



# Instructions for Form CT-641

## Manufacturer's Real Property Tax Credit

### General information

For tax years beginning on or after January 1, 2014, the manufacturer's real property tax credit is available to eligible taxpayers subject to tax under Articles 9-A and 22.

### 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 or 22;
- you are a qualified New York manufacturer (you must meet the definition of a qualified New York manufacturer each year); 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 the product of the following two factors:

- 20% and
- the eligible real property taxes paid during the tax year.

To qualify for the credit, the real property taxes must be paid by the taxpayer in the year such taxes become a lien on the real property and must be for real property:

- 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.

The taxpayer 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. Examples of areas that need to be excluded include common areas, vacant land, parking lots, etc. The amount of property taxes to be excluded may be allocated based upon square footage.

Any real property taxes used as the basis for computing this credit may not be used as the basis for any other credit under the Tax Law.

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

The credit is not allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9-A.

The credit cannot reduce the tax due to an amount less than \$25. Any unused amount of credit for the current tax year may not be refunded, carried forward, or applied as an overpayment against the tax liability for the next tax year.

### Credit recapture

A portion of the credit must be recaptured 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.

For more information, see *Schedule D – Computation of credit recapture*.

### Definitions

A *qualified New York manufacturer* is a manufacturer that either (1) has property in New York State of the type described by the investment tax credit under Tax Law section 210-B.1(b)(i)(A)\* 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.

\*Tangible personal property and other tangible property, including 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 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*.

A taxpayer (or in the case of a combined report, a combined group) that does not satisfy the principally engaged test (see the definition of manufacturer below) 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 the taxpayer or combined group 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. A taxpayer is a QETC if it meets the definition under Public Authorities Law section 3102-e(1)(c), except that the \$10 million limitation under section 3102-e(1)(c)(1) does not apply.

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.

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. In computing a combined group's gross receipts, intercorporate receipts are eliminated.

*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:

- 1) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and
- 2) 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.

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.

In the case of a combined group that constitutes a qualified New York manufacturer, the conditions listed above in items 1 and 2 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.

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.

The term real property tax does not include 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.

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*.

## Line instructions

**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

**Columns A and B** – In column A, enter the physical address of the real property. Do **not** enter a PO Box or the mailing address of the company. In column B, enter the eligible real property taxes paid during the tax year for each property listed in column A.

**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 (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 credit(s) 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 a partnership(s) and received a share of the manufacturer's real property tax credit from that entity. Enter the name, employer identification number (EIN), and credit amount passed through to you from each partnership. Obtain this information from the partnership(s) allocating the credit to you. If you need more space, attach a separate schedule. Include your name and identification number on any separate sheets you file with your return.

## 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. The recapture amount must be added back for the tax year in which the final order is issued (see *Credit recapture*).

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.

**Line 16 – Partners:** You must obtain this information from your partnership(s). Attach a statement showing the name and employer identification number (EIN) of each partnership.

## Need help? and Privacy notification

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