



# CT-38

Staple forms here

New York State Department of Taxation and Finance

## Minimum Tax Credit

Tax Law - Article 9-A

All filers must enter tax period:

beginning [ ] ending [ ]

Legal name of corporation	Employer identification number
---------------------------	--------------------------------

File this form with Form CT-3, *General Business Corporation Franchise Tax Return*, or Form CT-3-A, *General Business Corporation Combined Franchise Tax Return*

- If your tax due this year is based on the minimum taxable income base, complete Schedule A, Parts 1 and 2, Schedule B, and Schedule D to compute the minimum tax credit generated this year and carried forward to future years.
- If your tax due this year is based on the entire net income base, and your tax in a prior year was based on the minimum taxable income base, complete Schedules B, C, and D to compute the minimum tax credit used this year and carried forward to future years.
- If your tax due this year is based on the fixed dollar minimum tax or the capital base tax, complete line 29 to compute the minimum tax credit carried forward to future years.

### Schedule A, Part 1 – Computation of modified minimum tax

1 Entire net income (ENI) (see instructions) .....	1.		
2 Depletion (see instructions) .....	2.		
3 Total (add lines 1 and 2) .....	3.		
4 Investment income before allocation (see instructions) .....	4.		
5 Modified business income before allocation (subtract line 4 from line 3) .....	5.		
6 Allocated modified business income (multiply line 5 by [ ]%, see instructions) .....	6.		
7 Allocated investment income (multiply line 4 by [ ]%, see instructions) .....	7.		
8 Total allocated modified minimum income (add lines 6 and 7) .....	8.		
9 Optional depreciation adjustments (see instructions) .....	9.		
10 Modified minimum taxable income base (add or subtract line 9 from line 8) .....	10.		
11 Modified minimum tax (multiply line 10 by 1.5% (.015)) .....	11.		

### Schedule A, Part 2 – Computation of adjusted minimum tax

12 Tax on minimum taxable income base from Form CT-3 or Form CT-3-A .....	12.		
13 Largest amount from Form CT-3 or Form CT-3-A, line 72, 73, or 74b (enter here and on line 16) .....	13.		
14 Excess minimum tax (subtract line 13 from line 12; if less than zero, enter 0) .....	14.		
15 Modified minimum tax from line 11 .....	15.		
16 Amount from line 13 .....	16.		
17 Excess modified minimum tax (subtract line 16 from line 15; if less than zero, enter 0) .....	17.		
18 Adjusted minimum tax (subtract line 17 from line 14; if less than zero, use a minus (-) sign to show negative amount) ..	18.		

### Schedule B – Computation of available minimum tax credit

19 Minimum tax credit carryforward from prior periods (see instructions) .....	19.		
20 Available minimum tax credit (see instructions) .....	20.		

### Schedule C – Computation of minimum tax credit used

21 Tax due before credits (see instructions) .....	21.		
22 Tax credits claimed before minimum tax credit (see instructions) .....	22.		
23 Subtract line 22 from line 21 .....	23.		
24 Next largest tax (enter largest amount from Form CT-3 or CT-3-A, line 71, 73, or 74b) .....	24.		
25 Tax on subsidiary capital from Form CT-3 or CT-3-A .....	25.		
26 Add lines 24 and 25 .....	26.		
27 Limitation on credit used this period (see instructions) .....	27.		
28 Minimum tax credit used this period (see instructions) .....	28.		

### Schedule D – Minimum tax credit carried forward

29 Minimum tax credit carried forward (see instructions) .....	29.		
--	-----	--	--

## Instructions

### 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

The minimum tax credit is generated in those years when the largest tax is based on the minimum taxable income (MTI) base, and may be claimed in a subsequent year when your tax is based on the entire net income (ENI) base. The credit is designed to prevent the double taxation that might otherwise arise because of the inclusion of timing items of tax preference and adjustment in both the MTI and ENI bases but in different tax years. The minimum tax credit for any tax year is the amount, if any, that the **adjusted minimum tax** imposed for all prior tax periods beginning after 1989 exceeds the amount allowed as a minimum tax credit, that was deducted from the taxpayer's tax for such prior years.

