



Instructions for Form CT-32-S

New York Bank S Corporation Franchise Tax Return

Tax Law — Articles 32 and 22

CT-32-S-I

Form CT-1, Supplement to Corporation Tax Instructions

See Form CT-1 for the following topics:

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

General information

To be eligible to elect federal subchapter S corporation status, the bank must not use the reserve method of accounting for bad debts, either because it is a large bank and is required under Internal Revenue Code (IRC) section 585 to use the direct charge-off method, or because the bank is a small bank and has elected to use the direct charge-off method. The bank must also meet all federal subchapter S corporation eligibility requirements.

Definitions

For the purpose of these instructions, *New York S corporation* is a corporation taxable under Tax Law Article 32, for which a New York S election has been made by the filing of Form CT-6, *Election by a Federal S Corporation to be Treated As a New York S Corporation*.

For the purpose of these instructions, *New York C corporation* is a corporation taxable under Tax Law Article 32 that is not a New York S corporation.

Qualified subchapter S subsidiary (QSSS) is a corporation that is a qualified subchapter S subsidiary under IRC section 1361(b)(3)(B).

Overview of tax computation

Article 32 provides that a New York bank S corporation must pay the higher of (1) the tax on entire net income (ENI), computed as if the S corporation had not made the federal S corporation election, reduced by the Article 22 tax equivalent or (2) the fixed dollar minimum tax of \$250. However, as the Article 22 tax equivalent rate of 7.875% is greater than the Article 32 ENI tax rate of 7.1%, the fixed dollar minimum tax will be the higher amount for this tax year.

A New York S corporation is not subject to the metropolitan transportation business tax (MTA surcharge).

To compute ENI on Form CT-32-S, you must begin by completing the following schedules on Form CT-32, *Banking Corporation Franchise Tax Return*:

- Schedule B, lines 22 through 59a (To complete Schedule B, you may also have to complete Schedules E, F, and G on Form CT-32.)
- Schedule H, lines 108 through 123, and lines 125 through 128

In addition, refer to Form CT-32-I, *Instructions for Form CT-32*, for information regarding the completion of header information, computation of interest and penalties, refund, and computation of ENI and the issuer's allocation percentage. **Attach all applicable schedules to Form CT-32-S.**

With the exception of the special additional mortgage recording tax credit, an Article 32 New York S corporation cannot apply tax credits against its New York State franchise tax liability. Instead, any tax credits earned by such a corporation flow through to its shareholders, and are applied by the shareholders against their New York State personal income tax liability.

Filing requirements

Form CT-32-S must be filed by any federal S corporation taxable in New York State under Tax Law Article 32, whose shareholders filed Form CT-6 electing to be a New York S corporation.

Each New York S corporation must **attach Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule***, to report items of income, loss, deduction, and other pertinent information for all individuals, estates, and trusts who were shareholders of the New York S corporation during any part of the tax year.

Qualified subchapter S subsidiary (QSSS)

The filing requirements for a QSSS that is owned by a New York S corporation or a nontaxpayer corporation are outlined below. Where New York follows federal QSSS treatment, the parent and QSSS must file a single franchise tax return. The QSSS is ignored as a separate taxable entity, and the assets, liabilities, income, and deductions of the QSSS are included on the parent's franchise tax return. However, for other taxes, such as sales and excise taxes and the license and maintenance fees imposed under Article 9, the QSSS will continue to be recognized as a separate corporation. As a result, a foreign authorized QSSS included in the parent's return (disregarded as a separate taxable entity for franchise tax purposes) that is filing under Article 32 by reason of *Who must file*, item D, in Form CT-32-I, must file Form CT-245, *Maintenance Fee and Activities Return for a Foreign Corporation Disclaiming Tax Liability*.

