



Instructions for Form IT-642

Empire State Musical and Theatrical Production Credit

Tax Law – Sections 24-a and 606(u)

IT-642-I

General information

Tax Law sections 24-a and 606(u) provide for a musical and theatrical production credit. The Empire State musical and theatrical production tax credit is available to taxpayers subject to tax under Article 22 (personal income tax) or Article 9-A (general business corporations). Form IT-642 is for taxpayers subject to tax under Article 22. Those subject to tax under Article 9-A (including New York S corporations) complete Form CT-642, *Empire State Musical and Theatrical Production Credit*.

The credit is 25% of the sum of the qualified production expenditures and the transportation expenditures.

The amount of credit allowed for the current tax year is allocated by Empire State Development (ESD). ESD will issue a certificate of tax credit showing the:

- certificate number,
- allocation year of the tax credit, and
- amount of tax credit allowed.

Submit a copy of your certificate from ESD. Complete a separate Form IT-642 for each individual certificate issued to you by ESD. You cannot claim the credit before the later of:

- the tax year the production of the qualified musical or theatrical production is complete, or
- the tax year immediately following the allocation year listed on your certificate.

If the amount of the credit allowable for any tax year exceeds the tax for that year, the excess is treated as an overpayment to be credited or refunded. No interest will be paid on the refund.

Qualified production expenditures and transportation expenditures used as the basis for the allowance of this credit or in the calculation of this credit cannot be used to claim any other credits.

For rules and regulations regarding the credit, visit ESD's website (at www.esd.ny.gov).

Eligibility

After receiving a certificate of tax credit from ESD, the following taxpayers, subject to tax under Article 22, are eligible to claim the credit by filing Form IT-642 with their returns:

- Individuals (including sole proprietors);
- Fiduciaries of estates and trusts;
- partners in a partnership (including members of a limited liability company (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-642.

How to claim the credit

File Form IT-642 if you are an individual, a partnership, or an estate or trust and you qualify for the credit. In addition, if you are a partner in a partnership (including members of an LLC

treated as a partnership for federal tax purposes), a shareholder of a New York S corporation, or a beneficiary of an estate or trust, file Form IT-642 to claim your share of the credit from the entity.

An estate or trust that divides the credit among itself and its beneficiaries must submit Form IT-642 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

Partnerships must file Form IT-642 with Form IT-204, *Partnership Return*, showing the total amount of credit.

An S corporation does not file Form IT-642; it must file Form CT-642. If you are a shareholder of an S corporation that made the election under Tax Law section 660, obtain your share of the S corporation's credit from the S corporation and report it on Form IT-642.

Specific instructions

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

Individual (including sole proprietor) and partnership:

Complete lines A and B and Schedules A and D.

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 lines A and B and Schedules A and D.

Partner in a partnership, shareholder of a New York S corporation, and beneficiary of an estate or trust:

Complete lines A and B and Schedules B and D.

Fiduciary:

Complete lines A and B and Schedules A, C, and D. If you are an estate or trust that divides the credit among itself and its beneficiaries, submit all Forms IT-642 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of the credit.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form IT-642.

Lines A and B – Enter the credit allocation year and certificate number from your certificate of tax credit. If you are a partner in a partnership, shareholder of a New York S corporation, or beneficiary of an estate or trust, enter the credit allocation year and certificate number provided to you by the partnership, New York S corporation, or estate or trust.

Schedule A – Individual (including sole proprietor), partnership, and estate or trust

Line 1 – Enter the amount of credit listed on your certificate of tax credit issued by ESD. Submit a copy of your certificate.

Schedule B – Partner's, shareholder's or beneficiary's share of credit

Enter the appropriate information for each partnership, New York S corporation, or estate or trust from which you received a share of the credit. You may obtain this information from the partnership, S corporation, estate or trust.

Line 2 – If you need more space, enter your name and taxpayer identification number as shown on your return, and complete only Schedule B on additional Forms IT-642. Place the extra forms behind the first Form IT-642. Include on line 2 of the first Form IT-642 the total of column D from all additional Forms IT-642.

Schedule C – Beneficiary's and fiduciary's share of credit

An estate or trust must complete this schedule.

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

Schedule D – Computation of credit

Complete lines 8, 9, and 10 (whichever apply to you).

Fiduciaries: Do not enter any amounts on lines 8 and 9.

Line 11 – Enter the amount from line 11 and code **642** on Form IT-201-ATT, line 12; or Form IT-203-ATT, line 12; or Form IT-204, line 147; or include it on Form IT-205, line 33.
