



# Instructions for Form CT-242

## Claim for Conservation Easement Tax Credit

Tax Law — Article 9-A, Section 210.38

### Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

### General information

The conservation easement tax credit is available to Article 9-A taxpayers who own land that is subject to a conservation easement (see *Definitions*) held by a public or private conservation agency. The credit is available for tax years beginning on or after January 1, 2006. The credit is not available to New York S corporations.

The allowable credit is 25% of the school district, county, and town real property taxes paid during the current 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 tax credit 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 amount of the credit exceeds the taxpayer's tax for the year, the excess will be treated as an overpayment of tax that can be credited or refunded (without interest).

### Definitions

*Conservation easement* is defined in Environmental Conservation Law (ECL) Article 49 as a perpetual and permanent easement on land located in New York State which:

- 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 such 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 the 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).

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 which:
  - 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 such purposes.

### Line instructions

#### Part 1 — Computation of credit

Enter the information relating to the real property taxes paid during the current 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, attach a separate sheet listing this information in the same format as requested in columns A through E of Part 1. Write the name and employer identification number (EIN) of your corporation on each sheet.

**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 (RPTL) sections 102-14 and 102-15 for the definition of special ad valorem levies and special assessments.)

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

**Allocation of real property tax** — 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 that 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.

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 during the current tax year in column A.

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

- farmers' school tax credit (Form CT-47), and
- **either** the QEZE credit for real property taxes (Form CT-606) **or** the remediated brownfield credit for real property taxes (Form CT-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) 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) to enter in column C accordingly.

## Part 2 — Application of credit

**Line 5** — Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recaptured tax credits.

**Line 6** — If you are claiming more than one credit, enter the amount of the other credits claimed before this credit. Otherwise enter **0**.

If filing as a member of a combined group, include any amount of tax credit(s) being claimed by other members of the combined group, including conservation easement tax credits, that you wish to apply before this credit.

For a listing of credits, the order in which the credits are applied, and to determine the proper ordering of multiple credits, see Form CT-600-I, *Instructions for Form CT-600*.

**Lines 10, 12, and 13** — On line 10, enter the lesser of line 4 or line 9.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 10, 12, and 13 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete lines 10, 12, and 13 but do not enter the amounts from lines 10, 12, and 13 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

## Part 4 — 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.

## Need help? and Privacy notification

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

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