal holiday in any year, the return is due on the next business day.

Mail the return to: **NYS CORPORATION TAX, PROCESSING UNIT, PO BOX 22038, ALBANY NY 12201-2038.**

Private Delivery Services

The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance, will be treated as a postmark, and that date will be considered to be the date of delivery in determining whether your return was filed on time. (Designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need Help?* on page 4 of these instructions for information on ordering forms and publications.) If you use **any** private delivery service, address your return to: **State Processing Center, 431C Broadway, Menands, NY 12204.**

Extension of Time for Filing Tax Return

If you cannot meet the filing deadline, you may request an extension of time by filing Form CT-5.9-E, *Request for Three-Month Extension to File Form CT-186-E or Form CT-186-EZ*, on or before the original due date. An extension of time granted by the IRS to file a federal tax return does not extend the due date for filing Form CT-186-E or CT-186-EZ.

Other Surcharges, Taxes, and Fees That May Apply

Temporary Metropolitan Transportation Business Tax (MTA Surcharge) — You must also use this form to compute and report the MTA surcharges imposed by section 186-c on business done in the Metropolitan Commuter Transportation District (MCTD). The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

If you provided telecommunication services in the MCTD during the tax year, you must answer **Yes** to the question above line A and complete Schedule B, *MTA Surcharge Related to Telecommunication Services*. If you did not provide telecommunication services in the MCTD during the tax year,

you must disclaim liability for the MTA surcharge by answering **No**.

Foreign Corporations — Maintenance Fee and License Fee —

A corporation organized outside of New York State (a *foreign corporation*) that is authorized to do business in New York State must pay an annual maintenance fee of \$300. Failure to pay the annual maintenance fee or its equivalent in New York State taxes (including the MTA surcharge) under Articles 9, 9-A, or 32 will result in annulment of the authorization to do business in New York State. Payments of such taxes are counted as payments toward the \$300 annual maintenance fee (but not the license fee reported on Form CT-240). If the total of such taxes is greater than \$300, then you have satisfied the requirement to pay the annual maintenance fee. If the total of your taxes and MTA surcharges is less than \$300, you must increase your payment accordingly to satisfy the \$300 maintenance fee requirement.

Foreign corporations must also file Form CT-240, *Foreign Corporation License Fee Report*.

How to Complete the Name and Address Section

Employer Identification Number, File Number, and Other

Identifying Information — To ensure that your corporation tax forms are processed as quickly and efficiently as possible, it is important that we have the necessary identifying information from your preprinted label. Keep a record of the label information for future use. Please be certain to include your employer identification number and file number on each corporation tax form mailed. This will facilitate processing of your return to the correct account. Without this information, we may not be able to process your return.

If you use a paid preparer or accounting firm, make sure they use the mailing label or label information when completing all forms prepared for you.

Business Activity Code Number

Enter the business activity code number from your federal return. Please check the appropriate box for the type of code you are using. Check the box marked *NAICS* if you use the North American Industry Classification System. If you have entered a Principal Industrial Activity (PIA) or Standard Industrial Classification (SIC) code, check the box marked *Other*.

Amended Return — If you are filing an amended return, please write **Amended Return** across the top of the front page.

Specific Instructions

Which Schedules Apply to You

Complete Schedule A, and Schedule B if it applies to you, before completing lines 1 through 15.

Schedule A - New York State Excise Tax on Telecommunication Services

Schedule B - MTA Surcharge Related to Telecommunication Services

Whole Dollar Amounts - You may elect to show amounts in whole dollars rather than dollars and cents. Round an amount from 50 cents through 99 cents to the next higher dollar, and round any amount less than 50 cents to the next lower dollar.

Percentages - When computing allocation percentages, convert decimals into percentages by moving the decimal point two spaces to the right. Percentages should be carried out to four decimal places. For example: $5,000/7,500 = .666666 = 66.6667\%$.

Negative amounts, if any, should be shown in parentheses.