- Parent is a New York S corporation** – New York State follows the federal QSSS treatment. The parent and QSSS are taxed as a single New York S corporation and file Form CT-32-S.
- Nontaxpayer parent** – New York State follows the federal QSSS treatment where the QSSS is a New York State taxpayer but the parent is not, if the parent elects to be taxed as a New York S corporation by filing Form CT-6. The parent and QSSS are taxed as a single New York S corporation and file Form CT-32-S on a joint basis. If the parent does not elect to be a New York S corporation, the QSSS must file as a New York C corporation on a stand-alone basis on Form CT-32.

c. **Exception: Excluded corporation** – QSSS treatment is not allowed unless both the parent and the QSSS are banking corporations. The corporations must file on a stand-alone basis if one is an Article 32 taxpayer but the other is an Article 9, 9-A, or 33 taxpayer, or is a corporation that would be subject to such taxes if taxable in New York State.

If New York State follows federal QSSS treatment, the QSSS is not considered a subsidiary of the parent corporation.

To notify the department that a QSSS is included in your return, mark an **X** in the first box under *Additional information* and attach Form CT-60-QSSS, *Qualified Subchapter S Subsidiary Information Schedule*.

When and where to file

File this return within 2½ months after the end of your reporting period. Mail returns to:

**NEW YORK STATE CORPORATION TAX
PROCESSING UNIT
PO BOX 22038
ALBANY NY 12201-2038**

If you cannot meet the filing deadline, you may request a six-month extension by filing Form CT-5.4, *Request for Six-Month Extension to File New York S Corporation Franchise Tax Return*, and paying any tax due on or before the original due date of the return. No additional extension of time beyond six months will be granted to file Form CT-32-S.

Private delivery services — See Publication 55, *Designated Private Delivery Services*.

Penalty for failure to provide shareholder information — If you do not file Form CT-32-S on time, or you fail to provide the shareholder information required (all items of income, loss, deduction, and other pertinent information) you will have to pay a penalty. The penalty is \$50 per shareholder per month or fraction of a month, up to a total of \$250 per shareholder (Article 22 section 685(h)(2)). You will also have to pay an additional penalty of \$50 for each shareholder whose social security number you do not show (section 685(k)). All shareholders of the S corporation during any part of the tax year must be counted. These penalties may be waived if it is shown that the failure is due to reasonable cause and not due to willful neglect.

Amended return

If you are filing an amended return, mark an **X** in the *Amended return* box.

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

For amended returns based on changes by the Internal Revenue Service (IRS) — If your federal taxable income (FTI) has been changed or corrected by a final determination of the Commissioner of Internal Revenue, you must file an amended return reflecting the federal changes within 90 days of the final federal determination. For a definition of final determination, see New York Code, Rules, and Regulations (NYCRR), Title 20, section 21-1.3(b).

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

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

For credits or refunds of corporation tax paid — To claim any refund type that requires an amended return, file an amended New York State return for the year being amended and, if applicable, attach a copy of the claim form filed with the IRS (usually

Form 1120X) and proof of federal refund approval, *Statement of Adjustment to Your Account*.

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

The amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. If you did not file an original return, you must make the request within two years of the date the tax was paid. However, a claim for credit or refund based on a federal change must be filed within two years from the time the amended return reporting the change or correction was required to be filed (see *For amended returns based on changes by the Internal Revenue Service (IRS)*). For additional limitations on credits or refunds, see Tax Law, Article 27, section 1087.

Line instructions

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

Line 1 — Use Form CT-32, lines 22 through 59a, to compute the ENI of the New York S corporation. However, the New York State net operating loss deduction (NOLD) that is allowed to New York C corporations on line 56 of Form CT-32 is not allowed to New York State S corporations. Therefore, you should skip line 56 of Form CT-32 when computing the ENI of the New York S corporation.

Enter on Form CT-32, line 22, the amount of FTI that you would have reported on federal Form 1120, line 28, had you not made the election under Subchapter S of IRC Chapter One. Attach a statement (or a pro forma federal Form 1120) showing the computation of FTI required to be shown on federal Form 1120, line 28. The statement (or pro forma federal Form 1120) must include the following items from federal Form 1120 but not reported on federal Form 1120S:

- dividend income
- interest income
- gross rental income
- gross royalty income
- capital gain net income
- charitable contribution deduction
- domestic production activities deduction

If you have an amount of excess inclusion as a result of having a residual interest in a real estate mortgage investment conduit (REMIC), you must properly reflect this income in FTI.

