



Instructions for Form CT-248

Claim for Empire State Film Production Credit

Tax Law – Article 1, Section 24 and Article 9-A, Section 210.36

CT-248-I

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

General information

Tax Law sections 24 and 210.36 provide for tax credits for the film and television production industry. The Empire State film production credit (also referred to simply as the *film production credit*) is available to taxpayers subject to tax under Article 9-A (general business corporations) or Article 22 (personal income tax). This form is for taxpayers subject to tax under Article 9-A. Those subject to tax under Article 22, complete Form IT-248, *Claim for Empire State Film Production Credit*.

The amount of credit allowed for the current tax year is allocated by the New York State Governor's Office for Motion Picture and Television Development. Attach a copy of your certificate from this office for the credit allowed. However, if your credit is allocated from funds from additional pool 2, you cannot claim the film production credit before the later of:

- the tax year the production of the qualified film is complete, or
- the tax year immediately following the allocation year assigned on your certificate.

For more information, refer to TSB-M-10(7)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2010*, or contact the New York State Governor's Office for Motion Picture and Television Development.

The credit is based on the qualified production costs paid or incurred in the production of qualified films and television shows. If the amount of film production credit shown on your certificate of tax credit received from the New York State Governor's Office for Motion Picture and Television Development is at least one million dollars but less than five million dollars, the credit must be claimed over a two-year period. If the amount of credit allocated is five million dollars or more, the credit must be claimed over a three-year period.

The credit may not reduce the tax due below the fixed dollar minimum tax. Any allowable credit amount not used in the current tax year may be refunded or credited as an overpayment to next year's tax. No interest will be paid on the refund. Production costs used as the basis for allowance of this credit or used in the calculation of this credit cannot be used to claim any other credit.

For rules and regulations regarding the credit, contact the New York State Governor's Office for Motion Picture and Television Development at nyfilm@empire.state.ny.us or call (212) 803-2330.

Corporate partners

If you are a corporate partner who has any film production credits passed through to you from partnerships, enter in Part 3 each partnership's name and employer identification number, and your pro rata share of the film production credit each one passed to you. Enter the total of these credits on lines 15 and 4. If your partnership allocated credit amounts to you for 2013 and 2014, include those amounts on lines 16 and 17 respectively. Enter on line 1 only the amount of film production credit allocated to your corporation by the New York State Governor's Office for Motion Picture and Television Development.

New York S corporations

New York S corporations will calculate an amount of film production credit. However, the S corporation may not use the film production credit against its own tax liability; instead, the credit is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns.

New York S corporations complete only lines 1, 2, 4, 5, 16, and 17. Include the line 5 amount and, if applicable, amounts from lines 16 and 17 on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, which is filed with your New York State corporation tax return. Attach a copy of Form CT-248 to your Form CT-3-S, *New York S Corporation Franchise Tax Return*. Provide all shareholders with the amount of their pro rata share of the film production credit calculated for the current tax year and, if applicable, for the next succeeding tax year(s) (from Form CT-34-SH, lines 38, 39, and 40). The shareholders will file their own Form IT-248 to claim the credit on their New York State personal income tax returns.

Combined filers

A taxpayer filing a combined return as a member of a combined group is allowed to claim the film production credit. The film production credit is computed on a separate basis, but is applied against the combined tax.

Line instructions

Lines A and B – If your credit is from additional pool 2, the Governor's Office for Motion Picture and Television Development is required to list an allocation year on your certificate of tax credit. If you are assigned an allocation year, report it on line A. If you are a partner in a partnership, enter the allocation year assigned to the partnership on line B.

Part 1 – Computation of film production credit available for use

Line 1 – Enter the amount of your film production credit listed on your certificate from the New York State Governor's Office for Motion Picture and Television Development. Attach a copy of your certificate.

Line 2 – If the amount on line 1 is less than \$1 million, enter the amount from line 1 on line 2.

If the amount on line 1 is at least \$1 million but less than \$5 million, the credit must be claimed over a two-year period; complete Worksheet A.

If the amount on line 1 is at least \$5 million, the credit must be claimed over a three-year period; complete Worksheet B. (Do not complete Worksheet A.)

Worksheet A

A Enter the amount from line 1 A _____

B Divide line A by two (see instructions below)..... B _____

Line B – Enter this amount on line 2 and include it on line 16.

Worksheet B

A Enter the amount from line 1 A _____

B Divide line A by three (see instructions below)..... B _____

Line B – Enter this amount on line 2 and include it on lines 16 and 17.

Line 3 – Enter the amount from line 16 of your 2011 Form CT-248. New York S corporations do not complete this line.

Line 4 – Complete Part 3, *Partnership information*. Obtain the amount(s) from the partnership(s) allocating this credit to you. Enter the amount from line 15 on line 4.

Line 5 – Add lines 2, 3, and 4. New York S corporations transfer this amount to Form CT-34-SH, line 38 (credit for the current year).

Part 2 – Computation of film production credit used, refunded, and credited as an overpayment to next year's tax (New York S corporations do not complete this part)

Line 6 – Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recaptured tax credits.

Line 7 – You must apply certain credits before the film production credit. Refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the proper ordering of your credits. If you are claiming more than one credit, enter the total amount of credits applied against the current year's corporation franchise tax before the film production credit. If the film production credit is the only credit that is being applied against the current year's corporation franchise tax, enter **0**. If filing as a member of a combined group, include any amount of tax credit(s), including the film production credit(s), being claimed by other members of the combined group that you want to apply before the film production credit claimed on this form.

Lines 11, 13, and 14 – On line 11, enter the lesser of line 5 or line 10.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 11, 13, and 14 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete lines 11, 13, and 14 but do not enter the amounts from lines 11, 13, and 14 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

Part 3 – Partnership information

Enter any current year (2012) credit amount allocated to you by a partnership in this section. Include any second year (2013) credit amounts allocated to you on line 16, and include any third year (2014) credit amounts on line 17.

The credit amounts can be found on Form IT-204-CP, line 95. The 2012 credit amount is reported using code **248**, the 2013 credit amount is reported using code **B48** and the 2014 credit amount is reported using code **C48**.

Line 16 – This is your Empire State film production credit allowed for 2013.

New York C corporations: Enter on line 16 the total of the following amounts:

- the amount from Worksheet A, line B, or Worksheet B, line B (whichever applies); **plus**
- any amount from line 17 of your 2011 Form CT-248; **plus**
- any amounts allocated to you from a partnership to be claimed on your 2013 return.

The line 16 amount will be entered on your 2013 Form CT-248, line 3.

New York S corporations: Enter on line 16 the total of the following amounts:

- the amount from Worksheet A, line B, or Worksheet B, line B (whichever applies); **plus**
- any amounts allocated to you from a partnership to be claimed on your 2013 return.

Transfer the line 16 amount to your 2012 Form CT-34-SH, line 39 (credit for the second year), and provide your shareholders with their pro rata share of this amount to claim on their 2013 personal income tax returns. (If you completed Worksheet B, also transfer the line 17 amount as instructed below.)

Line 17 – Enter on line 17 the amount from Worksheet B, line B, plus any amounts allocated to you from a partnership to be claimed on your 2014 return.

New York C corporations: This amount will be entered on your 2013 Form CT-248, line 16.

New York S corporations: Transfer this amount to your 2012 Form CT-34-SH, line 40 (credit for the third year), and provide your shareholders with their pro rata share of this amount to claim on their 2014 personal income tax returns.

Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.