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

Computation of Tax

Installments of Estimated Tax

In addition to the first installment required on line 3a or 3b, you may be required to make additional installments of estimated tax.

If the total of your estimated tax related to section 186-e will exceed \$1,000 for the next period, you must file Form CT-400 and make installment payments of estimated tax and MTA surcharge.

You must file a Form CT-400 on or before June 15, September 15, and December 15, and pay the additional installments of estimated tax for the next period.

Line 8 — If you underpaid your estimated tax for 1998, use Form CT-222, *Underpayment of Estimated Tax by a Corporation*, to compute the penalty. Attach Form CT-222, check the box, and enter the amount of penalty on line 8. If no penalty is due, enter "0" on line 8.

Interest and Penalties for Late Payment

Line 9 — If you do not pay the taxes and MTA surcharges on or before the original due date (**without** regard to any extension of time), you must pay interest on the amount of the underpayment from the original due date to the date paid. Exclude from the interest computation the first installment of estimated tax shown on line 3a or 3b.

Line 10 — Additional charges for late filing and late payment are computed on the amount of tax and MTA surcharge, less any payment made on or before the due date, determined **with** regard to any extension of time for filing. Exclude from the penalty computation the first installment of estimated tax shown on line 3a or 3b.

- A. If you do not file a return when due, or if the request for extension is invalid, add to the tax 5% per month up to 25% (section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax cannot be less than the smaller of \$100 or 100% of the amount required to be shown as tax (section 1085(a)(1)(B)).
- C. If you do not pay the tax shown on a return, add to the tax $\frac{1}{2}\%$ per month up to 25% (section 1085(a)(2)).
- D. The total of the additional charges in items A and C may not exceed 5% for any one month, except as provided for in item B above (section 1085(a)).

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

Note: You may have the interest (line 9) and penalty (line 10) computed for you by calling the Business Tax Information Center at the number listed under *Need Help?* on page 4.

Overpayments and Credits

Line 13 — You may elect to apply all or part of the overpayment on line 12 to the taxes and surcharges to be reported on your Form CT-186-EZ for the next period. Enter the total amount you want to apply to the next period.

Line 15 — In lieu of the sale-for-resale credit or the multi-jurisdictional credit (see instructions for lines 25 and 26), a taxpayer may elect to take a refund. However, no interest will be allowed or paid on any credit or refund allowed under the sale-for-resale credit.

Collection of debts from your refund — We will keep all or part of your refund if you owe a past-due, legally enforceable debt to the Internal Revenue Service or a New York State agency. This includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district. Any amount over your debt will be refunded.

If you have any questions about whether you owe a past-due, legally enforceable debt to the Internal Revenue Service or a state agency, contact the IRS or that particular state agency.

For New York State tax liabilities **only** call 1 800 835-3554 (outside the U.S. and outside Canada call (518) 485-6800) or write to NYS TAX DEPARTMENT, TAX COMPLIANCE DIVISION, W A HARRIMAN CAMPUS, ALBANY NY 12227.

Schedule A — New York State Excise Tax on Telecommunication Services (Tax Law section 186-e)

Columns A and B — Use Column A for transactions occurring from January 1, 1998, through September 30, 1998, and use Column B for transactions occurring from October 1, 1998, through December 31, 1998.

Section 186-e imposes an excise tax on each charge from (1) any intrastate telecommunication services; (2) any interstate or international telecommunication services that originate or terminate in New York State and are charged to a service address in New York State (regardless of where the amounts charged are actually billed or ultimately paid); and (3) private telecommunication services attributable to New York State.

As an excise tax, the charge for each telecommunication service is determined on the basis of each transaction.

Providers of telecommunication services are required to file Form CT-186-E or CT-186-EZ for each calendar year, summarizing the charges accrued and the tax liability to be paid.

Gross charge means the amount charged for each telecommunication service provided with no deductions, and is expressed in money, whether paid in cash, credit, or property of any kind or nature. A deduction is allowed for bad debts incurred with respect to charges subjected to tax under section 186-e, when the debt becomes worthless in accordance with consistently applied Generally Accepted Accounting Principles.

