



Instructions for Form CT-641

Manufacturer's Real Property Tax Credit

CT-641-I

General information

For tax years beginning on or after January 1, 2014, eligible taxpayers may use Form CT-641 to claim the manufacturer's real property tax credit.

Eligibility

To be eligible for this credit, you must meet **all** of the following requirements:

- you are subject to tax under Tax Law Article 9-A (franchise tax on general business corporations) or 22 (personal income tax);
- you are a *qualified New York manufacturer* and meet the definition of a qualified New York manufacturer each year you claim the credit; **and**
- you paid *real property taxes* on property in New York State that is owned or leased by you, the manufacturer, and is principally used during the tax year for manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.

Credit information

The credit is equal to 20% of the eligible *real property taxes* you paid during the tax year.

To qualify for the credit, you must pay the real property taxes in the year those taxes become a lien on real property that is:

- located in New York State, and
- principally used during the tax year for manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.

You must exclude property taxes that apply to areas of the property that are not involved in the production of goods by any of the above activities (such as common areas, vacant land, parking lots, and so on).

You may allocate the amount of property taxes to be excluded based upon square footage.

You may not use any real property taxes you are using as the basis for computing this credit as the basis for any other credit.

If you deducted real property taxes in computing federal taxable income, you must add back the amount of real property taxes you deducted and used as the basis for the calculation of this credit, on your franchise tax return when computing entire net income.

This credit cannot:

- be used against the metropolitan transportation business tax (MTA surcharge) under Article 9-A,
- reduce the tax due to an amount less than \$25, or
- be refunded, carried forward, or applied as an overpayment against the tax liability for the next tax year.

Credit recapture

If the amount of the real property taxes on which the credit was calculated is subsequently reduced by a final order in any proceeding under Real Property Tax Law Article 7 or any other provision of law, you must recapture a portion of the credit.

For more information, see *Schedule D: Computation of credit recapture*. To learn more about credit recapture, see Recapture of tax credits or visit www.tax.ny.gov (search: *recapture*).

Definitions

Qualified New York manufacturer

A *qualified New York manufacturer* is a manufacturer that either (1) has *tangible personal property and other tangible property* in New York State that has an *adjusted basis* for New York State tax purposes of at least \$1 million at the end of the tax year, or (2) has all its real and personal property in New York State.

A taxpayer, or in the case of a combined report, a combined group that does not satisfy the *principally engaged* test may be a qualified New York manufacturer if the taxpayer or the combined group:

- employs at least 2500 employees during the tax year in manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing in New York State, **and**
- has property in the state used in these activities, the adjusted basis of which for New York State tax purposes at the close of the tax year is at least \$100 million.

Note: A qualified emerging technology company (QETC) is not considered a qualified New York manufacturer for purposes of this credit.

Manufacturer

A *manufacturer* is a taxpayer, or in the case of a combined report, a combined group that is *principally engaged* in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing during the tax year.

However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are **not** qualifying activities for a manufacturer.

Principally engaged

A taxpayer, or in the case of a combined report, a combined group is *principally engaged* in manufacturing if more than 50% of the gross receipts of the taxpayer or the combined group during the tax year are derived from the sale of goods produced by the above activities.

Do **not** include intercorporate receipts when you compute a combined group's gross receipts.

Tangible personal property and other tangible property

Tangible personal property and other tangible property as described for the investment tax credit includes buildings and structural components of buildings, which:

- are depreciable pursuant to Internal Revenue Code (IRC), section 167;
- have a useful life of four years or more; are acquired by purchase as defined in IRC section 179(d);
- have a situs in the state; and
- are principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.

Adjusted basis

To learn about the *adjusted basis* of the property for New York State tax purposes, see TSB-M-19(5)C, (6)I, *New York State Adjusted Basis for Qualified New York Manufacturers*.

Unrelated third party

An *unrelated third party* is any individual or entity who does not meet the definition of a related person under IRC section 465(b)(3)(C). The Internal Revenue Service (IRS) interpretation of the definition of a related person is contained in IRS Publication 925, *Passive Activity and At-Risk Rules*.

Real property tax

Real property tax means a charge imposed upon real property by or on behalf of a county, city, town, village, or school district for municipal or school district purposes, provided that the charge is levied for the general public welfare by the proper taxing authorities at a like rate against all property over which such authorities have jurisdiction, and provided that where taxes are levied pursuant to Real Property Tax Law Article 18 or 19, the property must have been taxed at the rate determined for the class in which it is contained, as provided by such article, whichever is applicable.

