Department of Taxation and Finance

Instructions for Form IT-261

Claim for Empire State Film Post-Production Credit

IT-261-I

General information

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

- paid or incurred qualified post-production costs in the production of a qualified film at a qualified 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 any post-production costs used in calculating this credit in the calculation of any other credit.

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 in 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

Note: If more than one of the below applies to you, complete all appropriate parts on one Form IT-261.

Individuals (including sole proprietors): Complete Part 1 and if applicable, Part 4.

Partnerships: Complete Part 1, lines 1 through 7a, and if applicable, Part 4.

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, calculate your credit amount as if you were filing one federal Schedule C for the business. Complete Part 1 and if applicable, Part 4.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Part 1, lines 3 through 18, Part 2, and if applicable, Part 4.

Fiduciaries: Complete Parts 1, 3, and if applicable, Part 4. An estate or trust that divides the credit among itself and its beneficiaries must submit Form IT-261 with Form IT-205, *Fiduciary Income Tax Return*, showing each beneficiary's share of credit.

Line instructions

Complete a **separate** Form IT-261 for **each** certificate of tax credit issued.

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

Lines A and B: If you do not enter the correct information, the Tax Department may deny your credit. Partners, shareholders, or beneficiaries must get this information from their partnership, S corporation, estate or trust. Submit a copy of your certificate with this form.

Additional forms: If you have multiple credit amounts to enter on lines 1, 1a, or 2, or more entries than will fit on the lines provided in Part 2 or Part 3, submit additional Forms IT-261, completing only the necessary parts. Include your name and taxpayer identification number on each form. On the indicated lines of the first Form IT-261, include the totals from all additional Forms IT-261. Place the extra forms behind the first Form IT-261 and submit them with your return.

Part 1: Calculation of credit

Note: If completing Form IT-261 to claim only credits allowed in a prior year, skip to line 4.

Line 1: 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 IT-261 for each certificate of tax credit and submit a copy of the certificate. If needed, see *Additional forms*.

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

- **less** than $1 million, enter the amount from line 1 on line 1a.
- at **least** $1 million but **less** than $5 million, complete Worksheet A.
- at **least** $5 million, complete Worksheet B.

Note: Due to this limitation, it is the entity's responsibility to ensure that the correct shareholder, partner, beneficiary, or member receives the correct amount of the credit to be reported in following tax years.

Worksheet A

1 Enter the amount from Form IT-261, line 1 .... 1 _____

2 Divide line 1 by two *(see instructions below)* ..... 2 _____

This is the amount of credit that may be claimed for this tax year and for next year.

Worksheet A instructions

Individuals: Enter the amount from Worksheet A, line 2, on Form IT-261, line 1a, and include on Worksheet C, line 1.

Partnerships: Enter the amount from Worksheet A, line 2, on Form IT-261, line 1a and include on line 20 (see *Lines 20 and 21).*

Fiduciaries: In Part 3, include the line 2 amount on the *Total* line. Provide your beneficiaries with their allocated share of the line 2 amount to claim on their returns for this year and the next year. (See *Lines 20 and 21.*)

Worksheet B

1 Enter the amount from Form IT-261, line 1 .... 1 _____

2 Divide line 1 by three *(see instructions below)* ... 2 _____

This is the amount of credit that may be claimed for this year and for each of the next two years.

Worksheet B instructions

Individuals: Enter the amount from Worksheet B, line 2, on Form IT-261, line 1a and include amount on line 21, and Worksheet C, line 1.

Partnerships: Enter the amount from Worksheet B, line 2, on Form IT-261, line 1a and include amount on lines 20 and 21 (see *Lines 20 and 21).*

Fiduciaries: In Part 3, include the line 2 amount on the *Total* line. Provide your beneficiaries with their allocated share of the line 2 amount to claim on their returns for this year and the next two years. (See *Lines 20 and 21.*)

Line 2: Enter the amount from the certificate of tax credit issued by the Governor's Office of Motion Picture & Television Development for initial applications filed **on or after** January 1, 2025.

Line 4

Individuals (including partners, beneficiaries, and shareholders): Include the amount from your last year's Form IT-261, line 20.

Partnerships: Do not make an entry on line 4. Credit carryovers from partnerships that were limited in prior years are claimed by partners of those entities for the year in which the credit certificate was issued.

Fiduciaries: Only include on this line the fiduciary portion of the credit from prior years.

