New York State Department of Taxation and Finance

Instructions for Form IT-242

Claim for Conservation Easement Tax Credit

IT-242-I

General information

What is the conservation easement tax credit?

The conservation easement tax credit is available to taxpayers who own land that is subject to a conservation easement held by a public or private conservation agency (see *Definitions* below). The credit is available for tax years beginning on or after January 1, 2006. The credit is not available to New York S corporations or their shareholders.

The allowable credit is 25% of the school district, county, and town real property taxes paid during this tax year on the land subject to the conservation easement (excluding real property taxes paid on buildings, structures, and other improvements). However, the combination of the conservation easement tax credit with any other income tax credit claimed for the school district, county, and town real property taxes cannot exceed the amount of these taxes. The maximum conservation easement tax credit a taxpayer may claim is limited to $5,000 in any given year.

If the credit exceeds the taxpayer's tax for the year, the excess will be refunded without interest.

Who is eligible to claim this credit?

- individuals (including sole proprietors)
- estates or trusts
- partners in a partnership (including members of an LLC that is treated as a partnership for federal income tax purposes)
- beneficiaries of an estate or trust

Definitions

Conservation easement means a perpetual and permanent conservation easement, as defined in Article 49 of the Environmental Conservation Law (ECL) on land located in New York State that:

- is held by a public or private conservation agency;
- serves to protect any of the following:
  - open space,
  - biodiversity, or
  - scenic, natural, agricultural, watershed, or historic preservation resources;
- is filed with the Department of Environmental Conservation (DEC) by the person causing the document to be so recorded, as provided for in ECL Article 49;
- complies with the provisions of ECL, Article 49, Title 3; and
- complies with the provisions of Internal Revenue Code (IRC) section 170(h).

  Note: A taxpayer should maintain adequate records to substantiate the conservation easement's compliance with the provisions of IRC 170(h). This includes, but is not limited to, a copy of federal Form 8283, *Noncash Charitable Contributions,* for the year of the donation. Also acceptable is a letter from the public or private conservation agency stating that the conservation easement was donated or purchased:
  - for no consideration or a nominal amount, or
  - for less than fair market value (FMV), provided, in this case, the letter is accompanied by an appraisal indicating the FMV of the conservation easement that was made at the time of the purchase of the easement. The appraisal must be made by a qualified appraiser as defined in federal regulations section 1.170A-13(c)(5).

However, dedications of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits are not considered a conservation easement for purposes of this credit.

Land means a fee simple title to real property located in New York State, with or without improvements. This includes rights of way; water and riparian rights; easements; privileges and all other rights or interests relating to or connected with real property, excluding buildings, structures and improvements.

Public or private conservation agency means:

- any state, local or federal governmental body, or
- any private not-for-profit charitable corporation or trust that:
  - is authorized to do business in New York State;
  - is organized and operated to protect land for natural resources, conservation, or historic preservation purposes;
  - is exempt from federal income taxation under IRC section 501(c)(3); and
  - has the power to acquire, hold, and maintain land, or interests in land, for these purposes.

How is the credit claimed?

If you are an individual (including a sole proprietor), a beneficiary of an estate or trust, or a partner in a partnership, file Form IT-242 with your personal income tax return, Form IT-201 or IT-203.

An estate or trust that divides the credit among itself and its beneficiaries must file Form IT-242 with Form IT-205, showing each beneficiary's share of the credit.

A partnership must file Form IT-242 with Form IT-204 showing the total amount of the credit.

Specific instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Individuals (including sole proprietors) and partnerships: Complete Parts 1, 5, and 6.

A married couple in a business enterprise that made an IRC 761(f) election to file two federal Schedule C forms instead of a partnership return: If you file jointly, compute your credit amount as if you were filing one federal Schedule C for the business (enter the total of all applicable amounts from both federal Schedule C forms). Complete Parts 1, 5, and 6.

Fiduciaries: Complete Parts 1, 4, 5, and 6.

Partners in a partnership and beneficiaries of an estate or trust: Complete Parts 2, 3, and 5.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form IT-242.

Part 1 – Individual (including sole proprietor), partnership, and estate or trust

Enter the information relating to the real property taxes paid during this tax year on land (or a portion of land) subject to a conservation easement held by a public or private conservation agency. If you need additional space, submit a separate sheet of paper with the form listing this information in the same format as requested in columns A through E of Part 1 (be sure to include your name and social security number (SSN) or employer identification number (EIN)).

Column A – *Allowable real property taxes* means the school district, county, and town real property taxes paid on the land (or a portion of the land) subject to a conservation easement.

Allowable real property taxes do not include city or village property taxes, special ad valorem levies, or special assessments. (See Real

Property Tax Law sections 102-14 and 102-15 for the definition of special ad valorem levies and special assessments.)

Enter the real property taxes paid during this tax year for each conservation easement only once. Use a separate line for each conservation easement.

