



# Instructions for Form CT-9

## Claim for Tentative Refund Based upon Carryback of Net Operating Loss

### General Instructions

Use Form CT-9 to claim a tentative refund or credit resulting from the carryback of a net operating loss (NOL), or alternative net operating loss (ANOL), to previous years. Corporations not meeting the requirements to file Form CT-9 must file Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*.

Generally, Form CT-9 will be processed within 90 days from the date of its receipt. However, refunds will be delayed if the required federal forms are not attached to Form CT-9 or if Form CT-9 has omissions or errors that cannot be corrected within the 90-day period. New York State Forms CT-3 and CT-4 will be reviewed after the refund or credit has been processed. Refunds processed within 90 days from the date received will not include interest pursuant to section 1088(c) of the New York State Tax Law.

For net operating losses incurred in taxable years beginning after August 5, 1997, the NOL or ANOL may be carried back only 2 years instead of 3 years, but may be carried forward for 20 years until used up. For net operating losses incurred in taxable years beginning on or before August 5, 1997, the NOL or ANOL may be carried back 3 years and carried forward 15 years until used up.

### Amount of Tentative Refund Claimed - Limitation

Form CT-9 may only be used to claim a refund based on a net operating loss or ANOL carryback. The amount of net operating loss that may be carried back to the preceding years is limited to a total of \$10,000 (Tax Law section 208.9(f)(5)). Only New York C corporations may file this claim for refund. If the refund claim is based upon anything other than a net operating loss carryback, you must use Form CT-8.

### Who Can File Form CT-9

Form CT-9 cannot be used to claim a refund based on capital losses or an amended return, or for any reason other than a net operating loss carryback. Corporations taxable under Article 9-A of the New York State Tax Law may file Form CT-9 if they meet all of the following requirements:

- The corporation filed Form CT-3 or CT-4.
- The claim for refund or credit of tax is based on the carryback of a net operating loss.
- The corporation does not have investment capital or investment income.
- The corporation does not have an aggregate net operating loss as defined by 20 NYCRR 3-8.5 (i.e., losses from two or more loss years applied against the income of one particular income year).
- The corporation did not elect to relinquish the three-year carryback of a net operating loss for federal purposes.
- The corporation does not have an optional depreciation adjustment.

A corporation that does not meet all of the above requirements must file Form CT-8 instead of Form CT-9.

### When to File

Federal C corporations should file Form CT-9 within 90 days from the date the federal refund or credit is received or credited. However, federal C corporations included in a group reporting federal tax on a consolidated basis should file Form CT-9 within 120 days from the date the federal refund or credit is received or credited. The date of the federal refund or credit is generally the date shown on federal Forms 4188, 8488, 4428B or federal form letter 15-164.

Federal S corporations, which are New York C corporations, should file Form CT-9 within 15 months from the end of the loss year.

### Federal Forms Required to be Attached

Federal C corporations that file federal Form 1120, 1120-A or 1120X and New York State Form CT-3 or CT-4 must attach copies of the following federal forms to Form CT-9:

- federal claim Form 1139 or 1120X, **and**
- federal refund approval Form 4188, 8488 or 4428B.

If the above mentioned federal forms are not available, send an affidavit signed by an officer of the corporation stating that a refund was received, the date of the refund, the amount and the applicable filing period. If the federal refund was adjusted, give an explanation.

If federal forms are not available because federal tax returns were filed on a consolidated basis, attach a statement showing how net operating losses would have been carried back and carried forward had you filed federal Form 1120.

Federal S corporations that file federal Form 1120S and New York State Form CT-3 or CT-4 are only required to attach to Form CT-9 a copy of federal Form 1120S for the loss year.

Failure to attach the required forms to Form CT-9 will delay processing of the claim for tentative refund or credit.

When completing this form include all adjustments made to New York State Form CT-3 or CT-4 as a result of federal changes, amended returns filed, or audit adjustments issued by this department.

### Federal Information

Federal information entered on lines 1 through 4 must agree with figures appearing on your federal forms or you must attach a reconciliation of any differences.

