



Instructions for Form CT-261

Claim for Empire State Film Post-Production Credit

Tax Law – Article 1, Section 31 and Article 9-A, Section 210-B.32

General information

Tax Law sections 31 and 210-B.32 provide for a tax credit for the film and television post-production industry. The Empire State film post-production credit (also referred to simply as the *post-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-261, *Claim for Empire State Film Post-Production Credit*.

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 this office for the credit allowed. You are required to submit a separate Form CT-261 for each individual certificate issued to you by the Governor's Office of Motion Picture & Television Development. 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 or call 212-803-2328.

The credit is allowed for qualified post-production costs paid or incurred in the production of a qualified film at a post-production facility in New York State. For tax years beginning on or after January 1, 2015, and before January 1, 2023, there is an additional credit available equal to 10% of the wages or salaries paid to qualified individuals for services performed by those individuals in the post-production work on a qualified film in certain counties. For more information, see TSB-M-13(6)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2013 - Effective for Tax Years 2013 and After*. The credit is allowed for the tax year in which the production of the qualified film is completed.

If the amount of credit shown on your certificate of tax credit received from the New York State Governor's Office of Motion Picture & Television Development is at least \$1 million but less than \$5 million, the credit must be claimed over a two-year period. If the amount of credit allocated is \$5 million or more, the credit must be claimed over a three-year period.

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. Post-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.

Corporate partners

If you are a corporate partner who has any post-production credits passed through to you from partnerships, enter in Part 3 each partnership's name and employer identification number, and your pro rata share of the post-production credit each one passed to you. Enter the total of these credits on lines 18 and 2. Enter on line 1a only the amount of post-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 post-production credit. However, the S corporation may not use the post-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 only lines 1a, 1b, 2, and 3 and, if applicable, Part 3, Part 4, and line A. Include the line 3 amount and, if applicable, amounts from lines 19 and 20 on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Attach a copy of Form CT-261 to your Form CT-3-S, *New York S Corporation Franchise Tax Return*. Provide each shareholder with the amount of their pro rata share of the post-production credit calculated for the current tax year and, if applicable, for the succeeding tax year(s) (from Form CT-34-SH, lines 51, 52, and 53). The shareholders will file their own Form IT-261 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 post-production credit. The post-production credit form must be completed for each individual member of the combined group claiming the credit. If a member of the combined group has been issued more than one certificate they must submit a separate Form CT-261 for each certificate they are issued. The credit totals will then be applied against the combined tax.

Line instructions

Part 1 – Computation of post-production credit available for use

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

Line 1b – If the amount on line 1a is less than \$1 million, enter the amount from line 1a on line 1b.

If the amount on line 1a is at least \$1 million but less than \$5 million, the credit must be claimed over a two-year period; complete Worksheet A.

If the amount on line 1a is at least \$5 million, the credit must be claimed over a three-year period; complete Worksheet B. (Do not complete Worksheet A.)

Worksheet A

A Enter the amount from line 1a A _____

B Divide line A by two (see instructions below)..... B _____

Line B – Enter this amount on line 1b and include it on line 19.

Worksheet B

A Enter the amount from line 1a A _____

B Divide line A by three (see instructions below)..... B _____

Line B – Enter this amount on line 1b and include it on lines 19 and 20.

Line 1c – Enter the amount from line 19 of your 2017 Form CT-261, if applicable.

New York S corporations: Do not enter an amount on this line.

Line 2 – Obtain this amount from the partnership(s) allocating this credit to you. Also complete Part 3, *Partnership information*.

Line 3 – New York S corporations include this amount on Form CT-34-SH, line 51.

Line 4 – Obtain this amount from the previous tax year's Form CT-261, line 14.

Part 2 – Computation of post-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 post-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 post-production credit. If the post-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 post-production credit(s), being claimed by other members of the combined group that you want to apply before the post-production credit claimed on this form.

Line 9 – Enter your 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.

Part 3 – Partnership information

Enter any current year (2018) credit amount allocated to you by a partnership in this section. Include any second year (2019) credit amounts allocated to you on line 19, and include any third year (2020) credit amounts on line 20.

The credit amounts can be found on Form IT-204-CP. The 2018 credit amount is reported using code **356**, the 2019 credit amount is reported using code **B56**, and the 2020 credit amount is reported using code **C56**.

Part 4 – Amount of credit to be claimed in succeeding tax years

Line 19 – This is your Empire State film post-production credit allowed for 2019.

C corporations: Enter the total of the following amounts:

- the amount from Worksheet A, line B, or Worksheet B, line B (whichever applies); **plus**
- any amount from line 20 of your 2017 Form CT-261; **plus**
- any amounts allocated to you from a partnership (from Form IT-204-CP, code **B56**) to be claimed on your 2019 return.

New York S corporations: Enter the total of the following amounts:

- the amount from Worksheet A, line B, or Worksheet B, line B (whichever applies); **plus**
- any amounts allocated to you from a partnership (from Form IT-204-CP, code **B56**) to be claimed on your 2019 return.

Transfer this amount to your 2018 Form CT-34-SH, line 52 (credit for the second year), and provide your shareholders with their pro rata share of this amount to claim on their 2019 personal income tax returns. (If you completed Worksheet B, also transfer the line 20 amount as instructed below.)

Line 20 – Enter the amount from Worksheet B, line B, **plus** any amounts allocated to you from a partnership (from Form IT-204-CP, code **C56**) to be claimed on your 2020 return.

C corporations: This amount will be entered on your 2019 Form CT-261, line 19.

New York S corporations: Transfer this amount to your 2018 Form CT-34-SH, line 53 (credit for the third year), and provide your shareholders with their pro rata share of this amount to claim on their 2020 personal income tax returns.

Need help? and Privacy notification

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