Telecommunication services means telephony or telegraphy, or telephone or telegraph service of any nature including, but not limited to, any transmission of the following: voice, image, data, information, or paging, through the use of wire, cable, fiber-optic, laser, microwave, radio wave, satellite, or similar media or any combination thereof. *Telecommunication services* also include services that are not telecommunication services as such, but are: (1) ancillary to the provision of telephone service (for example, directory information, call forwarding, caller identification, call waiting, and supplementary services) and (2) services (of whatever nature) which are incidental to the provision of telecommunication services. The charges from equipment provided in connection with the provision of any telecommunication service (such as beepers, telephones, fax machines, or modems) are also subject to tax under section 186-e. The term *telecommunication services* does not apply to separately stated charges for a service that alters the substantive (information) content of the message transmitted.

Example: *The character sequence 1, 2, 3, 4 is sent and the recipient receives only the summary number 10. The charge for this data processing service is separately billed. Because arithmetic processing has substantively changed the information content of the message sent and the data processing service is separately billed, this is not considered a telecommunication service.*

Telecommunication services do not include:

- television or radio programming transmitted to subscribers by cable television service, or
- Internet access services (including communication/navigation software, e-mail privileges, news headlines, and certain website services furnished as part of a combined Internet access charge).

Examples of telecommunication service charges reported on Form CT-186-EZ include:

- local telephone services
- toll services
- long distance telephone services
- pay telephone services
- paging services
- mobile telephone services
- facsimile and data transmission services
- prepaid phone card services
- any of the above telecommunication services provided as supplementary services by hotels, hospitals, office buildings, etc., that are billed as separately identifiable charges

Line 16 — Enter 100% of your charges from intrastate telecommunication services provided to customers for ultimate consumption.

Line 17 — Enter 100% of your charges from interstate and international services that originate or terminate in New York State and have a service address in New York State, provided to customers for ultimate consumption.

Service address means the location of the equipment from which the telecommunication originated or at which the telecommunication is received by the purchaser from the provider of telecommunication services. Special rules define the *service address* in instances where the telecommunication service is obtained through a credit or payment mechanism (such as a credit, calling card, or third party billing), and where the service address is not a defined location (such as a mobile telephone, paging system, maritime system, or air-to-ground system). The rules are applied in the following order, such that the first rule to apply should be used to determine the service address in instances where more than one rule may apply.

(1) If the telecommunication originates or terminates in New York State and is charged to telecommunication equipment that is not associated with the origination or termination of the telecommunication (for example, by the use of a calling card or third party billing), and the location of the equipment charged is in New York State, the service address will be deemed to be in New York State.

(2) If the service is obtained through a credit or payment mechanism such as a bank, travel, credit, or debit card, or if the service is obtained by charging telecommunication equipment that is not associated with the origination or termination of the telecommunication (for example, by the use of a calling card or third party billing), and the equipment is not located in the state of origination or termination, then the service address is deemed to be the location of the origination of the telecommunication.

(3) If the service address is not a defined location, as in the case of mobile telephones, paging systems, maritime systems, air-to-ground systems and the like, *service address* shall mean the location of the subscriber's primary use of the

telecommunication equipment as defined by telephone number, authorization code, or location where bills are sent. However, the location of the mobile telephone switching office or similar facility that receives and transmits the signals of the telecommunication will be deemed the service address when the mobile telephone switching office or similar facility is outside the subscriber's assigned service area.

Line 18 — Enter 100% of your charges from ancillary or incidental services (for example, directory information, call forwarding, caller-identification, call waiting, etc.) or from equipment provided in connection with telecommunication services (beepers, telephones, etc.). **Include** miscellaneous charges from commissions and fees earned that are directly related to telecommunication services reported on lines 16 and 17. **Do not include** receipts from services or equipment that are separately billed and that are not provided directly in connection with telecommunication services.