The term real property tax includes taxes paid by the taxpayer on real property principally used during the tax year by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied:

- the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and
- the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority.

In the case of a combined group that constitutes a qualified New York manufacturer, the conditions listed above are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.

A taxpayer *principally engaged* in the production of goods by farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing that satisfies the above conditions, is eligible if the taxpayer leases such real property from a related or *unrelated third party*.

The term *real property tax* does **not** include:

- a payment made by the taxpayer in connection with an agreement for the payment in lieu of taxes (PILOT) on real property, whether such property is owned or leased by the taxpayer; or
- a charge for local benefits, including any portion of that charge that is properly allocated to the costs attributable to maintenance or interest, when:
 - the property subject to the charge is limited to the property that benefits from the charge;
 - the amount of the charge is determined by the benefit to the property assessed; or
 - the improvement for which the charge is assessed tends to increase the property value.

Specific instructions

Additional forms: If you have more entries than will fit on the lines provided in Schedules A, C, and D, submit additional Forms CT-641, completing only the necessary parts. Include the legal name of the corporation and employer identification number (EIN) on each form. On the indicated lines of the first Form CT-641, include the totals from all

additional Forms CT-641. Place the extra forms behind the first Form CT-641 and submit them with your return.

Line A

Mark an **X** in the appropriate box to determine the parts of this form you need to complete. If you are claiming this credit **both** as a corporation that earned the credit **and** as a corporate partner receiving a share of the credit, mark an **X** in the Yes box and complete all appropriate schedules on one Form CT-641.

Schedule A: Computation of credit

Column A: Enter the physical address of the real property. Do **not** enter a PO Box or the mailing address of the company.

Column B: Enter the eligible real property taxes paid during the tax year for each property listed in column A.

If needed, see *Additional forms*.

Line 4

If you are a corporate partner receiving a manufacturer's real property tax credit from a partnership, complete Schedule C and enter the amount from line 14.

Lines 5 and 6 (New York S corporations)

Transfer these amounts to the applicable lines of Form CT-34-SH, *New York S Corporation Shareholder's Information Schedule*.

Line 7 (C corporations)

If the amount on line 5 is greater than the amount on line 6, subtract line 6 from line 5. This is the amount of your credit; continue with the rest of the form.

If the amount on line 6 is greater than the amount on line 5, you have a net recapture amount; subtract line 5 from line 6 and enter the result with a minus (-) sign. Transfer the line 7 amount (with the minus sign) to the appropriate line of the tax credits section on your franchise tax return. Do **not** complete Schedule B.

Schedule B: Computation of credit used

Note: New York S corporations do **not** complete this schedule.

Line 8

Enter any net recapture of other tax credits plus the amount from Form CT-3 or Form CT-3-A, Part 2, line 2.

Line 9

If you are claiming more than one tax credit for this year, enter the total amount of credits claimed before applying this credit; otherwise, enter **0**. See Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the correct order of credits.

If you are included in a combined return, include any amount of tax credits being claimed by other members of the combined group, including the manufacturer's real property tax credit, that you wish to apply before the credit claimed on this form.

Schedule C: Partnership information

Complete this schedule only if you were a partner in any partnerships and received a share of the manufacturer's real property tax credit from that entity. Enter the name, EIN, and credit amount passed through to you from each partnership. Obtain this information from each partnership allocating the credit to you.

If needed, see *Additional forms*.

Schedule D: Computation of credit recapture

The recapture amount is equal to the amount of credit originally allowed less the amount of the credit recalculated using the reduced real property taxes. You must add back the recapture amount for the tax year in which the final order is issued.

If the final order reduced real property taxes for more than one year, you must determine how much of the reduction is attributable to each year covered by the final order and calculate the recapture amount for each year based on the reduction.

Column A: Enter the tax year the credit was originally allowed.

Column B: Enter the credit amount originally allowed for the tax year entered in column A.

New York S corporations: This amount is listed on the original credit year Form CT-641, line 5.

C corporations: This amount is listed on the original credit year Form CT-641, line 13.

If needed, see *Additional forms*.

Line 16: Partners

You must obtain this information from your partnerships. If you belong to more than one partnership, enter the total amount of all your shares of the credit recapture.

Attach a statement showing the name and EIN of each partnership.
