



Instructions for Form CT-33-D

Tax on Premiums Paid or Payable To an Unauthorized Insurer

For Taxable Insurance Contracts with an Effective Date on or after July 21, 2011

Changes for 2011

For taxable insurance contracts that have an effective date on or after July 21, 2011, Chapter 61 of the Laws of 2011 amended Tax Law Article 33-A, *Tax on Independently Procured Insurance*. To pay the tax for taxable insurance contracts that have an effective date before July 21, 2011, use Forms CT-33-D (4/11) and CT-33-D-I (4/11). To pay the tax for taxable insurance contracts that have an effective date on or after July 21, 2011, use Forms CT-33-D (7/11) and CT-33-D-I (7/11). If filing an amended return use the same form that you used to file your original return.

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
- 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

The tax under Article 33-A is imposed on any individual, partnership, corporation, limited liability company, society, association, joint-stock company, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary capacity, whose home state is New York State (NYS) and who purchases or renews a taxable insurance contract from an insurer not authorized to transact business in NYS under a certificate of authority from the Superintendent of Financial Services. The tax rate is 3.6% of premiums paid or payable, minus returns thereon, and applies to all contracts purchased or renewed.

A taxable insurance contract includes contracts described in NYS Insurance Law section 1113(a), paragraphs (4) through (14), (16), (17), (19), (20), (22), (27), (28), (31) and NYS Insurance Law section 2105(h). This includes the following types of insurance: fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, fidelity and surety, motor vehicle and aircraft physical damage, marine and inland marine, credit, residual value, prize indemnification, service contract reimbursement, and salary protection insurance.

Premiums subject to tax include 100% of premiums paid or payable to unauthorized insurers when the home state of the insured is NYS.

Exemptions — The tax imposed by Article 33-A does not apply to:

- Any taxable insurance contract procured through a New York licensed excess line broker. **Note:** The excess line tax and other stamping fees may be required. For more information, visit the Excess Line Association of New York Web site at www.elany.org.
- Premiums received as consideration for reinsurance contracts.
- The government of the United States or any instrumentality thereof.
- New York State and its political subdivisions.
- The United Nations and any other international organizations of which the United States is a member.
- Any foreign government.
- Any taxable insurance contract of the type described under the Insurance Law in section 2117(b), (c), and (d).
- Any premium that is preempted from taxation according to federal law, including federal long-term care insurance described under United States Code Title 5, Chapter 90.

Definition of home state — *Home state*, with respect to an insured, means:

- A. The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence;
- B. If 100% of the insured risk is located out of the state referred to in A. above, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated;
- C. If more than one insured from an affiliated group, as defined in Insurance Law section 2101, are named insureds on a single insurance contract, the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract; **or**
- D. In the case of a group policy:
 1. If the group policyholder pays 100% of the premium from its own funds, the home state, as determined pursuant to A. above, of the group policyholder; **or**
 2. If the group policyholder does **not** pay 100% of the premium from its own funds, the home state, as determined pursuant to A. above, of the group member.

Principal place of business, with respect to determining the home state of the insured, means the state where:

- A. The insured maintains its headquarters and where the insured's high-level officers direct, control, and coordinate the business activities; **or**
- B. If the insured's high-level officers direct, control, and coordinate the business activities in more than one state, or if the insured's principal place of business is located outside any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

Principal residence, with respect to determining the home state of the insured, means the state where:

- A. The insured resides for the greatest number of days during a calendar year; **or**
- B. If the insured's principal residence is located outside any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

Amended return — If you are filing an amended return, mark an **X** in the *Amended return* box on the top of Form CT-33-D. If you are amending your return to claim a refund because the insurance contract is canceled prior to the expiration of the insurance period and tax was paid on the premium, enter the previously paid tax on line 4.

When filing an amended return for a credit or refund, 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. For additional limitations on credit or refunds, see Tax Law, Article 27, section 1087.

When and where to file — File this form within 60 days of the end of the calendar quarter during which the taxable insurance contract took effect or was renewed.

Mail returns to: **NYS CORPORATION TAX
PROCESSING UNIT
PO BOX 22038
ALBANY NY 12201-2038**

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: State Processing Center, 431C Broadway, Albany NY 12204-4836.

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 — Enter premiums paid or payable to an unauthorized insurer on taxable insurance contracts effective on or after July 21, 2011, where NYS is the home state of the insured.

Line 6 — If you do not pay the tax due on or before the original due date (**without** regard to any extension of time for filing), you must pay interest on the amount of underpayment from the original due date to the date paid.

Line 7 — Compute charges (penalties) for late filing and late payment of tax required to be shown on the return, after deduction of any payment made on or before the due date (**with** regard to any extension of time for filing).

- A. If you do not file a return when due, add to the tax 5% per month up to 25% (Article 27, section 1085(a)(1)(A)).
- B. If you do not file a return within 60 days of the due date, the addition to tax in item A above 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 ½% per month up to 25% (section 1085(a)(2)).

- D. The total of the additional charges in items A and C above 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 reasonable cause for the delay in filing, payment, or both (section 1085).

Note: You may compute your penalty and interest by accessing our Web site, or you may call and we will compute the interest and penalty for you (see *Need help?*).

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.
