



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

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) through 2013. 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. 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.

The credit is based on the qualified production costs paid or incurred in the production of qualified films and television shows. The credit may not reduce the tax due below the fixed dollar minimum tax. Any 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.

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. 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 and 5. Include the line 5 amount 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) (see line B instructions in Worksheets A and B). 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

Part 1 - Computation of film production credit available for use

Line 1 — Enter the amount of your film production credit, which can be obtained 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. Enter **0** on lines 16 and 17.

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.

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 lines 2 and 16. Enter **0** on line 17. **New York S corporations:** Enter this amount on line 2. Provide each of your shareholders with their pro-rata share of this amount for use in 2011. For the current year credit amount to provide to your shareholders, see line 5.

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 lines 2 and 17. **New York S corporations:** Enter this amount on line 2. Provide your shareholders with their pro-rata share of the next two succeeding year's amounts. To obtain these amounts, subtract line B from line A. The result is the amount allowable in future years. Provide each of your shareholders with their pro-rata share of half that amount for use in 2011 and the other half in 2012. For the current year credit amount to provide to your shareholders, see line 5.

Line 3 — Add the amount, if any, from line 16 of your preceding year's Form CT-248 to the amounts, if any, from line 17 of each of your two preceding year's 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 include this amount on Form CT-34-SH.

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.

Need help? and Privacy notification

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