General information

Tax Law sections 31 and 606(qq) provide for tax credits for the film and television post-production industry. The Empire State film post-production credit is available to taxpayers subject to tax under Article 22 (personal income tax) or Article 9-A (general business corporations). Form IT-261 is for taxpayers subject to tax under Article 22. Those subject to tax under Article 9-A (including New York S corporations), should complete Form CT-261, Claim for Empire State Film Post-Production Credit.

The credit is based on qualified post-production costs paid or incurred in the production of a qualified film at a qualified post-production facility in New York State. The credit is allowed for the tax year in which the production of the qualified film is completed. If the amount of credit shown on your certificate of tax credit received from the New York State Governor’s Office for Motion Picture and Television Development is at least $1 million but less than $5 million, the credit must be claimed over a two-year period. If the amount of the credit allocated is $5 million or more, the credit must be claimed over a three-year period.

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. No interest will be paid on the refund. The remaining excess may be carried over to the following tax year and may be deducted from the tax in that year. Any excess after application in the succeeding year is treated as an overpayment to be credited or refunded. No interest will be paid on the refund.

If the film post-production credit is claimed for qualified post-production costs, no other income tax credit may be claimed for those costs.

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. Submit a copy of your certificate from this office for the credit allowed. You are required to submit a separate Form IT-261 for each individual certificate issued to you by the Governor’s Office for Motion Picture and Television Development. For rules and regulations regarding the credit, contact the New York State Governor’s Office for Motion Picture and Television Development at nyfilm@esd.ny.gov or call (212) 803-2330.

Eligibility

After receiving a certificate of tax credit from the New York State Governor’s Office for Motion Picture and Television Development, the following taxpayers, subject to tax under Article 22, are eligible to claim the film post-production credit by filing Form IT-261:

• individuals (including sole proprietors);
• fiduciaries of estates and trusts;
• partners in a partnership (including members of an LLC if the LLC is treated as a partnership for federal tax purposes);
• shareholders of a New York S corporation; and
• beneficiaries of an estate or trust.

Taxpayers subject to tax under Article 9-A must complete Form CT-261.

Line instructions

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

Individuals (including sole proprietors): Complete Part 1 and if applicable, Part 4.

Partnerships: Complete Part 1, lines 1 through 7, and if applicable, Part 4.

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. Complete Part 1 and if applicable, Part 4.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Part 1, lines 3 through 18, Part 2, and if applicable, Part 4.

Fiduciaries: Complete Parts 1, 3, and if applicable, Part 4.

Partnerships: Complete Part 1, lines 1 through 7, and if applicable, Part 4.

Note: Due to this limitation, it is the entity’s responsibility to ensure that the correct shareholder, partner, beneficiary, or member receives the correct amount of the credit to be reported in succeeding tax years.

Worksheet A

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Enter the amount from Form IT-261, line 1 .... 1 __________</td>
</tr>
<tr>
<td>2</td>
<td>Divide line 1 by two (see instructions below) .... 2 __________</td>
</tr>
</tbody>
</table>

This is the amount of credit that may be claimed for this tax year and for the 2015 tax year.

Worksheet A instructions

Individuals: Enter the amount from Worksheet A, line 2, on Form IT-261, line 2, and on Worksheet C, line 1.

Partnerships: Enter the amount from Worksheet A, line 2, on Form IT-261, lines 2 and 20 (see Lines 20 and 21).

Fiduciaries: Include the line 2 amount on the total line of Part 3. Provide your beneficiaries with their allocated share of the line 2 amount to claim on their 2014 and 2015 tax returns. (See Lines 20 and 21.)
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 13 – Amount of credit to be claimed in succeeding tax years

Find your 2015 and 2016 amounts on Form IT-204-IP, line 51, codes B56 and C56. If you had an amount on your 2013 Form IT-261, line 21.

**Part 4 – Amount of credit to be claimed in succeeding tax years**

Complete this part if the amount on line 1 is at least $1 million or if you had an amount on your 2013 Form IT-261, line 21.

### Lines 20 and 21

**Individuals:** Complete Worksheet C to compute the amount of credit to be claimed on your 2015 return.

**Partnerships:** Do not use Worksheet C. Enter the amount from line 20 and code B56 on Form IT-204, line 147. Enter the amount from line 21 and code C56 on Form IT-204, line 147.

**Partners, beneficiaries, and shareholders:** Do not use Worksheet C. Include on line 20 the amount of credit reported to you by your partnership, estate, trust, or S corporation to be claimed for 2015. **Partners:** Find this amount on Form IT-204-IP, line 51, code B56.

Include on line 21 the amount of credit reported to you by your partnership, estate, trust, or S corporation to be claimed for 2016. **Partners:** Find this amount on Form IT-204-IP, line 51, code C56.

**Fiduciaries:** Do not use Worksheet C. Enter the fiduciary portion of the credit to be claimed for 2015 on line 20, and for 2016 on line 21.

#### Worksheet C

1. Enter the amount (if any) from Worksheet A, line 2, or Worksheet B, line 2 ............................................. 1
2. Enter the amount (if any) from your 2013 Form IT-261, line 21 ......................................................... 2
3. Credit to be claimed for 2015 (add lines 1 and 2; enter here and on Form IT-204-IP, line 20) ......................................................... 3