



# Instructions for Form CT-261

## Claim for Empire State Film Post-Production Credit

Tax Law – Article 1, Section 31 and Article 9-A, Section 210.41

### 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

Tax Law sections 31 and 210.41 provide for a tax credit for the film and television post-production industry. The Empire State film post-production credit (also referred to simply as the *post-production credit*) is available to taxpayers subject to tax under Article 9-A (general business corporations) or Article 22 (personal income tax). This form is for taxpayers subject to tax under Article 9-A. Those subject to tax under Article 22, complete Form IT-261, *Claim for Empire State Film Post-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 that office for the credit allowed. For rules and regulations regarding the credit, contact the New York State Governor's Office for Motion Picture and Television Development at [nyfilm@empire.state.ny.us](mailto:nyfilm@empire.state.ny.us) or call (212) 803-2330.

The credit is allowed for qualified post-production costs paid or incurred in the production of a qualified film at a post-production facility in New York State. The credit is allowed for the tax year in which the production of the qualified film is completed. The credit may not reduce the tax due below the fixed dollar minimum tax. Any amount not used in the current tax year may be refunded or credited as an overpayment to next year's tax. The refund is limited to 50% of the excess credit in the current year; the balance may be carried forward to the following tax year and may be deducted from the tax in that year. All remaining excess after application in the succeeding year may also be refunded or credited as an overpayment to the succeeding tax year. No interest will be paid on the refund. Post-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.

### Corporate partners

If you are a corporate partner who has any post-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 post-production credit each one passed to you. Enter the total of these credits on lines 18 and 2. Enter on line 1 only the amount of post-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 post-production credit. However, the S corporation may not use the post-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 through 3. Include the line 3 amount 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-261 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 post-production credit calculated. The shareholders will file their own Form IT-261 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 post-production credit. The post-production credit is computed on a separate basis, but is applied against the combined tax.

### Line instructions

#### Part 1 – Computation of post-production credit available for use

**Line 1** – Obtain this amount from the New York State Governor's Office for Motion Picture and Television Development. Attach a copy of your certificate.

**Line 2** – Obtain this amount from the partnership(s) allocating this credit to you. Also complete Part 3, *Partnership information*.

**Line 3** – New York S corporations include this amount on Form CT-34-SH.

**Line 4** – Obtain this amount from the previous tax year's Form CT-261, if applicable.

#### Part 2 – Computation of post-production credit used, refunded, and carried forward (*New York S corporations do not complete this part*)

**Line 6** – Enter the amount from Form CT-3, line 78, or Form CT-3-A, line 77, **plus** any net recaptured tax credits.

**Line 7** – You must apply certain credits before the post-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 post-production credit. If the post-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 post-production credit(s), being claimed by other members of the combined group that you want to apply before the post-production credit claimed on this form.

**Lines 11, 16, and 17** – On line 11, enter the lesser of line 5 or line 10.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 11, 16, and 17 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 11, 16, and 17 but do not enter the amounts from lines 11, 16, and 17 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

### Need help? and Privacy notification

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