Department of Taxation and Finance

Instructions for Form CT-248

Claim for Empire State Film Production Credit

Tax Law – Article 1, Section 24 and Article 9-A, Section 210-B.20

CT-248-I

General information

Tax Law sections 24 and 210-B.20 provide for tax credits for the film and television production industry. The Empire State film production credit (also referred to simply as the *film 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-248, *Claim for Empire State Film Production Credit.*

The amount of credit allowed for the current tax year is allocated by the New York State Governor's Office for Motion Picture and Television Development. Attach a copy of your certificate from this office for the credit allowed. You are required to submit a separate credit form for each individual certificate issued to you by the Governor's Office for Motion Picture and Television Development. However, if your credit is allocated from funds from additional pool 2, you cannot claim the film production credit before the later of:

- the tax year the production of the qualified film is complete, or
- the tax year immediately following the allocation year assigned on your certificate.

For more information, refer to TSB-M-10(7)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2010*, TSB-M-13(6)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2013 - Effective for Tax Years 2013 and After*, and TSB-M-15(1)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2014,* or contact the New York State Governor's Office for Motion Picture and Television Development.

The credit is based on the qualified production costs paid or incurred in the production of qualified films and television shows. For tax years beginning on or after January 1, 2015, and before January 1, 2020, 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 production work on a qualified film in certain counties.

If the amount of film production credit shown on your certificate of tax credit received from the New York State Governor's Office for Motion Picture and 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 allowable credit amount not used in the current tax year may be refunded or credited as an overpayment to next year's tax. 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.

For rules and regulations regarding the credit, contact the New York State Governor's Office for Motion Picture and Television Development at *nyfilm@esd.ny.gov* or call (212) 803-2330.

Corporate partners

If you are a corporate partner who has any film 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 film production credit each one passed to you. Enter the total of these credits on lines 15 and 4. If your partnership allocated credit amounts to you for 2017 and 2018, include those amounts on lines 16 and 17 respectively. Enter on line 1 only the amount of film production credit allocated to your corporation by the New York State Governor's Office for Motion Picture and Television Development.

New York S corporations

New York S corporations will calculate an amount of film production credit. However, the S corporation may not use the film 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 1, 2, 4, 5, 16, and 17. Include the line 5 amount and, if applicable, amounts from lines 16 and 17 on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, which is filed with your New York State corporation tax return. Attach a copy of Form CT-248 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 film production credit calculated for the current tax year and, if applicable, for the next succeeding tax year(s) (from Form CT-34-SH, lines 46, 47, and 48). The shareholders will file their own Form IT-248 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 film production credit. The film 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 credit form for each certificate they are issued. The credit totals will then be applied against the combined tax.

Line instructions

Lines A and B – If your credit is from additional pool 2, the Governor's Office for Motion Picture and Television Development is required to list an allocation year on your certificate of tax credit. If you are assigned an allocation year, report it on line A. If you are a partner in a partnership, enter the allocation year assigned to the partnership on line B.

Part 1 – Computation of film production credit available for use

Line 1 – Enter the amount of your film production credit listed on your certificate from the New York State Governor's Office for Motion Picture and Television Development. Attach a copy of your certificate.

Line 2 – If the amount on line 1 is less than $1 million, enter the amount from line 1 on line 2.

If the amount on line 1 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 1 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 1 ..... A _____

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

Line B – Enter this amount on line 2 and include it on line 16.

Worksheet B

A Enter the amount from line 1 ..... A _____

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

Line B – Enter this amount on line 2 and include it on lines 16 and 17.

Line 3 – Enter the amount from line 16 of your 2015 Form CT-248.

New York S corporations: Do not complete this line.

Line 4 – Complete Part 3, *Partnership information.* Obtain the amount(s) from the partnership(s) allocating this credit to you. Enter the amount from line 15 on line 4.

Line 5 – Add lines 2, 3, and 4.

New York S corporations: Transfer this amount to Form CT-34-SH, line 46 (credit for the current year).

Part 2 – Computation of film production credit used, refunded, and credited as an overpayment to next year's tax *(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 film 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 film production credit. If the film 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 film production credit(s), being claimed by other members of the combined group that you want to apply before the film 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, 13, and 14 – On line 11, enter the lesser of line 5 or line 10. Transfer the amounts from lines 11, 13, and 14 to your franchise tax return.

Part 3 – Partnership information

Enter any current year (2016) credit amount allocated to you by a partnership in this section. Include any second year (2017) credit amounts allocated to you on line 16, and include any third year (2018) credit amounts on line 17.

The credit amounts can be found on Form IT-204-CP. The 2016 credit amount is reported using code ***248***, the 2017 credit amount is reported using code ***B48,*** and the 2018 credit amount is reported using code ***C48***.

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

Line 16 – This is your Empire State film production credit allowed for 2017.

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 17 of your 2015 Form CT-248; **plus**
- any amounts allocated to you from a partnership to be claimed on your 2017 return.

This amount will be entered on your 2017 Form CT-248, line 3.

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 to be claimed on your 2017 return.

Transfer this amount to your 2016 Form CT-34-SH, line 47 (credit for the second year), and provide your shareholders with their pro rata share of this amount to claim on their 2017 personal income tax returns. (If you completed Worksheet B, also transfer the line 17 amount as instructed below.)

Line 17 – Enter the amount from Worksheet B, line B, **plus** any amounts allocated to you from a partnership to be claimed on your 2018 return.

C corporations: This amount will be entered on your 2017 Form CT-248, line 16.

New York S corporations: Transfer this amount to your 2016 Form CT-34-SH, line 48 (credit for the third year), and provide your shareholders with their pro rata share of this amount to claim on their 2018 personal income tax returns.

Need help? and Privacy notification

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