



Instructions for Form IT-238

Claim for Rehabilitation of Historic Properties Credit



Do not use Form IT-238 to claim the historic homeownership rehabilitation credit. To claim that credit, you must use Form IT-237, *Claim for Historic Homeownership Rehabilitation Credit*, for the year in which you receive a *Certificate of Completion* from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) or the year in which you purchased and resided in a qualified historic home that has been rehabilitated. For more information, see the instructions for Form IT-237.

General information

What is the rehabilitation of historic properties credit?

The rehabilitation of historic properties credit is available to taxpayers for expenses related to the rehabilitation of a certified historic structure located in New York State.

For tax years beginning on or after January 1, 2010, the credit is equal to 100% of the federal credit amount allowed for the qualified rehabilitation expenditures relating to the rehabilitation of a certified historic structure as defined under Internal Revenue Code (IRC) section 47(c)(3) for the same certified historic structure located in New York State. However, the credit cannot exceed \$5,000,000 per structure. The credit is applied on a per structure basis. There is no limit on the number of structures for which the credit may be taken.

Federal Public Law 115-97 made changes to the federal rehabilitation credit including a requirement that the federal credit be allocated over a five-year period. Changes made to the New York rehabilitation of historic properties credit will continue to allow taxpayers to claim 100% of the federal credit for the year the certified historic structure is placed in service, without regard to the federal credit allocation over a five-year period.

A *small project*, which (for purposes of this credit) means the qualified rehabilitation expenditures total \$2.5 million or less, may qualify for a credit amount equal to **150%** of the federal rehabilitation of historic properties credit.

Except in the case of a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the OPRHP, to claim the credit under Tax Law Article 22, including any credit allowed to a shareholder of a New York S corporation, the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below 100% of the state median family income as calculated as of April 1 of each year using the most recent five-year estimate from the American Community Survey published by the United States Census Bureau.

If there is a change in the most recent five-year estimate and the census tract qualified before information about the change was released, a census tract remains eligible for two additional years.

Any new credit earned from rehabilitated historic properties placed in service on or after January 1, 2015, not used in the current tax year will be treated as a refund or overpayment of tax to be credited to the next year's tax. Interest will not be paid on the refund or overpayment.

Any carry forward of credit from a prior tax year that is not applied against the tax for the current tax year may be carried over to the following years indefinitely.

Any credit taken must be recaptured if the federal credit on which the New York State credit is based is recaptured. Use Part 7 to calculate the New York State recapture amount.

Who is eligible to claim this credit?

- individuals (including sole proprietors)
- estates or trusts
- partners in a partnership (including members of a Limited Liability Company (LLC) that is treated as a partnership for federal income tax purposes)
- shareholders of a New York S corporation
- beneficiaries of an estate or trust

The credit must be claimed by the same taxpayer(s) that claimed the federal credit. Accordingly, the allocation of the New York State credit among partners in a partnership, members of an LLC, or shareholders of a New York S corporation must follow the same allocation allowed for purposes of the federal tax credit under IRC section 47.

How do I claim the credit?

If you are an individual (including a sole proprietor), file Form IT-238 with your personal income tax return, Form IT-201 or IT-203.

An estate or trust that divides the credit among itself and its beneficiaries must file Form IT-238 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit. Provide each beneficiary with information about their share of the credit.

A partnership must file Form IT-238 with Form IT-204, *Partnership Return*, showing the total amount of the credit. Partnerships must provide each partner with information about their share of the historic properties credit from the partnership.

A New York S corporation cannot file Form IT-238. It must file Form CT-238, *Claim for Rehabilitation of Historic Properties Credit*. The corporation must provide each shareholder with information about their share of the historic properties credit from the S corporation.

When do I claim the credit for the rehabilitation of historic properties?

Generally, you must claim the New York State credit for the year in which the historic structure is placed in service and you were allowed the federal credit for the rehabilitation of historic properties. If you elect under IRC section 47(d) to claim the credit for federal purposes based on when the rehabilitation expenses are paid instead of when the historic structure is placed in service under IRC section 167, you may only claim the New York State credit for the year in which the historic structure is placed in service. However, the New York State credit is equal to 100% of the total federal credit (without regard to the federal credit allocation over a five-year period), including any amount of federal credit for the same structure that you claimed in prior years, but may not exceed \$5,000,000 per structure for the year the property is placed in service.

