



Instructions for Form IT-238

Claim for Rehabilitation of Historic Properties Credit

IT-238-I

General information

What is the rehabilitation of historic properties credit?

The rehabilitation of historic properties credit is available to taxpayers for expenses related to the rehabilitation of a depreciable, certified historic structure (see *Definitions* below) located in New York State. The credit is available for tax years beginning on or after January 1, 2007.

The credit is equal to 30% of the federal credit amount allowed with respect to a certified historic structure, as defined under Internal Revenue Code (IRC) section 47(c)(3), located in New York State. In the case of a partnership or fiduciary that does not compute a federal credit, the credit is computed as if a federal credit had been computed.

The credit is equal to the lesser of 30% of the federal credit computed for the same tax year, or \$100,000. There is no limit on the number of structures for which the credit may be taken.

If the credit exceeds the taxpayer's tax for the year, the excess may be carried over to the following year(s).

Any credit taken must be recaptured if the federal credit on which the New York State credit is based is recaptured.

Who is eligible to claim this credit?

- individuals (including sole proprietors)
- estates or trusts
- partners in a partnership (including members of an Limited Liability Company (LLC) that is treated as a partnership for federal income tax purposes)
- shareholders of a New York S corporation
- beneficiaries of an estate or trust

Definitions

A *certified historic structure* as defined under IRC section 47(c)(3) is a building (and its structural components) that is listed in the National Register of Historic Places or located in a registered historic district and certified by the Secretary of the Interior as being of historic significance to the district.

How do I claim the credit?

If you are an individual (including a sole proprietor), file Form IT-238 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 attach Form IT-238 to Form IT-205, showing each beneficiary's share of the credit.

A partnership must file Form IT-238 with Form IT-204 showing the total amount of the credit. Partnerships must provide each partner with information about their share of the historic properties credit from the partnership.

A New York S corporation cannot file Form IT-238. It must file Form CT-238, *Claim for Rehabilitation of Historic Properties Credit*. The corporation must provide each shareholder with information about his or her share of the historic properties credit from the S corporation.

When do I claim the credit for the rehabilitation of historic properties?

The credit is available for tax years beginning on or after January 1, 2007. You must claim the New York State credit for the same year you were allowed the federal credit for the rehabilitation of historic properties. The credit is based only on costs incurred on or after January 1, 2007.

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): Complete Parts 1 and 5. If applicable, also complete Parts 6 and 7.

Note: In the case of a historic property that is owned by two or more taxpayers, each taxpayer must complete his or her own Form IT-238 based on the **total** qualified rehabilitation expenditures attributable to that property, and prorate the total credit computed. See the instructions for line 2.

Partnerships: Complete Parts 1 and 5. If applicable, also complete Part 7.

Husband and wife business 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 and 5. If applicable, also complete Parts 6 and 7.

Fiduciaries: Complete Parts 1, 4, and 5. If applicable, also complete Parts 6 and 7.

Partners in a partnership, shareholders of a New York S corporation, and beneficiaries of an estate or trust: Complete Parts 2, 3, and 5. If applicable, also complete Parts 6 and 7.

Note to partners and shareholders: Unlike on your federal credit form, partners and shareholders do not compute their own individual credits based on their shares of qualified rehabilitation expenditures from the partnership or New York S corporation. Instead, your partnership or S corporation will compute a credit on the total qualified rehabilitation expenditures attributable to the property and provide you with your individual share of the credit. See the instructions for lines 3 and 4.

Note: If more than one of the above applies to you, complete all appropriate parts on one Form IT-238.

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

Enter only the information relating to certified historic structures located in New York State for which you were allowed a federal credit.

If you are claiming a credit for more than three certified historic structures, complete as many Forms IT-238 (name, identification number, and Part 1 only) as necessary. On the first Form IT-238, complete Parts 1 through 7 (as applicable) and include on line 1 the total of column D from all additional Forms IT-238. Attach the additional forms to the back of the first Form IT-238 with the entry on line 1. Enter on line 2 the total of all column D amounts.

Schedule A — Historic property information

Column A — Enter the location of the certified historic structure located in New York State. Give the specific address and, if applicable, the name of the historic district in which the property is located.

Column B — Enter the assigned National Parks Service (NPS) project number.

Column C — Enter the completion date of the project.

Schedule B — Credit computation

Enter the information for each property in the same order as the properties are listed under Schedule A.

Column A — For each certified historic structure located in New York State, enter the amount of qualified rehabilitation expenditures allowed for the federal rehabilitation credit for 2008. This amount should be shown on your *Historic Preservation Certification Application (Request for Certification of Completed Work)*, Part 3, line 2.

Line 2 — If the certified historic structure is owned by more than one taxpayer, the amount of the credit must be prorated based on the same ratio of expenses that were claimed for the federal credit. However, a husband and wife filing a joint return do not have to prorate the credit. Enter only your share of the line 2 amount on line 7.

Example: *You and your brother share ownership of an eligible historic property. The total qualified rehabilitation expenditures attributable to the property are \$150,000, of which you each claimed one-half for federal credit purposes. You and your brother must each complete your own Form IT-238 based on the total expenses of \$150,000. You must each enter \$150,000 in schedule B, column A; \$30,000 in schedule B, column B; and \$9,000 in schedule B, columns C and D, of your individually filed Form IT-238.*

The total credit of \$9,000 is included on line 2 of each Form IT-238. Since the expenses were divided equally for federal credit purposes, you and your brother would each include \$4,500 on line 7 of your own Form IT-238.

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

Enter the appropriate information for each partnership, New York S corporation, estate, or trust from which you received a share of the rehabilitation of historic properties credit.

Part 3 — Partner's, shareholder's, or beneficiary's share of credit

Enter your share of the total credit received from a partnership, New York S corporation, estate, or trust. If you belong to more than one partnership, New York S corporation, 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 credit. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, enter the total from all partnerships on line 3.

Line 4 S corporation shareholder — Enter your share of the New York S corporation's credit. This information should be provided to you by the New York S corporation. If you are claiming a credit from more than one New York S corporation, enter the total from all S corporations on line 4.

Line 5 Beneficiary — Enter your share of the estate's or trust's credit. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, enter the total from all estates or trusts on line 5.

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

An estate or trust must complete Part 4. 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 from the estate or trust.

Part 5 — Computation of credit

Line 11 — Enter the amount of carryover available from your 2007 Form IT-238, line 15.

Part 6 — Application of credit and computation of carryover

Individuals: You must first complete Form IT-201-ATT or Form IT-203-ATT before you can complete this schedule. Follow the instructions for Form IT-201-ATT or Form IT-203-ATT, Section B, to determine the amount of credit to enter on line 14.

Fiduciaries: Follow the instructions contained in the *Note* for line 10, Form IT-205-I, to determine the amount of credit to enter on line 14.

Part 7 — Computation of credit recapture

You must recapture all or a portion of the rehabilitation of historic properties credit if the qualified property ceases to be qualified and you are required to recapture all or part of the federal credit. The recapture amount will be the lesser of 30% of the federal amount recaptured on property located in New York State, or the amount of credit for the rehabilitation of historic properties previously allowed for that property.
