Department of Taxation and Finance

Instructions for Form CT-261

Claim for Empire State Film Post-Production Credit

CT-261-I

General information

You may be eligible for this refundable credit if you or your business:

- is subject to tax under Tax Law Article 9-A (franchise tax on general business corporations),
- paid or incurred qualified post-production costs in the production of a qualified film at a post-production facility in New York State, **and**
- received a certificate of tax credit from the New York State Governor's Office of Motion Picture & Television Development.

The New York State Governor's Office of Motion Picture & Television Development allocates the amount of the credit. For more information, including how to apply, visit *New York State Film Tax Credit Program (Production)* on the Empire State Development website at *www.esd.ny.gov*.

Credit calculation

The credit is based on the qualified post-production costs paid or incurred in the production of a qualified film at a post-production facility in New York State.

If the initial application was filed **before** January 1, 2025, and the amount of credit shown on your certificate of tax credit is:

- at least $1 million but less than $5 million, you must claim the credit over a two-year period.
- $5 million or more, you must claim the credit over a three-year period.

You **cannot**:

- use this credit to reduce the tax due below the fixed dollar minimum tax,
- use any post-production costs used in calculating this credit in the calculation of any other credit, **or**
- apply this credit against the metropolitan transportation business tax (MTA surcharge).

If you do not use the full amount of this year's credit against your tax liability, you may request 50% of the credit as a refund or apply the overpayment to next year's tax. You may carry forward any balance remaining to the following tax year. All remaining excess after the following year may be refunded or credited as an overpayment to the next year. The Tax Department will not pay interest on the refund or overpayment.

You are required to recapture any previous credit due to a revocation of a certificate of tax credit.

How to claim the credit

Corporate partners: If you are a corporate partner who has any post-production credits passed through to you from partnerships, enter in Part 3 the partnership's name, employer identification number, and your share of the post-production credit passed to you. Enter the total of these credits on lines 18 and 2. Enter only the amount of post-production credit allocated to your corporation on line 1a.

New York S corporations: New York S corporations will calculate the credit; however, the S corporation may not use the credit against its own tax liability. Instead, the credit is passed to the shareholders to use against their personal income tax liabilities on their New York State tax returns.

Complete Part 1, and if applicable, Part 3, Part 4, and line A. Include the line 3 amount and, if applicable, amounts from lines 5b, 19, and 20 on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*. Submit Form CT-261 with your Form CT-3-S, *New York S Corporation Franchise Tax Return*.

Provide all shareholders with the amount of their share of the credit calculated for the current tax year and, if applicable, for following years as well as their share of any credit recapture. The shareholders will file their own Form IT-261 to claim the credit or their share of the recapture of credit on their New York State personal income tax returns.

Combined filers: A taxpayer filing as a member of a combined group is allowed to claim the credit, which is calculated on a separate basis but applied against the combined tax.

Line instructions

Complete a **separate** Form CT-261 for **each** certificate of tax credit issued. **Submit** a copy of your certificate with your New York State corporation tax return.

You may claim the credit for the tax year in which the production of the qualified film is completed.

Lines B and C: If you do not enter the correct information, the Tax Department may deny your credit. Submit a copy of your certificate with this form.

Additional forms: If you have multiple credit amounts to enter on line 1a, 1b, or 1c, or more entries than will fit on the line provided in Part 3, submit additional Forms CT-261, completing only the necessary parts. Include your name and taxpayer identification number on each form. On the indicated lines of the first Form CT-261, include the totals from all additional Forms CT-261. Place the extra forms behind the first Form CT-261 and submit them with your return.

Part 1: Calculation of credit

Line 1a: For initial applications filed **before** January 1, 2025, enter the amount from the certificate of tax credit issued by the Governor's Office of Motion Picture & Television Development. Complete a separate Form CT-261 for each certificate of tax credit and submit a copy of the certificate. If needed, see *Additional forms*.

Line 1b: If the amount on line 1 is:

- **less** than $1 million, enter the amount from line 1a.
- at **least** $1 million but **less** than $5 million, the credit must be claimed over a two-year period; complete Worksheet A.
- 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 Form CT-261, line 1a ..... A _____

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

Line B: Enter this amount on Form CT-261, line 1b and include it on Form CT-261, line 19.

Worksheet B

A Enter the amount from Form CT-261, line 1a ..... A _____

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

Line B: Enter this amount on Form CT-261, line 1b and include it on Form CT-261, lines 19 and 20.

Line 1c: Enter the amount from the certificate of tax credit issued by the Governor's Office of Motion Picture & Television Development **on or after** January 1, 2025.

Line 1e: Enter the amount from line 19 of your last year's Form CT-261, if applicable.

New York S corporations do not complete this line.

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 top of the form.

Line 4: Obtain this amount from your last year's Form CT-261, line 14.

New York S corporations do not complete this line.

Line 5b: If the New York State Governor's Office of Motion Picture & Television Development has revoked a previously claimed Empire State film post-production credit that you earned directly or as a corporate partner, the amount revoked must be added back to your tax in the tax year the revocation becomes final.

New York S corporations: Transfer the amounts from lines 3 and 5b to the applicable line of Form CT-34-SH.

Part 2: Calculation of 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: If you are claiming more than one tax credit for this year, enter the total amount of the credits you claimed before this credit; otherwise enter ***0***. You **must** apply tax credits in a specific order.

For the correct order of credits, see Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*.

Combined filers: Include the total amount of all tax credits you and other members of the combined group are claiming—including the Empire State film post-production credit—that you want to apply before you apply this credit.

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.

Part 3: Partnership information

Enter any current year credit amount allocated to you by a partnership in this section. If needed, see *Additional forms*. Include any amounts, if applicable, for the following two years on line 19 and line 20 respectively.

The credit amounts can be found on Form IT-204-CP, *New York Corporate Partner's Schedule K-1,* line 78, using codes:

- ***356*** include on line 19
- ***B56*** include on line 20
- ***C56*** include on line 21

Part 4: Amount of credit to be claimed in following tax years

Line 19: This is your credit for next year.

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 last year's Form CT-261; **plus**
- any amounts allocated to you from a partnership (from Form IT-204-CP, code ***B56***) to be claimed on your next year's 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 next year's return.

Transfer this amount to your Form CT-34-SH, line 52 (credit for the second year), and provide your shareholders with their share of this amount to claim on their next year's 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 for credit year three.

C corporations: This amount will be entered on your next year's Form CT-261, line 19.

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