Specific instructions

Line A – Mark an **X** in the appropriate box to determine the parts of this form you need to complete.

Individuals (including sole proprietors): Complete Parts 1, 5, and 6, and, if applicable, Part 7.

Note: In the case of a historic property that is owned by two or more taxpayers, each taxpayer must complete their own Form IT-238 based on the **total** qualified rehabilitation expenditures attributable to that property, and prorate the total credit computed. See the instructions for line 2.

Partnerships: Complete Parts 1 and 5.

A married couple in a business enterprise that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return: If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Parts 1, 5, and 6 and, if applicable, Part 7.

Fiduciaries: Complete Parts 1, 4, 5, and 6 and, if applicable, Part 7.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Parts 2, 3, 5, and 6 and, if applicable, Part 7.

Note to partners and shareholders: Unlike on your federal credit form, partners and shareholders do not compute their own individual credits based on their shares of qualified rehabilitation expenditures from the partnership or New York S corporation. Instead, your partnership or S corporation will compute a credit on the total qualified rehabilitation expenditures attributable to the property and

provide you with your individual share of the credit. See the instructions for lines 3 and 4.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form IT-238.

Part 1 – Individual (including sole proprietor), partnership, and estate or trust

Enter only the information relating to certified historic structures located in New York State for which you were allowed a federal credit.

If you are claiming a credit for more than three certified historic structures, complete as many Forms IT-238 (name, identification number, and Part 1 only) as necessary. On the first Form IT-238, complete Parts 1 through 7 (as applicable) and include on line 1 the total of column D from all additional Forms IT-238. Place the additional forms behind the first Form IT-238 with the entry on line 1. Enter on line 2 the total of all column D amounts.

Schedule A – Historic property information

Column A – Enter the location of the certified historic structure located in New York State. Give the specific address and, if applicable, the name of the historic district in which the property is located.

Column B – For the type of property, enter one of the following codes:

B – Business

I – Investment/income producing, (that is, residential rental property)

M – Mixed-use (the property is partly used as a residence and partly used for business or as investment/income producing property)

Column C – Enter the assigned National Park Service (NPS) project number.

Column D – Enter the completion date of the project.

Schedule B – Credit computation

Enter the information for each property in the same order as the properties are listed under Schedule A.

Small projects – Mark an **X** in the box if this is a small project.

Column A – For each certified historic structure located in New York State that was placed in service under IRC section 167 during the tax year covered by this form, enter the amount of qualified rehabilitation expenditures allowed for the federal rehabilitation credit.

Column C – If you marked an **X** in the *Small project* box, multiply column B by 150% (1.5), otherwise leave blank.

Column D – Enter the lesser of column B or \$5,000,000, unless you marked an **X** in the *Small project* box. If you marked an **X** in the *Small project* box, enter the lesser of column C or \$5,000,000.

Line 2 – If the certified historic structure is owned by more than one taxpayer, the amount of the credit must be prorated based on the same ratio of expenses that was claimed for the federal credit. Enter only your share of the line 2 amount on line 7. However, a married couple filing a joint return does not have to prorate the credit.

Example: *You and your sibling share ownership of an eligible historic property. The total qualified rehabilitation expenditures attributable to the property are \$150,000, of which you each claimed one-half for federal credit purposes. You must each complete your own Form IT-238 based on the total expenses of \$150,000. You must each enter \$150,000 in Schedule B, column A; \$30,000 in Schedule B, column B; and \$30,000 in Schedule B, column D, of your individually filed Form IT-238.*

The total credit of \$30,000 is included on line 2 of each Form IT-238. Since the expenses were divided equally for federal credit purposes, you would each include \$15,000 on line 7 of your own Form IT-238.

Part 2 – Partnership, New York S corporation, estate, and trust information

Enter the appropriate information for each partnership, New York S corporation, estate, or trust from which you received a share of the rehabilitation of historic properties credit or a share of the recapture of credit. If you need more space, complete additional forms (include your name and identification number).