Allocation of real property taxes – If only a portion of the land you own is subject to a conservation easement, or if the property you own includes buildings, structures or improvements that are taxed, do not enter the full amount of property tax in column A. You must allocate the portion of school district, county, and town real property taxes which corresponds to the portion of your land subject to a conservation easement. Base the allocation on the value of the land.

Your local assessor may be able to tell you the value of the portion of your land subject to a conservation easement (excluding the value of any buildings, structures, or improvements) and the total value of your land subject to taxes. If your assessor is unable to provide this information, you may determine the value by using any other reasonable method, such as basing the value on the recent sale price of similar property in your area. Keep records to substantiate how you allocated the taxes.

Calculating the allocated taxes – The credit applies only to that portion of your total assessment represented by land (not buildings and/or other structures) and to the fraction of the land that is protected by the easement. Multiply these numbers by the total property taxes to compute the allocated taxes.

(fraction of the assessment represented by land)
x (fraction of land protected by easement)
x (total property taxes)
allocated taxes

For example, a property owner pays $10,000 in property taxes on a 100 acre parcel, of which 75 acres is protected by a conservation easement. The property owner learns from the assessor that the house and garage account for a total of 80% of the assessed value of the property, the remaining 20% is represented by land. The property owner would calculate the allocated taxes as follows:

.20 (fraction of the assessment represented by land)
x .75 (fraction of land protected by easement – 75/100 acres)
x $10,000 (property taxes)
$ 1,500 (allocated taxes)

The tax credit is 25% of the allocated taxes. In this example, it would be $375 ($1,500 x .25).

If you own land subject to a conservation easement with one or more other person(s), you should include only the total allowable real property taxes you paid in column A.

Column C – If the land subject to a conservation easement also entitles you to claim any of the following credits, compute the credits that apply to you before continuing with this form:

- Real property tax credit (Form IT-214), and
- Farmers' school tax credit (Form IT-217), and
- **Either** the QEZE credit for real property taxes (Form IT-606) **or** the remediated brownfield credit for real property taxes (Form IT-612).

If you included the allowable real property taxes from column A in the computation of any of the credits listed above, enter in column C the amount of the credit(s) listed above that is based on the same real property taxes. If only a portion of the credit is based on the same taxes used in column A, prorate the amount of the credit(s) and enter in column C accordingly.

Part 2 – Partnership, estate, and trust information

Enter the appropriate information for each partnership, estate, or trust from which you received a share of the conservation easement tax credit. If you need more space, submit a separate sheet following the same format (be sure to include your name and taxpayer identification number).

Part 3 – Partner's or beneficiary's share of credit

Enter your share of the total credit received from a partnership, estate, or trust. If you belong to more than one partnership, estate, or trust, enter the total of all your shares on the appropriate line(s).

Line 3 Partner – Enter your share of the partnership's conservation easement tax credit. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, combine all the amounts on line 3.

Line 4 Beneficiary – Enter your share of the estate's or trust's conservation easement tax credit. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, combine all the amounts on line 4.

Part 4 – Beneficiary's and fiduciary's share of credit

An estate or trust must complete Part 4. Enter the fiduciary's share of the credit from column C on line 8. If an estate or trust allocates or assigns the credit to its beneficiaries, it should base the division on each beneficiary's proportionate share of the income of the estate or trust. Provide the beneficiaries with information about their share of the credit.

Part 5 – Computation of conservation easement tax credit

Line 9

Fiduciaries: Enter the amount from line 8 on line 9.

All others: Add lines 6, 7, and 8.

Line 10

- **Individuals:** Enter the line 10 amount and code ***302*** on Form IT-201-ATT, line 12, or Form IT-203-ATT, line 12.
- **Partnerships:** Enter the line 10 amount and code ***302*** on Form IT-204, line 147.
- **Fiduciaries:** Include the line 10 amount on Form IT-205, line 33.

Part 6 – Conservation easement identifying information

Enter the information for each easement in the same order as the easements are listed under Part 1.

Address – Enter the address of the land subject to a conservation easement as it appears in your deed or other instrument that records the easement. Include the name of the city, village, or town and county where the easement is located.

Name of conservation agency – Enter the name of the public or private conservation agency that holds the conservation easement.

Recording information – Enter the recording information (typically county, liber, and page or instrument number) assigned to the conservation easement at the time it was recorded and indexed in the county clerk's office for the county in which the property is located. Recording information should be available through the county clerk's office or from the agency that holds the conservation easement.

Date of conveyance – Enter the date the conservation easement was conveyed to the public or private conservation agency.

DEC identification number – Enter the identification number assigned to the conservation easement when it was filed with DEC. This number should be available from the agency that holds the conservation easement. The letters CE have been preprinted in the entry space for the DEC identification number.

If you need additional space, submit a separate sheet of paper with the form listing the information in the same format as requested above, and in the same order as listed under Part 1 (be sure to include your name and taxpayer identification number).