Line 20 — The following exclusions and deductions are allowed if included in the gross charges reported on line 19:

- any surcharges collected or any administrative fee retained when merely acting as collection agent for a municipality in connection with the provision of an enhanced emergency telephone system (E911) pursuant to Article Six of the County Law.
- receipts from the sale of telecommunication services to air carriers solely for the purpose of air safety and navigation, when such telecommunication services are provided by an organization defined by section 186-e(b)(3) of the Tax Law.
- taxes imposed by New York State or its municipalities or the federal government, when the provider is merely a collection agency for the tax authority (such as for state and local sales tax).
- receipts from the sale of cable television and radio programming. *Cable television and radio programming* means the transmitting to subscribers of programs broadcast by one or more television or radio stations or any other programs originated by any person by means of wire, cable, microwave or any other means. (Note: telecommunication services provided to a cable television or radio provider, for the purposes of broadcasting programs to subscribers, are subject to tax under section 186-e.)

In addition, include any deduction for bad debts from all transactions (allowed with respect to telecommunication charges subjected to tax under section 186-e, when the debt has become worthless in accordance with consistently applied Generally Accepted Accounting Principles).

Line 25 — When a reseller of telecommunication services is not an interexchange carrier or local carrier (or a facilities-based cellular common carrier), a credit will be allowed to the reseller for tax paid when the services are actually resold. The credit is intended to operate so that the tax on the resale will be applied only to the difference between the gross charge imposed on resale and the amount paid to acquire the service resold. Mathematically, the amount of the credit may be computed by multiplying the reseller's cost to purchase the service by the tax rate.

Example: On January 9, 1998, a telephone company sells a telecommunication service to a reseller for \$2 for resale. The reseller, who is not an interexchange carrier or local carrier, resells the service for \$5. The reseller owes a tax on the difference of \$3, or \$.105 ($\$3 \times 3.5\%$). When reporting on the resold service, the reseller will show a gross charge of \$5, an excise tax computed of \$.175 ($\$5 \times 3.5\%$), and a credit of \$.07 ($\$2 \times 3.5\%$).

Line 26 — In order to prevent multi-jurisdictional taxation, a credit is allowed on any interstate or international telecommunication service upon proof that a telecommunication services provider paid a like tax to another state or country. The amount of the credit will be the amount lawfully due and paid to the other state or country, but it may not reduce the tax due to less than zero.

Schedule B — MTA Surcharge Related to Telecommunication Services (Tax Law section 186-c(1)(b))

The MTA surcharge is imposed on charges derived from the Metropolitan Commuter Transportation District (MCTD), at a rate of 17% of the state tax rate. Currently, the MTA rate is .595% ($.17 \times .035 = .00595 = .595\%$).

All of the definitions and instructions in Schedule A apply to the MTA surcharge computed in Schedule B, with any necessary modifications and limitations, including substituting the words *Metropolitan Commuter Transportation District*, or MCTD, for the words *New York State* where appropriate. Accordingly, the tax applies to gross charges from (1) any intra-MCTD telecommunication services, (2) any inter-MCTD telecommunication services that originate or terminate in the MCTD and are charged to a service address in the MCTD (including intrastate, interstate, and international telecommunication services), and (3) private telecommunication services attributable to the MCTD.

Need Help?

Telephone Assistance is available from 8:30 a.m. to 4:25 p.m. (eastern time), Monday through Friday. **For business tax information and forms**, call the Business Tax Information Center at 1 800 972-1233. **For general information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and outside Canada**, call (518) 485-6800.

Fax-on-Demand Forms Ordering System - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

Internet Access - <http://www.tax.state.ny.us>
Access our website for forms, publications, and information.

Hotline for the Hearing and Speech Impaired - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m. (eastern time), Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

Persons with Disabilities - In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information numbers listed above.

Mailing Address - If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 9, 9-A, 13, 19, 27, 32, 33, and 33-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer corporate tax liabilities under the Tax Law, for certain tax refund offsets, and for any other purpose authorized by law.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.