Column C – Enter the NPS project number. Obtain the project number from your partnership, S corporation, estate or trust.

Part 3 – Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the total credit received from a partnership, New York S corporation, estate, or trust. If you belong to more than one partnership, New York S corporation, estate, or trust, enter the total of all your shares on the appropriate line(s).

Line 3 Partner – Enter your share of the partnership's credit. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, enter the total from all partnerships on line 3.

Line 4 S corporation shareholder – Enter your share of the New York S corporation's credit. This information should be provided to you by the New York S corporation. If you are claiming a credit from more than one New York S corporation, enter the total from all S corporations on line 4.

Line 5 Beneficiary – Enter your share of the estate's or trust's credit. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, enter the total from all estates or trusts on line 5.

Part 4 – Beneficiary's and fiduciary's share of credit

An estate or trust must complete Part 4. If an estate or trust allocates or assigns the credit to its beneficiaries, it should base the division on each beneficiary's proportionate share of the income from the estate or trust. Provide the beneficiaries with their share of the credit. Calculate the fiduciary's share of the credit by subtracting any beneficiary's share from the **Total** line in column C. Enter the result on the **Fiduciary** line, column C.

Part 5 – Computation of credit

Complete lines 7, 8, and 9 (whichever apply to you).

Fiduciaries: Do not enter any amounts on line 7 or line 8.

Line 12

Partnerships: Enter the line 12 amount and code **238** on Form IT-204, line 147.

All others: Complete Part 6 and, if applicable, Part 7.

Part 6 – Application of credit and computation of carryover

Line 15 – If line 13 is greater than line 14, subtract line 14 from line 13 and enter the result here. This is your credit amount. Skip line 16 and continue with line 17.

If line 14 is greater than line 13, skip line 15 and go to line 16.

Line 16 – If line 14 is greater than line 13, subtract line 13 from line 14 and enter the result here. This is your net recaptured credit. Do not complete lines 17 through 23. Enter the line 16 amount on your tax return as follows:

Individuals: Enter the line 16 amount and code **238** on Form IT-201-ATT, line 20, or Form IT-203-ATT, line 19.

Fiduciaries: Include the line 16 amount on Form IT-205, line 12.

Line 17

Form IT-201 filers: Enter the tax from Form IT-201, line 39, plus any amount from Form IT-201-ATT, line 21.

Form IT-203 filers: Enter the tax from Form IT-203, line 46, plus any amount from Form IT-203-ATT, line 20.

Form IT-205 filers: Enter the tax from Form IT-205, line 8 (for residents), or line 9 (for nonresidents), **plus** any credits shown on line 1 of the *Addbacks worksheet*, in the instructions for Form IT-205, line 12.

Line 18 – If you are applying any credits against the tax before this credit, enter those amounts here.

When applying credits, use the following rules:

- First apply any household credit.
- Next apply any credits that cannot be carried over or refunded.
- Then apply any credits that can be carried over for a limited duration.

- Then apply any credits that can be carried over for an unlimited duration.
- Apply refundable credits last.

Line 20 – Enter the amount from line 20 and code **238** on Form IT-201-ATT, line 6, or Form IT-203-ATT, line 7, or include it on Form IT-205, line 10.

Line 22 – Enter the amount from line 22 and code **238** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12, or include it on Form IT-205, line 33.

Part 7– Computation of credit recapture

You must recapture all or a portion of the rehabilitation of historic properties credit if the qualified property ceases to be qualified and you are required to recapture all or part of the federal credit.

Partnerships: Do not fill out this section. Partners will compute their New York recapture based on the amount of federal recapture.

Partners, S corporation shareholders and beneficiaries: Use your share of federal recapture to compute your New York State recapture amount.

Fiduciaries: Use only your fiduciary share of federal recapture to compute your New York State recapture amount.

Line 26 – Divide line 24 by line 25 and round the result to the fourth decimal place.

Line 27 – The amount subject to recapture is without regard to the federal five-year credit period allocation. You must enter the amount of New York credit claimed on your original Form IT-238.
