New York State Department of Taxation and Finance

Instructions for Form IT-249

Claim for Long-Term Care Insurance Credit

IT-249-I

2011

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 IT-500*, Income 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 IT-500 to determine the amounts to enter on your tax return.

General information

Taxpayers who pay premiums for qualified long-term care insurance may claim a credit against their personal income tax. The credit is equal to 20% of the premiums paid during the tax year for the purchase of or for continuing coverage under a qualifying long-term care insurance policy.

A *qualifying long-term care insurance policy* is one that

— is approved by the New York State Superintendent of Insurance under Insurance Law section 1117 (g); **and**

— is a qualified long-term care insurance contract under Internal Revenue Code (IRC) section 7702B. (Note that section 7702B relates to policies for which a federal itemized deduction is allowed.)

or

— is a group contract delivered or issued for delivery outside New York State; **and**

— the group contract is a qualified long-term care insurance contract under IRC section 7702B. The premiums paid for this insurance qualify for the credit even if the policy is not approved by the New York State Superintendent of Insurance.

A *qualified long-term care insurance contract* under IRC section 7702B is an insurance contract that provides only coverage of qualified long-term care services. The contract must

1. be guaranteed renewable;
2. not provide for cash surrender value or other money that can be paid, assigned, pledged, or borrowed;
3. provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract must be used only to reduce future premiums or increase future benefits; **and**
4. generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or the contract makes per diem or other periodic payments without regard to expenses.

The insurance company that issued your policy should be able to tell you if the policy qualifies under IRC section 7702B.

This credit is not refundable. If the amount of credit exceeds the taxpayer's tax for the year, the excess may be carried over to the following year or years.

Who is eligible to claim this credit?

— individuals

— estates or trusts

— partners in a partnership (including members of an LLC treated as a partnership for federal income tax purposes)

— shareholders of a New York S corporation

— beneficiaries of an estate or trust

Line instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Partners in a partnership, New York S corporation shareholders, and beneficiaries of an estate or trust: Complete Schedule B, Schedule C, Schedule E, and Schedule F (full-year residents), or Schedule G (nonresidents and part-year residents), and Schedule H.

Individuals (including sole proprietors): Complete Schedule A, Schedule E, and Schedule F (full-year residents), or Schedule G (nonresidents and part-year residents), and Schedule H.

Partnerships: Complete Schedule A and Schedule E.

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 Schedule A, Schedule E, and Schedule F (full-year residents) or Schedule G (nonresidents and part-year residents), and Schedule H.

Fiduciaries: Complete Schedule A, Schedule D, Schedule E, and Schedule F (full-year residents) or Schedule G (nonresidents and part-year residents), and Schedule H.

Note: If more than one of the above applies to you, complete all appropriate schedules on one Form IT-249.

Schedule A — Individuals (including sole proprietors), partnerships, and fiduciaries

Line 1 — Enter the amount of premiums paid during the year for qualified long-term care insurance.

Include on line 1

— any premiums you paid as an individual for qualified long-term care insurance, **and**

— any premiums you paid for qualified long-term care insurance as an employer for an employer-sponsored health insurance plan and the premiums were not included in box 1 of your employees' federal Forms W-2.

Do not include on line 1

— any qualified long-term care insurance premiums paid for you by an employer-sponsored health insurance plan, unless the premiums are included in box 1 of your federal Form W-2, **and**

— insurance premiums paid with pretax dollars because they are not included in box 1 of your federal Form W-2.

If you are married and filing a joint return, include the total premiums paid by you and your spouse.

Schedule B — Partnership, 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 credit for qualified long-term care insurance. If you need more space attach a separate schedule. Include your name and taxpayer identification number on the attachment.

Schedule C — Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the credit received from a partnership, New York S corporation, estate, or trust on the appropriate line. This information can be obtained from the 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 of the credit on the appropriate line. Fiduciaries: Include on line 6 only your share of the credit from another estate or trust.

Schedule D — Beneficiary's and fiduciary's share of credit

If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of income of the estate or trust.

Schedule H — Computation of credit used and carried over

Line 20

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 21 — 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 23

Full year residents: Enter the amount from line 14 or line 22, whichever is less.

Nonresidents and part-year residents: Enter the amount from line 19 or line 22, whichever is less.

Enter the amount from line 23 on Form IT-201-ATT, line 3, or Form IT-203-ATT, line 4, or include it on Form IT-205, line 10.