Line 7a: If the New York State Governor's Office of Motion Picture & Television Development has revoked a previously claimed Empire State film post-production credit you earned directly or from a partnership, or New York S corporation, the amount revoked must be added back to your tax for the tax year in which the revocation becomes final. Enter the revoked amount or your share of the revoked amount.

Partnerships: Enter the amount:

- from line 7 and code ***356*** on Form IT-204, line 147.
- from line 7a and code ***356*** on Form IT-204, line 148, if applicable.

Line 7b: If the amount is negative:

Individuals: Enter the amount as a positive number and code ***356*** on:

- Form IT-201-ATT, line 20; or
- Form IT-203-ATT, line 19.

Fiduciaries: Include the amount as a positive number on Form IT-205, line 12.

Line 11: If you are applying any credits against the tax before this credit, enter those amounts here.

Apply credits in the following order:

1. household credit
2. any credits that cannot be carried over or refunded
3. any credits that can be carried over for a limited duration
4. any credits that can be carried over for an unlimited duration
5. refundable credits

For more information, visit *www.tax.ny.gov* (search: *ordering*).

Line 13: Enter the amount from line 7b (if greater than ***0***) or line 12, whichever is less. This is your **nonrefundable** portion of the Empire State film post-production credit.

Enter this amount and code ***356*** on Form IT-201-ATT, *Other Tax Credits and Taxes*, line 6; or Form IT-203-ATT, *Other Tax Credits and Taxes*, line 7; or include it on Form IT-205, line 10.

Line 14: If zero, and you have no prior-year carryover, stop; you do not have any refundable credit or credit to be carried forward to next year.

Line 16: Enter the amount from your last year's Form IT-261, line 18.

Line 17: Add lines 15 and 16. Enter this amount and code ***356*** on Form IT-201-ATT line 12; or Form IT-203-ATT, line 12; or include it on Form IT-205, line 33.

Line 18: Subtract line 15 from line 14. This is the amount of credit to be carried forward to next year. You will need this amount to complete your next year's Form IT-261.

Part 2: Partnership, New York S corporation, and estate and trust information

Enter the appropriate information for each partnership, New York S corporation, or estate or trust from which you received a share of the Empire State film post-production credit. If needed, see *Additional forms*.

Partners: Find your current year credit amount on Form IT-204-IP, *New York Partner's Schedule K-1,* line 51, code ***356***. Find your recapture of credit amount on Form IT-204-IP, line 52, code ***356***. Also report any amounts for the next two years, if applicable, on lines 20 and 21 respectively. **Partners:** Find your amounts for the next two years amounts on Form IT-204-IP, line 51, codes ***B56*** and ***C56*** respectively.

Part 3: Beneficiary's and fiduciary's share of credit

Enter the total of lines 1a, 2, 2a, and 3 on the *Total* line, column C. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's share of the income of the estate or trust. Provide the beneficiaries with their share of the credit. Enter the total of all credit allocated to the beneficiaries on line 6. In addition, provide beneficiaries with their share of any recapture of credit. If needed, see *Additional forms*.

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

If the initial application was filed **before** January 1, 2025, complete this part if the amount on line 1 is at **least** $1 million or if you had an amount on your last year's Form IT-261, line 21.

Lines 20 and 21

Individuals: Complete Worksheet C to calculate the amount of credit to be claimed on your next year's return.

Worksheet C

1 Enter the amount (if any) from Worksheet A, line 2, or Worksheet B, line 2 ..... 1 _____

2 Enter the amount (if any) from your last year's Form IT-261, line 21 ..... 2 _____

3 Credit to be claimed for next year *(add lines 1 and 2; enter here and on Form IT-261, line 20)* ..... 3 _____

Partnerships: Do not use Worksheet C. Enter the amount from line 20 and code ***B56*** on Form IT-204, line 147. Enter the amount from line 21 and code ***C56*** on Form IT-204, line 147**.**

Partners, beneficiaries, and shareholders: Do not use Worksheet C. Include on line 20 the amount of credit reported to you by your partnership, estate, trust, or S corporation to be claimed in year two. **Partners:** Find this amount on Form IT-204-IP, line 51, code ***B56***.

On line 21, include the amount of credit reported to you by your partnership, estate, trust, or S corporation to be claimed for year three. **Partners:** Find this amount on Form IT-204-IP, line 51, code ***C56***.

Fiduciaries: Do not use Worksheet C. Enter the fiduciary portion of the credit to be claimed for year two on line 20, and for year three on line 21.