If a parent corporation and QSSS file a joint return on Form CT-32-S, compute the ENI of the New York S corporation on Form CT-32, lines 22 through 59a, as if:

- the assets, liabilities, income, and deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS are deemed to be those of the parent corporation;
- the stocks, bonds, and other securities issued by the QSSS, and any indebtedness from the QSSS, are not subsidiary capital of the parent corporation;
- transactions between the parent corporation and the QSSS, including the payment of interest and dividends, are not taken into account; and
- general executive officers of the QSSS are deemed to be general executive officers of the parent corporation.

Line 2 — Use Form CT-32, lines 108 through 123, and lines 125 through 128, and enter the appropriate results below to compute the ENI allocation percentage. Refer to the Schedule H instructions in Form CT-32-I for instructions specific to corporations substantially engaged in providing management, administrative, or distribution services to an investment company. Such corporations need only complete line E of the worksheet below, by entering the amount from Form CT-32, line 123.

A	Payroll factor – enter the percentage from Form CT-32, line 110	_____
B	Receipts factor – enter the percentage from Form CT-32, line 123	_____
C	Deposits factor – enter the percentage from Form CT-32, line 128	_____
D	Total of New York percentages (add lines A, B, and C)	_____
E	ENI allocation percentage (divide line D by three or by the number of percentages; enter on Form CT-32-S, line 2)	_____

Lines 3, 5, 6, 7, and 8 — As the fixed dollar minimum tax is the highest tax for this tax year, lines 3, 5, 6, 7, and 8 require no entries and have therefore been shaded.

Line 12 — The special additional mortgage recording tax credit may not reduce the franchise tax on line 10 to less than \$250. If the amount determined by subtracting the amount on line 11 from the amount on line 10 is less than \$250, enter **250** on the line.

Line 13b — If the tax on line 12 exceeds \$1,000, and you did not file Form CT-5.4, a mandatory first installment is required for the period following the one that is covered by this return. If the tax on line 12 exceeds \$1,000, but does not exceed \$100,000, enter 25% of the tax shown on line 12. If the tax on line 12 exceeds \$100,000, enter 40% of the tax shown on line 12.

Line 17 — Form CT-222, *Underpayment of Estimated Tax by a Corporation*, is filed by a corporation to inform the Tax Department that the corporation meets one of the exceptions to reduce or eliminate the underpayment of estimated tax penalty pursuant to Tax Law, Article 27, section 1085(d).

Additional information

Other credits — For credits not specified, mark an **X** in the *Other credits* box and identify the credit on Form CT-34-SH, Part 2.

Termination year — The New York S election can terminate on a day other than the first day of the tax year, whether or not the federal S election terminates at the same time. In either case, the tax year is divided into two tax periods (an S short year and a C short year). The corporation must file Form CT-32-S for the S short year and Form CT-32 for the C short year. The due date of the S short year return is the same as that of the New York C short year return.

If the federal and New York S elections terminate at the same time, determine ENI assigned to Form CT-32-S for the S short year and to Form CT-32 for the C short year using the same method of accounting as used for federal income tax purposes (daily pro rata allocation under IRC section 1362(e)(2), or normal tax accounting rules under IRC section 1362(e)(3)).

If the federal S election continues but the New York S election terminates, use the normal tax accounting rules under IRC section 1362(e)(3) if:

- all persons who are shareholders in the corporation at any time during the New York S short year, and all persons who are shareholders in the corporation on the first day of the New York C short year, consent to such election, or
- there is a sale or exchange of 50% or more of the stock in the corporation during the year.

Otherwise, use the daily pro rata allocation method under IRC section 1362(e)(2).

Mark an **X** in the *Normal accounting rules* box or the *Daily pro rata allocation* box to indicate which method of accounting the New York S corporation elected for the New York S short year and subsequent New York C short year.

The total tax for the New York S short year and New York C short year cannot be less than the fixed dollar minimum tax determined as if the corporation were a C corporation for the entire year.

Lines 25 through 29, Composition of prepayments on line 15

If you need more space, write **see attached** in this section, and attach a separate sheet showing all relevant prepayment information. Transfer the total shown on the attached sheet to line 15.

Signature

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

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

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

