



Department of Taxation and Finance

# Claim for Empire State Commercial Production Credit

**CT-246**

Tax Law – Article 1, Section 28 and Article 9-A, Section 210-B.23

All filers must enter tax period:

beginning

ending

Legal name of corporation

Employer identification number (EIN)

Attach to Form CT-3, CT-3-A, or CT-3-S.

**Part 1 – Computation of commercial production credit available for use** (see instructions)

1	Enter the amount of commercial production credit (see instructions) .....	•	1	
2	Commercial production credit from partnership(s) (from line 18) .....	•	2	
3	Add lines 1 and 2 (New York S corporations see instructions) .....	•	3	
4	Unused commercial production credit carried over from the previous tax year .....	•	4	
5	Total commercial production credit available in the current tax year (add lines 3 and 4) .....	•	5	

**Part 2 – Computation of commercial production credit used, refunded, and carried forward** (see instructions;  
New York S corporations do not complete this part)

6	Tax due before credits (see instructions) .....	6		
7	Tax credits claimed before the commercial production credit (if none, enter 0; see instructions) .....	7		
8	Tax after application of all other credits (subtract line 7 from line 6) .....	8		
9	Fixed dollar minimum tax (see instructions) .....	9		
10	Limitation on commercial production credit to be used this period (subtract line 9 from line 8; if line 8 is less than line 9, enter 0) .....	10		
11	Commercial production credit to be used this year (see instructions) .....	11		
12	Subtract line 11 from line 3; if line 11 is greater than line 3, enter 0 .....	12		
13	Subtract line 11 from line 5 .....	13		
14	Amount available for carryforward (multiply line 12 by 50% (.5)) .....	14		
15	Amount of commercial production credit available for refund (subtract line 14 from line 13) .....	15		
16	Amount of commercial production credit you want to be refunded (limited to the amount on line 15; see instructions) .....	16		
17	Amount of refundable commercial production credit you want to be applied to next year's tax (subtract line 16 from line 15; see instructions) .....	17		

**Part 3 – Partnership information** (attach additional sheets as necessary)

Name of partnership	Partnership's EIN	Credit amount allocated
	•	•
	•	•
	•	•
	•	•
Total from additional sheet(s), if any .....	•	
18 Total credit amount allocated from partnerships (enter here and on line 2) .....	•	18

A If you are claiming this credit as a corporate partner, mark an **X** in the box ..... • ☐

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## Instructions

### General information

For tax years beginning on or after January 1, 2007, Tax Law sections 28 and 210-B.23 provide for tax credits for qualified commercial production companies. The Empire State commercial production credit (also referred to simply as the *commercial production credit*) is available to taxpayers subject to tax under Article 9-A or Article 22. This form is for taxpayers subject to tax under Article 9-A. Those subject to tax under Article 22, complete Form IT-246, *Claim for Empire State Commercial Production Credit*.

The credit is allowed for qualified production costs paid or incurred in the production of a qualified commercial in New York State. The credit is allowed for the tax year in which the production of the qualified commercial is completed. The credit may not reduce the tax due below the fixed dollar minimum tax. Any amount not used in the current tax year may be refunded or credited as an overpayment to next year's tax. The refund is limited to 50% of the excess credit in the current year; the balance may be carried forward to the following tax year and may be deducted from the tax in that year. All remaining excess after application in the succeeding year may also be refunded or credited as an overpayment to the succeeding tax year. No interest will be paid on the refund. Production costs used as the basis for allowance of this credit or used in the calculation of this credit cannot be used to claim any other credit.

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

The amount of credit allowed for the current tax year is allocated by the New York State Governor's Office of Motion Picture & Television Development. Attach a copy of your certificate from that office for the credit allowed. For rules and regulations regarding the credit, contact the New York State Governor's Office of Motion Picture & Television Development at [filmcredits@esd.ny.gov](mailto:filmcredits@esd.ny.gov) or call 212-803-2328.

### Corporate partners

If you are a corporate partner who has commercial production credits passed through to you from a partnership, enter your pro rata share of the commercial production credits passed through to you from the partnership in Part 1, line 2. Also, enter the name and EIN of the partnership in Part 3. Enter on line 1 only the amount of commercial production credit allocated to your corporation by the New York State Governor's Office of Motion Picture & Television Development.

### New York S corporations

New York S corporations will calculate an amount of commercial production credit. However, the S corporation may not use the commercial production credit against its own tax liability; instead, the credit is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns.

New York S corporations complete lines 1 through 3. You must also complete Part 3 if you are receiving the credit, or a portion of the credit from a partnership. Include the line 3 amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, which is filed with your New York State corporation tax return. Attach Form CT-246 to your Form CT-3-S, *New York S Corporation Franchise Tax Return*.

Provide all shareholders with the amount of their pro rata share of the commercial production credit calculated. The shareholders will file their own Form IT-246 to claim the credit on their New York State personal income tax returns.

### Combined filers

A taxpayer filing a combined return as a member of a combined group is allowed to claim the commercial production credit. The commercial production credit is computed on a separate basis, but is applied against the combined tax.

### Line instructions

#### Part 1 – Computation of commercial production credit available for use

**Line 1** – Obtain this amount from the New York State Governor's Office of Motion Picture & Television Development. Attach your certificate.

**Line 2** – Obtain this amount from the partnership(s) allocating this credit to you. Complete Part 3, *Partnership information*, and mark an **X** in box A at the bottom of the form.

**Line 3 – New York S corporations:** Include this amount on Form CT-34-SH.

**Line 4** – Obtain this amount from the previous tax year's Form CT-246.

#### Part 2 – Computation of commercial production credit used, refunded, and carried forward (*New York S corporations do not complete this part*)

**Line 6** – Enter the amount from Form CT-3 or CT-3-A, Part 2, line 2, **plus** any net recaptured tax credits.

**Line 7** – You must apply certain credits before the commercial production credit. Refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the proper ordering of your credits. If you are claiming more than one credit, enter the total amount of credits applied against the current year's corporation franchise tax before the commercial production credit. If the commercial production credit is the only credit that is being applied against the current year's corporation franchise tax, enter **0**. If filing as a member of a combined group, include any amount of tax credit(s), including the commercial production credit(s), being claimed by other members of the combined group that you want to apply before the commercial production credit claimed on this form.

**Line 9** – Enter the fixed dollar minimum tax from Form CT-3 or the designated agent's fixed dollar minimum tax from Form CT-3-A.

**Lines 11, 16, and 17** – On line 11, enter the lesser of line 5 or line 10. Transfer the amounts from lines 11, 16, and 17 to your franchise tax return.

### Need help? and Privacy notification

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

