



Instructions for Form IT-246

Claim for Empire State Commercial Production Credit

General information

You may be eligible for this credit if you or your business:

- paid or incurred expenses in the production of a qualified commercial in New York State; and
- received a certificate of tax credit from the New York State Governor's Office of Motion Picture & Television Development.

The New York State Governor's Office of Motion Picture & Television Development allocates the amount of the credit. For more information, including how to apply, visit *Empire State Development: Commercial Tax Credit Program*, or search the Empire State Development website at www.esd.ny.gov.

Credit calculation

The credit is allowed for the tax year in which the production of the qualified commercial is completed.

- If the amount of the credit allowable for any tax year exceeds the tax for that year, 50% of the excess is treated as an overpayment to be credited or refunded. The remaining excess may be carried forward to the following tax year and may be deducted from the tax in that year.
- If you do not use the full amount of the credit in this succeeding year, you may request a refund or apply the overpayment to the next year's tax. However, the Tax Department will not pay interest on the refund or overpayment.

You cannot use any production costs you used in calculating this credit to calculate any other credits.

Line instructions

If more than one of the below applies to you, complete all appropriate parts on one Form IT-246.

Individual (including sole proprietor): Complete Part 1, lines 1 through 16.

Partnership: Complete Part 1, lines 1 through 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, calculate your credit amount as if you were filing one federal Schedule C for the business. Complete Part 1, lines 1 through 16.

Partner in a partnership, **shareholder** of a New York S corporation, and **beneficiary** of an estate or trust: Complete Part 1, lines 2 through 16, and Part 2.

Fiduciary: Complete Part 1, lines 1 through 16, and Part 3.

Additional forms: If you have more entries than will fit on the lines provided in Part 2 or Part 3, submit additional Forms IT-246, completing only the necessary parts. Include your name, and taxpayer identification number on each form. On the indicated lines of the first Form IT-246, include the totals from all additional Forms IT-246. Place the extra forms behind the first Form IT-246 and submit them with your return.

Part 1: Calculation of credit

Line 1: Enter the amount from the certificate of tax credit issued by the Governor's Office of Motion Picture & Television Development. Submit a copy of the certificate with Form IT-246. If you have more than one certificate, include the total from all certificates on line 1, and submit copies of all certificates.

Line 2: Enter the amount from Part 2, line 17.

Line 3: If you are a fiduciary, enter the line 3 amount on the *Total* line of Part 3, column C.

Line 4: If you are a fiduciary, enter the amount of credit that was allocated to beneficiaries in Part 3, column C.

Line 9: If you are applying any credits against the tax before this credit, enter those amounts here. Apply credits in the following order:

1. household credit
2. any credits that cannot be carried over or refunded
3. any credits that can be carried over for a limited duration
4. any credits that can be carried over for an unlimited duration
5. refundable credits

For more information, see *Ordering of personal income tax credits*, or visit www.tax.ny.gov (search: *ordering*).

Line 11: Enter the amount from line 5 or line 10, whichever is less. This is your **nonrefundable** portion of the Empire State commercial production credit.

Enter the amount from line 11 and code **355** on Form IT-201-ATT, line 6; or Form IT-203-ATT, line 7; or include it on Form IT-205, line 10.

Line 12: If zero and you have no prior-year carryover, **stop**; you do **not** have any refundable credit or credit to be carried forward to next year.

Line 15: Add lines 13 and 14. Enter the amount from line 15 and code **355** on Form IT-201-ATT, line 12; or Form IT-203-ATT, line 12; or include it on Form IT-205, line 33.

Line 16: Subtract line 13 from line 12. This is the amount of credit to be carried forward to next year. You will need this figure to complete next year's Form IT-246.

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

Enter the requested information for each partnership, New York S corporation, or estate or trust from which you received a share of the credit. If needed, see *Additional forms*.

Part 3: Beneficiary's and fiduciary's share of Empire State commercial production credit

Estates and trusts must complete Part 3. If you are an estate or trust that is allocating or assigning the credit to its beneficiaries, you must base the division of the credit on each beneficiary's share of the income of the estate or trust. Provide the beneficiaries with their share of the credit amount. Enter the total credits allocated to beneficiaries on line 4. If needed, see *Additional forms*.