If your tax due this year is based on the MTI base, complete Schedule A, Parts 1 and 2, Schedule B, and Schedule D to compute the minimum tax credit generated this year and carried forward to future years.

If your tax due this year is based on the ENI base, and your tax in a prior year was based on the MTI base, complete Schedules B, C, and D to compute the minimum tax credit used this year and carried forward to future years.

If your tax due this year is based on the fixed dollar minimum tax or the capital base tax, complete line 29 to compute the minimum tax credit carried forward to future years.

**Combined filers:** Lines 1 through 29 should be read as if the terms were on a combined return, Form CT-3-A. For example: the reference to *entire net income* on line 1 should be read by the combined filer as *combined entire net income*.

### Line instructions

#### Schedule A, Part 1 – Computation of modified minimum tax

The *modified minimum tax* is the minimum tax recomputed excluding those adjustments and tax preference items related to timing differences. The only adjustment or tax preference item you may take into account is **depletion**.

**Line 1** — Enter the amount from Form CT-3, line 17 or Form CT-3-A, line 17, column E.

**Line 2** — Enter the amount from Form CT-3, line 52 or Form CT-3-A, line 52, column E.

**Line 4** — Enter the amount from Form CT-3, line 18 or Form CT-3-A, line 18, column E.

**Line 6** — Multiply the amount on line 5 by the business allocation percentage from Form CT-3 or CT-3-A.

**Line 7** — Multiply line 4 by the investment allocation percentage from Form CT-3-ATT, *Schedules B, C, and D – Attachment to Form CT-3*, or CT-3-A.

**Line 9** — Enter the amount from Form CT-3, line 23, or Form CT-3-A, line 23, column E.

#### Schedule A, Part 2 – Computation of adjusted minimum tax

The *adjusted minimum tax* is the excess of the amount of the minimum tax over the next largest tax computed for the tax year. The *next largest tax* means the largest amount based on the ENI, capital, or fixed dollar minimum tax bases. You must reduce this amount by the excess, if any, of the modified minimum tax over the next largest tax.

#### Schedule B – Computation of available minimum tax credit

You may use the minimum tax credit to reduce your franchise tax only if the tax is based on ENI. The amount of credit is the adjusted minimum tax computed for all prior years, minus any amount used as a minimum tax credit in prior years. Use lines 19 and 20 to compute the available minimum tax credit.

**Line 19** — The amount of minimum tax carryforward is the total amount of the adjusted minimum tax calculated in prior years minus any amount used as a minimum tax credit in prior years.

**Line 20** — If your tax due is based on the minimum taxable income, add lines 18 and 19. Do not complete lines 21 through 28. Enter this amount on line 29.

If your tax due is based on ENI, enter the line 19 amount and continue with lines 21 through 29.

#### Schedule C – Computation of minimum tax credit used

**Line 21** — Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recaptured tax credits.

**Line 22** — If you are claiming more than one tax credit for this tax year, enter the amount of tax credit(s) claimed before the minimum tax credit. Refer to Form CT-600, *Ordering of Corporation Tax Credits*; otherwise enter **0** on line 22.

**Line 27** — If line 26 is less than line 23, subtract line 26 from line 23 and enter the result here. Otherwise, enter **0**; you cannot use any minimum tax credit this year.

**Line 28** — Enter the lesser of line 20 or line 27.

If your total credits from all sources are **\$2 million or less**, enter the amount from line 28 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 line 28 but do not enter the amount from line 28 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

#### Schedule D – Minimum tax credit carried forward

**Line 29** — If your tax due is based on MTI, enter the line 20 amount. If your tax due is based on ENI, subtract line 28 from line 20. If your tax due is based on fixed dollar minimum tax or the capital base tax, enter the amount of minimum tax credit carryforward from the prior year's Form CT-38.

### Need help? and Privacy notification

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