



Instructions for Form CT-33.2

Life Insurance Company Guaranty Corporation Credit

CT-33.2-I

General information

Insurance Law, Article 77, section 7712 provides for a credit, in certain instances, for a portion of the net assessments paid by insurance companies pursuant to Insurance Law Articles 75 and 77. The credit is only authorized for a calendar year when the total net assessments for all insurance companies exceed \$100 million in the preceding 15 calendar year period that includes such calendar year.

When a life insurance company guaranty corporation (LICGC) credit has been authorized for a particular calendar year, the credit cannot be taken until the first tax year **after the next** calendar year following the authorized calendar year (section 1511(f)). The LICGC credit available to be taken for tax year **2023** is based on the maximum authorized credit for the **2021** calendar year.

Since the total net assessments paid by all Article 33 taxpayers during the 15 calendar year period from 2007 through 2021 exceeded the \$100 million threshold, an LICGC credit is authorized for calendar year 2021. Your maximum authorized credit for calendar year 2021 is 80% of the net assessments paid by you during calendar year 2021 pursuant to Articles 75 and 77 (section 7712).

The maximum credit authorized for a calendar year is taken in three equal installments over three consecutive tax years, beginning with the first tax year **after the next** calendar year following the authorized calendar year (section 1511(f)).

Each LICGC credit installment is subject to the limitation under section 1511(f)(3)(B). The available credit, after the application of such limitation, is then applied against the franchise tax imposed by Article 33, after the application of all other credits.

The credit cannot reduce the tax below the minimum tax (credit utilization limit).

Any allowable credit not used in the current tax year due to either the section 1511(f)(3)(B) limitation or the credit utilization limitation is carried forward to the subsequent tax year.

The LICGC credit is not allowed against the metropolitan transportation business tax (MTA surcharge) under Article 33.

Cross-over year credit

Special rules apply when calculating the *cross-over year credit* allowed for a tax year following the second calendar year in which the \$100 million threshold is first exceeded. These rules (see Insurance Law section 7712(b)(2)(B) and TSB-M-85(6)C, *Chapters 802 and 803 - Life Insurance Company Guaranty Corporation Credit*) were used to compute your LICGC *cross-over year credit* available to be taken on your tax year 2015 return.

You computed your LICGC tentative *cross-over year credit* on the LICGC *Credit worksheet for 2015 tax year*. You completed such worksheet using the *Life insurance company guaranty corporation credit online calculator* (at www.tax.ny.gov/bus/ct/licgc_credit.xlsx) on our website.

Your LICGC credit available to be taken on your tax year 2023 return should **not** be computed using the online calculator; use Form CT-33.2 instead, following these instructions.

Combined filers

A taxpayer filing on a combined return as a member of a combined group is allowed to claim the LICGC credit. The LICGC credit form must be completed for each such member claiming the credit. The LICGC credit is computed on a separate basis, but is then applied against the combined tax.

Net assessments pursuant to Insurance Law Articles 75 and 77

The Superintendent of Financial Services of New York State annually furnishes to the Commissioner of Taxation and Finance, and to each life insurance company, a statement of operations. The statement of operations shows the assessments, less any refunds or reimbursements, paid by each life insurance company pursuant to Articles 75 and 77, during the preceding 15 calendar years.

Credit amount

The maximum authorized credit for 2021, available to be taken in three equal installments in three consecutive tax years beginning with your first tax return for 2023, subject to limitations, is 80% of the net assessments paid by you, pursuant to Articles 75 and 77, during calendar year 2021.

The amount of the maximum authorized credit (including any installments and any unused LICGC credit carried forward) that can be **used** by all life insurance companies for a particular tax year is **limited** to the greater of \$40 million or 40% of the total tax liability under Article 33 of all such companies, before credits and not including the MTA surcharge, for tax years beginning in the second preceding calendar year (section 1511(f)(3)(B)).

For each calendar year for which the credit has been authorized, the Commissioner of Taxation and Finance determines such total tax liability.

The LICGC credit authorized for 2021, as limited, is allocated among the life insurance companies in proportion to the net assessments paid by each company in calendar year 2021.

Line instructions

Part 1 – Computation of life insurance company guaranty corporation (LICGC) credit

Line 4, column A – If you are filing for a 2023 tax period that is **not** your **first** 2023 tax period, enter **0**; otherwise, enter your net assessments paid pursuant to Insurance Law Articles 75 and 77 for **calendar year 2021**. However, if such net assessments are less than zero, enter **0**.

To determine your net assessments paid for calendar year 2021, go to our *Life Insurance Company Guaranty Corporation credit* webpage (at www.tax.ny.gov/bus/ct/life_ins_credit.htm) and access the **2021 Statement of Operations from the NYS Department of Financial Services, Exhibit B** by clicking on the link under *How much is the credit?* Find your company name and NAIC #, and determine the amount in **your** row in the *Article 77 Assessments Total 2021* column.

Note: there were no net assessments paid under Article 75 for calendar year 2021.

Line 6 – The total tax liability of all Article 33 life insurance taxpayers for tax years beginning in 2021 is on our *Life Insurance Company Guaranty Corporation credit* webpage (at www.tax.ny.gov/bus/ct/life_ins_credit.htm).

Line 12 – Enter the amount from **line 25** of your **2022** Form CT-33.2. If you had more than one tax period for **2022**, enter the amount from **line 25** of the **2022** Form CT-33.2 that you filed for your **last** 2022 tax period.

Line 13 – Enter the amount from **line 11** of your **2022** Form CT-33.2. If you had more than one tax period for **2022**, enter the amount from **line 11** of the **2022** Form CT-33.2 that you filed for your **first** 2022 tax period. Provided however, if, due to short tax periods, you had at least three tax periods that began on or after January 1, 2022, and ended before your current tax period began, enter **0**.

Line 14 – Enter the amount from **line 11** of your **2021** Form CT-33.2. If you had more than one tax period for **2021**, enter the amount from **line 11** of the **2021** Form CT-33.2 that you filed for your **first** 2021 tax period. Provided however, if, due to short tax periods, you had at least three tax periods that began on or after January 1, 2021, and ended before your current tax period began, enter **0**.

Part 2 – Computation of credit used and carried forward

Line 17 – Enter the amount from Form CT-33, *Life Insurance Corporation Franchise Tax Return*, **line 11**, or CT-33-A, *Life Insurance Corporation Combined Franchise Tax Return*, **line 15**, plus any net recapture of other tax credits.

Line 18 – If you are claiming more than one tax credit for this tax year, enter the total amount of credits claimed that were applied against the **current year's** franchise tax before your LICGC credit; otherwise, enter **0**. If you are filing as a member of a combined group on Form CT-33-A, include any amount of tax credit(s), **including** the LICGC tax credit, claimed by other members of the combined group, that you want to apply against the **current year's** combined franchise tax before your LICGC credit.

Note: Do **not** enter on line 18 any amount of empire zone (EZ) wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do **not** include any amount of these credits being claimed by other members of the combined group.

Line 20 – If you are filing Form CT-33, enter **250**.

If you are filing as a member of a combined group on Form CT-33-A, enter the sum of the amounts on Form CT-33-A, line 4 and line 12.