### New York Information

Use lines 5 through 18 to recompute the New York State entire net income and minimum taxable income for each year to which a net operating loss or alternative net operating loss is carried.

**Line 8** — The New York State net operating loss carryback is limited to the lower of \$10,000 (total carryback to previous years) or the amount required to reduce federal taxable income to zero for each of the preceding tax

years. Any portion of the net operating loss which cannot be carried back to the preceding years may be carried forward to the succeeding years until it is used up.

**Line 10** — Enter the business allocation percentage computed on Form CT-3 for each year to which a net operating loss is carried. Enter 100% if the corporation filed Form CT-4 or did not claim a business allocation percentage on Form CT-3.

**Line 15** — Enter the NYS alternative net operating loss. For more information regarding the ANOL, see either TSB-M-94(5)C or the instructions for Form CT-3.

**Line 17** — Enter the business allocation percentage for the minimum taxable income base computed on Form CT-3. Enter 100% if the corporation filed Form CT-4 or did not claim a business allocation percentage for the minimum taxable income base on Form CT-3.

**Line 19** — Compute the tax on the entire net income base for each year to which a net operating loss is carried, using the applicable tax rate shown on your franchise tax return. Small-business taxpayers must attach the computation.

**Line 20** — Enter the tax on the capital base as computed on your franchise tax return for each year to which a net operating loss is carried.

**Line 21** — Enter the fixed dollar minimum tax from your franchise tax return for each year to which a net operating loss is carried.

**Line 22** — Compute the tax on minimum taxable income base for each year to which an alternative net operating loss is carried, using the applicable tax rate shown on your tax return.

**Line 23** — Enter the amount from line 19, 20, 21, or 22, whichever is largest. Small-business taxpayers only: If line 20 (tax on the capital base) is larger than line 19 (tax on the entire net income base) only because of the reduced tax rate applicable to small-business taxpayers, enter the largest amount from line 19, 20 or 22.

**Line 24** — Enter the tax on the subsidiary capital base from your franchise tax return.

**Line 26** — See the instructions for Form CT-3 for more information regarding credits that may be allowed and to determine the order in which they may be taken. Attach the appropriate credit form if applicable.

**Line 27** — Subtract line 26 from line 25. If the tax credits are more than the tax on line 25, enter "0"

**Line 28** — Enter the larger of the fixed dollar minimum tax (line 21) or the tax on the minimum taxable income base (line 22). The amount of tax due on line 29 may not be less than line 28.

### Refund Computation

**Line 30** — Enter for each tax period the original franchise tax paid on Form CT-3 or CT-4 less any previous refund from a prior year. Add any additional franchise tax paid or subtract any franchise tax refunded as a result of federal changes, amended returns filed or audit adjustments issued by this department or previous net operating loss carryback. Do not include any state tax surcharge or penalty or interest paid with Forms CT-3 or CT-4 or any metropolitan transportation business tax (MTA surcharge) paid with Form CT-3M/4M.

**Line 33** — A request for the refund of the state tax surcharge must be computed separately. Enter the amount of tax surcharge computed on Form CT-3 or CT-4. Add any additional tax surcharge paid or subtract any tax surcharge refunded as a result of federal changes, amended returns filed or audit adjustments issued by this department. Do not include penalty or interest or any MTA surcharge paid with Form CT-3M/4M.

**Line 34** — Enter the amount of revised state tax surcharge. Multiply the tax on line 31 by the applicable state tax surcharge rate from Form CT-3 or CT-4.

**Line 36** — A request for the refund of an MTA surcharge must be computed separately. Enter the amount of the MTA surcharge computed on Form CT-3M/4M. Add any additional MTA surcharge paid or subtract any MTA surcharge refunded as a result of federal changes, amended returns filed, audit adjustments issued by this department, or previous net operating loss carryback. Do not include any penalty or interest paid with Form CT-3M/4M.

**Line 37** — Enter the MCTD allocation percentage from Form CT-3M/4M.

**Line 38** — Enter the amount of revised MTA surcharge. Multiply line 31 by line 37, then multiply the result by 17% (.17).

**Line 40** — Add the amounts in columns A, B and C, lines 32, 35, and 39.

### 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.