



# Instructions for Form CT-223

## Innovation Hot Spot Deduction

Tax Law – Article 1, Section 38 and Article 9-A, Section 208.9(a)(18)

**CT-223-I**

All citations are to New York State Tax Law articles and sections unless specifically noted otherwise.

### General information

*Qualified entities* in innovation hot spots are eligible for the tax benefits listed below for five tax years, beginning with the year the entity became a tenant in or part of an innovation hot spot:

- If you are taxable under Article 9-A and located completely within the hot spot, you are **liable only for the fixed dollar minimum tax**.
- If you are located inside and outside the hot spot, or a corporate partner of qualified entities, you are **allowed a deduction for the amount of income or gain attributable to operations in the hot spot**.
- If you are an individual who is a sole proprietor of a qualified entity, a partner in a partnership, member of a limited liability company (LLC), or shareholder of a New York S corporation, that is a qualified entity, you are **allowed a deduction for the amount of income or gain attributable to operations at the hot spot**.
- If you are a qualified entity, you are also eligible for **a credit or refund of sales and use tax imposed on the retail sale of tangible personal property or services**.

If you claim the above tax benefits, you are not eligible for any other New York State exemptions, deductions, credits, or refunds to the extent the exemption, deduction, credit, or refund is attributable to the business operations in the innovation hot spot. Claiming any such benefit represents an irrevocable election.

*Qualified entity* means a business enterprise that is:

- in the formative stages of development, **and**
- located in New York State, **and**
- certified by a New York State innovation hot spot as being approved to locate in, or be part of, a virtual incubation program operated by that innovation hot spot, **and**
- **either of the following:**
  - any corporation, except a corporation which:
    - over 50% of the number of shares of stock entitling its shareholders to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under Article 9, § 183 or 184; Article 9-A; or Article 33; or
    - is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under Article 9, § 183 or 184, or former § 185 or 186; Article 9-A; former Article 32; Article 33; former Article 23; or would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or the income (or losses) of which is (or was) includable under Article 22.
  - a sole proprietorship, partnership, limited partnership, LLC, or New York S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under Article 9, § 183 or 184, or former § 185 or 186; Article 9-A; former Article 32; Article 33; former Article 23; or would have been subject to tax under Article 23 (as it was in effect on January 1, 1980); or the income (or losses) of which is (or was) includable under Article 22.

For more information about the New York Innovation Hot Spot Program, visit [www.esd.ny.gov](http://www.esd.ny.gov).

### Who must file

Complete this form if you are a corporation that is a qualified entity located inside and outside a hot spot, or you are a corporate partner of a qualified entity, or both. If you are a qualified entity located **entirely within** a hotspot, do **not** complete this form **unless** you are a qualified entity that is a New York S corporation. Include information for all of the entities from which you are receiving income or gain attributable to an innovation hot spot.

**Corporate partners:** If receiving a share of income or gain from more than one partnership, complete one form for all partnerships.

**Combined filers:** Complete one form for all of the members of the combined group.

### Column instructions

**Column A:** Enter the innovation hot spot name as shown on your letter from the hot spot.

**Column B:** Enter the hot spot identification code as shown on your letter from the hot spot.

**Column C:** Enter the business participation number as shown on your letter from the hot spot.

**Column D:** If the corporation is a qualified entity, enter the corporation's employer identification number (EIN). If you received income or gain attributable to a hot spot from another entity, enter the EIN of the qualified entity certified in the hot spot.

**Column E:** If the qualified entity does business, employs capital, owns or leases property, maintains an office, or derives receipts from activity, in the Metropolitan Commuter Transportation District (MCTD), mark an **X** in the box. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

**Column F:** Make **only one** entry (1, 2, 3, 4, or 5) to indicate which tax year you are claiming this deduction.

**Column G:** Enter the amount of income or gain attributable to the hot spot that was included in your federal taxable income.

**CT-3 and CT-3-S filers:** Enter the amounts from this column on the applicable lines of Form CT-225, *New York State Modifications*. For details, see Form CT-225/225-A-I, *Instructions for Forms CT-225, CT-225-A, and CT-225-A/B*.

**CT-3-A filers:** Enter the amounts from this column on the applicable lines of Form CT-225-A, *New York State Modifications (for filers of combined franchise tax returns)*, and CT-225-A/B, *Group Member's Detail Spreadsheet*. For details, see Form CT-225/225-A-I, *Instructions for Forms CT-225, CT-225-A and CT-225-A/B*.

In addition to any recordkeeping requirement imposed by Empire State Development, if you are a qualified entity that is located inside and outside a New York innovation hot spot, you **must** keep books and records to disclose, to the satisfaction of

the Tax Department, the amount of items of income, gain, loss, and deduction attributable to operations at (or as part of) the innovation hot spot.

## Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.

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